



30/10/2014

RAP/RCha/EST/12(2015)

EUROPEAN SOCIAL CHARTER

12th National Report on the implementation
of the European Social Charter

submitted by

THE GOVERNMENT OF ESTONIA

(Article 7, 8, 16, 17, 19, 27
for the period
01/01/2010 – 31/12/2013)

Report registered by the Secretariat on
30 October 2014

CYCLE 2015

EUROPEAN SOCIAL CHARTER
(REVISED)

12th Report of the Republic of Estonia
on the accepted provisions

For the reference period
2010 – 2013

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

For the period 01.01.2010-31.12.2013, prepared by the Government of Estonia in accordance with Article C of the Revised European Social Charter, on the measures taken to give effect to the accepted provisions of the Revised European Social Charter, the instrument of ratification or approval of which was deposited on 11 September 2000.

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

All Estonian legal acts that have been translated to English are available on the Internet at <http://www.sm.ee/et/rahvusvaheline-sotsiaalkindlustus>

Table of contents

Article 7: The right of children and young people to protection.....	5
<i>Article 7 § 1 - Minimum age of admission to work</i>	5
<i>Article 7 § 2 - Minimum age of admission to work with respect to occupations regarded as dangerous</i>	7
<i>Article 7 § 3 – Working of minors who are studying</i>	8
<i>Article 7 § 4 – Restrictions on working time</i>	10
<i>Article 7 § 7 - Holidays</i>	11
<i>Article 7 § 8 – Ban on working at night</i>	12
<i>Article 7 § 9 – Medical examinations</i>	13
<i>Article 7 § 10 – Special protection of minors</i>	15
Article 8 - The right of employed women to protection of maternity.....	17
<i>Article 8 § 1 – Maternity leave</i>	17
<i>Article 8 § 2 - Limits on cancellation of employment relations</i>	24
<i>Article 8 § 3 – Time off for women who are breastfeeding</i>	28
<i>Article 8 § 4 – Restrictions on working at night</i>	29
<i>Article 8 § 5 – Prohibited work</i>	29
Article 16. The right of the family to social, legal and economic protection.....	31
<i>Housing for families</i>	31
<i>Child care facilities</i>	38
<i>Family counselling services</i>	40
<i>Participation of associations representing families</i>	42
<i>Legal protection of the family</i>	42
<i>Mediation services</i>	43
<i>Domestic violence against women</i>	44
<i>Family benefits</i>	46
<i>Vulnerable families</i>	61
Article 17: The right of children and young people to social, legal and economic protection .	65

<i>Article 17 § 1: Assistance, education and training</i>	65
<i>Protection of children from ill treatment and abuse</i>	67
<i>Education</i>	71
<i>Children in public care</i>	77
<i>Juvenile offenders</i>	81
<i>Article 17 § 2: Free primary and secondary education – regular attendance at school</i>	83
Article 19: The right of migrant workers and their families to protection and assistance.....	85
<i>Article 19 § 1: Free assistance and information services</i>	85
<i>Article 19 § 2: Measures to facilitate departure, journey and reception</i>	90
<i>Article 19 § 3: Cooperation between social services in emigration and immigration</i>	102
<i>Article 19 § 4: Equality regarding employment, right to organise and accommodation</i>	104
<i>Article 19 § 5: Equal treatment with regard to employment taxes, dues or contributions payable in respect of employed persons</i>	110
<i>Article 19 § 6: Family reunion</i>	111
<i>Article 19 § 7: Equal treatment of migrant workers in respect of legal proceedings</i>	113
<i>Article 19 § 8: Guarantees concerning deportation</i>	115
<i>Article 19 § 9: Transfer of earnings and savings</i>	117
<i>Article 19 § 10: Equal treatment for the self-employed</i>	118
<i>Article 19 § 11: Teaching language of host state</i>	120
<i>Article 19 § 12: Teaching the native language of a migrant</i>	125
Article 27: The right of workers with family responsibilities to equal opportunities and equal treatment.....	127
<i>Article 27 § 1: Participation in professional life</i>	127
<i>Employment, vocational guidance and training</i>	127
<i>Work conditions, social insurance</i>	128
<i>Child day care services, other childcare arrangements and family services</i>	130
<i>Article 27 § 2: Parental leave</i>	134
<i>Article 27 § 3: Prohibition of dismissal for reasons relating to family responsibilities</i>	138

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

Article 7 § 1 - Minimum age of admission to work

General regulation, measures for implementation of legal regulation

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

On 01.07.2009, the new Employment Contracts Act (hereinafter ECA) entered into force, regulating *inter alia* the work time of minors. Since adopting ECA, the regulation of work time of minors has not been amended. In 2010, Estonia presented the Committee with information about works permitted for minors, but the Committee wishes to know the length of working time for children performing light work.

The work and rest times of employees are regulated by Chapter 3, Division 3 (§ 42 – 53) of the ECA. Pursuant to § 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:

- 1) in the case of an employee who is 7–12 years of age – 3 hours a day and 15 hours over a period of seven days;
- 2) in the case of an employee who is 13–14 years of age or subject to compulsory school attendance – 4 hours a day and 20 hours over a period of seven days;
- 3) in the case of an employee who is 15 years of age and not subject to compulsory school attendance – 6 hours a day and 30 hours over a period of seven days;
- 4) in the case of an employee who is 16 years of age and not subject to compulsory school attendance, and an employee who is 17 years of age – 7 hours a day and 35 hours over a period of seven days.

The upper limits set for working time of minors are based on the age of minors and their compulsory school attendance. The rules set for working time of minors are guided by the need to provide an employee who is a minor and subject to compulsory school attendance with sufficient time to obtain an education; the rules also take into account the additional occupational health and safety requirements applicable to such employees due to their age.

§ 43 (5) of the ECA enables minors to work with a summarised working time, but regardless of summarising working time, the calculated working time must not exceed the aforementioned restrictions. For example, an employee who is 12 years of age and working with summarised working time may work 3 hours on 3 days per week and 2 hours on 1 day

per week. The daily working time of that employee must not exceed 3 hours per day and 15 hours per week.

Pursuant to § 115 of the ECA, Labour Inspectorate conducts state supervision of the fulfilment of the requirements provided for in § 43 (4) and (5) of the ECA. If an employer violates working time restrictions set for minors, a labour inspector shall have the right to issue a precept as well as initiate a misdemeanour proceeding against the employer and apply pecuniary punishment.

In its last conclusion, the Committee invited all States Parties concerned to reply to the question how the conditions under which home work is performed are supervised in practice. In particular, it asked whether the Labour Inspection Authority can enter homes, under what conditions and on what legal basis. The report contains no answer to this question. The Committee therefore reiterates its question.

In addition to the information presented in 2010, we add that as the new ECA does not differentiate on the basis of whether the minor is working at a residential household, a family enterprise, a family farmstead or any other enterprise, the Labour Inspectorate's rights to conduct supervision also extend to residential households, family enterprises and family farmsteads. In a situation where a residential household, a family enterprise or a family farmstead is the employer of a minor, that employer must allow the Labour Inspectorate to conduct supervision on the same basis as with other business companies. Take an example of a family-owned tourism farm located in the same territory as the residence of the family that owns the tourism farm, and a minor is working there, performing support work. The Labour Inspectorate must be able to conduct state supervision in the territory of that tourism farm.

The Labour Inspectorate conducts state supervision pursuant to the Law Enforcement Act. For that, the Labour Inspectorate may question a person and ask the person to present his or her documents (§ 30), summon a person and apply compelled attendance with regard to a person (§ 31), establish the identity of a person (§ 32), examine a movable without its possessor's consent (§ 49), enter without the consent of the possessor a fenced or marked immovable, building, dwelling or room in his or her possession, including open doors and gates or eliminate other obstacles (§ 50), without the consent of the possessor, examine a fenced or marked immovable, building or room in the possession of the person, including examine an item therein and open doors and gates or eliminate other obstacles (§ 51).

The Committee takes note of the activity of the Labour Inspectorate. The Committee notes that during the reference period the number of applications for employment of children has been between 216 (in 2007) and 93 (in 2009), the majority of which have been approved by the Labour Inspectorate. Also in 2008 the Labour Inspectorate identified 13 violations with regard to employment of children and there were 3 violations identified in 2009. The Committee asks what sanctions are applied in cases of violations.

If the Labour Inspectorate identifies a violation of the rules of employing minors, a precept is issued to the offender. If the precept is not respected, the Substitutive Enforcement and Penalty Payment Act prescribes a penalty payment of maximum 3,200 euros. For a violation of occupational health and safety requirements, a pecuniary punishment of up to 300 fine units shall be applied (one fine unit is equal to 4 euros). For the same act committed by a legal person, a pecuniary punishment of up to 2,600 euros shall be applied. These punishment rates are prescribed in the Occupational Health and Safety Act (OHSA).

In case of violating requirements stemming from an employment relationship, a precept may be issued as well as a misdemeanour proceeding may be initiated against the employer and pecuniary punishment may be applied. The pecuniary punishment may be up to 100 fine units. For the same act committed by a legal person, a pecuniary punishment of up to 1,300 euros shall be applied.

Statistics

Table 1. Applications for employing a minor (7-14 years of age) which the Labour Inspectorate has received

	2009	2010	2011	2012	2013
Number of applications filed	59	74	86	116	107
...number of applications satisfied	47	65	78	87	88

Source: Labour Inspectorate

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

General regulation

In 2010, Estonia presented the Committee with information about the prohibition on children under 18 years of age working in dangerous or health-damaging conditions. The regulation has not been amended since that information was presented.

Measures to apply the legal regulation

An important even worth mentioning is that in the period between two reports, a textbook/handbook for vocational schools was developed and made available on paper and digitally that explains the basics of safe working, work ergonomics and measures to prevent health damage, using vocabulary understandable to young people. Additionally, a set of information sheets was published about occupational health and safety, discussing the work of minors as well as work-related risks and prevention of those risks. All vocational schools and many libraries in Estonia received the textbook and the set for free.

Statistics

No data available.

Article 7 § 3 – Working of minors who are studying

General regulation, measures for implementation of legal regulation

The Committee makes reference as a minimum framework to Council Directive 94/33/EC of 22 June 1994 on protection of young people at work which establishes that working time of children must be limited to 2 hours on a school day and 12 hours a week for work performed in term-time outside the hours fixed for school attendance, provided that this is not prohibited by national legislation and/or practice and that in no circumstances may the daily working time exceed seven hours.

The Committee considers, therefore, that the daily and weekly working time for children subject to compulsory education is excessive.

The report states that, according to the ECA, it is forbidden for minors to work for more than half of each term of school holiday; therefore, the legal guardian of a minor may not consent to employment during the school holiday for more than half of each term of school holiday (Section 8(2) of the ECA). For the purposes of each school holiday, the summer, autumn, winter and spring school holidays are considered separately.

The Committee refers to its interpretative statement on Article 7 § 3 in the General Introduction. It asks the next report to indicate whether the situation in Estonia complies with the principles set out in this statement. It asks for information on the nature and duration of work that may be carried out during school holidays and on the supervision by the Labour Inspectorate of work carried out by children during school holidays. Meanwhile, it reserves its position on this point.

In 2010, Estonia presented the Committee with information about the working time of minors. To the information presented earlier, we now add that the upper limits for working time of minors, prescribed in ECA, depend on the minor's age and his or her compulsory school attendance. The rules set for working time of minors are guided by the need to provide an employee who is a minor and subject to compulsory school attendance with sufficient time to obtain an education; the rules also take into account the additional occupational health and safety requirements applicable to such employees due to their age. The restrictions on working time prescribed in § 43 of the ECA stem from the Council Directive 94/33/EC on the protection of young people at work.

Pursuant to Article 8 paragraph 1 clause b of the aforementioned Directive, Member States which make use of the option in Article 4 (2) (b) (children of 14 years of age and older working in an in-plant work-experience scheme) or (c) (children of 13-14 years of age performing light work) shall adopt the measures necessary to limit the working time of children to two hours on a school day and 12 hours a week for work performed in term-time outside the hours fixed for school attendance, provided that this is not prohibited by national legislation and/or practice and in no circumstances may the daily working time exceed seven hours; this limit may be raised to eight hours in the case of children who have reached the age of 15. As the ECA prescribes in Estonia what type of work minors may perform, incl. that the work must not hinder them from obtaining an education, and as the Directive allows applying a longer than two-hour workday to minors in certain circumstances, the situation in Estonia complies with Article 7 paragraph 3 of the Charter.

In 2010, Estonia presented the Committee with information about minors working during school holidays. To the information presented earlier, we now add that young people subject to compulsory school attendance may work both while fulfilling their obligation of compulsory school attendance and during school holidays, taking account of the restrictions prescribed in the law. Working during school holidays doesn't differ from working outside school holidays, neither by nature nor by duration of the work. Same requirements apply to working during school holidays and working while fulfilling their obligation of compulsory school attendance, with the only specifics that a minor's working while fulfilling their obligation of compulsory school attendance must not hinder them from obtaining an education. For example, it would be hindrance to obtaining an education if a minor is attending school but cannot participate in the classes with sufficient intensity because he or she is tired. Attending school is the most important obligation and right of a minor. As working during school holidays doesn't differ from working outside school holidays, neither by nature nor by duration of the work, the Labour Inspectorate conducts state supervision over work performed by children during school holidays on the same basis and in the same way as while fulfilling their obligation of compulsory school attendance.

Statistics

As indicated by the data of Statistics Estonia, in 2009 1,700 people aged 15 to 19 were working and studying at the same time out of 4,800 employed people at same age group. In 2013 1,700 people aged 15 to 19 were working and studying at the same time out of 4,100 employed people at same age group (see the table below).

Table 4. Number of people of 15-19 years of age in 2009-2013

	2009	2010	2011	2012	2013
Labour force and inactive in total	87,200	79,700	73,200	68,600	64,000
Employed	4,800	3,000	4,700	5,200	4,100
...incl. learners	1,700	1,900	2,200	2,300	1,700

Source: Statistics Estonia, Estonian Labour Force Survey

The Labour Inspectorate may punish an employer with a pecuniary punishment of up to 1,300 euros if the employer has entered into an employment contract with a minor without the consent of his or her legal representative and a labour inspector (§ 119 of the ECA). The relevant statistics are provided in the following table.

Table 5. Fines imposed under § 119 of the ECA

	2009	2010	2011	2012	2013
Number of fines imposed on a legal person / amount	-	-	1 / 50 euros	1 / 50 euros	-
Number of fines imposed on a natural person / amount	-	-	1 / 40 euros	-	4 / 380 euros
Total	0	0	2 / 90 euros	1 / 50 euros	4 / 380 euros

Source: Labour Inspectorate

Article 7 § 4 – Restrictions on working time

Legal framework

In 2010, Estonia presented the Committee with information about working time of young people under 18 years of age. The regulation of working time of minors has not been amended since that information was presented.

Pursuant to § 43 (4) of the ECA, the prescribed upper limits to working time of minors depend on the minor's age and his or her compulsory school attendance. Unless the employer and the employee have agreed on a shorter working time, shortened full-time work means:

- 1) in the case of an employee who is 7–12 years of age – 3 hours a day and 15 hours over a period of seven days;
- 2) in the case of an employee who is 13–14 years of age or subject to compulsory school attendance – 4 hours a day and 20 hours over a period of seven days;
- 3) in the case of an employee who is 15 years of age and not subject to compulsory school attendance – 6 hours a day and 30 hours over a period of seven days;
- 4) in the case of an employee who is 16 years of age and not subject to compulsory school attendance, and an employee who is 17 years of age – 7 hours a day and 35 hours over a period of seven days.

Summarised working time accounting may be applied to a minor, but this requires respecting the restrictions prescribed in § 43 (4) of the ECA (§ 43 (5) of the ECA). A minor shall be prohibited from performing overtime work (§ 44 (2) of the ECA).

Pursuant to § 47 (3) of the ECA, an agreement by which a break of no less than 30 minutes during the working day has not been prescribed for an employee who is a minor for work longer than 4.5 hours is void.

The daily rest time for minors is prescribed by § 51 (2) of the ECA, pursuant to which the following agreements are void:

- 1) an agreement by which an employee who is a minor of 7–12 years of age is left over a period of 24 hours with less than 21 hours of consecutive rest time;
- 2) an agreement by which an employee who is a minor of 13–14 years of age or an employee who is subject to compulsory school attendance is left over a period of 24 hours with less than 20 hours of consecutive rest time;
- 3) an agreement by which an employee who is a minor of 15 years of age and not subject to compulsory school attendance is left over a period of 24 hours with less than 18 hours of consecutive rest time;
- 4) an agreement by which an employee who is a minor of 16 years of age and not subject to compulsory school attendance, and an employee who is 17 years of age is left over a period of 24 hours with less than 17 hours of consecutive rest time.

Minors' working at night is regulated by § 49 (1) of the ECA, pursuant to which an agreement by which an employee who is a minor undertakes to perform work from 20:00 to 6:00 is void. An exception to the foregoing may be made 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 (§ 49 (2) of the ECA).

An agreement by which an employee subject to compulsory school attendance undertakes to perform work immediately before the start of a school day is void (§ 49 (3) of the ECA). Getting up early before the start of a school day is likely to cause tiredness during the school day, thus hindering the person from obtaining an education. If the employer has exceeded the restriction on summarised working time of a minor, the Labour Inspectorate shall have the right to impose a fine of up to 1,300 euros on the employer.

Statistics

No data available.

Article 7 § 7 - Holidays

Legal framework

In 2010, Estonia presented the Committee with information about annual holiday of minors. The regulation of annual holiday has not been amended since that information was presented.

Pursuant to § 56 of the ECA, it is presumed that the annual holiday of an employee who is a minor is 35 calendar days, unless the employee and the employer have agreed on a longer annual holiday or unless otherwise provided by law. The aim of the extended annual holiday is to ensure that the minor develops socially and obtains an education.

Pursuant to § 68 (2) of the ECA, In addition to time worked, time of temporary incapacity for work shall *inter alia* be included in the time serving as the basis for the right to grant annual holiday.

The Committee stresses its opinion that in case of falling ill or having an accident during the holiday, young people should have the opportunity to use their unused holiday at some other time.

In addition to the information presented earlier, we stress that pursuant to § 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 to temporary incapacity for work occurring during a minor's holiday.

Statistics

Table 6. Benefit for additional days of holidays of minors during a year, 2009–2013

	2009	2010	2011	2012	2013
Total number of beneficiaries	206	75	104	203	290
Total number of days used	548.69	159.57	174.2	310.62	404.47
Expenditure per year, in euros ¹	5,489	1,510	1,656	2,995	4,117

¹ The benefit amounts until 2010 (incl.) have been converted from Estonian kroons to euros with the exchange rate of 1 EUR=15.6466 EEK.

Source: Estonian National Social Insurance Board

Article 7 § 8 – Ban on working at night

General regulation

In 2010, Estonia presented the Committee with information about ban on working at night for minors. The regulation of working at night has not been amended since that information was presented.

Minors' working at night is regulated by § 49 of the ECA. Pursuant to § 49 (1) of the ECA, an agreement by which an employee who is a minor undertakes to perform work from 20:00 to 6:00 is void. An exception to the foregoing may be made 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 (§ 49 (2) of the ECA). In case of failure to adhere to restriction on requiring a minor to work, the Labour Inspectorate shall have the right to impose a fine of up to 1,300 euros on the employer (§ 124 of the ECA).

A child or a young person may do light work under the supervision of an adult from 20:00 to 24:00 (§ 49 of the ECA). If an employer has failed to adhere to restriction on requiring a minor to work at night, the Labour Inspectorate shall have the right to impose a pecuniary punishment of up to 1,300 euros on the employer (§ 124 of the ECA).

Statistics

No data available.

Article 7 § 9 – Medical examinations

General regulation

In 2010, Estonia presented the Committee with information about medical examinations. The regulation has not been amended since that information was presented.

The Committee considers that although the interval between medical examinations has been shortened from three years previously to two years, such a period between medical check ups for persons under 18 years of age continues to be excessive.

Moreover, the Committee recalls that the medical examinations foreseen by Article 7 § 9 should take into account the skills and risks of the work envisaged. The Committee asks whether there are any other intervals applied for young workers that are employed in certain occupations where their health must be closely and frequently monitored.

Concerning medical examinations of minors, we additionally explain that pursuant to the Regulation “Procedure of medical examinations of employees”, initial medical examination shall take place within the first month of starting to work and subsequent medical examinations shall take place at least once within the next two years. When referring employees to medical examinations, occupational health physicians shall be guided by the specific employee’s age, state of health and the risk factors the employee encounters in his or her work. The physician may shorten the interval between medical examinations at own discretion if the physician finds it necessary due to that young employee’s state of health and/or if the employee's work entails special hazards which may have fast-acting impacts on his or her health.

The medical examinations of some employee groups are also regulated by regulations issued on the basis of special laws, whereas the frequency of their medical examinations may differ from that of so-called ordinary employees (3 years), for example:

1. seamen – once per year if under 21 years of age;
2. divers – once per year;
3. aeronautics specialists – depending on the position, once per year (class I);

4. blasters – at least once per 2 years.

But generally, minors are not allowed to work in such professions.

It should be stressed here that working of minors is precisely regulated in Estonian law, in order to prevent their health damage at a vulnerable age. Pursuant to the Occupational Health and Safety Act, an employer is required to organise risk assessment of the working environment to ascertain working environment hazards, assess the risks to the health and safety of an employee, taking account of the risk groups at work, incl. employees who are minors, and to implement measures to prevent or reduce the health risk.

Pursuant to the Employment Contracts Act, 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.

Works for which an employer must not employ a minor are prescribed in more detail in the Government of the Republic Regulation No. 94 "List of work environment risk factors and works where a minor is prohibited from working" dated 11.06.2009. The Regulation lists works which minors must not perform and risk factors which may cause health damage to minors if exposed to them.

The types of light works that minors are allowed to do are prescribed with the Government of the Republic Regulation No. 93 "Light works allowed for minors" dated 11.06.2009.

In order to enter into an employment contract with a minor of 7–14 years of age, the employer shall apply for consent from the labour inspector of the place of business. In the application the employer shall indicate information about *inter alia* the working conditions of the minor. Also, an employer is prohibited from allowing a minor to work without the consent of a legal representative. If the labour inspector verifies that the work is not prohibited for the minor and the minor's working conditions are in accordance with the requirements provided by law, work, the labour inspector shall grant the employer the consent to enter into an employment contract with a minor.

Based on the foregoing, we find that proper protection is ensured for young employees and the current situation is sufficiently flexible to ensure that the health of young people is examined with just the frequency necessary to preserve the young person's health considering the specific work or the specific employee.

The Committee recalls also that the medical examinations must be adapted to the specific situation of young workers and the particular risks to which they are exposed, and asks whether the medical examinations take into account the specificities of the work performed by the young worker. (Conclusions 2011, p 8)

Yes, it is always taken into account. When referring employees to medical examinations, occupational health physicians are guided by the specific employee's age, state of health and the risk factors the employee encounters in his or her work. During the latest reporting period, in-service training courses have been organised for occupational health physicians on the topics of the impact of work environment risk factors, e.g. interior climate factors, hazardous chemicals, psychosocial risks factors, etc. on health, as well as opportunities to prevent or reduce that impact.

Statistics

No data available.

Article 7 § 10 – Special protection of minors

General regulation

The Committee asks whether simple possession of child pornography is a criminal offence. In the meantime it reserves its position on this issue.

Pursuant to § 178 (1) of the Penal Code, a person who manufactures, acquires or stores, hands over, displays or makes available to another person in any other manner pictures, writings or other works or reproductions of works depicting a person of less than 18 years of age in a pornographic situation, or a person of less than 14 years of age in a pornographic or erotic situation, shall be punished by a pecuniary punishment or up to 3 years' imprisonment. Thus, acquiring or storing, including possessing child pornography is prohibited and punishable as a criminal offence.

The Committee asks whether child victims of sexual exploitation can be prosecuted for any act connected with this exploitation.

A child victim of sexual exploitation cannot be accused or prosecuted in any legal manner concerning the abuse committed against him or her. A child victim of sexual exploitation is treated as a victim with all rights stemming from the civil law and the penal law.

Other special protection

General regulation

The Committee asks whether legislation or codes of conduct for internet service providers is foreseen in order to protect children.

Pursuant to § 1 (1) of the Act to Regulate Dissemination of Works which Contain Pornography or Promote Violence or Cruelty, dissemination and exhibition to minors of works which contain pornography or promote violence or cruelty is prohibited. An amendment to the Information Society Act adopted the E-Commerce Directive 2003/31/EC, prescribing requirements for information society service providers, the organisation of supervision and liability for violation of that Act. The legislator has not established specific guidelines for Internet connectivity providers but methods are established for quick removal of inappropriate or illegal material being disseminated over the Internet. Also, police and internet service providers have close cooperation on everyday basis.

A hint hotline has been established (www.vihjeliin.ee), providing the opportunity to notify about web pages displaying illegal or inappropriate content; the relevant information is immediately forwarded to a competent person for verification and removal of the illegal or inappropriate content from the Internet. Additionally, children are advised by Internet police officers. Web constables reply to notices and letters sent by people over the Internet and train both children and adults on the subject of Internet safety. People contact the web constables via various portals and also by e-mail.

The Committee further asks about the situation regarding street children as regulated by the Child Protection Act and the Social Welfare Act.

A child whose care and upbringing is neither arranged by a guardian nor performed by a caregiver is referred temporarily or permanently to substitute home service or foster care. To prevent children from wandering the streets, youth centres have been established in order to provide children with opportunities to spend their free time in a safe environment which is suitable for children and provides them with positive activities.

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

Article 8 § 1 – Maternity leave

General regulation

The Committee asks what legal safeguards exist to avoid any undue pressure from employers to shorten maternity leave of employed women. The Committee also asks whether there is an agreement with social partners on the question of postnatal leave that protects the free choice of women, and whether collective agreements offer additional protection. In addition, the Committee asks information on the general legal framework surrounding maternity (for instance, whether there is a parental leave system whereby either parents can take paid leave at the end of the maternity leave).

Pursuant to § 59 (1) of the ECA, a woman has the right to pregnancy and maternity leave of 140 calendar days. Pursuant to § 27 (1) of the Holiday Act which was in force until 30.06.2009, a woman also had the right to pregnancy and maternity leave of 140 calendar days, based on a maternity leave certificate. Therefore, the regulation of pregnancy and maternity leave is provision that has been in use in Estonian law for a long time. When setting the duration of pregnancy and maternity leave, the legislator was guided by its aim of preparing a woman for delivery and restoring her health and establishing a strong mother-child connection after the delivery. Based on the foregoing, the legislator did not consider it necessary to reduce the duration of pregnancy and maternity leave in the new ECA. Maternity benefit is paid by the Health Insurance Fund for the time of the pregnancy and maternity leave. The adoption of the ECA was preceded by negotiations with social partners – trade unions and central federations of employers. The negotiations resulted in an agreement about the content of the ECA currently in force.

Social partners have not entered into an agreement concerning pregnancy and maternity leave. Collective agreements entered into on the sector level do not regulate pregnancy and maternity leave and as far as we know, the topic is also commonly unregulated in enterprise-level collective agreements.

Pursuant to § 58 of the Health Insurance Act (hereinafter the HIA), maternity benefit is paid for the time of the pregnancy and maternity leave. A woman has the right to receive maternity benefit for 140 calendar days during pregnancy and maternity leave. A woman may go on a pregnancy and maternity leave 30–70 days before the estimated date of delivery. If a woman starts using the pregnancy and maternity leave less than 30 calendar days before the estimated date of delivery, the pregnancy and maternity leave and the benefit will be reduced by the number of days that the start of the pregnancy and maternity leave was delayed.

If a pregnant woman has been provided with work corresponding to her state of health or the conditions of service of a pregnant woman have been eased during her pregnancy, she will have the right to receive the maternity benefit for 140 calendar days if the pregnancy and maternity leave commences at least 70 calendar days before the estimated date of delivery. If the pregnancy and maternity leave of a woman commences after the aforementioned date, the physician or midwife shall reduce the duration of the pregnancy and maternity leave accordingly, whereby the benefit is reduced by the number of days that the start of the pregnancy and maternity leave was delayed. The maternity benefit is calculated on the basis of the data of social insurance payments accounted or paid for that person in the previous calendar year as prescribed by § 55 (1) of the HIA. The Health Insurance Fund pays the maternity benefit as 100% of a calendar day's average income for each calendar day (§ 54 (1) 4) and § 55 (2) of the HIA). If social tax was not paid for an employee or an official during the previous calendar year, the average income per calendar day will be deemed to be equal to the negotiated wage of the employee divided by 30, but not more than the amount of the minimum monthly wage established by the Government of the Republic and divided by 30 (§ 55 (3) of the HIA). The minimum monthly wage established for 2014 is 355 euros.

In addition to the pregnancy and maternity leave, ECA also regulates several other leaves for parents. Pursuant to § 62 (1) of the ECA, a mother or father has the right to child care leave until his or her child reaches the age of three years. Child care leave may be used by one person at a time and may be used in one part or in several parts at any time.

Child leave is regulated by § 63 of the ECA; pursuant to § 63 (1) of the ECA, Each calendar year a mother or father has the right to receive child leave which shall be remunerated on the basis of the minimum wage established by the Government of the Republic:

- ✓ for three working days if she or he has one or two children under 14 years of age;
- ✓ for six working days if she or he has at least three children under 14 years of age or at least one child under three years of age.

Child leave may be used within a calendar year; in the year the child turns three, 14 and 18 year of age, child leave is granted regardless of whether the birth date of the child falls before or after the leave. Pursuant to § 63 (2) of the ECA, in addition to the aforementioned child leave, a mother or father of a disabled child has the right to child leave of one working day per month until the child reaches the age of 18 years, which is remunerated for on the basis of the average wages. The pay for child leave and the pay for additional leave in case of a disabled child is compensated to the employer from the state budget.

Paternity leave is regulated by § 60 of the ECA. A father has the right to receive total of ten working days of paternity leave during the two months before the estimated date of birth determined by a doctor physician or midwife and during the two months after the birth of the child. Paternity leave shall be remunerated on the basis of his average wages but no

more than three times the average gross monthly salary in Estonia on the basis of data published by the Statistics Estonia concerning the next to last quarter from the quarter when the holiday was used.

Pursuant to § 61 of the ECA, an adoptive parent of a child under 10 years of age has the right to adoptive parent leave of 70 calendar days as of the date of entry into force of the court judgement approving the adoption. An adoptive parent has the right to obtain benefit for the adoptive parent leave from the Health Insurance Fund. Pursuant to § 58 (4) of the HIA, one person adopting a child under 10 years of age has the right to receive the adoption benefit for 70 calendar days on the basis of a certificate for adoption leave. The adoption benefit is calculated similarly to the maternity benefit and it amounts to 100% of a calendar day's average income for each calendar day (§ 54 (1) 5) of the HIA).

In addition to the maternity and adoption benefits, § 51 (4) of the HIA prescribes that care benefit is paid to an insured person in respect of nursing a child under 12 years of age for up to 14 calendar days, nursing a family member who is ill at home for up to 7 calendar days and caring for a child under 3 years of age or for a disabled child under 16 years of age when the person caring for the child is themselves ill or is receiving obstetrical care for up to 10 calendar days. Care benefit is paid on the basis of a care certificate as 80% of the person's average income. All benefits prescribed in the HIA also apply to women employed in the public sector.

Moreover, § 64 of the ECA prescribes an opportunity for unpaid child leave. Pursuant to the law, a mother and father who is raising a child of up to 14 years of age or a disabled child of up to 18 years of age has the right to child leave without pay of up to 10 working days every calendar year.

The Committee asks whether the same regime applies to women employed in the public sector.
--

An important reform has been implemented in the domain of public service and a new Civil Service Act (CSA) has been adopted which entered into force on 01.04.2013. The new act clearly provides for differentiation of people working in state agencies and local government agencies into two categories:

a) Officials: accepted into service with an administrative act and having the authorisation to exercise public authority. The service relationships of officials are mainly regulated by the CSA and the Employment Contracts Act (ECA) shall not apply to officials, except in cases provided for by CSA. Officials of special categories are additionally subject to specific laws (e.g. the police, prison officers, prosecutor's service officials, etc.).

b) Employees: employed with an employment contract and performing work which supports the exercise of public authority in an public sector. The employment relationships of

employees in agencies exercising public authority are regulated by the ECA and other laws which regulate employment relationships (§ 2 (1) and § 3 (2) of the CSA). The CSA does not contain any differences in its regulation of persons working under employment contracts, compared to the ECA.

Protection of maternity is guaranteed for both officials and employees in civil service. The so-called protection provisions of public sector employees and private sector employees working under employment contracts stem from the same sources – the ECA, other laws which regulate employment relationships, the HIA, etc.

The maternity protection of officials is regulated by the following provisions of the CSA: § 23 (4), § 33 (8), § 38 (5), § 39 (5), § 40 (5), § 44 (2), § 48, § 57 (3), § 58 (1), § 100 (1), § 105 (2), (4) and (5) and § 131 (3) (implementing provision). The ECA also partially applies to officials (e.g. the holiday regulation). Officials are also subject to the § 1 (1) of the OHS Act and its implementation acts as well as the HIA.

The main provision of maternity protection in the CSA is § 48 which was modelled on § 18 of the ECA.

§ 48 of the CSA. Working conditions of pregnant official and official who has right to pregnancy and maternity leave

(1) An official who is pregnant or who is entitled to pregnancy and maternity leave shall have the right to temporary ease of service conditions on the basis of a certificate of incapacity for work issued by a physician or midwife.

(2) If a temporary ease of the service conditions is impossible, the right of the official to exercise official authority shall be suspended until the expiry of the term of release from work specified on the certificate of incapacity for work.

(3) In the cases provided for in subsections (1) and (2) of this section, an official shall submit to the immediate supervisor a medical decision of the physician or midwife stating the restrictions on the performance of functions arising from the official's health condition as well as the suggestions for service functions and conditions which could be in compliance with the official's health condition.

(4) In the cases specified in subsections (1) and (2) of this section, an official shall be paid a benefit under the conditions and in the procedure prescribed in the HIA.

(5) Upon termination of the pregnancy and maternity leave, an official shall have the right to use the improved terms and conditions of service, the right for which would have arisen during the official's absence.

Therefore, an official who is pregnant or who is entitled to pregnancy and maternity leave shall have the right to temporary ease of service conditions in the official's current position on the basis of a certificate of incapacity for work issued by a physician or a midwife. If a

temporary ease of the service conditions is impossible, the right of the official to exercise official authority is suspended until the expiry of the term of release from work specified on the certificate of incapacity for work. The official shall submit to the immediate supervisor a medical decision of the physician or midwife (pursuant to § 48 (1) and (2), this is a certificate of incapacity for work) stating the restrictions on the performance of service functions arising from the official's health condition as well as the suggestions for functions and conditions which could be in compliance with the official's health condition. The certificate of incapacity for work is issued pursuant to § 52 of the HIA.

An official shall be paid a compulsory health insurance benefit pursuant to the procedure prescribed in the HIA, for the duration of temporary ease of the official's service conditions or suspension of the right of the official to exercise official authority (subsection (4)). § 48 (4) of the CSA prescribes payment of health insurance benefit, in compliance with the provisions of chapter 3, division 5, subdivision 1 of the HIA.

In comparison with the earlier CSA which was in force in 1996, § 48 (5) of the currently valid CSA additionally prescribes that upon termination of the pregnancy and maternity leave, an official shall have the right to use the improved terms and conditions of service, the right for which would have arisen during the official's absence. Similar regulation is also prescribed by the ECA.

Paragraph § 59 of the ECA applies to employees working in public sector. Officials are also subject to the holiday regulation part of § 54 - 71 of the ECA (§ 43 (1) of the CSA). Thus, both the pregnancy and maternity leave provisions (§ 59) and the paternity leave provisions (§ 60) of the ECA also apply to officials.

The Committee asks whether the same regime applies to women employed in the public sector.

The right to maternal benefit stems from the HIA which applies equally to employees and officials (§ 5 (2) 1) and 2) of the HIA).

Statistics

Table 1. Causes for inactivity, age 16 years to pension, 2009-2013

	2009	2010	2011	2012	2013
Total inactive persons (in thousands)	201.3	199.6	193.0	188.5	186.0
.... incl. pregnancy, maternal or parental leave (in thousands)	33.2	28.5	26.8	27.7	29.5
.... incl. pregnancy, maternal or parental leave, proportion (%)	16.5	14.3	13.9	14.7	15.9

....incl. caring or children or other family members (in thousands)	8.4	9.7	8.6	13.1	11.9
...incl. caring or children or other family members, proportion (%)	4.2	4.9	4.5	6.9	6.4

Source: Statistics Estonia, Estonian Labour Force Survey

Table 2. Pregnancy and maternity benefit, 2009-2013

	2009	2010	2011	2012	2013
Number of maternity certificates	12,456	11,007	10,012	9,770	9,677
Number of days	1,676,535	1,533,010	1,395,109	1,364,348	1,347,845
Total benefits paid (in thousands of euros)	42,260	36,118	31,140	32,168	33,736
Average daily income (in euros)	25.2	23.6	22.3	23.6	25
Average duration of leave, in days	134.6	139.3	139.3	139.6	139.3

Source: Health Insurance Fund

Table 3. Use of paternity leave, 2008 and 2013¹

	2008	2013
Number of applications	6,666	5,253
Number days compensated	68,052	50,080
Expenditure of paternity leave benefits, in euros	3,507,248	2,963,100
Average daily income, in euros	52	59

¹ Paternity leave benefits were suspended until 2013; therefore there are no data about use of unpaid paternity leave in 2009–2012. Paternity leave benefits were resumed at the beginning of 2013.

Source: Estonian National Social Insurance Board

Table 4. Adoptive parent leave (§ 61 of the ECA) and adoption benefit (person adopting a child under 10 years of age)

	2009	2010	2011	2012	2013
Number of adoption certificates	31	20	24	23	34
Number of days of leave	1,957	1,400	1,640	1,618	2,449
Total expenditure	55,586	43,717	39,481	36,007	68,395
Average daily income (in euros)	28.4	32.2	24.1	22.3	27.9

Source: Health Insurance Fund

No data are collected concerning the use of parental leave (§ 62 of the ECA). The use of parental leave has been studied in the Estonian Labour Force Survey module “Combining work and family life” of the Statistical Office in 2010.

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

	Total	Used parental leave	Did not use parental leave
Number of parents, in thousands	176.4	91.8	84.6
Men	79.4	4.3	75.1
Women	97	87.4	9.6

¹ Parents of children under 8 years of age include people of 15–64 years of age whose household includes children under 8 years of age, whether their own or children of their spouse /cohabitee.

Source: Statistics Estonia, Estonian Labour Force Survey module “Combining work and family life”

Table 6. Paying parental benefit¹, by benefit types and gender; average amount of benefit paid, 2009–2013

Year	2009	2010	2011	2012	2013
Total persons having received parental benefit	17,147	16,514	18,905	14,698	14,464
men, %	8.5	6.9	5.2	7.3	7.4
women, %	91.5	93.1	94.8	92.7	92.6
By parental benefit types:	,	,	,	,	,
Parental benefit as 100% of a calendar month's income	11,327	11,125	11,885	9,256	8,951
men, %	10.1	8.7	7.0	9.5	9.5
women, %	89.9	91.3	93.0	90.5	90.5
Parental benefit as maximum amount	847	448	586	571	616
men, %	26.7	24.3	18.1	19.4	23.2
women, %	73.3	75.7	81.9	80.6	76.8
Parental benefit as minimum monthly wage	3,008	2,318	2,810	2,265	2,473
men, %	1.7	1.3	1.0	1.4	1.6
women, %	98.3	98.7	99.0	98.6	98.4
Parental benefit as parental benefit rate	1,965	2,623	3,624	2,606	2,424

men, %	1.9	1.2	0.6	2.0	1.8
women, %	98.1	98.8	99.4	98.0	98.2
Annual average parental benefit paid, in euros³	742.27	737.92	712.40	733.13	777.72
men	1,150.86	1,167.79	1,206.56	1,154.50	1,260.58
women	462.40	705.97	685.12	699.81	738.88

¹ Paid for the first time per child in a year.

² The average benefit paid in 2004–2010 is converted from Estonian kroons to euros with the exchange rate of 1 EUR=15.6466 EEK.

Source: Estonian National Social Insurance Board

Table 7. Use of child leave (§ 63 of the ECA), 2009–2013

	2009	2010	2011	2012	2013
Number of persons using it in a year	29,186	25,035	26,379	25,016	32,867
Total days used	101,969	85,584	88,524	83,172	110,665
Expenditure, in euros ¹	430,612. 6	361,212. 1	375,697. 7	353,609. 5	1,500,653. 1

¹ Pursuant to § 63 of the ECA, each calendar year a mother or father has the right to receive child leave: for three working days if she or he has one or two children under 14 years of age; for six working days if she or he has at least three children under 14 years of age or at least one child under three years of age. Since 01.01.2013, the child leave shall be remunerated on the basis of the minimum wage established by the Government of the Republic (earlier, the remuneration was based on a daily rate of 4.25 euros).

² The benefit amounts until 2010 (incl.) have been converted from Estonian kroons to euros with the exchange rate of 1 EUR=15.6466 EEK.

Source: Estonian National Social Insurance Board

No data are available concerning the use of unpaid child leave (§ 64 of the ECA).

Article 8 § 2 - Limits on cancellation of employment relations

General regulation

The Committee asks for some examples that illustrate the level of compensation awarded in cases of unlawful dismissals based on maternity, and reserves its position on the matter.

Every year, the Labour Inspectorate prepares an overview of labour disputes concerning unequal treatment (incl. family responsibilities). The following is an example of the amount

of compensation ordered in a case of illegal termination of employment contract in relation with maternity in 2013:

Labour Dispute Committee's decision No. 4.4-1_44 (8.01.2013)

Petitioner: a woman of 34 years of age

Content of the petition: after a parental leave of 4.5 years, the petitioner returned to work and on the same day the employee was made redundant. The petitioner's request was to identify that she had been discriminated against on gender basis due to being a parent and fulfilling family responsibilities and to pay a compensation of 10,000 euros.

The employer has reorganised the work. There was no employee with the petitioner's position at the time of the petitioner's return and changes had been made in the department, i.e. a logistics manager had been hired and the former position's tasks had been distributed between carriage logistics specialists and external processing permit specialists. The job descriptions of the petitioner and the carriage logistics specialists were identical. If the employee had not been on parental leave, such situation would not have occurred, i.e. the petitioner had been put into an unfavourable situation due to being a parent. The discrimination was essentially that the employee was not taken into account in reorganisation, although the employer is required to presume that the person on leave will return and has to get the previous position back.

Labour Dispute Committee's decision No. 4.4-1 44 (2013):

1. The petitioner shall be considered discriminated against on gender basis due to fulfilling family responsibilities and being a parent.
2. The employer shall be ordered to pay a compensation of 1,000 euros to the benefit of the petitioner on the basis of § 13 (2) of the Gender Equality Act.

The Labour Dispute Committee identified that the employee was discriminated against on gender basis because the employer did not account for the petitioner being on parental leave and did not plan to continue the employment relationship with the petitioner returning from parental leave, as the employer refrained from informing the employee about the reorganisation of work and about the petitioner's position being made redundant while conversing with the petitioner in correspondence and in meeting during the parental leave. The employer also did not use the opportunity to enter into a fixed-term contract with an employee performing the logistics specialist's work tasks, with that employee's employment relationship starting during the petitioner's parental leave.

The Committee asks what regime applies to women employed in the public sector, in particular those with temporary contracts.
--

The relevant regulation of the ECA concerning termination of employment contract applies to public sector employees (i.e. § 93, a specificity of cancelling an employment contract with a pregnant person or a person raising a small child).

Termination of a service relationship with an official must be guided by the restrictions prescribed in § 100 of the CSA.

§ 100 of the CSA. Restrictions on release from service

(1) On the basis of § 90, 92 or 93 of this Act, except upon liquidation of the agency, it is not allowed to release from service an official who is pregnant, who has the right for pregnancy and maternity leave or who is raising a child under three years of age.

(2) The provisions of subsection (1) of this section shall be applied only if the official has notified his or her immediate supervisor of her pregnancy or the existence of a child before the notification of the release from service or within 14 calendar days after the notification. If the notification was not possible within the specified period for the reasons beyond the control of the official, the circumstance specified in subsection (1) of this section shall be notified of at the earliest opportunity. At the request of the immediate supervisor, an official shall submit a certificate which confirms pregnancy, issued by a physician or midwife, or a certificate of birth.

Therefore, an official who is pregnant, who has the right for pregnancy and maternity leave or who is raising a child under 3 years of age cannot be released from service due to redundancy (except upon liquidation of the authority), due to unforeseen circumstances or reduction of ability to work. The person must have informed about the pregnancy or the existence of a child.

The Committee asks what regime applies to women employed in the public sector, in particular those with temporary contracts.

The rights of claim prescribed by § 105 of the CSA must be followed in case of public sector officials.

§ 105 of the CSA. Right of claim upon unlawful release from service

/.../

(2) An official who is pregnant, who has the right to pregnancy and maternity leave, is raising a child under seven years of age or who has been elected a representative of officials, is entitled to demand that the administrative act on his or her release from service be declared unlawful upon unlawful release from service, demand amendment of the basis for the release from service and compensation in the amount of six months' average salary of the official. The court may amend the amount of compensation, taking account of the circumstances for the termination of the service relationship and considering mutual interests.

(3) The limit to the compensation specified in subsection (1) of this section or in subsection (2) of this section shall not apply if an official was released from service violating the principle of equal treatment specified in § 13 of this Act.

(4) An official who is pregnant during the release from service, who has the right to pregnancy and maternity leave or who is raising a child under seven years of age, is entitled to demand, upon the unlawful release from service, the cancellation of the administrative act on his or her release from service, the reinstatement of himself or herself into service and remuneration for the period of forced absence from the service.

(5) The following may be subtracted from the remuneration specified in subsection (4) of this section:

- 1) the compensation paid to the official due to the unlawful release from service;*
- 2) outstanding remuneration due for the period of forced absence from service to the extent which is caused by the wrongful behaviour of the official due to the procedural rights abuse, including the reason that the official has evaded the proceeding concerning the illegality of his or her release from service;*
- 3) the remuneration received from another employer or the income earned from business during the period of forced absence from the service in the amount which was due to the unlawful release from service.*

The provision referenced above indicates that pursuant to the CSA, officials who are pregnant, who have the right to pregnancy and maternity leave or are raising a child under seven years of age have the right to demand higher compensation for unlawful release from service, i.e. in the amount of 6 months' average salary of the official, in comparison to the general procedure (i.e. the obligation to pay a compensation of 3 months' average salary). A court may change the compensation amount, depending on circumstances. Additionally, upon unlawful release from service, the officials under protection have the right to demand, upon the unlawful release from service, the cancellation of the administrative act on their release from service, their reinstatement into service and remuneration for the period of forced absence from the service. The latter is an additional guarantee not available to officials not covered by the protective provision.

Statistics

Table 8. Requests to challenge the cancelling of an employment contract (women being pregnant, entitled to pregnancy and maternity leave, using parental leave / adoptive parent's leave, § 93 of the ECA)

2009	2010	2011	2012	2013
53	21	5	5	4

Source: Labour Inspectorate

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

General regulation

In 2010, Estonia presented the Committee with information about time off for women who are breastfeeding. The regulation has not been amended since that information was presented.

Pursuant to the Occupational Health and Safety Act, 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 3 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 1 hour. Nursing breaks shall be included in the working time and average wages shall be paid to the employee for such breaks. The payments shall be compensated to the employer from the state budget.

The Committee concludes that the situation in Estonia is in conformity with Article 8 § 3 of the Charter.

The OHSA also extends to the officials and employees of civil service, equally to the private sector (§ 1 (1) of the OHSA). The CSA does not provide additional guarantees to nursing mothers, i.e. the same regulation applies as that applying to employees under employment contracts. Guarantees for pregnant women and nursing mothers are prescribed by § 10 of the OHSA and by the Regulation No. 95 of the Government of the Republic adopted on its basis in 2009.¹ The legislation referenced above regulates both additional breaks and work areas dangerous to women.

Statistics

Table 9. Compensation of paid nursing breaks from the state budget, 2009–2013

	2009	2010	2011	2012	2013
Number of persons using it in a year	38	16	8	6	9
Number of hours compensated	2,823	1,235	401	565	1,162
Expenditure, in euros	19,178.5	7,556.7	7,269.0	4,013.7	7,187.7

¹ The benefit amounts until 2010 (incl.) have been converted from Estonian kroons to euros with the exchange rate of 1 EUR=15.6466 EEK.

Source: Estonian National Social Insurance Board

¹ <https://www.riigiteataja.ee/akt/13290413>

Article 8 § 4 – Restrictions on working at night

General regulation

In 2010, Estonia presented the Committee with information about restrictions on working at night. The regulation on working at night has not been amended since that information was presented.

The Committee asks whether this regime applies to women employed in the public sector.

The part of the ECA concerning working at night applies to public sector employees. § 40 of the CSA regulates officials' working at night.

§ 40 of the CSA. Night work and work done on public holiday

/.../

(5) The public sector shall take account of significant facts which could impede the application of the night work or work done on public holidays, including the fact that the official is pregnant or is raising a child under three years of age or a disabled child.

The so-called protection provision in subsection (5) indicates that an official who is pregnant or is raising a child under three years of age or a disabled child cannot be required to work at night. The public sector must take account of significant facts which could impede the application of the night work or work done on public holidays, including the fact that the official is pregnant or is raising a child under three years of age or a disabled child.

Article 8 § 5 – Prohibited work

General regulation

The legal framework has not changed when compared to the previous reporting period. The domain is regulated by the Government of the Republic Regulation No. 95 "Occupational health and safety requirements for pregnant and nursing women's working" dated 11.06.2009 and the Minister of Social Affairs Regulation No. 26 "Occupational health and safety requirements for manual moving of weights" dated 27.02.2001. Both regulations apply to both employees and officials, i.e. also to women working in the public sector.

The Committee asks whether the same regime applies to women employed in the public sector.

The OHSA and § 18 of the ECA and apply to public sector employees in the relevant part, similar to pregnant women working in the private sector.

The regulation in § 48 of the CSA is intended for officials; similar to employees, the OHS and its implementation acts apply to them. Pursuant to § 48 of the CSA, an official who is pregnant or who is entitled to pregnancy and maternity leave shall have the right to temporary ease of service conditions on the basis of a certificate of incapacity for work. For the duration of the official's temporary ease of service conditions or a certificate of incapacity for work, the official shall be paid a compulsory health insurance benefit under the conditions and in the procedure prescribed in the HIA (§ 48 (4) of the CSA).

The Government of the Republic Regulation No. 95 adopted on the basis of § 10 of the OHS in 2009 prescribes that first and foremost, a pregnant woman is not allowed to work:

- 1) in conditions at risk of rubella infection, unless it is proven that the pregnant woman is sufficiently protected against rubella by immunity;
- 2) in conditions at risk of toxoplasmosis infection, unless it is proven that the pregnant woman is sufficiently protected against toxoplasmosis by immunity;
- 3) in conditions of high air pressure;
- 4) in conditions of exposure to lead or its compounds;
- 5) in conditions of underground work.

The Government of the Republic Regulation referenced above also prescribes an obligation for employers to assess health risks to pregnant and nursing women and to shape a safe work environment for them. The obligation is prescribed for both private sector employers and public sector agencies.

Measures to implement the legal regulation

In 2010-2011, occupational health and safety guides were prepared for 36 different fields of activity. The guides were printed in Estonian and Russian and they are available both on paper and in digital form from the work life portal. One of the recurrent topics in those guides is occupational health and safety of pregnant and nursing women employees.

In 2013, the guide "Work environment of pregnant and nursing women" for working women was prepared. The guide provides an overview of various work environment risk factors and describes how those can be dangerous to a pregnant or nursing woman. The guide provides recommendations on how to prevent the harmful effect of each risk factor. The guide is available in digital form from the work life portal www.tööelu.ee.

General information about work environment risk factors is available from the work life portal www.tööelu.ee.

Statistics

The data of Labour Inspectorate provide general statistics about transfers to easier work.

Table 10. Applications to transfer a pregnant woman to easier work, received by Labour Inspectorate (§ 62 (3) and § 63 (2) of the ECA and § 51 (2) of the CSA), 2009-2013

2009		2010		2011		2012		2013	
Application	Consent								
832	819	7	4	6	5	8	8	4	2

Source: Labour Inspectorate

Table 11. Benefits for temporary incapacity for work concerning transfers to easier work

	2009	2010	2011	2012	2013
Number of sick leave certificates	7,048	4,818	5,940	6,589	6,549
Number of persons	2,206	5,462	2,314	2,503	2,547
Number of days of incapacity for work	189,959	148,150	100,701	184,644	184,353
Total expenditure	1,774,438	1,609,137	1,288,219	1,464,759	1,571,346

Source: Health Insurance Fund

The amounts of benefits for incapacity for work paid by the Health Insurance Fund concerning transfers to easier work cannot be presented separately in relation to working at night.

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

Housing for families

General regulation

Pursuant to § 32 of the Constitution of the Republic of Estonia, the property of every person is inviolable and equally protected. Property may be taken from the owner without his or her consent only in the public interest, in the cases and pursuant to a procedure provided by law, and for fair and immediate compensation. Everyone whose property has been taken from him or her without his or her consent has the right to bring an action in the courts to contest the taking of the property, the compensation, or the amount of the compensation.

Everyone has the right to freedom from interference in possessing or using his or her property or making dispositions regarding the same. Limitations of this right are provided by law. Property may not be used in a manner that contravenes the public interest.

On public interest grounds, the law may provide classes of property which may be acquired in Estonia only by citizens of Estonia, by certain categories of legal persons, by local authorities, or by the Estonian government.

§ 33 of the Constitution prescribes that the home is inviolable. No one's dwelling or other premises lawfully occupied by him or her, or his or her workplace may be forcibly entered or searched, except in the cases and pursuant to a procedure provided by law to protect public order, public health or the rights and freedoms of others, to prevent a criminal offence, to apprehend the offender, or to ascertain the truth in a criminal case.

§ 14 of the Apartment Ownership Act regulates the obligation to transfer an apartment ownership. If an apartment owner has repeatedly violated his or her obligations with regard to another apartment owner and other apartment owners consider his or her continuing membership in the community impossible, they may require the apartment owner to transfer his or her apartment ownership.

In particular, transfer of apartment ownership may be demanded if the apartment owner has repeatedly failed to perform the obligations listed in the law, the apartment owner has delayed payment of at least six months' management expenses for more than three months or the activities of the apartment owner severely interfere with the use of other apartment ownerships.

Submission of the demand for transfer shall be decided by a majority of the votes of the apartment owners.

If an apartment owner who has violated his or her obligations fails to transfer the ownership, the transfer shall be adjudicated by a court on the basis of an action submitted by at least one apartment owner or an action submitted by the administrator of the object of common ownership. The court shall make a judgment on the basis of the facts on which the demand for transfer is based. An apartment owner or administrator may demand enforcement of a court judgment on the basis of the Code of Enforcement Procedure.

Pursuant to § 271 of the Law of Obligations Act, by a lease contract, one person (the lessor) undertakes to grant the use of a thing to another person (the lessee) and the lessee undertakes to pay a fee (rent) therefor to the lessor.

Pursuant to § 273 of the Law of Obligations Act, an agreement which makes entry into or continuation of a residential lease contract dependent on an obligation of a lessee in respect of a lessor or third party is void unless the obligation is directly related to the use of the leased dwelling.

Pursuant to § 275 of the Law of Obligations Act, an agreement which derogates from the provisions of law regarding the rights, obligations and liability of the parties to a residential lease contract to the detriment of the lessee is void.

A lessee shall use a thing with prudence and according to the intended purpose which is the basis for the lease (§ 276 (2) of the Law of Obligations Act).

If a lessor transfers an immovable after transfer of the immovable into the possession of a lessee, or if the owner of a leased thing changes after transfer of the thing into the possession of the lessee in the event of the transfer of the thing upon compulsory execution or in bankruptcy proceedings, the rights and obligations of the lessor arising from the lease contract are transferred to the acquirer of the thing (§ 291(1) of the Law of Obligations Act).

Pursuant to § 323 (1) of the Law of Obligations Act, the acquirer may cancel a residential lease contract only if the acquirer urgently needs the leased premises. Pursuant to § 323 (2) of the same Act, if the new lessor cancels a lease contract entered into for a specified term before expiry of the term of the contract, the previous owner shall be liable for any damage caused by termination of the contract to the lessee.

Pursuant to § 309 (1) of the Law of Obligations Act, a lease contract entered into for a specified term expires upon expiry of the term unless the contract is extraordinarily cancelled earlier. The lessee and the lessor may cancel a lease contract entered into for an unspecified term according to the provisions of the same Act, by giving at least three months' notice, mainly if the lessee violates the obligations provided for the lessee in the law or in the contract.

Pursuant to § 326 of the Law of Obligations Act, a lessee may contest the cancellation of the lease contract by the lessor in a lease committee or court. Additionally, upon cancellation of a lease contract by the lessor or expiry of the term of a lease contract entered into for a specified term, the lessee of the dwelling may demand that the lessor extend the lease contract for up to three years if termination of the contract would result in serious consequences for the lessee or his or her family. If the lessor does not consent to the extension of the contract, the lessee may demand extension of the lease contract in a lease committee or court.

Pursuant to § 6 (1) of the Local Government Organisation Act, the functions of a local government include the organisation of housing and utilities in its territory of government.

The State Legal Aid Act regulates the legal aid granted by the state and the conditions of and procedure for obtaining such legal aid.

Based on the foregoing, we find that the legislation in force provides sufficient protection to people's right to dwelling and that the interests of people upon unlawful eviction are sufficiently protected.

Measures and statistics

Improving the opportunities to acquire a dwelling

The National Development Plan for Housing Sector was in force in 2008-2013; the activities planned and implemented under that development plan contributed significantly to the improvement of housing conditions and the improvement of opportunities to acquire a dwelling. The following presents the main objectives concerning the sector, and the relevant results.

The target groups for state-provided loan surety were young families, young specialists and lessees of restituted houses; since 2013 the target groups also included veterans of the Defence Force. In the period of 2008-2013, suretyship agreements were entered into for 3,473 dwellings bought for a young person, 3,692 dwellings bought for a young family, 7 lessees of a restituted house and 4 veterans; a total of 7,176 loan sureties were provided as the total amount of 1,616,674 euros.

Dwelling allowance for families with many children

- Purpose – to improve the housing conditions of families with many children.
- In 2008-2013, the housing conditions of a total of 1,818 families with many children were supported. A total of 2,919 applications were submitted throughout the period; the allowance was paid for 1,569 applications, supporting the improvement of housing conditions in a total of 132,258 m² of premises.

The dwelling allowance measure is included among the activities of the Children and Families Development Plan 2012-2020 prepared by the Ministry of Social Affairs and the measure will be implemented pursuant to that development plan starting from 2014.

Apartment building renovation loan

- As a total, 91.7 million euros have been invested into apartment buildings with the loan, renovating 1.4 million m². Renovations under this measure improve the housing conditions of more 21,000 apartments and nearly 50,000 residents.
- The loan is mostly used for thermal insulation of apartment building façades and renovation of their heating systems as well as thermal insulation for roofs and renovation of ventilation systems there. The calculated average energy savings from reconstruction works are 48%.

	Total
Start of the programme	24.06.2009
Number of buildings renovated	591
Number of apartments	21,684
Number of residents	49,873
Closed net space of dwellings	1,404,995
Expected energy savings	40%

Apartment building reconstruction allowance

- The energy efficiency of a total of 498 apartment buildings was improved with the help of this allowance in 2010-2013; the allowance was paid for 670 applications, whereas 166 of those apartment buildings received 35% support for reconstructing the building to be more energy efficient.

Small residence reconstruction allowance

- In 2012, SA KredeEx conducted a pilot project to support the reconstruction of small residences and to install renewable energy equipment there.
- KredeEx received 290 applications for small residence renovation allowance for a total of 3.7 million euros; a total of 252 applications for renewable energy were received, for a total amount of 2.76 million euros.
- Small residence reconstruction allowance was paid to 231 people and renewable energy allowance was paid to 95 people in total; the average allowance amount was 10,900 euros.

Renovation allowance for apartment buildings restituted in the course of ownership reform

- A total of 101 applications were filed and 91 allowances were paid in 2007-2013.
- As a result of the measure, renovation works of a total of 42,599 m² of closed net space were supported; allowance was paid to 53 apartment buildings restituted in the course of ownership reform.

State surety for renovation loans

- The target group of state loan sureties is apartment associations, building associations and apartment owners' associations.
- Apartment buildings wishing to take a bank loan for renovation can also apply for KredEx loan surety for apartment buildings. The loan surety is intended for apartment buildings which have received a higher than usual risk assessment from a bank and wish to use KredEx surety to insure their insolvency risk.
- A total of 492 apartment building sureties were issued in 2008-2013, for a total amount of 17,940,432 euros of sureties and 27,639,815 euros of loans.

As protection against unlawful eviction, States must set up procedures to limit the risk of eviction (Conclusions 2005; Lithuania, Norway, Slovenia and Sweden). The Committee recalls that in order to comply with the Charter, legal protection for persons threatened by eviction must include:

- an obligation to consult the parties affected in order to find alternative solutions to eviction;
- an obligation to fix a reasonable notice period before eviction;
- accessibility to legal remedies;
- accessibility to legal aid;
- compensation in case of illegal eviction

To enable the Committee to assess whether the situation is in conformity with Article 16 of the Charter as regards access to adequate housing for the families, the Committee asks for information in the next report on all the aforementioned points.

Legally, a person can be evicted i.e. an immovable can be released in an enforcement proceeding. In such a proceeding, the debtor must hand over or vacate the immovable property and thereafter the possession is given to the claimant. Eviction is regulated by § 180 of the Code of Enforcement Procedure (CEP). Eviction is initiated in an enforcement proceeding, generally as a separate proceeding after selling an immovable property in the enforcement proceeding. A debtor has rather better chances of protecting its rights before the sale of the immovable property; if the matter has reached eviction, essentially no negotiations are held anymore.

To provide a debtor with sufficient time, a longer term for voluntary compliance with an enforcement instrument can be granted here than in other enforcement actions. As an exception from other enforcement actions where the term for voluntary compliance with an enforcement instrument is 10–30 days (§ 25 (1) of the CEP), in case of eviction the debtor can be granted a term of up to three months for voluntary compliance with an enforcement instrument (§ 180 (1) of the CEP). The minimum term for voluntary compliance in a proceeding of release of immovable property (an eviction proceeding) is 14 days (§ 180 (2) of the CEP; Civil Chamber of the Supreme Court, Ruling No. 3-2-1-147-13, clause 14).

As a basis for assessment in setting a term for voluntary compliance, the Supreme Court has stressed that upon setting a term for voluntary compliance, an important circumstance must be accounted for, namely that the proceeding to release an immovable property may mean the loss of home for the debtor. Additionally, a proceeding to release an immovable property must account for not only the claimant's justified interest but also the climate conditions of Estonia. Therefore, it may be necessary, especially in winter, to set the term for voluntary compliance as not the minimum allowed term of 14 days but rather a term near the maximum. Still, the specifics of each case must be considered, incl. e.g. the debtor having another dwelling, the size of the premises, etc. (Civil Chamber of the Supreme Court, Ruling No. 3-2-1-147-13 p 15).

The debtor's rights can be protected better with the possibility of setting a longer term for voluntary compliance. A reasonable period of advance notice of eviction is ensured by § 180 (2) of the CEP, pursuant to which an enforcement notice concerning the release of an immovable shall be delivered to a debtor not less than 14 days before the planned compulsory enforcement.

Before the sale of immovable property and also during the subsequent eviction, the debtor can file a petition with the court to suspend the enforcement proceedings; the debtor can also ask the court to extend or defer enforcement if continuation of the proceeding is unfair in respect of the debtor (§ 45 of the CEP). The court's decision shall take into account the interests of the claimant and other circumstances, including the family and economic situation of the debtor. The debtor can also file a petition to postpone an enforcement action (§ 45 of the CEP).

If a debtor finds before the sale of the immovable property that the enforcement proceeding is unfounded then on the basis of an enforcement instrument, the debtor may file an action against a claimant for declaration of compulsory enforcement to be inadmissible, in particular for reason that a claim has been satisfied, postponed or set off (§ 221 of the CEP). As means of legal protection before the sale of immovable property or afterwards during the eviction proceeding, a complaint about the activities of a bailiff can be filed. For example, if the bailiff does not allow the legally required term between the service of enforcement notice and the enforcement action, thereby violating the rules of enforcement proceeding, the debtor can file a complaint with the bailiff (§ 217 of the CEP). The bailiff shall review the complaint and decide whether to satisfy it or not. Filing the complaint with a bailiff before the court is a compulsory pre-trial proceeding. Only if the bailiff refuses the complaint, the debtor can file a complaint with the court which will adjudicate the matter in proceedings on petition (§ 218 (2) of the CEP). To protect the debtor's interests, the court may suspend enforcement proceedings against a security or without a security.

There are no special rules about providing legal aid in enforcement proceedings on eviction. State legal aid can be applied for by a person if that person complies with the conditions for granting state legal aid, is unable to protect one's own rights and that person's significant interests may be left unprotected without an advocate's help, as regulated by the Code of Civil Procedure (CCP) (§ 180 (4) and § 217 (8) of the CCP). State legal aid can also be applied

for *inter alia* representing a person in enforcement proceedings, drawing up legal documents or other legal counselling pursuant to § 4 (3) 7), 8) and 9) of the State Legal Aid Act (SLAA). Thus, there is a wide regulation of actions which state legal aid can be applied for.

Unlawful eviction is an offence defined in § 314 of the Penal Code (PC), punishable by a pecuniary punishment. If the bailiff or the claimant has caused damage to the debtor with an unfounded enforcement proceeding, the debtor can file a damage compensation claim with a court under the general definition of delict i.e. a claim for compensation for unlawfully caused damage as defined in § 1043 of the Law of Obligations Act (LOA). Judicial practice has recognised the debtor's right to file a damage compensation claim against the claimant in case of causing damage to the debtor with an unfounded enforcement proceeding or in case of the claimant's unlawful enrichment on account of the debtor (primarily due to violating a right of the debtor) even after the enforcement proceeding (Civil Chamber of the Supreme Court, Judgement No. 3-2-1-138-13 clause 22; Judgement No. 3-2-1-31-10 clause 18).

The Committee asks that the next report provide information on measures taken to improve the housing situation of Roma families.
--

No special measures have been established concerning Roma families and they are subject to general norms regulating the enforcement proceedings of eviction.

Child care facilities

General regulation

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

See also § 27 (1) for child care services and other child care arrangements.

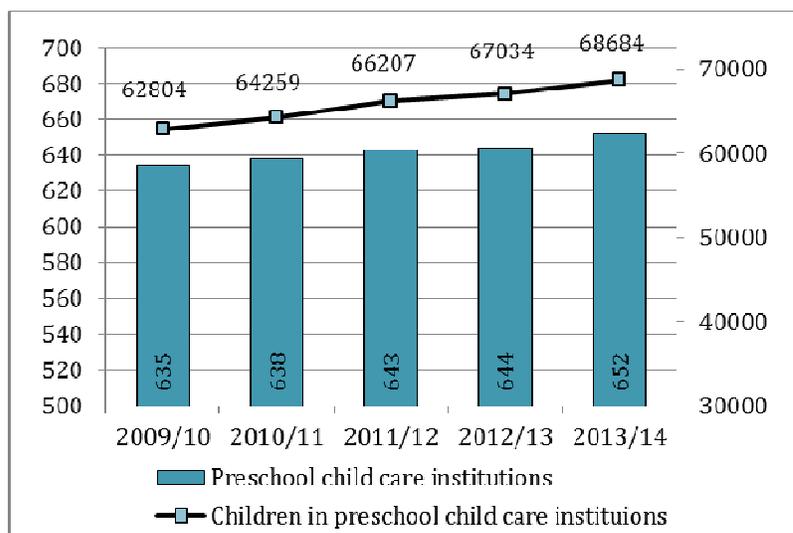
Measures to implement the legal regulation, statistics

In the school year 2013/2014 there were 652 preschool child care institutions active in Estonia with a total of 68,684 children attending those (see Figure 1). They were taught by 7,869 teachers² working on 7,500 teacher positions. Over the past 5 years, the number of

² According to position names: Estonian language teachers, movement teachers, swimming teachers, music teachers, teachers and special group and accommodation group teachers.

children in preschool child care institutions has increased by 9.3% and the number of children's institutions by 2.7%. At the same time, the number of teaches has increased by 6.3% and the number of positions by 7%.

Figure 1. Preschool child care institutions and children in preschool child care institutions in the school years of 2009/2010–2013/2014.



Source: Estonian Education Information System (EHIS)

There were 6 crèches (349 children), 521 preschools (63 408 children), 3 preschools for children with special needs (211 children) and 122 pre-primary schools (4 716 children). Pursuant to the inclusive education principle, children with special needs also attend ordinary preschools; this is a better solution for the children's development than attending a preschool for children with special needs. This is why the number of preschools for children with special needs is low. According to the data of Estonian Education Information System for the school year of 2013/2014, support systems incl. special educational assistance, speech therapy, support for learning Estonian as a second language, individual development plan, support person have been implemented in preschool child care institutions for 11,090 children (16% of all children). Compared to 2008, the number of special needs children for whom support systems are implemented in preschool child care institutions has nearly doubled. The state supports learning counselling through Rajaleidja centres. Aid in the fields of speech therapy, special educational assistance, psychology and social pedagogy is also available to children attending preschools, their parents and teachers.

The purpose is to ensure a smooth transfer from one level of education to the next. The proportion of children taking part in preschool is therefore very important. The purpose is for 95% of children from age between 4-years-old and start of compulsory primary school to attend a preschool child care institution. In year 2012 the participation rate in early

childhood education was 90% (Eurostat data, which includes children attending to school, also by the age group. Excluding this data, the rate for 2013/2014 would be 95.5%).

Out of all children of 1.5-3 years of age, 77% attended preschools and 10% were in babysitting in the school year of 2013/2014. Until the child's 1.5 years of age, the parent can receive parental benefit; starting from 1.5 years of age when the period of parental benefit ends, a placement in a preschool can be obtained.

Funding for child care institutions is received from:

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

2,111 euros per year per child attending the preschool was invested in local preschools in 2012, incl. 83% for current expenses and 17% for investments.

Based on the Preschool Child Care Institutions Act, the 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 child care institution or other circumstances. In the school year of 2012/2013, the amount to be covered by parents was on average 34 euros per month in total (*source: Estonian Education Information System 2012/2013*) which is one of the lowest in Europe. The board of trustees of the preschool child care institution shall decide the daily cost of catering per child; the board of trustees includes representatives of parents. Full and partial compensation of the child's catering cost and placement fee for low-income families takes place pursuant to the procedure prescribed by the local government. The Preschool Child Care Institutions Act in force enables to take into account the differing needs of families and children on the local government level.

A programme of free milk and milk products is implemented in preschools under the state support programme for milk products in schools (in 2013, the total support amount including schools was 1.64 million euros) and a programme of free vegetables is implemented there under the state support programme for fruits in schools (the total support amount paid for products consumed in 2013 was 587,230 euros).

Family counselling services

General regulation, measures to implement the legal regulation, statistics

Family counselling services are not regulated separately in a law. Therefore, there is no wholesome nationwide overview of the need for those services or the relevant service providers and service volumes provided.

The state offers psychological counselling services to those who need it; concerning victims, the counselling service is regulated by the Victim Support Act (pursuant to § 6.1 (2), the psychological counselling service is compensated for victim's family members if necessary). The counselling service shall be compensated for a family member of an active serviceman who was killed or received permanent health damage in service while participating in an international military operation (the Minister of Defence Regulation No. 15 dated 15.03.2013).

Family counselling services are mainly provided by service providers in the private sector and the voluntary sector. Local governments have information about service providers in their respective region. Pursuant to the Social Welfare Act, everyone has the right to social counselling and the social worker refers the person to a qualified family counsellor if necessary. Some local governments support the person in paying for the counselling service or have an agreement with the service provider to have the service provided for free if the person is referred by the local government. As the law does not obligate a local government to ensure the provision of the family counselling service, access to the service depends on the local government's possibilities of funding the service for its people. The family counselling service is easier to access in larger cities. But small local governments also provide as much support as possible for their residents to obtain the service. It is the smaller local governments and sparsely populated regions where people have more difficulties obtaining help, as a visit to the counsellor entails transportation costs there.

The state supports the availability of counselling services at the local level via projects funded from EU programmes. Since 2012, the Estonian National Social Insurance Board conducts the project "Providing need-based services to multi-problem people through piloting a case-based network" (*"Multiprobleemidega inimestele vajaduspõhiste teenuste pakkumine juhtumipõhise võrgustikutöö piloteerimise kaudu"*) funded by the European Social Fund. In the project, local governments have had the opportunity to use the help of regional case managers when solving more complex cases and to refer their people to various services, incl. to a family counsellor. As of June 2014, 173 local governments are involved in the project; this is 80% of all Estonian local governments and covers all counties. In the period of April 2012 to May 2014, a total of 438 people have used the family counselling service; this is ca. 18.2% of all clients referred to the service under the project. The coping of families is indirectly also supported by the psychological counselling and debt counselling service provided in under the project. 1,478 people e.g. 61.3% of all clients referred to the psychological counselling service have used the service, and 958 people e.g. 39.7% of all clients referred to the debt counselling service have used the service. As the project has yielded good results, a follow-up development is planned to support the availability of counselling services until 2018.

Via the Estonian Council of Gambling Tax, the state supports various projects providing family counselling services to various target groups.

Participation of associations representing families

General regulation, measures for implementation of legal regulation, statistics

To involve families with children into the legislative drafting process, drafts of legislation concerning children and families are sent to their representative organisations so that those organisations can provide full information about the factual situation of the families and can highlight their needs and expectations. The associations that have been consulted with include Estonian Union for Child Welfare (*Lastekaitse Liit*), Estonian Association of Parents (*Eesti Lastevanemate Liit*), Estonian Association of Large Families (*Eesti Lasterikaste Perede Liit*), Child Advocacy Chamber (*Lapse Huvikaitse Koda*), Estonian Association for Fathers (*Ühendus Isade Eest MTÜ*), Estonian Association of Single Parents (*Eesti Üksikvanemate Liit MTÜ*) and Estonian Women's Associations Roundtable (*Eesti Naisühenduste Ümarlaud SA*).

Legal protection of the family

Rights and obligations of spouses

One of the principles of the Family Law Act (FLA) is equality of spouses. Spouses have equal rights and obligations with respect to each other and family (§ 15 (1) of the FLA). Parents have equal rights and obligations with respect to their children, if they have equal custody over their children (§ 116 (1) of the FLA).

The equality of spouses in proprietary relationships is a general principle valid regardless of the type of proprietary relations chosen. Spouses may, by agreement, select the type of proprietary relations to apply to their proprietary relationship: joint property, separateness of property or set-off of assets increment. If the prospective spouses do not select a proprietary relationship when entering into a marriage, jointness of property shall automatically apply to their proprietary relationship (§ 24 of the FLA). If separateness of property or set-off of assets increment is chosen then the spouses will not have joint property, but in case of set-off of assets increment the share added to the property of each spouse during the proprietary relationship shall be set off between the spouses (§ 40 of the FLA). In the case of jointness of property, the objects and other proprietary rights of the spouses acquired during the jointness of property shall transfer into the joint ownership of the spouses (§ 25 of the FLA). Spouses shall jointly exercise the rights and perform the obligations relating to joint property (§ 28 (1) of the FLA). They also administer their joint property jointly and they may enter into transactions with respect to the property and conduct legal disputes relating to the property only jointly or with the consent of the other spouse (§ 29 (1) of the FLA).

Parents have equal rights and obligations with respect to their children, depending on their respective custody over their 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 (§ 116 (2) of the FLA). This means that parents have the obligation and right 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 (§ 124 (1) of the FLA). The parents also have the joint obligation and right 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 a joint right of custody over their child, they shall exercise the right of custody and perform the custodial obligation with respect to their child unanimously (§ 118 (1) of the FLA).

Legal disputes concerning spouses and children can be solved in a court, but court proceedings strongly stress the child's well-being and if appropriate then conciliation procedure.

Mediation services

General regulation

Pursuant to the general principle of the Code of Civil Procedure (CCP), courts must direct the parties to a compromise. During proceedings, the court shall take all possible measures to settle a matter or a part thereof by a compromise or in another manner by agreement of the parties if this is reasonable in the opinion of the court. For such purpose, the court may *inter alia* present a draft of a compromise contract to the parties or request that the parties appear before the court in person or order the parties to participate in the conciliation proceeding provided for in the Conciliation Act (§ 4 (4) of the CCP). Conciliation procedure is also regulated by the Conciliation Act and by § 627¹ of the CCP.

If divorcing a marriage in court, the court may suspend the proceeding for divorce on one occasion for the period of up to six months, if there is reason to believe that the marriage can be preserved. The court does not suspend a proceeding if the spouses have lived separately for a lengthy period of time and neither of them agrees to the suspension of the proceeding (§ 357 (1) and (3) of the CCP). If a proceeding is suspended, the court draws the parties' attention to the possibility of reconciliation and the possibility to receive guidance from a family counsellor (§ 357 (2) of the CCP).

In a proceeding pertaining to accessing a child, the court shall try, as early as possible and at each stage of the proceeding, to direct the participants towards settling the matter by agreement. The court shall hear the participants as early as possible and draw their attention to the possibility to seek the assistance of a family counsellor, above all for forming a common position on taking care of and assuming responsibility for the child (§ 561 (1) of the CCP). The court may suspend a proceeding pertaining to accessing a child if this does not result in a delay which might endanger the interests of the child (§ 561 (2) of the CCP). In a proceeding pertaining to accessing a child, the court is a conciliation body (Civil Chamber of

the Supreme Court, Ruling No. 3-2-1-64-10, p 29) and discusses with the parents the consequences of the inability to access the child on the well-being of the child and draws their attention to potential coercive measures for compliance with the ruling or agreement. The court also draws their attention to the potential restriction or deprivation of the right of access and to the fact that they have an opportunity to seek the guidance of a family counsellor (§ 563 (4) of the CCP). As an exception, the court does not direct the parties towards an agreement and refuses to conduct a conciliation proceeding if one of the parents is violent. Also as an exception, the court is not required to approve a compromise if it is not in the best interests of the child (§ 430 (3) of the CCP). The court may also determine the procedure for accessing a child as provisional legal protection for the duration of the court proceeding (§ 551 (1) of the CCP; § 378 (3) of the CCP).

Domestic violence against women

General regulation

Estonia does not have special legislation on domestic violence, thus making no distinction between domestic and other types of violence. Domestic violence falls into the category of ordinary violence, *i.e.* crimes against the person. According to the Penal Code causing damage to the health of another person, or beating or other physical abuse causing pain, a person could be punished by a pecuniary punishment or up to 3 years of imprisonment. There are no alternative justice mechanisms to handle cases of violence against women. The enforcement and interpretation of laws, as well as the police and court practice in cases of violence against women are too narrow and do not take fully into account the specific nature of violence against women. There are sometimes obstacles faced in prosecuting and punishing violence against women as it is difficult to investigate the cases. Victims are afraid or ashamed to give testimony, especially if the crime has been committed by a relative or a spouse.

Measures for implementation of legal regulation

Violence victims can use the national Victim Support system. The main duty of regional victim support services is to create and employ a network of organisations in the region which offer assistance and services to crime victims, and to develop and strengthen this network where possible. All persons who have fallen victim to negligence, mistreatment or physical, mental or sexual abuse, *i.e.* all those to whom suffering or injury have been caused, are entitled to victim support. Compensation is also available for crime victims.

The law provides for the establishment of a network of victim support centres in all counties. 27 victim support specialists all around Estonia co-ordinate victim support. Most of the regional victim support officials work in local police units and therefore the police participates actively in the system. There is co-operation between the police, the Victim

Support Department of the Social Insurance Board, the NGO Estonian Women's Shelters Union, and all the women's shelters.

Even though remarkable progress has been made in providing assistance to abuse victims, there are still huge gaps in accessibility of the relevant services, in providing standardised services across all shelters, establishing co-operation between organisations and structures dealing with victims and reaching proactively out to those needing assistance in crisis.

An important development is that from 2013 all 13 women's shelters run by NGOs, providing temporary lodgings and support services for victims of (domestic) violence, receive funding from the state budget. In 2013 and 2014, the allocated budget for women's shelters was EUR 430,000 per year. In the 2015, the allocated budget is foreseen to increase to EUR 500,000 per year. Some shelters also receive funding from local authorities.

During 2014, the Ministry of Social Affairs focuses more on sexual violence against women and girls. This represents a serious problem – 135 rape cases were reported to the police in 2013. A large proportion of rapes are committed by a person close to the victim, and a large number are believed to go unreported. Sexual violence is one of the focuses of the project "Bringing up a violence free generation", financed from the EU Progress Programme and implemented in co-operation of the Ministry of Justice, the Ministry of Social Affairs, the Ministry of the Interior, the Police and Border Guard Board, the Estonian Women's Associations Roundtable Foundation and the Association of Estonian Open Youth Centres. The project aims to raise awareness of the occurrence of violence against women and create an attitude of zero tolerance against it. The activities include an awareness raising campaign, training of the trainers and specific trainings targeting boys and girls.

In 2010, the Estonian Government adopted the Development Plan for Reducing Violence 2010-2014³. The Ministry of Justice co-ordinates and the Ministries of Education and Research, Interior, Social Affairs, Foreign Affairs together with the agencies within the area of their government, local governments, and NGOs participate in the implementation of the Plan. The development plan covers four areas: violence against children; violence committed by minors; domestic violence, including violence against women; and trafficking in human beings, including prostitution. For each area, a special network with officials and NGO representatives has been created. The sections on reducing and preventing domestic violence and human trafficking cover the following areas: prevention; victim support; increasing the efficiency of investigation of cases; and in case of domestic violence – rehabilitation and work with abusers.

In 2012-2015, the Ministry of Social Affairs co-ordinates a EUR 2 million programme on violence against women, funded from the Norwegian Financial Mechanism. The aim of the programme is to reduce gender-based violence and human trafficking in Estonia.

³ Both the development plan and its implementation plan are available online in English at: <http://www.just.ee/49973>

The activities financed under this programme are: 1) developing services for victims of domestic violence, strengthening co-operation between different institutions and raising awareness among victims and the general public; 2) supporting victims of trafficking for sexual exploitation, research on victim's needs, training of relevant specialists, improving the rehabilitation and shelter services; and 3) providing anti-trafficking hotline services for trafficked persons and consultations preventing trafficking, collecting statistical data, information dissemination. The programme is being accompanied by two open calls for projects aiming at raising awareness about gender-based violence and human trafficking and a small grant scheme to assist NGOs to strengthen their capacity to tackle gender-based violence.

Statistics

Violence against women is an area of concern not yet regularly measured and statistically covered in Estonia. National criminal statistics on domestic violence are not publically available. Due to the fact that some information is available on domestic violence, the data is collected; however, as it is not easily accessible, there is no information available on whether the data is gender- or age-disaggregated and shows relationship between victim and perpetrator. The relevant bodies use different recording systems and there is no nationwide database. Today only women's shelters collect specific data about female victims of violence.

According to the Ministry of Justice, 2,752 cases of domestic violence were reported in Estonia in 2013, which is 23% more than in the previous year. The number of persons who sought help from the state Victim Support Service in 2013 was 2,993 persons.

1,524 women and 208 children turned to women's shelters for help in 2013. The abuser was in most cases (92%) either the victim's partner or ex-partner. According to the shelters, only 9% of the women had also turned to the police, 12% had notified local social services, 7% had turned to court and 6% to the Victim Support Service.

Family benefits

General regulation, measures to implement the legal regulation

The allowance for the 1st and 2nd child was twice the Child Allowance Rate, for the 3rd and next child six times the Child Allowance Rate per child. The Committee notes that these amounts per month correspond to 3.7% and 11.1% of monthly median equivalised income. In order to assess whether the situation of Estonia is in conformity with Article 16 of the Charter, the Committee asks that the next report provide any relevant information on other family benefits available.

Family benefits in Estonia are regulated by the State Family Benefits Act, the Parental Benefit Act and the Maintenance Allowance Act.

I Family benefits

The purpose of the Estonian system of family benefits is to ensure for families the partial reimbursement of expenses relating to the care, raising and education of children. There are ten types of family benefits and they are divided into monthly family benefits and single-payment family benefits.

Monthly family benefits are: child allowance, child care allowance, single parent's child allowance, conscript's child allowance or child allowance of person in alternative service, foster care allowance, and parent's allowance for families with seven or more children.

Single family benefits are: childbirth allowance, adoption allowance, and start in independent life allowance.

All those benefits are paid through the Estonian National Social Insurance Board.

1) Childbirth allowance is a single benefit of 320 euros for each child born, if a single child or twins are born. In case of a multiple birth of three or more children, the amount of childbirth allowance is 1,000 euros for each child.

2) Adoption allowance is a single benefit 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. The amount of adoption allowance is 320 euros.

3) Child allowance is a monthly benefit paid from a child's birth until he or she attains 16 years of age. If a child is enrolled in a basic school or upper secondary school or if a child without secondary education is enrolled in formal vocational education, child allowance is paid until the child attains 19 years of age. When the child attains 19 years of age, the allowance shall be paid until the end of the school year.

Child allowance is paid for a first and second child at twice the child allowance rate i.e. 19.18 euros and for a third and each subsequent child at eight times the child allowance rate i.e. 76.72 euros.

The child allowance rate in 2014 is 9.59 euros.

The Act to Amend the State Family Benefits Act adopted on 12.12.2012 increased the child allowance for a third and each subsequent child from 57.54 euros to 76.,72 euros starting from 01.07.2013.

Pursuant to the edition of the State Family Benefits Act which will enter into force on 01.01.2015, the child allowance amount will not depend on the child allowance rate anymore but will be set as a fixed amount instead. Starting from 01 January 2015, child

allowance will be paid for a first and second child as 45 euros and for a third and each subsequent child as 100 euros.

Thus, starting from 01.01.2015, the child allowance for a first and second child will increase by 25.82 euros and the child allowance for a third and each subsequent child will increase by 23.28 euros.

4) Child care allowance is a monthly benefit paid one of the parents raising child of up to 3 years of age or a person other than a parent who uses the parental leave, at one-half of the child care allowance rate i.e. 38.35 euros for each child of up to 3 years.

Child care allowance is paid at one-quarter of the child care allowance rate for each child between 3 and 8 years of age if the parent raises also children between 3 and 8 years of age in addition to one or more children of up to 3 years of age.

Child care allowance is paid at one-quarter of the child care allowance rate for each child between 3 and 8 years of age if the parent raises three or more children who are at least 3 years of age and who receive child allowance in a family with three or more children.

The child care allowance rate in 2014 is 76.70 euros.

A person who is paid child care allowance has the right to receive additional child care allowance for each child of up to one year of age. The additional child care allowance is 6.40 euros.

Child care allowance is not paid for the same child for whom a childbirth allowance or an adoption allowance is paid at the same time pursuant to the HIA. Child care allowance is not paid for any child if parental benefit is paid to the parent pursuant to the Parental Benefit Act.

5) Single parent's child allowance is a monthly benefit paid for a child whose birth registration or vital statistics data entered in the population register contains no entry concerning the father or whose parent has been declared to be a fugitive.

This allowance is paid at twice the child allowance rate – 19.18 euros.

6) Conscript's child allowance or child allowance of person in alternative service is a monthly benefit paid to a child of a person in compulsory military service or alternative service in Estonia, five times the child allowance rate – 47.95 euros.

7) Foster care allowance is a monthly benefit paid for a child without parental care, if guardianship has been established for him or her or a foster care contract has been entered into with respect to him or her, and if the child is eligible for child allowance.

This allowance is paid at twenty times the child allowance rate – 191.80 euros.

8) Start in independent life allowance is a single benefit paid to a person without parental care who was raised in a social welfare institution or a school for students with special needs or for whom guardianship was established or with respect to whom a written foster care contract was entered into, if he or she settles independently in a new residence not later than within two years after cancelling of enrolment in the social welfare institution or school for students with special needs or termination of guardianship or a foster care contract. Start in independent life allowance is paid if the allowance is applied for within six months after settling independently in a new residence.

This allowance is paid at forty times the child allowance rate – 383.60 euros.

9) Parent's allowance for families with seven or more children is a monthly state family benefit paid to a parent, guardian or caregiver raising seven or more children who are eligible for child allowance.

This allowance is paid at 2.2 times the child allowance rate – 168.74 euros.

II Needs-based family benefit

In addition to the benefits paid via the Estonian National Social Insurance Board, the state family benefits also include a needs-based family benefit granted and paid by rural municipality and city governments from state budget since 1 July 2013. Families with children who live below the income threshold for needs-based family benefit and since 1 January 2014 also families with children who receive subsistence benefit are eligible for the needs-based family benefit. Therefore, it is an additional benefit for families with children living on low income. The income threshold of needs-based family benefit for the first member of the family is established by the Riigikogu with the state budget for each budget year. The income threshold of needs-based family benefit is based on the latest relative poverty line published by the Statistics Estonia by March 1st of the year preceding the budget year. The income threshold of each subsequent family member of 14 years of age or older is 50% and that for each family member under 14 years of age is 30% of the income threshold of needs-based family benefit for the first member of the family.

In 2013, the income threshold of needs-based family benefit was 280 euros for the first member of the family, 140 euros for each subsequent family member of 14 years of age or older and 84 euros for each subsequent family member under 14 years of age. In 2014, the income threshold of needs-based family benefit increased to 299 euros for the first member of the family, 149.5 euros for each subsequent family member of 14 years of age or older and 89.7 euros for each subsequent family member under 14 years of age.

To obtain needs-based family benefit, a written application has to be filed to the local government, accompanied by documents proving the recipient's income for the past 3 months. The benefit is granted for the next three months. In the period of 01.07.2013 –

31.12.2014, the amount of needs-based family benefit is 9.59 euros per month for a family with one child and 19.18 euros per month for a family with two or more children. Starting from 2015, the amount of needs-based family benefit will increase considerably: 45 euros per month for a family with one child and 90 euros per month for a family with two or more children.

III Parental benefit

Moreover, parental benefit is paid to one of the parents in order 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 are ensured with income to the extent of the benefit rate which is 320 euros per month in 2014.

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

Parental benefit in the amount of the minimum monthly wage is paid to a person whose average income from work per calendar month in the previous calendar year was equal to or lower than the minimum monthly wage. The minimum monthly wage in 2014 is 355 euros per month.

The maximum monthly amount of the benefit is three times the average income subject to social tax per calendar month in the year before the previous calendar year. The upper limit of parental benefit in 2014 is 2,378.25 euros per month. The maximum amount of the benefit is paid to a person whose average income per calendar month in 2013 was equal to or higher than the aforementioned amount.

In 2015, the upper limit of parental benefit will be increased to 2,548.95 euros per month. The benefit will be paid in that amount if the recipient becomes eligible for the benefit in 2015 and the recipient's average income per calendar month in 2014 is equal to or higher than the aforementioned amount. The new upper limit of parental benefit will be valid for grant of new benefits in 2015.

The right to receive the parental benefit arises as of the date following the final date of the pregnancy and maternity leave. If the mother did not receive a pregnancy and maternity leave, she will have the right to receive parental benefit starting from the child's birth.

Parental benefit is paid for 435 days. If the mother did not have the right to a pregnancy and maternity leave, the parental benefit is paid until the day the child attains eighteen months of age.

IV Maintenance allowance

Maintenance allowance is a short-term allowance paid by the state to minor-age children whose parents are not meeting their maintenance obligation or not doing it in the extent prescribed in the Family Law Act. The daily rate of maintenance allowance is one third of the child allowance rate (the child allowance rate in 2014 is 9.59 euros). The state supports the person applying for maintenance support with the maintenance allowance for 90 days. The maximum amount of maintenance allowance is $90 \times 3.20 = 288$ euros.

V Subsistence benefit

Subsistence benefit is a social benefit paid from the state budget to people living in poverty. Subsistence benefit is granted and paid by local governments. The amount of subsistence benefit is calculated on the basis of the previous month's net income of a person living alone or all members of a family, fixed costs of the dwelling payable in the current month, and the established subsistence level. The subsistence level is established by the Riigikogu in the state budget. It is established for a person living alone or for the first member of a family for each fiscal year. The subsistence level for the second and every subsequent member of a family is 80% of the subsistence level for the first member of the family. In 2011-2013 the subsistence level was 76.7 euros per month for the first member of a family and 61.36 euros per month for subsequent members of the family. In 2014, the subsistence level was increased to 90 euros per month for the first member of a family and 72 euros per month for subsequent members of the family. A subsistence benefit recipient in a family where all other members are minors i.e. a single parent family has the right to receive an additional social benefit of 15 euros accompanying the subsistence benefit.

Although the Riigikogu has not yet decided the subsistence level for 2015, it is known that the subsistence benefit paid to families with children will increase starting from 2015 because an amendment act will enter into force on 01.01.2015, pursuant to which the subsistence level for a minor-age child will be equal to the subsistence level of the first member of the family.

State Family Benefits Act. Estonia's family benefits are designed to partly cover the costs families incur in caring for, raising and educating their children.

The Parental Benefit Act is designed to contribute to the successful combining of work and family life.

Maintenance allowance is a short-term benefit paid by the state to children whose parents are not meeting their obligation to provide for them.

All family benefits are co-ordinated by the Social Insurance Board.

Family benefits

There are nine types of family benefits: childbirth allowance; child allowance; child care allowance; single parent's child allowance; conscript's child allowance; child's school allowance, child allowance for a child under guardianship or foster care; start in independent life allowance; adoption allowance; and parent's allowance for families with seven or more children.

1) Childbirth allowance is a single benefit paid in case of birth. The amount of benefit is €320. In the case of a multiple birth of three or more children, the amount of childbirth allowance is €1,000 for each child.

2) Adoption allowance is a single allowance paid to an adoptive parent from whom an adopted child does not descend and who is not a step-parent of the child, if childbirth allowance has not been paid to the family for the same child earlier.

The amount of adoption allowance is €320.

3) Child allowance is a monthly allowance paid from the birth of a child until he or she attains 16 years of age. If the child goes to basic school, upper secondary school or vocational school which operates on the basis of basic education or if the child with no basic education goes to vocational school, he or she will be paid the allowance until attaining 19 years of age. When the child attains 19 years of age, the allowance shall be paid until the end of the school year.

Child allowance is paid for the first and second child in a family in the amount of the double rate of child allowance (€19.18).

Child allowance is paid for every third and consequent child in a family in the amount of eight rates of child allowance (€76.72).

The rate of child allowance is €9.59 in 2014.

4) Child care allowance is a monthly allowance paid to one of the parents:

at one-half of the child care allowance rate for each child of up to 3 years of age if the parent raises one or more children of up to 3 years of age, or to a person other than a parent who uses the parental leave (€38.35);

at one-quarter of the child care allowance rate for each child between 3 and 8 years of age if the parent raises also children between 3 and 8 years of age in addition to one or more children of up to 3 years of age (€19.18);

at one-quarter of the child care allowance rate for each child between 3 and 8 years of age if the parent raises three or more children who are at least 3 years of age and who receive child allowance for three or more children (€19.18).

If a child specified in clauses 2 and 3 starts year one at school and attains 8 years of age during the given school year, child care allowance for the child shall be paid until the end of the school year.

The child care allowance rate is €76.70 in 2014.

A person who is paid child care allowance has the right to receive additional child care allowance of €6.40 per month for each child of up to one year of age.

Child care allowance shall not be paid for a child in connection with whose birth maternity or adoption benefit is paid pursuant to the HIA or parental benefit is paid pursuant to the Parental Benefit Act.

5) Single parent's child allowance is a monthly allowance paid in the case of:

a child in whose birth registration no entry has been made concerning the father or an entry has been made on the basis of a statement by the mother;

a child whose parent has been declared to be a fugitive.

Single parent's child allowance shall be paid at twice the child allowance rate (€19.18).

6) Conscript's child allowance or child allowance of person in alternative service is a monthly allowance paid in the case of the parent is in compulsory military service or alternative service. Conscript's child allowance or child allowance of person in alternative service shall be paid at five times the child allowance rate (€47.95).

7) Foster care allowance is a monthly allowance paid for a child who is deprived of parental care, if:

- guardianship has been established for him or her;

- a foster care contract has been entered into with respect to him or her.

Foster care allowance shall be paid at twenty times the child allowance rate (€191.80).

8) Start in independent life allowance is a single benefit paid to a person with no parental care who has grown as a child in a social welfare institution or a school for children with special needs or who was given to custody or in reference to whom a foster care contract was signed, when he or she moves to live in a new place at the latest of two years after being deleted from the list of the welfare institution or the school for children with special needs or the end of custody or the foster care contract.

Start in independent life allowance is awarded when the grant has been applied for during six months after moving to live independently in a new place.

Start in independent life allowance shall be paid at forty times the child allowance rate (€383.60).

9) Allowance for families with seven or more children is a monthly state family benefit paid to a parent, guardian or caregiver raising at least seven or more children who receive child allowance.

The amount of allowance is paid at 2.2 times the child allowance rate (€168.74).

Parental benefit

The parental benefit is calculated on the basis of the income subject to social tax earned in the calendar year prior to the day on which the right to the benefit arose. Income from work on which social tax is paid in Estonia is considered income. If the state pays social tax on behalf of a person, this is not considered to be work income. Nor is income earned abroad which is not subject to social tax in Estonia taken into consideration.

People have the right to receive the parental benefit from the day following the final day of pregnancy and maternity or adoption leave. Parental benefit is paid for the period of 435 days. If a mother does not have the right to maternity leave, she has the right to the parental benefit starting from the moment her child is born.

If a mother does not have the right to maternity leave, the parental benefit is paid until the child reaches the age of 18 months.

If the parent did not work during the year preceding the time at which the right to the benefit arises, the parental benefit is paid at the designated benefit base rate, which in 2014 is €320 per month.

If the parent worked during this year but his or her average income was lower than the minimum wage, the benefit is paid at the minimum wage rate, which in 2014 is €355 per month.

The upper limit of the amount of the parental benefit is three times the average salary from the year before last, which in 2014 is €2,378,25 per month.

Maintenance allowance

Maintenance allowance is a short-term benefit paid by the state to children whose parents are not meeting their obligation to provide for them.

The Maintenance Allowance Act was established with the aim of encouraging parents to lawfully claim maintenance, which should improve the situation of the child or children they are providing for.

The state-funded maintenance allowance forms part of the amount of maintenance the other parent must pay for their child. The allowance is paid during court proceedings regarding maintenance claims, and after the judgement of the court enters force the state recovers the amount of maintenance paid to the applicant from the other parent, i.e. the maintenance claim debtor.

If a parent does not meet his or her obligations to provide for his or her children, the court will find in favour of the claimant (the other parent, or a guardian or individual in whose interests the claim was lodged by a guardianship authority) and order the parent to pay maintenance to the child.

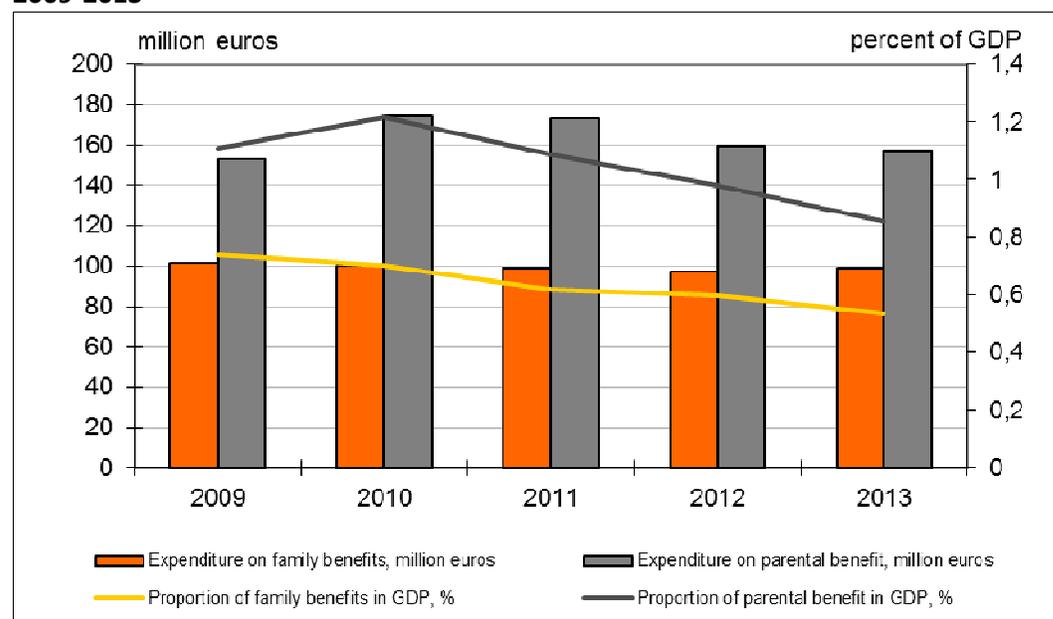
If the state does not oblige the other parent to pay maintenance to the child, the applicant must pay back the maintenance received from the state.

The state supports applicants for maintenance allowance over a period of 90 days, with the daily rate being one-third of the child allowance rate $90 \times 3.20 = \text{€}288$.

Statistics

The data of the Estonian National Social Insurance Board indicate that since 2009, the expenditure on state family benefits have decreased (Figure 2). Still, 2013 the expenditure increased somewhat in comparison to the year before and reached 98.9 million euros (97.4 million euros in 2012). The reduction of expenditure on family benefits when compared to 2009 is mainly influenced by the reduced number of child allowance recipients, in turn stemming from the decline of the proportion of children of the relevant age in the population (a comparison of the total number of children receiving child allowance to the number of people of up to 19 years of age in the total population shows that an estimated 96% of children of that age receive child allowance). The reduction of expenditure and the simultaneous increase of the GDP that characterised the years 2010-2013 have brought about a decrease of the proportion of expenditure on state family benefits in the GDP. Regardless of the fact that the country's GDP has enjoyed a growth trend after the economic crisis since 2010, no big changes have been made in family benefit amounts during the years in question.

Figure 2. Expenditure on family benefits and parental benefit; their proportion in the GDP, 2009-2013



Sources: Statistical Office, Estonian National Social Insurance Board

Table 3. State family benefit recipients, 2009–2013

(at the end of the year; total for the year in case of once-off benefits)

Type of benefit	2009	2010	2011	2012	2013
Childbirth allowance	15,930	15,724	15,361	13,969	13,844
for the 1st child	7,461	6,765	6,226	5,915	5,958
for the 2nd / subsequent child	7,908	8,497	8,669	7,570	7,480
for multiple-birth children	561	462	466	484	406
Adoption allowance, children	32	20	23	38	40
Child allowance¹	261,443	258,795	255,522	252,255	250,775
for the 1st child	169,405	166,542	163,309	160,419	158,585
for the 2nd child	70,461	70,557	70,607	70,317	70,565
for the 3rd / subsequent child	21,577	21,696	21,606	21,519	21,625
Child care allowance	40,928	40,629	41,034	41,581	40,580
for a child of up to 3 years	24,108	23,678	23,090	22,617	21,262
for children of 3–8 years in families with a child of up to 3 years	8,122	8,139	8,899	9,567	9,123
for children of 3–8 years in families with 3 and more children	8,698	8,812	9,045	9,397	10,195
Parent's allowance for families with seven or more children, families	173	156	152	146	141

Single parent's child allowance, children	24,310	23,260	22,223	21,106	20,010
Single parent's child allowance, families	20,311	19,390	18,510	17,553	16,632
Foster care allowance, children	2,015	1,956	1,880	1,457	1,783
Foster care allowance, families	1,622	1,580	1,524	1,807	1,425
Conscript's child allowance	14	28	33	30	23
Start in independent life allowance	161	133	152	117	94

¹ The number of children for whom the benefit is paid. The number of recipients of the benefit for the 1st child also indicates the total number of families receiving child allowances.

Source: Estonian National Social Insurance Board

Table 4. Grants of parental benefit¹ by benefit types and genders; the average amount of benefit granted, 2009–2013

Year	2009	2010	2011	2012	2013
Total persons having been granted parental benefit	17,147	16,514	18,905	14,698	14,464
men, %	8.5	6.9	5.2	7.3	7.4
women, %	91.5	93.1	94.8	92.7	92.6
By types of parental benefit:	,	,	,	,	,
Parental benefit as 100% of income for a calendar month	11,327	11,125	11,885	9,256	8,951
men, %	10.1	8.7	7.0	9.5	9.5
women, %	89.9	91.3	93.0	90.5	90.5
Parental benefit as maximum amount	847	448	586	571	616
men, %	26.7	24.3	18.1	19.4	23.2
women, %	73.3	75.7	81.9	80.6	76.8
Parental benefit as minimum monthly wage	3,008	2,318	2,810	2,265	2,473
men, %	1.7	1.3	1.0	1.4	1.6
women, %	98.3	98.7	99.0	98.6	98.4
Parental benefit as parental benefit rate	1,965	2,623	3,624	2,606	2,424
men, %	1.9	1.2	0.6	2.0	1.8
women, %	98.1	98.8	99.4	98.0	98.2

Annual average amount of parental benefit granted, euros ³					
	742.27	737.92	712.40	733.13	777.72
men	1,150.86	1,167.79	1,206.56	1,154.50	1,260.58
women	462.40	705.97	685.12	699.81	738.88

¹ Paid for the first time per child in a year.

² The average benefit paid in 2004–2010 is converted from Estonian kroons to euros with the exchange rate of 1 EUR=15.6466 EEK.

Source: Estonian National Social Insurance Board

Impact of family benefits and the parental benefit on poverty

Family benefits and the parental benefit have an important role in supporting children and families with children as well as in alleviating poverty.

Two indicators are mainly used in Estonia to assess the economic coping of people with lower income: absolute poverty and relative poverty.

The relative poverty rate (at-risk-of-poverty rate) indicates the proportion of people whose income level remains below the agreed level of relative poverty. In Estonia, like in all other European Union countries, the relative poverty line is 60% of the population's median income at the consumption weights of 1:0.5:0.3.

The absolute poverty line i.e. the subsistence minimum in Estonia is calculated on the basis of expenditure; the absolute poverty rate indicates the proportion of households where monthly income per member of household at the consumption weights of 1:0.7:0.5 remains below the absolute poverty line (i.e. below the level of expenditure considered the limit of absolute poverty) i.e. below the subsistence minimum⁴.

Due to the combined effect of family benefits and the parental benefit, the absolute poverty of all households in Estonia decreased in 2012 by 2.8 percentage points i.e. 25% and the relative poverty decreased by 2.4 percentage points i.e. 11%. Family benefits alone reduced the population's absolute poverty by 1.4 percentage points i.e. 16% and the population's relative poverty by 1.1 percentage point i.e. 6%. The parental benefit alone reduced the population's absolute poverty by 1 percentage point i.e. 12% and the population's relative poverty by 1.2 percentage point i.e. 6%.

⁴ Calculating the subsistence minimum considers three expenditure components: food expenditure, housing expenditure and individual non-food expenditure. Calculation of food expenditure is based on the minimum food basket.

Across age groups, family benefits and the parental benefit have the most effect on reducing the absolute and relative poverty of children (0–17 years of age); across household types, they most reduce the absolute and relative poverty of families with children.

In 2012, 15.6% of children under 18 years of age would have lived in absolute poverty and 24.2% in relative poverty if they had not received family benefits and the parental benefit. Family benefits and the parental benefit combined reduced both the absolute and the relative poverty rate of children (0–17 years of age) by 6.1 percentage points: the absolute poverty rate decreased by 39% and the relative poverty rate by 25%. Family benefits and the parental benefit also had a significant impact on children’s poverty when taken alone.

Table 5. Effect of family benefits and the parental benefit on absolute and relative poverty of children (0–17 years of age), 2012 (percentage points¹)

	Family benefits and parental benefit combined	Family benefits	Parental benefit
Absolute poverty	6.1	3.3	2.5
Relative poverty	6.1	2.8	2

¹ Difference between absolute poverty rate and relative poverty rate before family benefits and parental benefit and after social transfers.

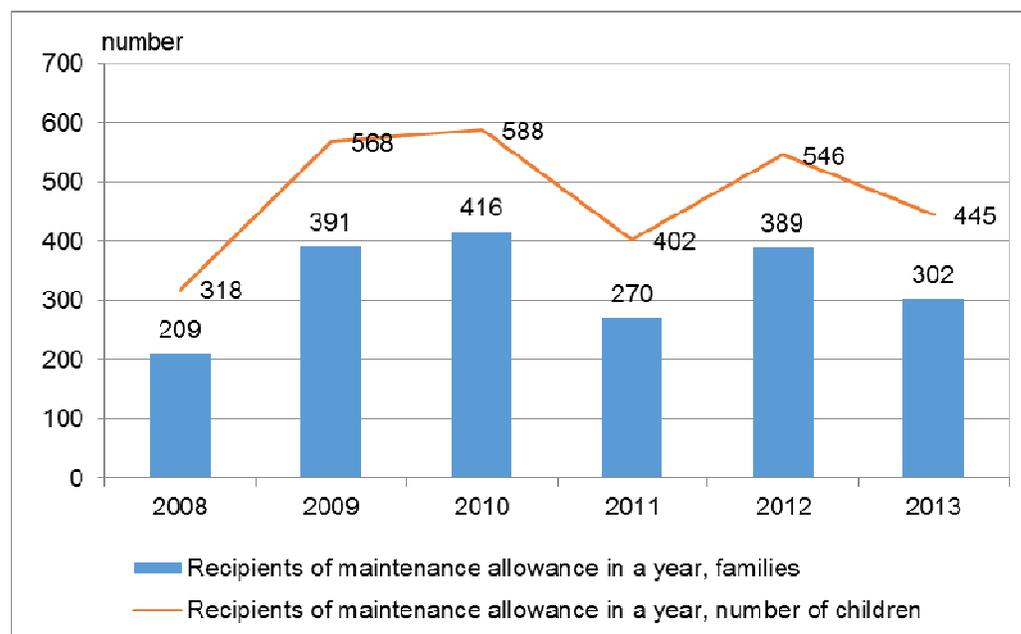
Source: Statistical Office, Estonian Social Survey 2013

Across types of households with children, family benefits and the parental benefit had the greatest impact on those households with two adults where there was more than one child. The benefits combined reduced the absolute poverty of a pair with three children by 8.4 percentage points i.e. 47% and the relative poverty of the same by 11 percentage points i.e. 37%; the absolute poverty of a pair with two children by 5.1 percentage points i.e. 43% and the relative poverty of the same by 5.9 percentage points i.e. 31%. In total, family benefits and the parental benefit combined reduced the absolute poverty of all households with children by 4.1 percentage points i.e. 33% and the relative poverty of the same by 4.4 percentage points i.e. 21%.

Maintenance allowance

According to the data of Estonian National Social Insurance Board, the number of recipients of the maintenance allowance was the highest in 2010 when maintenance allowance was paid to 416 families for 588 children over the course of the year. Throughout 2013, the maintenance allowance was paid to 302 families for 445 children. The average amount per satisfied application in 2013 was 265 euros. In total, the state paid the maintenance allowance in the amount of 109,476 euros in 2013.

Figure 6. Recipients of maintenance allowance



Source: Estonian National Social Insurance Board

Needs-based family benefit

The needs-based family benefit can be applied as of June 1, 2013 and to receive as of July 1, 2013. Therefore, the 2013 statistics for the needs-based family benefit reflect the data of the second semester. In the second semester of 2013, 4,914 people were granted the needs-based family benefit and the total number of satisfied applications was 9,392.

Subsistence benefit

In 2013, the subsistence benefit was paid to 6,123 households with children; this is 9.8% i.e. 665 households less than in 2012. The proportion of households with children was a little over 1/3 (the exact number was 31.7%) of all households that received a benefit; the percentage has been almost unchanging throughout the years of 2009-2013.

In 2013, 8.04 million euros i.e. 43.5% of the total amount of funds earmarked for the subsistence benefit was paid to households with children (this was 42.1% in 2012). Yet, in comparison to 2012, the benefits granted to households with children decreased by 7.6% i.e. 0.67 million euros. 60.8% of all benefits granted to households with children were paid to households with one or more registered unemployed members. The calculated average benefit per satisfied application of a household with a single child in 2013 was 218.85 euros which is higher than the country's average by 62.92 euros i.e. 40.4%.

Table 7. Number of families and children (0-17 years of age) who received the subsistence benefit, 2009-2013

	2009	2010 ¹	2011	2012	2013
Number of families with children who received the subsistence benefit	6,984	...	7,542	6,788	6,123
Number of children who received the subsistence benefit	12,968	...	13,156	12,108	11,145

¹ Due to the transition to a new Social Benefits and Services Data Register (STAR) on April 1, 2010, many data about recipients of the subsistence benefit for 2010 are not available as a whole.

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

Vulnerable families

General regulation, measures for implementation of legal regulation

Families with a disabled child

Identifying a child's level of disability grants the right to receive various social services, benefits and discounts provided by the state and local governments. The tasks of helping disabled children and their families are divided between the state and the local governments.

State aid:

- Pursuant to § 6 of the Social Benefits for Disabled Persons Act, the disabled child allowance is 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. The disabled child allowance is paid until the child attains 16 years of age. The disabled child allowance is paid as 270% of the social benefit rate (69.04 euros in 2014) to a child with a moderate disability and as 315% of the social benefit rate (80.55 euros in 2014) to a child with a severe or profound disability. The disabled child allowance shall be paid to the parent.
- A rehabilitation service is offered, including assessment of rehabilitation need and planning of activities, instruction of and assessment to the implementation of planned activities, a physiotherapist's services, services of an activity therapist and a

creative therapist as well as the services of a social worker, special educational assistance, and the services of a psychologist and a speech therapist. The services provided in the framework of the rehabilitation service are listed in the Annex to the Government of the Republic Regulation No. 256 dated 20.12.2007. The regulation also prescribes the amount of services that can be provided in one calendar year. Most of the services can be provided in total up to the maximum cost prescribed for a calendar year, for example for up to 1,395 euros per disabled child. A rehabilitation plan with the term of 6 months, 1 year, 2 years or 3 years is prepared for the children.

- The childcare service is a service supporting a parent’s work, studies or coping, during which the childcare service provider ensures the caring for the child and the child’s development and safety. Pursuant to § 12² of the Social Welfare Act, the legal representative or the caregiver of a child with a severe or profound disability is entitled to state-funded childcare service for 402 euros per year until the end of the calendar year during which the child attains 18 years of age, provided that:
 - the need for care services of the child is set out in the child's rehabilitation plan;
 - caring for the child is not guaranteed with other social services at the same time (except for foster care);
 - the child is not staying at an educational institution at the same time.

The childcare service is applied for with an application to the rural municipality or city government of the residence of the child.

	Number of children receiving the childcare service in 2013, by age							total
	0-1 years old	2 years old	3 years old	4-6 years old	7-9 years old	10-14 years old	15-17 years old	
Disabled children having received the service	9	25	49	143	137	186	65	614
Children with a profound disability	2	10	15	30	32	49	29	167
Children with a severe disability	7	15	34	113	105	137	36	447

- Assessment of the need for technical aids and granting thereof; sales, lending and compensating of technical aids. The procedure for applying for technical aids is prescribed in the Minister of Social Affairs Regulation No. 79 dated 14.12.2000 “The conditions and the procedure for application for technical aids and for granting of technical aids under favourable conditions”.

- State-funded upkeep and care of disabled children deprived of parental care in welfare institutions. Pursuant to § 15¹ of the Social Welfare Act, substitute home service means ensuring family-like living conditions to a child for meeting his or her basic needs, the creation of a secure physical and social environment promoting his or her development and preparation of the child for coping in accordance with his or her abilities as an adult.
- A non-working student with a disability who incurs additional learning-related expenditure due to his or her disability is paid a monthly learning benefit. The learning benefit is not paid for the months of July and August. The amount of the learning benefit in 2014 is 6.39-25.57 euros.

Local government aid:

- Social counselling – prevention of social problems and helping the person to solve the problems already encountered.
- Support person for a family – helping in document management, providing emotional support, mediating experience and information.
- Support person for a child – helping a child in implementing developmental activities, teaching and encouraging the child to cope in daily life.
- Personal helper for a child – the aim of this service is to increase the child's independence and participation in all areas of life and to reduce the care burden family members.
- Psychological counselling
- Additional funding for the rehabilitation service
- Additional funding for technical aids
- Additional funding for the childcare service, incl. in welfare institutions
- Specialised transport for persons with damage to movement and vision functions and for persons with a mental disability who have difficulties due to the damage or disability in using personal or public transportation for studies and for use of public services.
- Day care centres for the purpose of supporting the development of the children and to provide them with a safe environment for spending their free time.

- Caregiver benefit and the accompanying social insurance – a monthly social benefit; the conditions and procedure for payment thereof are prescribed by the council of the local government.
- Trainings for parents and children.
- Events and establishing and supporting self-help groups of parents.
- Benefits and allowances.
- Provision of clothes and food.
- Adaptation of dwellings – the purpose of this service is to ensure that a person having difficulties with movement in a dwelling, communication or coping with oneself attains safe coping as independently or with as little outside help as possible within the dwelling and upon entering and exiting it.

States' positive obligations under Article 16 include implementing means to ensure the economic protection of various categories of vulnerable families, including Roma families. The Committee consequently asks what measures are taken to ensure the economic protection of Roma families.

No special measures have been established concerning Roma families and they are subject to the same laws and measures upon ensuring their economic rights, state aid and support as all other families.

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

On the basis of Estonian national law, Estonia treats everyone equally in terms of social security entitlement, including family benefits. Estonia does not differentiate on the basis of nationality. All residents of Estonia are subject to the laws regulating family benefits, including stateless persons. Therefore, equal treatment is guaranteed. Several EU association agreements with third countries include rules for social security co-ordination, namely in pension field. Under these agreements, the implementing decisions guaranteeing the export of pensions into the third countries are in the process of preparation. The countries are following (9): Algeria, Morocco, Tunisia, Israel, Albania, Montenegro, San Marino, Turkey and the former Yugoslav Republic of Macedonia. Therefore, Estonia is going to start exporting pensions within the framework of the association agreements and we will make additional administrative agreements if necessary (for example, in the area of data exchange).

In addition, similar provisions for social security are included in the EU association agreements with Serbia and Bosnia and Herzegovina. For the implementation of the

agreements, the EU has to conclude the aforementioned process. Estonia does not plan to conclude bilateral agreements with the countries the EU has association agreements with.

It has to be stated separately that Estonia is in principle ready to conclude bilateral agreements, but it requires reciprocal interest of both countries.

Estonia is in the process of negotiating bilateral Agreements with Australia, the United States of America, Georgia, the Republic of Belarus and the Republic of Azerbaijan.

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

Article 17 § 1: Assistance, education and training

General regulation, measures for implementation of legal regulation

According to the information presented in the previous report, the law in force in Estonia prescribes that pursuant to § 5 (2) of the Termination of Pregnancy and Sterilisation Act, the written consent of a guardian is required for termination of pregnancy of a minor i.e. a person with restricted active legal capacity. The Ministry of Social Affairs, supported by the Chancellor of Justice, has initiated an amendment to that provision in order to ensure that persons with restricted active legal capacity have an independent right of decision about termination of their pregnancy. This change supports the persons' right to bodily integrity as well as their right to decide whether or not to become a parent. Upon amending the provision, persons with restricted active legal capacity will be granted the right to decide offer their pregnancy or its termination on the same grounds as persons with an unrestricted active legal capacity.

Two extensive activities have been initiated in the Ministry of Social Affairs – the draft Child Protection Act has been presented to the Riigikogu and the Green Paper on Substitute Care will be completed by the end of 2014 and will be introduced to the Government of the Republic.

The draft Child Protection Act (CPA) is planned to enter into force on January 1, 2016 and the preparatory activities for implementing the Act have already started. The Act will bring significant changes to the activities of child care institutions, incl. substitute homes, as well as to supervision of children's well-being and rights.

The Government of the Republic has approved and presented to the Riigikogu a draft Child Protection Act for the purpose of shaping a behaviour and lifestyle that values children and promotes their development, creating a supportive environment for children, putting the

interests of children in the foreground, improving the quality of life for children and supporting comprehensive development of children, ensuring timely and relevant help and care to children in conditions endangering their health and well-being, and complying with the UN Convention on the Rights of the Child, the Charter of Fundamental Rights of the European Union and their relevant legislation. The purpose of the Child Protection Act is to develop the state's organisation of child protection, enhance the effectiveness of state supervision and improve the quality of child protection work of local governments upon ensuring the well-being of children and protecting the children's rights in the best interests of the child. The draft Child Protection Act is planned to enter into force on January 1, 2016 and the preparatory activities for implementing the Act have already started.

For the purpose of empowering the child protection domain and to solve its current shortcomings, the new draft Child Protection Act strengthens the state's role in organising child protection; for the purpose of enhancing the effectiveness of the current organisation, a Child Protection Council is established and the Estonian National Social Insurance Board (a government institution active in the area of government of the Ministry of Social Affairs) is given the state's implementation function of child protection. The aim of this is to ensure a more effective and cost-efficient organisation of child protection; to increase the nationwide equal access of children and families to the services, ensure the availability and develop the quality of the services; to increase the efficiency of co-operation between the local and the nationwide level upon effecting child protection and providing services; to improve co-operation with related domains and co-ordinate cross-domain activities of child protection as well as develop prevention and early intervention to avoid children's problems and to support families.

The purpose of the Child Protection Council being established with the draft is to assign strategic importance to the protection of children's rights and the ensuring of their well-being, as well as set short-term and long-term objectives for the children and family policy and make the relevant political choices. The task of the Ministry of Social Affairs is to co-ordinate the development of the children's rights and child protection policy and implementation thereof, while being the responsible implementer of the Children and Families Development Plan approved by the Government of the Republic and its implementation plan. The Estonian National Social Insurance Board is obligated to co-ordinate co-operation and prevention activities of child protection and to develop and organise the state's services intended for children and families. The National Social Insurance Board will also support cross-domain co-operation and prevention on the local level, co-operating regularly with local governments and developing co-ordinated communication between the state and the local level for that purpose.

In order to best bring the policymaking concerning children, juveniles and families to the local level and to advise and support local governments in planning the relevant activities, regional support units for children and families will be established in the framework of the

pre-defined project “Developing the cross-sectorial support system for children and youth” under the programme “Children and Youth at Risk” implemented with the funding of the European Economic Area Financial Mechanisms 2009-2014 (EEA). The main role of regional support units is to advise local governments, offering advice, training and consultations in both solving child protection cases and increasing the capacity of local governments to work with children and families, incl. collecting data and planning evidence-based prevention measures.

In addition to the foregoing, there are plans to pilot the parenting programme “The Incredible Years” and to adapt it to the Estonian situation in the framework of a pre-defined project under the EEA programme “Children and Youth at Risk”. The main objective of implementing the parenting programme is to help parents develop effective coping strategies with the aim to prevent and cope with various development issues and behavioural problems of children. In a longer perspective, the parenting programme is hoped to prevent aggressive and antisocial behaviour of children and juveniles, their abuse of addictive substances and dropping out of school. The parenting programme is offered to both Estonian and Russian speaking families.

In the framework of the pre-defined project “Creating a concept of integrated services to improve the mental health of children” under the programme “Public Health” funded by the Norwegian Financial Mechanism 2009-2014, a system of services is described which supports and ensures the well-being of children and families as well as early noticing and prevention to promote mental health, to prevent problems and to facilitate the coping of families in need of help. The integrated system of services encompasses activities co-ordinated by institutions in three domains – social, healthcare and educational institutions. The concept will be finished in 2015 and includes policy recommendations to enhance and improve the current system. Four regional centres for children’s mental health are being created under the same programme; the centres will provide professional and evidence-based help in case of mental health problems.

Protection of children from ill treatment and abuse

General regulation, measures for implementation of legal regulation, statistics

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

Estonia has continually and systematically acted towards maximum securing of the rights of children victimised by violence. Contributions have been made into the professionalism and specialisation of officials proceeding offences against children as well as ensuring that proceedings are as child-friendly as possible. Officials conducting proceedings who work with minors (child protection service employees, judges and those prosecutors who specialise on minors) have received regular training.

Help materials have been prepared for child witnesses participating in court proceedings. Child-friendly interrogation opportunities have been established in police prefectures; several police buildings have specialised interrogation rooms for minors, planned and furnished pursuant to requirements concerning both furniture and equipment. Moreover, the interrogation rooms are provided with video recording capacity so that a child whose testimony is important for the court proceeding will not have to be interrogated again (in the court room).

The new Child Protection Act creates the basis for improving the quality of local governments' child protection work, prescribing the establishment of a national implementation unit for child protection to support the local governments, as well as the creation of work counselling and in-service training systems. During 2014-2015, the Ministry of Social Affairs will develop the exact bases for the implementation unit's operation, in order to create the prerequisites for launching the implementation unit in 2015 or 2016. According to plans, the implementation unit will *inter alia* organise counselling for child protection workers.

The Ministry of Social Affairs has prepared the nationwide initial task for a help system for child victims. It is modelled on the so-called Barnahus system developed and implemented in Iceland, where an abused child is heard and examined in a single place and on a single occasion in order to prevent further trauma to the child during the criminal proceedings. Until the end of 2016, the funds for the help system will come from the Norwegian programme "Public Health" through centres for mental health of children. Under the "Public Health" programme, the concept of integrated services for early intervention and mental health of children will be developed. Activities to implement the system have started in the children's hospitals of Tallinn and Tartu. Another project under the "Public Health" programme is the creation of a long-term rehabilitation service for children with severe and permanent psychological disorders.

The new Development Plan for Reducing Violence 2014 – 2020 has the aim of bringing the Estonian practice of victim support and reaction to violence into compliance with international recommendations and commitments. Estonia is currently making preparations for signing the Istanbul Convention, ratification of the Lanzarote Convention and the Human Trafficking Convention of the European Council, and transposing the Directive establishing minimum standards on the rights, support and protection of victims of crime, the Directive

on the European protection order and the Directive on combating the sexual abuse and sexual exploitation of children and child pornography. Transposing the aforementioned directives brings about additional commitments to help violence victims and to develop a rehabilitation system for people who have used violence, as well as changes in the work practice and principles of various institutions.

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

The current development plan in force is the Development Plan for Reducing Violence 2010-2014. Several activities have been implemented as a result of the Development Plan for Reducing Violence, mostly directed towards:

- educating children (on the topics of e.g. Internet safety, dating violence) and specialists (school employees on the topics of Internet safety and sudden assaults, local government employees on the topics of noticing family violence and intervening, conducting crime prevention activities);
- preparing guidelines (e.g. for noticing family violence and intervening, for conducting community-based prevention, for child victims participating in criminal proceedings);
- changes in legislative drafting (e.g. defining sexual offences in more detail and establishing the offence definition of human trafficking, enabling complex treatment of sexual offenders, changes to the criminal procedure concerning hearing of children, prescribing more severe punishments for sexual offences, supplementing the list of circumstances which aggravate an offence (an adult committing an offence against a person in the presence of a minor, committing an offence against a former family member);
- obtaining a better overview of the prevalence and nature of violence (studies have been conducted on children's delinquency and victimisation, children's and parents' attitudes towards children's rights and corporal punishment, risks and prevalence of family violence, taking into account the violence experience when assigning the right of custody; the attitudes of adults towards sexual violence, prostitution and abuse at work; effective strategies to prevent alcohol consumption by minors);
- improving co-operation and information exchange between various parties.

In 2012, the NPA Counsel Centre for Families and Children (MTÜ Perede ja laste nõuandekeskus) in co-operation with the Ministry of Social Affairs developed a guideline (handbook) intended for child protection workers as well as a manual for assessing a child's well-being and a case plan for children. The developed materials were introduced through meetings throughout Estonia to a total of 119 child protection workers. Additionally, meetings for judges and court personnel were held where the assessment manual was

introduced; a total of 75 people attended those meetings. The NPA Counsel Centre for Families and Children also conducted periodic seminars and covisions throughout 2012.

The obligation to report a child in need of help has also been specified further, as the new Child Protection Act prescribes every person's obligation to report a child in need of help.

The child help hotline 116 111 has been in uninterrupted operation since the end of 2010 and the number of recipients of its service is increasing. A total of 12,078 children, parents and specialists received the child help hotline's service in 2010-2012. The child help hotline aids the overall promotion of children's rights through awareness campaigns and other information activities, mediates reports of children in need of help to child protection workers and the police, and acts as a primary counselling service for children and those who encounter children.

A national value education programme "Safe School" has been conducted, supported by the Ministry of Education and Research. Main activities under the programme were: training for value education trainers and counsellors; developing the methodology for a value game for schools to use with students; developing and introducing books and methodical materials; conducting seminars for preschool child care institutions and schools on the topic; updating the ethics web according to the needs of schools and preschools; conducting conferences.

The aim of the Development Plan of Children and Families 2012-2020 is to support positive parenting and to provide needed support in raising children and being a parent, in order to improve the living quality and future outlook of children. The Development Plan of Children and Families 2012-2015 calls for several activities to enhance the support provided to parenting; one of the most important activities planned is implementing the evidence-based parenting programme "The Incredible Years".

The new Development Plan for Reducing Violence 2014-2020 considers one of its highest priorities to be reduction of child-related violence (sexual abuse of children inside the family, school bullying, also cyber-bullying and cyber-abuse, violence in child care institutions). For the purpose of achieving its aim, the Development Plan calls for shaping social norms and attitudes condemning of violence and supportive of social equality, increasing the awareness of children and juveniles about violence and improving their living skills, as well as ensuring better noticing of and reacting to violence incidents.

<p>The Committee concludes that the situation in Estonia is not in conformity with Article 17 § 1 of the Charter on the ground that corporal punishment is not explicitly prohibited in schools and in the home.</p>
--

§ 24 (1) of the new Child Protection Act fully prohibits the abuse of children in all its manifestations – neglecting a child, mental, emotional, physical and sexual abuse of a child. The second part of the sentence specifically highlights that *inter alia* the following are also considered to be forms of abuse of a child and are therefore prohibited: belittling a child, frightening a child, corporal punishment and punishment in any other way that endangers the child’s mental, emotional or physical health.

§ 24 (1) of the draft expands on the prohibitions of abuse contained in the current CPA and other legislation, by expressly prohibiting *inter alia* corporal punishment of a child and applying the prohibition to all persons and parties, encompassing the prohibition of any and all corporal punishment of a child in family environment, in preschools, in schools, in substitute care, etc.

The aim of this provision is to shape a clear attitude in the society that corporal punishment of a child is not a method of educating but abuse which conflicts with human rights, violates the child’s rights, damages the child’s development, mental and physical health and must therefore be uniformly condemned by the society.

With the new Child Protection Act entering into force, the Estonian legislation fully complies with Article 17 § 1 of the Charter.

Pursuant to § 44 of the Basic Schools and Upper Secondary Schools Act, schools must ensure the mental and physical security and the protection of the health of students during their stay at school; this includes protection against corporal punishment. Schools are also subject to other laws in force in the Republic of Estonia, e.g. the Penal Code and the Child Protection Act. Corporal punishment is prohibited in school, as well as everywhere else in Estonia. Teachers having utilised this form of “educating” have been prosecuted on the basis of § 121 of the Penal Code which prescribes that causing damage to the health of another person, or beating, battery or other physical abuse which causes pain, is punishable by a pecuniary punishment or up to 3 years' imprisonment.

Education

General regulation, measures for implementation of legal regulation

According to the Basic Schools and Upper Secondary Schools Act, the rural municipality or the city is required to ensure the opportunity to obtain basic education for each person subject to compulsory school attendance in the area of his or her residence. This school is obliged to enrol the child unconditionally. Parents have the right to know in which school a place has been reserved for their children. In order to ensure the performance of this provision, the city or rural municipality government will establish the conditions and

procedure for determining the municipal school of the person's residence. The first priority is the proximity of the residence of the student to the school, attendance of other children from the same family in the school and, if necessary, the wishes of the parents. A maximum of 60 minutes may be spent to reach the school of residence of the student for at least 80% of the students. The expenses of the travel to school and home will be compensated up to four times per month for children attending schools for students with special needs who live in boarding school facilities and whose residence is not in the same city or rural municipality as the educational institution. The travel expenses for students who are travelling to the educational institution and back to their permanent residence every day are compensated with a calculation of one round trip per day spent to reach the school of residence of the student for at least 80% of the students. The expenses of the travel to school and home will be compensated up to four times per month for children attending schools for students with special needs who live in boarding school facilities and whose residence is not in the same city or rural municipality as the educational institution. The travel expenses for students who are travelling to the educational institution and back to their permanent residence every day are compensated with a calculation of one round trip per day.

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

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

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

The rate of persons who quit without basic education has decreased over a long-run period (from 946 quitters in 2005/2006 to 235 in 2009/2010), but started to increase in the last few years, reaching 328 quitters in 2012/2013, which is about 0.3% of the number of students. The highest drop-out rate is in the 3rd stage of study, up to 0.7%. Many of these students have reached 17 years of age by the end of the school year, meaning they are no longer obliged to attend school. More and more attention has been paid to children with special

needs in schools, implementing various supportive measures such as individual study programmes, boarding school facilities and various learning help groups or classes. The awareness and skills of teachers have also increased in noticing the issues of students and supporting students in the study process.

In schools, it is possible to:

- implement speech therapist assistance to overcome the difficulties in reading and writing of students;
- receive psychological counselling;
- receive support teaching or consultation outside of classes;
- receive learning help in a learning help group (the groups are meant for basic school students with (temporary) learning difficulties related to certain subjects, undeveloped learning skills and issues related to speech therapy who are not able to fulfil the requirements of the study programme or need a supportive study organisation to develop learning skills and learning habits despite the support and counselling of the class teacher and subject teachers; maximum of 6 students per group);
- compose an individual study programme for the student in one or several subjects; provide increased or decreased requirements for content of learning and results of learning therein compared to the study programme of the school, differences in study organisation, change the time of achieving study results, that is, to either lengthen or shorten the period of learning, apply suitable teaching methods, etc.;
- form separate classes for students with learning difficulties (up to 12 students per class);
- form separate classes for students with special needs, including children with behavioural issues;
- form long day groups where the free time of students after lessons is used in a meaningful way; educational instructions for fulfilling home exercises are offered as well as learning help and the possibility to take part in recreational activities; and
- according to the Basic Schools and Upper Secondary Schools, schools have to provide psychological, special educational as well as social pedagogical counselling if necessary; a position for a learning co-ordinator for students with special needs related to education will generally be provided in schools. The types of classes provided for students with special needs related to education have been substantially extended, the limits of students in such classes have been reduced and possibilities to learn in the conditions of a small class (up to 4 students) or individual learning are provided. All this should help decrease dropping out of basic school even more.

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

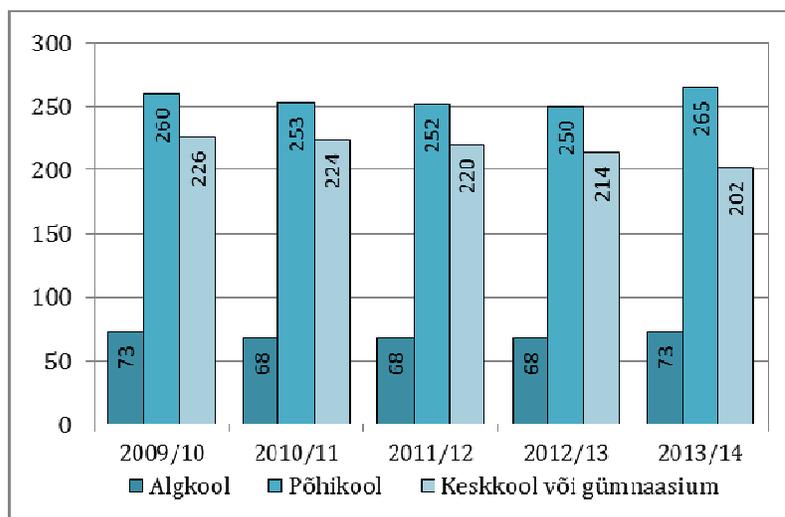
Various possibilities have been created at the national level to support schools and teachers with the aim of ensuring the development and acquisition of general competence of all students. Teaching materials (textbooks and work exercise-books) and medical care are free of charge for basic school students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

The drop-out rate from the general education system as a whole (i.e. from basic schools and upper secondary schools with both daytime study and evening study) has decreased to 2.0% of students (2012/2013). The majority of such students were students who were attending the forms of evening study and distance education.

Statistics

There were 540 schools with daytime study in Estonia in the school year of 2013/2014, 42 of them being schools for children with special needs and 498 being ordinary schools. 47 of all schools were in private ownership and the rest were in municipal or state ownership. In addition to schools with daytime study, students were able to attend 16 adult upper secondary schools. While in the previous four years the number of schools was rather declining (due to both mergers and closures of schools), the school year of 2013/2014 saw the number of schools with daytime study increase by 8 schools in comparison to the previous school year – the number of primary schools grew by 5 schools, the number of basic schools grew by 15 schools and the number of upper secondary schools decreased by 12 schools in the same period.

Table 1. Number of schools with daytime study, by school types, in the school years of 2009/2010–2013/2014.



Algkool – Primary school

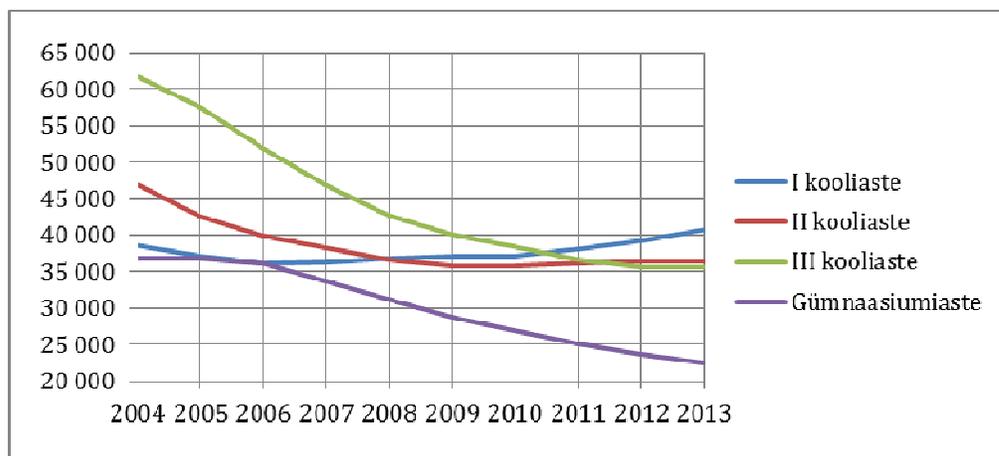
Põhikool – Basic school

Keskkool või gümnaasium – Upper secondary school

Source: Estonian Education Information System (EHIS)

At higher study stages, the decline in the number of students in the past 10 years has been the biggest, due to demographic processes. At the second and third study stage, the number of students has stabilised in recent years and a moderate growth continues at the first study stage, which nevertheless cannot compensate for the decline that occurred over the past 15 years.

Table 2. Change in the number of students, by study stages, 2004–2013, daytime study



I kooliaste – 1st stage of study

II kooliaste – 2nd stage of study

III kooliaste – 3rd stage of study

Gümnaasiumiaste – Upper secondary school study stage

Source: Estonian Education Information System (EHIS)

Adaptation of the network of schools to the decreased number of students at the stages of basic education and general upper secondary education will be a significant challenge to most school administrators in the coming years. The number of births has been uneven across regions and so there are a few local governments where new student placements need to be created in the coming years, but it will not be necessary in most local governments.

Table 3. Number of schools, average occupancy rate of classes, students-to-teachers ratio and number of students in 2009-2013

	2009	2010	2011	2012	2013
Number of schools	575	561	556	548	556
incl. in rural municipalities	356	349	344	336	335
percentage in rural municipalities	61.9%	62.2%	61.9%	61.3%	60.3%
Average occupancy rate of ordinary classes in full-time study	19.4	19.2	18.9	18.9	18.9
incl. in rural municipalities	15.1	14.9	14.5	14.6	14.5
Students-to-teachers ratio	10.2	10.1	10.0	9.9	9.9
Number of students in basic schools	30,386	29,303	30,219	33,857	39,132
Number of students in upper secondary schools	119,225	116,636	112,764	107,088	101,335

Source: Estonian Education Information System (EHIS)

In the school year of 2013/2014, 14,226 teachers were working in general education schools, occupying 11,739 teacher's positions. There were a total of 140,467 students attending daytime study, which is 9,174 students (i.e. 6.5%) less than there were five years ago. In the same period, the number of teachers decreased by 3.2% and the number of teacher's positions decreased by 3.8%. Table 1 indicates its effect on the students-to-teachers ratio in the past five years – while there was one teacher per 10.2 students on average working in schools in the school year of 2009/10, now there is one teacher per 9.9 students.

Table 4: Rate of persons who quit school without obtaining basic education, 2009/2010 and 2012/2013.

	Stage of study	2009/2010			2012/2013		
		Number of quitters	Rate of quitting	Average age of quitter	Number of quitters	Rate of quitting	Average age of quitter
Men	1st stage of study	11	0.1%	9.4	13	0.1%	9.5
	2nd stage of study	23	0.1%	12.8	32	0.2%	12.6
	3rd stage of study	128	0.6%	17.1	171	0.9%	17.3
Women	1st stage of study	12	0.1%	8.5	20	0.1%	8.6
	2nd stage of study	15	0.1%	12.4	14	0.1%	11.9
	3rd stage of study	46	0.2%	16.6	78	0.5%	16.9

Total	1st stage of study	23	0.1%	8.9	33	0.1%	9.0
	2nd stage of study	38	0.1%	12.7	46	0.1%	1.
	3rd stage of study	174	0.4%	17.0	249	0.7%	17.2
TOTAL		235	0.2%	15.5	328	0.3%	15.7

Source: Estonian Education Information System (EHIS)

Children in public care

General regulation, measures for implementation of legal regulation, statistics

Children deprived of care by their own parents and family can be provided with a substitute home or a foster care service pursuant to the Social Welfare Act. Pursuant to the Family Law Act, such children can be adopted and placed into a guardianship family. Therefore, based on Estonian laws, the forms of substitute care include not only substitute homes and foster families but also guardianship families providing family-based care. Although approximately 100 children find a home in an adoptive family each year (114 children in 2013), those children are not counted among children in substitute care because adoption entails the creation of new child-parent legal relationships.

The number of children in substitute care in Estonia has decreased with each passing year – while there were a total of 2,731 children in substitute care in 2011, that number was less by 147 (a total of 2,484 children) by the end of 2013. Although the total number of children in substitute care has decreased, the proportions concerning institutional substitute home service as well as foster care and guardianship have remained the same – approximately 60% of children are in foster care or guardianship and 40% are in substitute home service. By the end of 2013, 1,026 last children were in substitute homes, 226 children were in foster care and 1,332 children were in guardianship families.

Based on the foregoing, it can be said that the balance in placing children separated from their origin family into substitute care is inclined towards family-based forms (a total of 1,558 children are living in foster families and guardianship families) and that a third less children are living in institutional substitute homes (1,026 children) than those in family-based care. It must also be taken into account that several substitute homes (8 providers of the substitute home service out of 35) provide the service around-the-clock according to the principle of family parents caring for their children, which by its nature can also be included rather in the family-based substitute care. Although more children are in family-based substitute care than in institutional care, at the end of 2013 there were 29 children in substitute home service per every 10,000 children; this is less by just one child when compared to the end of 2011 when 96 children were in any form of substitute care (substitute home, guardianship and foster care) per every 10,000 children. Although the aforementioned ratio has also decreased somewhat (there were 100 children at the end 2011), the changes have been unsatisfactorily slow and few.

A significant proportion i.e. approximately 40% of all children living in substitute homes are disabled, therefore there are understandable difficulties in finding a foster family or a guardian for them.

The legal relationship of children placed in various forms of substitute care with their parents is largely the same – the main criterion is that all those children are separated from their origin families. None of the aforementioned substitute care measures can be applied if there is no court judgement about the legal relationship of the child and his or her parents; the only exception may be made in case of a parent's death. Based on the legal relationship between a child and his or her parents, different ways to organise the child's future life can be chosen. Although children in foster care and guardianship are entitled to receive state maintenance support in the same extent and under the same provision, the specificity lies in the legal relationship between the family and the child. While a guardian is not only the child's caregiver and educator but also his or her legal representative, the legal representative of a child in foster care is generally the local government of the child's place of residence which organises the child's care in a family suitable for him or her under a contract.

Supervision over the child's rights and well-being in substitute care is organised in different manners – supervision over a guardianship family is performed by a court, supervision over a child in foster care is performed by the local government and supervision over a substitute home is performed both by the local government being the child's guardian and by the county government that monitors the service quality. Also, the Chancellor of Justice has made visits to orphanages and inspected the securing of children's rights there; the conclusions of those inspections were presented to the relevant institutions for the purpose of implementing changes. The Chancellor of Justice has also prepared a summary report on securing children's rights in substitute homes ([link](#)). In order to reduce the risk that a child in an institution becomes under powerful influence of its employees, the Family Law Act prohibits the healthcare, welfare or educational institution where the child currently is or an employee of such an institution from becoming appointed the child's guardian.

Led by the Ministry of Social Affairs, a training course was organised to implement the AudTrain methodology in substitute homes. AudTrain is a supervision methodology which enables a more substantive assessment of the securing of children's rights in an institution, involving the children and employees in the assessment. It has been a single training course as yet and the participants were supervision performers from country governments as well as employees of the Office of the Chancellor of Justice. The Ministry of Social Affairs plans to continue the training courses, in order to ensure that an approach respecting the children's interests and rights becomes the prevalent methodology of supervision over substitute homes. Implementation of the aforementioned methodology presumes not only document observation and employee interviews but also substantial interviewing of children.

The legal representative of a child in a substitute home or in foster care is the local government in full or in the extent that the parent's right of custody is restricted. During the child's placement in a substitute home or in foster care, the local government is obligated to

meet the child, be available as needed, and regularly review and change as appropriate the child's case plan.

The standard of substitute homes is high in Estonia, mainly due to the low number of children living in substitute homes, as this enables placing up to 8 children into a single family, or 6 children if service with a family parent is provided. Requirements are also posed to training of educational employees and the obligation to create family-like conditions. In addition to the foregoing, there is an ongoing need to develop substantial activities in order to account more for the child's best interests and both to ensure the child's involvement in the daily life of the substitute home and to support the child's independence and development of his or her social skills for coping outside the substitute home. The substitute home also has the obligation to support relationships between the child and his or her origin family.

Since 28.04.2013, the target group of children entitled to substitute home and foster care services has been extended to minor-age aliens without an accompanying adult, minor-age victims of human trafficking and minor-age victims of sexual abuse.

Pursuant to the Social Welfare Act, case management and existence of a written case plan is obligatory for children placed in substitute care. While the case plans for the target group added since April 2013 are prepared by the Estonian National Social Insurance Board as a state organisation, for other children the obligated person is the local government. The wishes of a child of at least 10 years of age must be taken into account when preparing a case plan. The wishes of a child under 10 years of age must be taken into account if the child's rate of development allows this. Before granting consent, the child has the right to get acquainted with the person who wishes to become a caregiver, his or her family members and home, and to receive information on them. Pursuant to the law, a case plan must be reviewed and supplemented or changed as appropriate at least once a year, more frequently if necessary.

Two extensive activities have been initiated in the Ministry of Social Affairs – the draft Child Protection Act has been presented to the Riigikogu and the Green Paper on Substitute Care will be completed by the end of 2014 and will be introduced to the Government of the Republic.

The draft Child Protection Act (CPA) is planned to enter into force on January 1, 2016 and the preparatory activities for implementing the Act have already started. The Act will bring significant changes to the activities of child care institutions, incl. substitute homes, as well as to supervision of children's well-being and rights. For example, the new Act prescribes the right of complaint of a child placed in a child care institution, the child care institution's obligation to perform periodic internal assessments, and the limits of state supervision as well as measures that the local government may employ to protect a child by intervening into the family's life and measures concerning a child placed in substitute care.

The Green Paper on Substitute Care concerns the principles and organisation of substitute care, incl. substitute homes, foster care, guardianship and adoption. The document is the

basis for planning further state activities, incl. for modernising the legislation. The piloting of pre- and post-adoption services has already been launched and there are plans to extend those services also to foster families and children living there. Additionally, the creation of a nationwide register of foster families has been initiated under the existing STAR database (Social Benefits and Services Data Register), in order to ensure the matching of foster families and children. As the organising of foster care is administrated by local governments and there has not been a register of possible foster families as of yet, the matching of foster families and children has mostly taken place within the same local government territory. As the number of residents in a local government is often very small, it is difficult to find suitable families for children because a local government cannot find families who would be willing and suitable to foster a child within its region. Yet there is a considerable number of families in larger cities who are still waiting to become foster families because there are no suitable children for them there.

The Green Paper on Substitute Care sets the goal of employing all measures to prevent children under 3 years of age from being placed into substitute homes. Yet it is not prohibited to apply this measure, in order to avoid a situation where a child is not separated from a family due to lack of a suitable and allowed substitute care service. The exception also allows for raising siblings together if other children of the family are older and it would not be in the interest of the children to separate them. The Green Paper on Substitute Care also focuses on supporting children leaving from substitute care into their own life and supporting them in starting their independent life.

Pursuant to the Family Law Act, if leaving a child in his or her family endangers the health or life of the child, a rural municipality government or city government may separate the child from the family before a court ruling is made. In such case the rural municipality government or city government shall promptly submit an application to a court for restriction of parental rights with respect to the child. This is the only case where a child may be separated from his or her parents before a court judgement is made. Regardless of separating from the family, the parent retains his or her rights and obligations in that situation, incl. the right to see the child. Separate court adjudication is required for restricting the parent's right to see the child. Essentially, the provision in question means restricting the right of the child and the parent to see each other until a court's intervention. The new draft Child Protection Act further specifies the regulation of separating a child temporarily from his or her family and provides a specific timeframe during which the local government or the Estonian National Social Insurance Board must turn to a court concerning the separation of the child from the family. The aim of the regulation is to ensure that a court adjudication on separating a child from a family is made within 48 hours.

All other opportunities provided in the Act for intervention in the relationship between a child and a parent and for separation of a child from a family are given to court jurisdiction by the Family Law Act (the current edition of the Family Law Act entered into force on July 1, 2010).

The Committee asks what the criteria are for restriction of custody or parental rights and what the extent of such restrictions is. It also asks what the procedural safeguards are to ensure that children are removed from their families only in exceptional circumstances. It further asks whether the national law provides for a possibility to lodge an appeal against a decision to restrict parental rights, to take a child into public care or to restrict the right of access of the child's closest family.

Pursuant to the Family Law Act, if leaving a child in his or her family endangers the health or life of the child, a rural municipality government or city government may separate the child from the family before a court ruling is made. In such case the rural municipality government or city government shall promptly submit an application to a court for restriction of parental rights with respect to the child. A court shall restrict parental rights and obligations only in the extent that this is necessary. This is the only case where a child may be separated from his or her parents before a court judgement is made. Regardless of separating from the family, the parent retains his or her rights and obligations in that situation, incl. the right to see the child. Separate court adjudication is required for restricting the parent's right to see the child. Essentially, the provision in question means restricting the right of the child and the parent to see each other until a court's intervention. The new draft Child Protection Act further specifies the regulation of separating a child temporarily from his or her family and provides a specific timeframe during which the local government or the Estonian National Social Insurance Board must turn to a court concerning the separation of the child from the family. The aim of the regulation is to ensure that a court adjudication on separating a child from a family is made within 48 hours. Pursuant to the Family Law Act, a court may separate a child from the parents only if damage to the interests of the child cannot be prevented by other supporting measures applied in the relationship between the parents and the child. Parents may contest the separation from family and the restriction of right of custody pursuant to court procedure.

Juvenile offenders

General regulation, measures for implementation of legal regulation, statistics

In 2012 there were 67 juvenile committees active in Estonia, 15 of them county-based, 44 local government based and 8 established by Tallinn city district governments. 2,029 juveniles were referred to a juvenile committee in 2012 (2,141 in 2011). Compared to 2008, the number of juveniles referred to a juvenile committee has decreased by almost a half (4,012 juveniles in 2008). One of the reasons is lower birth rate – compared to the time four years ago, there are now indeed significantly fewer children and juveniles living in Estonia. Another reason is the Basic Schools and Upper Secondary Schools Act which entered into force in 2010 and established school organisation measures to influence the behaviour of students in schools. The Act amended the Juvenile Sanctions Act: while the school was also

able to refer a child to a juvenile committee earlier, it cannot do so since 2010. This helps reduce the criminalisation of juveniles' behaviour.

In 2012, the proportion of juveniles referred to juvenile committees in all of Estonia was 1.5% of the total age group of 7-17 years. Like in preceding years, the most discussions in 2012 were again initiated on grounds of a misdemeanour committed by a child under 14 years of age (38%). The proportion of discussions initiated due to not fulfilling the obligation of compulsory school attendance has remained the same as in 2011 (11%). The proportion of discussions initiated due to an offence committed by a child under 14 years of age has increased (21%); that proportion was 17% in 2011.

A total of 3,126 sanctions were imposed by juvenile committees in 2012. While a total of 2,653 cases reached a decision, among them were 1,804 cases where a single sanction was imposed, 593 cases where multiple sanctions were imposed and 256 cases where no sanctions were imposed (it was either a termination of discussion, postponing of a discussion, appointment of an representative, compelled attendance or a repeat discussion). Out of all permitted sanctions, warnings are imposed the most frequently (35.6% of all sanctions imposed in 2012). The second highest frequency is evident in imposing community work (21.6% in 2012) and referring to a specialist discussion (24.2% of all sanctions in 2012). Very little use is made of conciliation (0.1% in 2012), referring to probation (0.4% in 2012) and school organisation sanctions (1.4% in 2012). The rate of referring juveniles to schools for children with special educational needs remains stable (1.7% in 2009 and 1.8% in 2012).

As the proceedings in juvenile committees do not provide for the best securing of a child's rights and interests and the imposing of sanctions is not effective (the rate of repeat offending among juveniles referred to a juvenile committee was in the range of 30-50% in 2008-2012), the Ministry of Education and Research as the authority responsible for the domain in co-operation with the Ministry of Justice conducted a comprehensive analysis of the activities of juvenile committees in 2010. As a result of the analysis and for the purpose of a comprehensive updating of the system, a new Act was initiated in 2011; it was intended to replace the current Juvenile Sanctions Act upon entering into force. The draft Act was prepared in co-operation with the Ministry of Social Affairs, the Ministry of Justice and the Ministry of the Interior. At the beginning of 2014, the Ministry of Social Affairs presented a proposal to suspend the proceeding of the draft Act and to transfer the domain of treating minor-age offenders from the area of government of the Ministry of Education and Research to the area of government of the Ministry of Social Affairs. This change is part of the current ongoing child protection reform in Estonia, with the aim to secure the interests and rights of all children. The transfer of the domain is expected to be complete by the end of 2014. The change helps ensure that minor-age offenders, 2/3 of them being younger than the minimum age of culpability and often needing more help than sanctions, are treated according to the same principles as other children needing help and being in danger in Estonia.

The Committee asks whether young offenders have a statutory right to education.

The right of juveniles to education: pursuant to § 6 (1) of the Basic Schools and Upper Secondary Schools Act, general education of good quality is equally available to all persons regardless of their social and economic background, nationality, gender, place of residence or special educational needs. All young offenders are subject to compulsory school attendance, i.e. committing an offence is not grounds for expelling from school. Schools do not have legal grounds for establishing special requirements that would restrict or hinder the right of juveniles having committed an offence to obtain free education. In both Tapa and Kaagvere specialised school, all juveniles are provided with an opportunity to obtain basic education (these are schools!). After leaving a specialised school, the juvenile continues his or her education in a school of his or her residence (the school has the obligation to accept him or her). Also, juveniles subject to compulsory school attendance who are in prison have the opportunity to obtain an education.

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

General regulation

In 2013, the amendments to the Basic Schools and Upper Secondary Schools Act were adopted. The aim is to improve the quality and attractiveness of general education and to prevent and reduce the school drop-out rate. Chapter 2 “Ensuring compulsory school attendance” of the Basic Schools and Upper Secondary Schools Act provides for a specific wording of the intervention measures by the school administrator, the school and the parents as well as their responsibility to ensure that a student fulfils his or her obligation of compulsory school attendance. The amendments also address the following challenges in the general education system: the unclear distribution of tasks, obligations and responsibility among the main actors in general education; dissatisfaction of teachers of Estonia with their salaries, workload and arrangement resulting in a low popularity of the teacher’s profession; students, teachers and parents complaining about governmental basic and upper secondary school curricula overload; undesirable side effects of the funding system in combination with an ineffective school network, lack of transparency in spending of allocations made by the state to local governments – funding system not supporting the performance of educational tasks – resulting in small upper secondary school section in some local governments which offers little choices and weak competitiveness to their students and is often being maintained at the expense of basic schools.

The manager of the school will acquire the teaching materials that are necessary to follow the study programme. Textbooks, workbooks, work exercise-books and work papers are all

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

Subsection 82 of the Basic Schools and Upper Secondary Schools prescribes that cost sharing may not be asked from students or parents for participation in basic or upper secondary school education in a municipal or state school on the basis of the study programme of the school. For activities organised in a school that are not a part of the study programme of the school, covering of expenses may take place as cost sharing in activities not related to the study programme according to the conditions and according to the procedure provided for in the statutes of the school.

Measures for implementation of legal regulation

The implementation of the reform foresees optimising the network of educational institutions, incl. the functional separation of basic and upper secondary education; revisiting the teacher's profession, incl. the increase in quality of pedagogical education alongside with ensuring decent salaries for teachers; implementation of a funding model (in general education) that would ensure graduates a fair access to higher and vocational education and support its quality; strengthening the role of the board of trustees in organising the activities of the school; strengthening the school leadership; support to the implementation of a new curricula (adopted in 2013/2014), etc.

The educational counselling system is being uniformed in 2014. A so-called Pathfinder Centre (Rajaleidja keskus) is established in each county, providing both career counselling and learning counselling services. Local government schools with fewer than 350 students can also obtain level I special education and psychology counselling from the Centres.

Statistics

Table 1. Number of students dropped out of basic school, being subject to compulsory school attendance due to age at least at the beginning of the school year, 2009-2013

	2009	2010	2011	2012	2013
Numbered quitters	235	279	261	328	n/a
Proportion of quitters, %	0.2	0.3	0.2	0.3	

Source: Estonian Education Information System (EHIS)

In its previous conclusion, the Committee asked about the situation of Roma children in schools. /.../ 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. It asks what measures are implemented to improve access to education for this group.

There are 32 Roma students attending Estonian general education schools (incl. 2 in non-stationary study) in the school year of 2013/2014. This includes 6 students with simplified study programme in ordinary school. The use of simplified study programme is only due to the specific student's learning difficulties. 5 students are attending the 3rd stage of study in a specialised school (upon the parent's petition and the counselling committee's recommendation); they are the only Roma students at that study stage. The simplified study programme enables Roma students with learning difficulties to graduate from basic school and find employment at the labour market. One young Roma has also reached the upper secondary school stage. In 2014-2016, a project to improve the quality of counselling for Roma students will be launched with involvement of the Ministry of Education and Research and the Ministry of Culture and funded by the EEA/Norwegian Financial Mechanism.

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

Article 19 § 1: Free assistance and information services

General regulation

In 2010, Estonia presented the Committee with information about legal regulation concerning that article. The regulation has not been amended since that information was presented.

Measures to implement the legal regulation

The Integration and Migration Foundation (hereinafter MISA) deals with counselling and providing material support to newly arrived immigrants.

From other sources, the Committee notes that the Estonian Integration Strategy 2008-2013, adopted by the Government in 2008, provides for Estonian language lessons for newly arrived immigrants. It asks whether the integration measures also include vocational training.

The strategic principle of the Estonian Integration Plan 2008-2013 which the Government of the Republic adopted in 2008 prescribes teaching Estonian language to new immigrants; an adaptation programme is also implemented through MISA. The measure includes vocational education in the context of language immersion as well. See also *19 § 11*.

The new immigrants' adaptation programme supported by the Integration and Migration Foundation "Our People" (MISA) was designed for those European and third country nationals that had legally come to live in Estonia in the past three years.

The adaptation programme as a training course commissioned by MISA and developed by Tallinn University in 2009 was aimed at improving the socio-economic coping abilities of new immigrants in Estonia. Different areas of basic training introduce the history, country, and culture of Estonia as well as the main customs and values of its society in order to prepare the participants for entering the labour market. Information about current laws and the rights of residents in Estonia were given and a 364-hour Estonian language course was carried out. The adaptation programme was offered in both English and Russian and a total of 300 new immigrants received the support service over the two-year period. In addition to the adaptation programme, MTÜ Johannes Mihkelsoni Keskus (JMK) offered a support person service on an on-going basis until the end of November 2013 to up to 60 new immigrants by support persons specially trained in 2011.

The main task of support persons is to be a contact point for the participants by introducing language learning opportunities, explaining how social and health care services are provided and the specific characteristics of Estonian culture, as well as by giving advice when they are applying for necessary documents. New immigrants are offered an average of 22 hours of consultation per person and collective consultations are also offered. If necessary, the support persons can also provide psychological support for the new immigrants. MISA has made adaptation courses available to almost a hundred new immigrants since 2009, though the support service to third country nationals was being offered for the first time.

The adaptation programme courses and support person service is being financed through the European Fund for the Integration of Third-Country Nationals and the Ministry of Culture within the framework of the "Estonian Integration Strategy 2008–2013".

Since February 2014, two counselling centres for third-country nationals were opened – in Tallinn and in Narva. The advisory centre of Tallinn is located at the National Library of Estonia. The Advisory Centre of Narva is located at the Information Service of the City Government of Narva. The Centre provides information about everything integration-related

that might be of interest to the main target group, from rights, freedoms and limitations to labour market, education, public health service, free Estonian language teaching, etc.

There were 40 vocational education institutions active in Estonia in the school year of 2013/2014: 29 state schools, 8 private schools and 3 municipal schools. Vocational education can be obtained in Estonian and Russian; one school also provides education in English and Latvian. In the school year of 2013/2014, nearly 24% of vocational education students were in Russian-speaking education; this is 5,837 students in 17 vocational education institutions, incl. 3,289 students in vocational secondary education and 2,411 students in vocational education based on secondary education; 22 students were in English-speaking education and 28 students in Latvian-speaking education.

On January 1, 2014 the new edition of the Vocational Education Institutions Act entered into force. § 29 of that Act concerns the language of instruction, prescribing that the language of a vocational secondary education study programme shall be Estonian (except for students under international agreements); the language of instruction of other study programmes shall be decided by the school's administrator. The transition to Estonian language of instruction in vocational secondary education study programmes will take place by September 1, 2020 at the latest; the activities supporting the transition (teaching Estonian to teachers and students, in-service training for teachers and obtaining work experience in that language in another school, development of learning materials, methodology materials and guide materials, monitoring the learning quality and increasing awareness) are funded by the ESF. The activities are implemented in the framework of the Lifelong Learning Strategy 2014-2020, the Estonian Language Development Plan 2011-2017 and the Language Immersion Programme Strategy 2014-2020.

Study programmes with language of instruction other than Estonian must include learning Estonian in the volume prescribed in the school's study programme, ensuring the command of Estonian on a level needed for working in the profession acquired. In order to graduate from a vocational secondary education study programme with language of instruction other than Estonian, students must pass state examination of Estonian as a second language pursuant to § 31 of the Basic Schools and Upper Secondary Schools Act or vocational examination or profession-oriented final examination in Estonian – the opportunity to substitute the state examination is a change stemming from the new Vocational Education Institutions Act for the purpose of providing more flexibility.

The Ministry of Education and Research Regulation "Conditions and procedure for persons with special needs attending vocational education institutions" has also been updated; unlike the earlier edition, it now clearly states that insufficient command of the language of instruction is an educational special need when starting learning. That special need may be identified in a vocational education institution on the basis of a certificate of basic or upper secondary education or with a decision of the school's responsible employee or support group (an employee or support group is appointed in the school, to be responsible for noticing special needs and employing support measures). The main education support measure employed by vocational education institutions is additional learning of Estonian during a semester.

Statistics

Table 1:

Adaptation programme for new immigrants	2008	2009	2010	2011	2012	2013
(number of people who absolved it)	-	56	12	37	55	122

Source: MISA

Table 2:

Information about vocational education

		2007	2008	2009	2010	2011	2012	2013
Measure 1.1.4 in the programme “Developing language teaching 2007-2010 and 2011-2013” of the “Lifelong learning” priority under the Human Resources Development Plan funded by the European Social Fund	Language teaching for vocational education students	0	0	127	443	0	83	310
	Training for vocational school teachers	30	0	40	234	41	79	120
	Work experience for vocational school teachers	0	20	0	41	0	2	30
	Vocational school counsellors in a network	0	0	0	18	12	10	8

<p>Measure 1.8 “Providing a career study service to learners in vocational education institutions who use Russian language of instruction” in project No. 1.1.0801.10-0069 “Providing a career study service to learners in vocational education institutions who use Russian language of instruction” under the measure “Developing a learner-centred and innovating vocational education and expanding opportunities for lifelong learning” of the “Lifelong learning” priority under the Human Resources Development Plan funded by the European Social Fund</p>	<p>Career studies for vocational education students</p>	<p>0</p>	<p>0</p>	<p>0</p>	<p>0</p>	<p>0</p>	<p>788</p>	<p>431</p>
---	---	----------	----------	----------	----------	----------	------------	------------

Source: MISA

In its children conclusion (2006), the Committee asked for details on the policy of prevention work and surveillance of the situation with regards to the prevention of misleading propaganda as well as on whether training in the fight against racism and xenophobia is received by police officials. The report does not provide the requested information. The Committee reiterates its request and would like to know whether training courses are also organised for other public administration officers. It wishes to be informed on awareness-raising initiatives referring to foreign workers aimed for the wider public as well as for specific groups such as employers.

To increase tolerance and raise awareness, the Ministry of Social Affairs in collaboration with the Law School of Tallinn University of Technology has conducted activities in the field of equal treatment through the “Diversity Enriches” project since 2010. The project has been funded by the European Commission's PROGRESS Programme and co-financed by the Ministry of Social Affairs.

The project focuses on raising awareness of all grounds of discrimination referred to in the Equal Treatment Act - nationality, race, colour, religion or belief, age, disability or sexual orientation. Various nationwide training courses and seminars for various minority groups have been conducted under the “Diversity Enriches” project, for the purpose of increasing their awareness of the Equal Treatment Act, in order for people to know their rights and know where to seek help in case of discrimination. Also, employers have been counselled in order to promote equal treatment. Training courses have been open for everyone and participants have included state officials.

Concerning police officers in particular, the Police and Border Guard Board conducted training courses on the topic of “Manifestations of radicalism and terrorism” on seven occasions in the period of September to December 2013; the training courses also discussed racism. A total of 222 people participated in the training courses, incl. participants from all police prefectures and all departments of the Police and Border Guard Board.

Article 19 § 2: Measures to facilitate departure, journey and reception
General regulation, measures to implement the legal regulation

The social security system of Estonia is not based on citizenship, i.e. persons are not separated based on citizenship; equal treatment is ensured. The new immigrants’ adaptation programme supported by the Integration and Migration Foundation “Our People” (MISA) provides the main information and support service for newly arrived immigrants (see § 1). Concerning migration, the aim of the Integration and Migration Foundation “Our People” (MISA) is to support the migration processes. MISA provides counselling on migration

matters to both those returning to Estonia and those leaving from here and supports them financially if needed.

The Foundation offers migration-related allowances for both return immigration and emigration. In 2013, a total of 97 residents and citizens of Estonia returning from abroad received return immigration allowance from MESA. The allowance can be applied for by those compatriots who have lived abroad for 10 years or longer or who have been born abroad. Similarly to preceding years, returners were mostly below employment age; as much as a third of the returners were minors. Among the departure countries, the Russian Federation again took the first position after a year, as 30 people returned from there; 24 people returned from the USA.

MISA paid a total of 74,835 euros of return immigration allowance in 2013; the average return immigration allowance per person was 771 euros. In 2013, MISA supported 36 aliens with a total amount of 18,000 euros.

MISA continues to provide migration counselling and allowances in 2014 as well. Remigration allowance is available to those aliens who have lived continuously in Estonia for the past 10 years or longer and wish to cancel their residential permit in Estonia and move permanently to their origin country or some other country. The allowance is mostly used for leaving to the Russian Federation. In summary, it can be said that returners are mostly employment-aged, including many families with children. The number of third country citizens leaving Estonia and obtaining state allowance for doing so is stable and low.

In previous years, for humanitarian reasons, expel allowance was paid to persons to be expelled in order to ensure that they reach their home location. Moreover, allowance co-funded by the European Refugee Fund, the European Return Fund and the Ministry of the Interior of the Republic of Estonia was paid to aliens staying in Estonia without legal basis and to asylum applicants, in order for them to leave Estonia.

After merging the Foundation Estonian Migration Fund and the Integration Foundation in 2010, MISA has not provided financial aid to persons to be expelled, to aliens staying in Estonia without legal basis or to asylum applicants. Persons to be expelled are the responsibility of the Police and Border Guard Board; aliens staying in Estonia without legal basis are helped by the IOM Office in Estonia to return.

The Committee notes the precisions provided in the report as a reply to the request formulated in the previous conclusion with respect to the Health Insurance Act and Health Care Administration Act. It asks that the next report provide specific information, including examples and figures, on the services for health, medical attention and good hygienic conditions provided to migrant workers during the journey.

§ 4 of the Public Health Act (PHA) prescribes basic requirements for protection of living environment and health. Local governments deal with the matters of housing and transport

of migrant workers and their families, therefore they also have the obligation to ensure that the dwellings (where migrant workers and their family members are housed in) comply with requirements prescribed in the PHA. Similarly, hygienic conditions of migrant workers and their family members must be ensured during transport. Supervision over the respecting of the PHA's requirements is performed by the Health Board.

Pursuant to the HIA, all insured persons are treated equally and on the basis of the provisions of the Act. Based on the Health Services Organisation Act, uniform requirements for the quality assurance of health services are established with the Minister of Social Affairs Regulation No. 128 dated 15 December 2004.

Pursuant to § 6 (1) of the Health Services Organisation Act, every person in the territory of the Republic of Estonia has the right to receive emergency care. Emergency care provided to a person not covered by health insurance shall be paid for out of the funds prescribed for such purpose in the state budget. Emergency care provided to migrant workers is not accounted separately. Emergency medical care as defined in the Health Services Organisation Act means health services which are provided by health care professionals in situations where postponement of care or failure to provide care may cause the death or permanent damage to the health of the person requiring care.

Statistics

Table 3: Providing emergency care: Medical treatment expenses of persons not covered by health insurance (accrual).

	Amount	Number of persons who received health services	Number of paid invoices (cases of treatment)
2009	97,451,939 kroons	17,689	26,161
2010	90,228,186 kroons	19,599	28,542
2011	6,218,846 euros	22,367	32,641
2012	6,351,970 euros	22,313	32,754
2013	6,745,353 euros	20,818	30,481

Table 4: Statistics of MISA migration allowances since 2009:

Year	Aid for emigration			Aid for returning		
	People	Amount	Average amount	People	Amount	Average amount
2009	38	247,200.-	6,505.-	42	695,000.-	16,548.-
2010	47	302,000.-	6,425.-	66	802,000.-	12,152.-
2011*	54	24,975.-	432.5.-	61	55,070.-	902.-
2012	36	18,167.-	504.-	91	79,477.-	774.-
2013	36	18,000.-	500.-	97	74,835.-	771.-

- The amounts are in euros since 2011 and in Estonian kroons in preceding years.

Table 5: Decisions to issue a temporary residence permit for family travel by citizenship

Citizenship	2010				2011				2012				2013			
	to a spouse		to a relative		to a spouse		to a relative		to a spouse		to a relative		to a spouse		to a relative	
	Temporary residence permit granted	Residence permit refused	Temporary residence permit granted	Residence permit refused	Temporary residence permit granted	Residence permit refused	Temporary residence permit granted	Residence permit refused	Temporary residence permit granted	Residence permit refused	Temporary residence permit granted	Residence permit refused	Temporary residence permit granted	Residence permit refused	Temporary residence permit granted	Residence permit refused
Afghanistan					1				1							
Albania	1				1				3				2			
Algeria	1	1			1				3				3			
United States of America	26		11	1	26		14		27		11		32		9	
Argentina	1								1				1			
Armenia	6		1		8		3		7		2		12		4	
Azerbaijan	6	1			11		1		10	1	1		8			
Australia	3				3		6		5		2		6			
Bangladesh	1				1						1					
Brazil	3		1		5				2				5			
Colombia	1								1							
Costa Rica					1											
Dominican Republic													1			
Ecuador	1								1				3			
Egypt	13				16				9				7		2	
The Philippines	4				4				3				2			
Gambia	1												1			
Ghana					1				1							
Georgia	6		8		17		3		20	1	1		10	1	3	
China	7		3		5		2		6		2		9		4	

Honduras								1							
Israel	2		10		9		9	8		9	1	8		10	
India	7		6		9		1	7		3		16		4	
Indonesia					1							1			
Iraq	1		1		2		2								
Iran	1				3			1				3		1	
Japan	3				2		2	2				3		2	
Jordan					1			1				1			
Cambodia	2														
Cameroon								1							
Canada	1				1		3					4		1	
Kazakhstan	3		3		4		4	6		4		8		8	
Kosovo					1										
Kirgizstan			1		1		1	1		1		1			
Lebanon												1			
Republic of South Africa	1		3		1										
South Korea								2				1			
Macedonia					1							1			
Malaysia					1			1				1			
Morocco	1				2			3				4			
Mauritius					1			1							
Mexico					2			3		2		4	1		
Moldova	2		1		7		3	5		2		3		3	
Undetermined citizenship	8		159		5		171	6	1	129		11		111	
Myanmar								1							
Nepal								1							
Nigeria	3	1			4		1	4				2		1	

Pakistan	4				2		5		5		1		2		1	
Occupied Palestinian territory					1		3									
Paraguay													1			
Peru	2				1				3							
Zambia													1			
Serbia									2							
Sri Lanka					1								2			
Syria					1				1	1			1			
Thailand	2				2				4				3			
Tanzania					1		1				1		1		1	
Trinidad and Tobago	1															
Chile					2				3		1		1			
Tunisia	1				1				1				1			
Turkey	6		2		12		1		7	1			6		2	
Turkmenistan															1	
Ukraine	57		46	1	81	1	83	15	103	4	55	8	131	1	65	3
Uzbekistan	1				4				4		2		1			
New Zealand					1		1									
Belarus	10		18		25		30	2	27	1	10	1	32	1	18	
Russia	218	1	369	8	244	2	483	36	330	11	364	40	323	3	351	18
Venezuela	1															
Vietnam	1								3		1		1			
Total	420	4	643	10	538	3	833	53	648	21	605	50	682	7	602	21

Table 6: Applications for a temporary residence permit for employment. Decisions and refusals by citizenship

Citizenship	2010			2011			2012			2013		
	Number of applications	Temporary residence permit granted	Residence permit refused	Number of applications	Temporary residence permit granted	Residence permit refused	Number of applications	Temporary residence permit granted	Residence permit refused	Number of applications	Temporary residence permit granted	Residence permit refused
Afghanistan	1											
Albania							1	1		1		
Algeria				1			1	1				
United States of America	86	79		76	78		96	96		101	96	2
Argentina							1	1				
Armenia	5	4		6	6	1	6	2		2	2	1
Azerbaijan	10	9		12	7	2	5	1	2	3	1	1
Australia	5	5		4	4		10	8	1	4	4	1
Bangladesh							2	2		1	1	
Bosnia and Herzegovina										2	2	
Brazil	6	5		5	5		9	8		10	10	
Cape Verde							1	1				
Colombia	3	3		2	1					2	2	
Cote d'Ivoire	1	1					3	3		2	2	
Egypt	4	3		2	2		2	1	1			
The Philippines	1	1		5	5		2			6	6	
Gambia							1	1				
Georgia	34	30	2	38	12	7	23	13	4	15	9	
Guatemala				1				1				
Guinea							1	1				
Guyana							1	1				
China	49	39		38	32	2	26	19	4	25	27	

Croatia							1	1		1	1	
Israel	19	18		10	11		12	10	2	9	9	
India	22	20		22	21		31	25	1	17	19	1
Indonesia							1	1		2	2	
Iran	2	1		2	2	1	2	2		5	5	
Japan	4	4		8	6		13	13	1	11	10	
Jordan										2	1	
Cameroon				1	1		1	1				
Canada	10	9		2	3		6	6		3	3	
Kazakhstan	7	7		6	3		4	2		1	2	1
Kenya										1	1	
Democratic Republic of the Congo							1	1				
Republic of the Congo										1	1	
Kirgizstan				2	1	1	1			1	2	
Lebanon	1	1		1			1					1
Republic of South Africa	4	4					1				1	
South Korea	3	3		4	2	2				1		
Macedonia				1	1					1	1	
Malaysia							2	2		2	2	
Mali										1		
Morocco	1	1		1	1					1	1	
Mexico	2	2		4	3		1	2		1	1	
Moldova	5	5		6	4		8	5	3	7	7	
Undetermined citizenship	12	4		16	14		11	7		5	6	
Myanmar							1					
Nepal	7	8		3	2					5	5	
Nigeria	1				1		1			1		

Pakistan	1			2	2		5	2	1	4	5	1
Occupied Palestinian territory				1	1							
Peru							1	1				
North Korea										2	2	
Senegal				1	1							
Serbia	3	3					2	2		5	3	
Sierra Leone										1	1	
Singapore				1	1		1	1		1	1	
Syria				1	1							
Thailand	6	5		5	5		11	11		3	3	
Tunisia	1	1		1	1					1	1	
Turkey	5	7		8	8		18	11	4	7	8	1
Ukraine	280	244	1	686	643	21	440	383	30	455	407	9
Uzbekistan	1	1		5	4					8	8	
New Zealand	5	4		1	2		1	1		1	1	
Belarus	54	42		69	51	13	41	11	13	18	13	4
Russia	416	365		612	480	88	318	169	57	175	166	21
Venezuela	2	2					2	2		1		
Vietnam	1	1		1	1		2	2		2	2	
Total	1,080	941	3	1,673	1,429	138	1,132	835	124	937	863	44

Table 7: Applications for extension of temporary residence permit for employment. Decisions and refusals by citizenship

Citizenship	2010			2011			2012			2013		
	Number of applications	Residence permit extended	Extension of residence permit refused	Number of applications	Residence permit extended	Extension of residence permit refused	Number of applications	Residence permit extended	Extension of residence permit refused	Number of applications	Residence permit extended	Extension of residence permit refused
United States of America	15	11	1	20	21	1	18	17	1	22	15	3
Armenia	3	4		3	3		2	1		4	3	2
Azerbaijan	3	2		3	4		3	3		3	2	
Australia	2	1		1	1		5	4		2	2	
Brazil	4	4		2	2		5	5		2	2	
Cape Verde							1	1				
Colombia	1		1	1	1					1	1	
Cote d'Ivoire				1	1					2	2	
Egypt							1	1				
the Philippines				4	4					5	5	
Georgia	4	4	1	7	7		5	4	1	4	3	
Guatemala				2	2					1	1	
China	8	7		17	14	1	21	15		15	21	
Hong Kong							1	1				
Israel	4	3		4	5		8	3	2	7	10	
India	8	9		22	22		14	13		13	13	
Indonesia										1	1	
Iraq	2	1		1	2							
Iran				1						1	1	
Japan	5	5		5	4	1	3	2		5	5	1
Canada	3	5		7	6		2	2		2	2	
Kazakhstan							3	2		1	2	

Democratic Republic of the Congo							1	1				
Lebanon			1	1								
Republic of South Africa	1	1					2	2				
South Korea							2	1	1			
Macedonia							1	1				
Malaysia	2	2										
Morocco										1		
Mexico			1	1			1	1		2	2	
Moldova	2	2		5	5		4	4		4	4	
Undetermined citizenship	1	1					2	2		4	2	
Nepal				1	1		4	4		1	1	
Nigeria	1		1				1					1
Pakistan				2	2		1	1		3	3	
Senegal							1	1				
Serbia				1	1		3	2	1	2	2	
Sri Lanka				1	1							
Thailand	1	1		2	2					2	2	
Taiwan	1	1										
Turkey	2	2		3	3		4	2	1	2	1	1
Ukraine	109	88		114	123	6	66	44	13	121	112	9
Uzbekistan							1			1	1	1
New Zealand				1	1		2	2		1	1	
Belarus	17	13		15	19		27	13	1	16	13	6
Russia	118	107		171	126	25	227	97	38	125	134	68
Venezuela	1	1								1		
Vietnam	1	1								1	1	
Total	319	276	4	419	385	34	442	252	59	378	370	92

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

General regulation

The Committee asks that the next report provide a full and up to date description of the situation in law and in practice.

The general regulation has not changed.

According to § 3 of the Social Welfare Act, the principles of social welfare are:

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

The purposes of social welfare are to provide assistance to persons or families in preventing, eliminating and relieving difficulties in coping, and to assist persons with special social needs in social security, development and integration into society.

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

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

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

Therefore, migrant workers living in Estonia on the basis of a residence permit or right of residence have the right to receive all social services and social benefits equally to Estonian citizens living in Estonia. If the migrant worker is a person having no legal basis for staying in Estonia or a person staying here temporarily, i.e. without a residence permit, for example with a visa, that person has the right to receive emergency social assistance. Emergency social assistance means essential social welfare measures which ensure at least food, clothing and temporary shelter.

Pursuant to § 117 (2) of the Aliens Act, the general conditions of the issue of a temporary residence permit are:

- 1) the purpose for settlement in Estonia is justified;
- 2) the actual place of residence is Estonia;
- 3) the alien has sufficient legal income which would enable the alien and the family members of the alien the subsistence in Estonia, and
- 4) the alien has an insurance policy guaranteeing that any costs related to the medical treatment of the alien as a result of illness or injury will be met.

Legal income as defined in the Aliens Act is lawfully earned remuneration for work, parental benefits, unemployment benefits, income received from lawful business activities or property, pensions, scholarships, means of subsistence, benefits paid by a foreign state and the subsistence ensured by family members earning legal income.

Temporary residence may be issued *inter alia* for employment or for enterprise.

Pursuant to § 121 of the Aliens Act, an alien is required to register his or her place of residence in the procedure prescribed by the Population Register Act within one month from the date of arrival into Estonia on the basis of the residence permit. An alien is required to have a place of residence registered in Estonia during the whole period of validity of the residence permit.

Pursuant to § 128 of the Aliens Act, a temporary residence permit may be extended if the conditions of the extension of the residence permit are met and there is no basis for refusal to extend the residence permit.

Measures to implement the legal regulation

The Integration and Migration Foundation “Our People” is dealing with counselling and providing of material support to foreigners. MISA provides support to both those who wish to return to Estonia as well as those who wish to leave Estonia. The reunion of families of different nationalities is likewise supported. See also § 1 and § 2.

Emergency social assistance is mostly an issue in larger cities. In Tallinn, for example, emergency social assistance is provided according to the prescribed conditions and procedure to persons staying in the administrative region who need emergency social assistance (including foreigners temporarily staying in Estonia and refugees) by providing them with food, clothing and temporary shelter that meets their condition, social counselling, providing transportation services and temporary shelter in a night shelter or other shelter to persons who lost housing due to an accident (housing suddenly becomes unusable).

The providing of care is organised by local governments, institutions administrated by them, or different NGOs and churches. NGOs offer social counselling, pastoral services, introduction of vacant jobs and possibilities of retraining and involvement in work-like activities.

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

Remuneration and other employment and working conditions

Legal framework and Measures to implement the legal regulation

In 2010, Estonia presented the Committee with information about prohibition on unequal treatment of migrant workers. The regulation has not been amended since that information was presented.

The Committee asks that the next report provide updated information on the implementation and impact of the above-mentioned Strategy and the Equal Treatment Act in combating racial discrimination in employment.

Estonia has joined the Framework Convention for the Protection of National Minorities which entered into force for Estonia on February 1, 1998. Pursuant to § 3 of the Constitution of the Republic of Estonia, the Framework Convention for the Protection of National Minorities as an instrument of international law is an integral part of the Estonian law system.

By joining the European Council Framework Convention for the Protection of National Minorities, Estonia has undertaken a commitment to “encourage a spirit of tolerance and intercultural dialogue and take effective measures to promote mutual respect and understanding and co-operation among all persons living on its territory, irrespective of those persons' ethnic, cultural, linguistic or religious identity, in particular in the fields of education, culture and the media”.

Those principles are also contained in the Estonian Integration Strategy 2008-2013 which is based on the presumption that integration in the society is a mutual process supported by democratic involvement and being guided on the one hand by respect towards the language and cultural traditions of the native people and on the other hand by tolerance towards the cultural specificities of ethnic minorities.

The basic principles of the prohibition on racial discrimination are provided in the Constitution. The issues of discrimination are regulated in more detail in the Equal Treatment Act, the Gender Equality Act, the Employment Contracts Act, the Penal Code and other legislation.

Measures to implement the legal regulation and statistics

The new integration strategy “Lõimuv Eesti 2020” has set an overall aim for 2014-2020: Estonian society is integrated and socially coherent, people of different languages and cultural backgrounds participate actively in the society's life and share democratic values. The Ministry of Culture is responsible for the strategic measure “Supporting unified

information space and awareness of cultural diversity”. Media activities will be conducted under the measure, supporting increased social coherence and the reinforcement of values and attitudes in the society which foster openness and mutual understanding: public-oriented activities in printed, TV, radio and interactive media (incl. article series, TV and radio programmes as well as development and translation of web portals) which present the integration topics and the values and attitudes related thereto (incl. valuing cultural heritage, being tolerant, equal treatment). Moreover, employers will be informed of the importance of equal treatment in personnel policy and the economic benefit of having a multicultural personnel for a company (e.g. in the service or export sectors); organisations with language-diverse personnel will be supported.

Promoting tolerance and equal treatment is one of the main fundamental principles of the new Estonian integration strategy “Lõimuv Eesti 2020”. Equal treatment of people helps prevent ethnicity-based inequality and separation and this in turn fosters the aim of creating a coherent society. Therefore, one of the objectives of the integration process is prevention of national and cultural encapsulation both among the existing population and among new immigrants.

The aim of Estonian Integration Strategy 2008–2013 was wholesome integration of the society on the basis of democratic values and its keywords were equal opportunities, increasing the state identity and overcoming ethnicity-based separation, in order to encourage all members of the society to contribute to the development of the country and the society as best they can. The objective was to increase contacts between people of different native languages on all levels and decrease differences in participation in citizens’ associations and the public sphere; to sustainably reduce the proportion of persons with undetermined citizenship among the population of Estonia; to increase the feeling of trust felt by residents of Estonia with different ethnicities towards each other and towards the Estonian government; to ensure that people with native languages other than Estonian receive more regular information via the Estonian-speaking media and have more trust for the Estonian-speaking media; to reduce differences in employment and incomes among employees of different ethnicities. Another important objective was to improve the command of Estonian among people whose native language is not Estonian. In 2009, the Integration and Migration Foundation “Our People” (MISA) conducted a public procurement titled “Campaigns to increase awareness of equal treatment and to develop tolerance”.

The winner of the procurement explained the principles of equal treatment to employers and introduced them to experiences of various companies with ethnically diverse personnel. Additionally, the winner introduced the public to people with a different native language living in Estonia as well as co-operation between people of various ethnicities.

Media coverage was provided to 20 co-operation projects, activities, etc. 21 spokespersons were found; some of them participated in the “My Estonia” project. 4 media trainings were

conducted for the spokespersons in Tallinn; 30 radio programmes were broadcast by the station *Raadio 4*. The procurement included a total of 122 occurrences of media coverage.

A multi-cultural enterprise competition was held in co-operation with the periodical *Äripäev*; 14 companies participated in the competition. The best chosen companies were Skype Technologies OÜ, University of Tartu and AS Estanc. A photo series with messages was published in *Äripäev* (10 times); folder binders informing employers about equal treatment were prepared and distributed at various conferences and other events for managers and human resources employees. Materials concerning equal treatment were prepared for internal information channels of companies. 4 focus group studies were conducted.

In 2010, the Foundation organised a project competition titled “Common media field”; one of its parts was “Increasing awareness of the Equal Treatment Act”, with the target group of citizens’ associations, entrepreneurs, personnel specialists and employees of organisations. In the project, circulars were sent to citizens’ associations and companies, introducing the Equal Treatment Act and its implementation in the work environment. Informative folder binders in Estonian and Russian were produced in the project in co-operation with the Equality Commissioner and the Estonian Human Rights Centre; the binders introduce the employees’ rights in the work environment in view of the Equal Treatment Act. The folder binders were distributed to citizens’ associations and institutions encountering citizens of third countries. The project also saw a multicultural organisation mark being developed and a multicultural company / organisation competition being organised in co-operation with *Äripäev*. In 2012, the Foundation organised a project competition “Promotion of equal treatment”: impact assessment, awareness and policy recommendations to promotion of equal treatment.

To increase tolerance and raise awareness, the Ministry of Social Affairs in collaboration with the Law School of Tallinn University of Technology has conducted activities in the field of equal treatment through the “Diversity Enriches” project since 2010. The project has been funded by the European Commission's PROGRESS Programme and co-financed by the Ministry of Social Affairs.

The project focuses on raising awareness of all grounds of discrimination referred to in the Equal Treatment Act – nationality, race, colour, religion or belief, age, disability or sexual orientation. In order to effectively combat discrimination, the Ministry of Social Affairs is co-ordinating the non-discrimination working group whose input is taken into account on deciding the focal topics for each year’s project. The members of the working group are representing different NGOs dealing with minority issues.

In 2010 the “Diversity Enriches” focused on the fight against racism and homophobia. In 2011 the project focused on homophobia and promotion of the social status of people with disabilities. In 2012 the focus was mainly on diversity management in private sector

companies. In addition, special attention was put on problems of homophobia and elderly people. In 2013 and 2014 the project continues promoting equal treatment in companies (private and public). Special focus will continue to be in 2014 also on LGBT topics and people with disabilities.

The “Diversity Enriches” over the years has included activities like seminars, trainings and workshops for different minority groups. Seminars have been conducted for those vulnerable towards discrimination based on race and ethnic origin, disability, age, religion or belief and sexual orientation. The aim of the activities has been to raise awareness on equal treatment, fundamental rights and non-discrimination and also to exchange experience on how to recognize a discriminating treatment and where to find information. Special attention of the seminars has always been on the issue of combating multiple discrimination. Employers also have been advised on how to promote equal treatment in their organisations. Throughout the project exhibitions, conferences and seminars have taken place, different manuals and guidelines have been published.

From 2012, the "Diversity Enriches Week" has taken place each year in Tallinn and Tartu in September. The activities have included different awareness-raising events, including a week-long film festival on the rights of different minorities, exhibitions, seminars and workshops. Special emphasis has also been on co-operation with schools that are invited to organise their own diversity week at the same time of the Diversity Week. The week has always won a lot of media attention.

As mentioned before, “Diversity Enriches” project has highlighted a lot the diversity management in businesses. The Diversity Charter is a European Commission initiative across Europe to support the promotion of diversity in companies. The involved companies are taking the responsibility to promote diversity. The diversity agreement is a voluntary agreement which confirms that a joining company or public sector organisation evaluates the principles of diversity among its employees and customers and treats them equally. The signatory organisations form a community where they collectively share experiences and promote equal treatment in their own organisations and in society at large. In addition to the annual festive ceremony held in the accession agreement, corporate participation in practical workshops have been held for companies to share their experiences and best practices, and learn from each other. So far 31 companies have joined the agreement.

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

General regulation

In 2010, Estonia presented the Committee with information about membership of trade unions and enjoyment of the benefits of collective bargaining for migrant workers. The

regulation has not been amended since that information was presented. Estonian legislation continues to not differentiate between migrant workers and local employees upon membership of trade unions, participation in collective bargaining and enjoyment of the benefits of collective bargaining.

Measures to implement the legal regulation

The Committee asks that the next report provide information on possible cases of discrimination regarding the participation of migrant workers in trade unions and the enjoyment of the benefits of collective bargaining as well as on the practical measures taken to remedy to such cases.

Since 2009, in relation to the Equal Treatment Act entering into force, the Equality Commissioner’s competence has included discrimination cases where a person suspects that he or she has been discriminated against due to being a member of a trade union. The Commissioner has the competence to investigate a case, provide an opinion and/or help the person turn to the Labour Dispute Committee or a court.

In the period of the equality Commissioner’s term of office in 2005-2014, no complaint has been filed with the Commissioner concerning suspicion of discrimination upon a migrant worker being a member of a trade union or enjoying the benefits of collective bargaining.

Statistics

Table 8: Employment rate (aged 15-74), 2010-2013 (%)

	2010	2011	2012	2013
Native population	55.6	59.8	61.8	62.7
Immigrant population	53.8	56.7	57.6	60.0
..first generation of immigrant population	49.3	51.1	52.2	54.5
..second generation of immigrant population	59.8	64.8	65.2	66.6

Source: Statistics Estonia

According to Statistics Estonia, 2013 the employment rate of native population aged 15-74 was 62.7% and the employment rate of immigrant population was 60.0%.

Table 9: Membership in trade unions, 2013

	Trade unions members	Total number of employees	The share of trade union members of all employees
Native population	22,800	437,200	5.2%
Immigrant population	9,000	127,500	7.1%
..first generation of immigrant population	4,000	62,000	6.5%

Source: Statistics Estonia, Labour Force Survey

First generation of immigrant population – people who, along with their parents, were born abroad.

Accommodation

General regulation and measures to implement the legal regulation

Pursuant to Social Welfare Act, local government bodies are required to provide dwellings for persons or families who are unable or incapable of securing housing for themselves or their families and to create, if necessary, the opportunity to lease social housing. The procedure for the provision and use of social housing shall be established by the rural municipality council or city council. The subjects who have the right to receive social services (incl. the housing service), social benefits (incl. the subsistence benefit and the needs-based family benefit) and other assistance are permanent residents of Estonia, aliens residing in Estonia on the basis of residence permits or the right of residence and beneficiaries of international protection staying in Estonia.

Every person staying in Estonia has the right to receive emergency social assistance. Emergency social assistance must ensure at least food, clothing and temporary shelter. Estonia has not established any special conditions for improvement of accommodation on different national or ethnic bases. Everyone has equal conditions and opportunities to obtain assistance or allowances, including concerning accommodation.

Statistics

The Committee asks that the next report provide information on possible cases of discrimination regarding social housing at local level and the practical measures to remedy such cases.

No complaints have been filed with the Gender Equality and Equal Treatment Commissioner concerning discrimination related to social housing at the city or rural municipality level.

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

The Committee notes from the report submitted by Estonia and all the information at its disposal that there have been no changes to the situation which it has previously considered to be in conformity with Article 19 § 5 of the Charter. It asks that the next report provide a full and up-to-date description of the situation.

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

Pursuant to the Social Tax Act, (§ 2 (1) 1)), the obligation to pay social tax does not depend on whether or not the employee is an Estonian citizen. Therefore, the salary of a non-citizen migrant worker is taxed by social tax under the same rules as that of an Estonian citizen. No changes have been made to taxation of salary by social tax since the 2009 report.

Payment of income tax on salary does not depend on the citizenship of the person receiving the salary. Taxation of salary by income tax may depend on the employee's residency. Pursuant to § 29 (1) of the Income Tax Act, income tax is charged on income derived by a non-resident natural person from work in Estonia (subsections 13 (1) and (1¹)) if the payment was made by an Estonian state or local government authority or resident or a non-resident operating in Estonia as an employer or a non-resident through or on account of its permanent establishment (§ 7) located in Estonia, or if the person has stayed in Estonia for the purpose of employment for at least 183 days over the course of 12 consecutive calendar months. If the employee is a resident of a country with which Estonia has entered into an agreement on prevention of double taxation by income tax, the provisions of that agreement must be taken into account when calculating the tax obligation. No changes have been made to taxation of salary by income tax since the 2009 report.

Payment of mandatory funded pension payments on salary does not depend on the citizenship of the person receiving the salary. The payment depends on the person's residency. Pursuant to § 6 of the Funded Pensions Act, resident natural persons are obligated persons. Therefore, mandatory funded pension payments are not paid on remuneration paid to a non-resident person.

Tax obligation is established by law only and no other legal provisions exist that would differentiate between Estonian residents and so-called migrant workers. Upon taxation, persons liable to pay tax are differentiated on the basis of residency, not citizenship.

Article 19 § 6: Family reunion

General regulation, measures for implementation of legal regulation

If a person has been legally residing in Estonia for at least two years, he or she can apply to reunite with his or her spouse in Estonia. If a person has not resided in Estonia for two years, he or she may be entitled to reunite with his or her spouse if the person has been granted a temporary residence permit for employment, to work in an institution performing arts as a person engaged in creative activities, to work in an educational institution as a teacher or a member of the academic staff, for scientific research if having appropriate qualifications and experience, to carry out professional activities as a sportsman, coach, referee or sports official on the basis of an invitation from a respective sports federation, to perform managerial or supervisory functions as a member of the management body of a legal entity registered in Estonia, having been granted a residence permit for business or for Master's or Doctoral studies in Estonia, to work as an expert, adviser or consultant, to work as an installer of equipment or a skilled worker, to work as a top specialist.

If a person resides in Estonia permanently, he or she can apply to reunite with other family members who were not with them when they first arrived in Estonia. Other family members include minor children, adult children needing specific care due to health reasons or a disability, a parent or a grandparent in need of care which is not possible to receive in his or her home country, provided that his or her permanent legal income ensures that he or she will be supported in Estonia and that the he or she has a long-term residence permit, and any other person under his or her care provided that his or her permanent legal income ensures that the person will be supported in Estonia.

No residence requirement applies to the family reunification of EU Blue Card holders with spouses and other family members.

Bearing in mind the foregoing, the Committee asks for the next report to provide specific information including figures on any rejections of applications for family reunion based on the criteria relating to available means and housing.

No family member has been declined of a residence permit because he or she did not have sufficient legal income or a residence in Estonia.

The Committee concludes that the situation in Estonia is not in conformity with Article 19 § 6 of the Charter on the ground that a two years residence requirement which is imposed on migrant workers who are not citizens of Member States of the European Union nor citizens of the European Economic Area is excessive.

Estonian Aliens Act is in accordance with the European Council Directive 2003/86/EC. Pursuant to the directive, Member States may require the sponsor to have stayed lawfully in their territory for a period not exceeding two years, before having his or her family members join him or her.

Statistics

Table 10: Applications for temporary residence permits for family members, 2010-2013

	2010	2011	2012	2013	Total
To a spouse	460	599	693	699	2,451
To a minor child in order to settle with a parent	564	828	551	476	2,419
To an adult child in order to settle with a parent	4	8	11	6	29
To a parent or grandparent in order to settle with his or her adult child or grandchild	129	106	121	124	480
To a ward in order to settle with the guardian	14	9	9	17	49
Total	1,171	1,550	1,385	1,322	5,428

Table 11: Granted temporary residence permits for family members, 2010-2013

	2010	2011	2012	2013	Total
To a spouse	420	538	648	682	2,288
To a minor child in order to settle with a parent	504	720	485	467	2,176
To an adult child in order to settle with a parent	1	0	6	1	8
To a parent or grandparent in order to settle with his or her adult child or grandchild	126	103	108	119	456
To a ward in order to settle with the guardian	12	10	7	15	44
Total	1,063	1,371	1,254	1,284	4,972

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

General regulation

The Committee refers to its interpretative statement in the General Introduction and asks for the next report to state whether domestic legislation makes a provision for migrant workers, who are involved in legal or administrative proceedings and who do not have counsel of their own choosing, to be advised to appoint counsel and, whenever the interests of justice so require, be provided with counsel, free of charge if they do not have sufficient means to pay the latter, and whether migrant workers may have the free assistance of an interpreter if they cannot properly understand or speak the national language used in the proceedings and have any necessary documents translated. Such legal assistance should be extended to obligatory pre-trial hearings.

Such assistance is prescribed in the State Legal Aid Act (SLAA). It is not directed to migrant workers but the circle of people eligible to state legal aid also includes them. The purpose of the Act is to ensure the timely and sufficient availability of competent and reliable legal services to all persons. A natural person may receive state legal aid if the person is unable to pay for competent legal services due to the person's financial situation at the time the

person needs legal aid or if the person is able to pay for legal services only partially or in instalments or if the person's financial situation does not allow for meeting basic subsistence needs after paying for legal services. State legal aid is granted to a natural person who, at the time of submission of the application for state aid, has residence in the Republic of Estonia or another Member State of the European Union or is a citizen of the Republic of Estonia or another Member State of the European Union, except in the event specified in subsection (2) of this section. Determination of a place of residence within the meaning of this Act is based on Article 59 of Council Regulation No. 44/2001/EC on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters. Legal aid will be granted to other natural persons only if this arises from an international obligation binding upon Estonia.

In criminal proceedings, a suspect or accused natural person who has not chosen a criminal defence counsel by agreement and in whose criminal case the participation of a criminal defence counsel is required by law (except in the events specified in § 44¹ and subsection 227 (5) of the Code of Criminal Procedure) or who applies for the participation of a criminal defence counsel will receive state legal aid regardless of their financial situation. In misdemeanour proceedings, a natural person subject to the proceedings who has not chosen a defence counsel by agreement and in whose misdemeanour case the participation of a defence counsel is required by law will receive state legal aid regardless of their financial situation.

State legal aid is granted to a natural person or a legal person in connection with proceedings in an Estonian court or administrative body or otherwise in the protection of their rights if deciding thereon is within the competence of an Estonian court, unless otherwise provided for.

The types of state legal aid include the following:

- 1) appointed defence in criminal proceedings;
 - 2) representing a person in pre-trial proceedings in a criminal case and in court;
 - 3) defending a person in extrajudicial proceedings in a misdemeanour case and in court;
 - 4) representing a person in pre-litigation proceedings in a civil case and in court;
 - 5) representing a person in administrative court proceedings;
 - 6) representing a person in administrative proceedings;
 - 7) representing a person in enforcement proceedings;
 - 7¹) representing a person in judicial review proceedings;
- [RT I 2009, 1, 1 - entry into force 01.01.2010]
- 8) drawing up legal documents;
 - 9) other legal counselling or representing of a person.

As seen from the list, pre-trial proceedings are included in state legal aid. Legal aid can always be applied for on other grounds, i.e. for other legal counselling or representation. If the advocate providing the state legal aid has no command of the language spoken by the migrant worker, the advocate uses an interpreter's services. The costs of those services are compensated to the advocate pursuant to the regulation "Temporary bases for calculation of, temporary procedure for payment of and temporary rates of payment for remuneration payable for provision of state legal aid, as well as temporary extent of and temporary

procedure for compensation of costs accompanying the provision of state legal aid” adopted by the leadership of Estonian Bar Association.

Upon application filed by an advocate having provided state legal aid, the court, investigative institution or prosecutor’s office identifies the costs of using the services of a professional interpreter incurred by the advocate or the administrator of the advocate’s law office in relation to the provision of state legal aid. Expenditure related to translation / interpretation from Estonian to other languages due to the fact that the advocate does not have sufficient command of Estonian to provide the legal aid shall not be compensated.

Article 19 § 8: Guarantees concerning deportation

General regulation, measures for implementation of legal regulation

A legal basis must exist for a foreigner to stay in Estonia. It is forbidden for foreigners to stay in Estonia without a legal basis. The legal bases for a foreigner to stay in Estonia are prescribed in the Aliens Act. The legal bases for citizens of the European Union, citizens of the European Economic Area and citizens of the Swiss Confederation and the family members thereof to stay and live in Estonia are prescribed in the Citizen of European Union Act. The bases and procedure for the application to foreigners of the obligation to leave Estonia and the prohibition on entry into Estonia are prescribed in the Obligation to Leave and Prohibition on Entry Act (hereinafter referred to as OLPEA). According to OLPEA, a precept to leave Estonia will be issued to a foreigner who is staying in Estonia without a basis to stay. The term for voluntary compliance with the obligation to leave stipulated in the precept to leave is from 7 to 30 days and where necessary, the period for voluntary departure may be extended. A precept will be valid as of the date of communication of the precept until the obligation imposed on a foreigner by the precept is performed or until a basis for stay in Estonia is obtained. The Police and Border Guard Board will declare a precept invalid if the basis for the issue of the precept ceases to exist. In accordance with the Directive 2008/115/EC, the term for voluntary compliance with the obligation to leave may be not assigned by the precept to leave and the enforcement of the obligation to leave may be carried out immediately if there is a risk of absconding or if an application for legal stay has been dismissed as manifestly unfounded or fraudulent or if the person concerned poses a risk to public order or national security.

An appeal against a decision to issue a precept or a decision made to ensure compliance with a precept may be filed with an administrative court according to the procedure provided for in the Code of Administrative Court Procedure within ten days as of the date of notification of the precept or decision. A foreigner has the right to receive legal aid for contestation of the administrative decision to apply a precept to leave, expulsion or prohibition on entry.

Penal Code § 54 provides that the court may impose expulsion, if a court convicts a citizen of a foreign state of an intentional criminal offence and imposes imprisonment. Expulsion shall not be imposed on a convicted citizen of a foreign state who at the time of commission of the criminal offence was less than 18 years of age.

A person to be expelled will be expelled to the state from which he or she arrived in Estonia, to the country of his or her nationality or to his or her country of habitual residence, or to a third state with the consent of the third state. If there is more than one option, the reasoned preference of the person to be expelled will be the primary consideration, if such preference does not significantly impede enforcement of the expulsion. A foreigner may not be expelled to a state to which expulsion may result in consequences specified in Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms or Article 3 of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Sentence, or the application of death penalty. The expulsion of a foreigner shall comply with Articles 32 and 33 of the United Nations Convention relating to the Status of Refugees (together with the Protocol relating to the Status of Refugees of 31 January 1967).

Statistics

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

Foreigners expelled from Estonia

2010 – 66

2011 -111

2012 – 155

2013 – 248

Foreigners placed in the detention centre:

2010 – 40

2011- 62

2012 - 93

2013 - 88

However, it requested information on the expulsion of legal migrant workers on grounds of the protection of public order or morality and for the prevention of offences and on how these concepts are interpreted and applied by the courts. The report provides no information on this issue. It provides again information on the general rules relating to expulsion as well as statistics on the number of foreigners expelled in 2008 and 2009 without providing information on the grounds for expulsion. Therefore the Committee repeats its request for this information; in addition it refers to its interpretative statement in the General Introduction and asks that the next report provide information on the issues raised by it.

Estonia does not keep separate statistics concerning the expelling of migrant workers. We can only provide information about general statistics of expulsion.

Article 19 § 9: Transfer of earnings and savings

General regulation

Transfer of earnings and savings is related to owning a bank account and restrictions that may occur are related to opening an account in a bank, which is subject to the requirement of non-discrimination on the basis of nationality. A bank may refuse a customer if e.g. the person cannot be identified, the required documents are lacking or there is a suspicion of money laundering).

The financial sector as well as other entrepreneurship in Estonia is based on free market conditions and the principle of freedom of contract.

Pursuant to the Law of Obligations Act (LOA), a contract is entered into by way of exchanging mutual expressions of intent. The definition of a contract is closely related to the idea of freedom of contract which mainly means the freedom to choose what contract, with what content, with whom and in what form the person wishes to enter into. A credit institution i.e. a bank (as well as a natural person) has the right to decide on what conditions and with

whom to enter into an agreement, as long as the conditions comply with laws and other legislation in force.

Pursuant to § 89 (2.1) of the Credit Institutions Act (CIA), upon entry into contract, the bank is required to identify a client (and the representative thereof).

Pursuant to § 89 (9) of the Credit Institutions Act, banks are free to decide whom to service, incl. to refuse to enter into a transaction with a person who does not comply with requirements prescribed by the law and/or the bank's general terms and conditions.

In addition to the foregoing provisions of the CIA and the principle of freedom of contract, § 710 (1) of the LOA prescribes that a bank is obliged to enter into a payment service contract with a person if that person and the terms of the contract sought by the person correspond to the bank's general terms and conditions and terms of services. A bank's general terms and conditions normally list the conditions under which the bank will not enter into a transaction. A bank has the right to establish stricter requirements for opening accounts or providing other services to persons than requirements prescribed by laws.

The purpose of the Equal Treatment Act is to ensure the protection of persons against discrimination on grounds of nationality (ethnic origin), race, colour, religion or other beliefs, age, disability or sexual orientation. Pursuant to § 2 (1) 2) of the same Act, discrimination of persons on grounds of nationality (ethnic origin), race or colour is prohibited upon entry into contracts for the provision of services.

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

General regulation

Amendments to the Aliens Act have simplified the hiring of foreign labour force, but it does not concern directly the self-employed. Estonia does not differentiate between entrepreneurs on the basis of their nationality or citizenship because this could hinder investments into Estonia.

Amendments to the Aliens Act encompass the following:

- A simplified procedure was established – arrival of persons needed for Estonia (top specialists, researchers, lecturers, students and their family members) was made simpler, on the condition that they are paid 3 times the average salary of Estonia. For example, it is possible to apply for a short-term or a long-term visa; visas can be applied for through not only Estonia's foreign embassies but also through foreign embassies of other European Union Member States, in a total of 92 countries on the basis of representation agreements. While staying in Estonia on a legal basis, a temporary residence permit can be applied for within the country.

- The requirement to organise a 3-week competition was abolished in all cases, but the requirement for a permit of the Estonian Unemployment Insurance Fund was generally retained. Also, the requirements for transferring teachers, lecturers and researchers from one position to another were made more flexible. Moreover, an alien may work for several employers at the same time if he or she works simultaneously also in work conditions prescribed in the residence permit.
- The work permit requirements for students was abolished, but a residence permit issued for study must still be used purposefully i.e. for study. The amendment grants the opportunity to remain in Estonia on the basis of a residence permit, for up to 6 months after completing the education, in order to find work here. Also, foreign university students having obtained an academic degree in Estonia are not subject anymore to the requirement of a permit from the Unemployment Insurance Fund upon applying for a residence permit to work in Estonia; they are also not subject anymore to the higher salary requirement prescribed in the law in that case – their salary must be paid on the same bases as that of Estonian residents.

The following additional amendments are planned for the near future:

- A separate subtype of the residence permit for enterprise will be established –the residence permit for an investor. The draft will enable aliens to use simplified procedure to start living in Estonia if they make an investment of at least 1 million euros into a business activity or an investment fund in Estonia.
- Companies active in labour force rental will be given the opportunity to hire aliens. With this amendment, employers will be enabled to hire aliens through services simplifying the hiring process and offered by Estonian labour force rental companies.
- Aliens will be given an opportunity to remain temporarily in Estonia for 6 months after their residence permit expires; during that period, an alien has the opportunity to find a new basis for a temporary residence permit without leaving Estonia. Those aliens who have lived permanently in Estonia for at least 3 years during an uninterrupted 5-year period, who have adapted well in Estonia and whose prior activity in Estonia has been in compliance with the purpose and conditions of issuing a residence permit, will be granted an opportunity to use an additional basis when applying for a residence permit to live in Estonia permanently.
- The Act will grant the Government of the Republic the authority to establish upon a proposal from the Minister of Social Affairs (for a fixed period, e.g. for 2 years) a list of domains with strong shortage of labour force where working is not subject to the requirement for a permit from the Unemployment Insurance Fund and where the employer is obligated to pay the alien the domain's average salary. This amendment will simplify the hiring of aliens in domains with strong shortage of labour force in Estonia.

Measures to implement the legal regulation

The Aliens Act does not prescribe any differences for aliens upon becoming self-employed in Estonia. The Aliens Act regulates the bases for aliens to apply for a residence permit for the purpose of starting to live in Estonia. An alien applying for a temporary residence permit for enterprise as a self-employed person must comply with the following requirements:

1. the self-employed person must be entered into the Estonian Commercial Register;
2. the alien must have sufficient funds for enterprise in Estonia;
3. the alien must have invested at least 16,000 euros of capital in Estonia.

Statistics

It is not possible to present separate statistics about self-employed persons. There are data available about persons who have been issued a residence permit for enterprise in the period of 2010-2013. This includes self-employed persons but also those aliens who have established a different business association in Estonia.

2010 – 68

2011 – 142

2012- 61

2013- 54

Article 19 § 11: Teaching language of host state

General regulation, measures for implementation of legal regulation

In the period of 2011-2013, the Integration and Migration Foundation “Our People” (MISA) offered various opportunities to learn the national language and to support such learning, funded by the ESF and the state budget:

- Compensation of learning expenses (up to 320 euros of learning expenses are repaid to those who successfully pass the level examination). The benefits were paid out on 828 occasions in 2011, on 789 occasions in 2012 and on 683 occasions in 2013;
- Labour force exchange between Estonian- and Russian-speaking employees;
- Free-of-charge language teaching for citizens of third countries;
- Language teaching for returners, etc.

Several learning materials intended for learning the national language have been published (incl. e-learning materials for the visually disabled and the hearing-disabled, complying with the A2 level; a 0-A2 e-course based on Russian and English; www.keeleklikk.ee). Professional language courses are directed to vocational school students and working adults in order to improve their competitiveness in the labour market. One of the aims of those courses is to prepare learners for a professional examination.

In the period of 2011-2013, a total of 525 students with Russian native language and with secondary education obtained in Estonia attended academic and professional Estonian courses. 962 public sector employees (public administration, education, healthcare) with a non-Estonian native language or home language attended language teaching in 2011-2013. A total of 20 mentor-mentee pairs were active among educational institution managers and pedagogues in Ida-Viru County during that period. A language course prepared for everyday and professional linguistic coping was attended by 167 third sector employees (cultural associations, sports associations, associations dealing with juveniles) in 2011-2013.

The participation of students with a non-Estonian native language in learning Estonian at basic school (incl. Estonian language immersion) has increased year by year – while e.g. 17.3% of them participated in 2005 and 21.5% in 2009, the participation rate in 2013 was as high as 24.3% of all students with a non-Estonian native language in basic school.

The proportion of students learning Estonian as a second language among all students in total and also by languages of instruction has been stable in recent years. Nearly 30,000 students in general education schools studied Estonian as a second language in 2013; this is around one fifth of all students in general education schools. Essentially all students with Russian language of instruction learn Estonian as a second language. Estonian is also learned as a second language in Estonian language immersion classes and in upper secondary schools having transitioned from Russian to Estonian language of instruction. Additional courses of Estonian are enabled for students with non-Estonian native language attending schools with Estonian language of instruction but having not enough command of Estonian to cope with the study process (new immigrants (arrived in Estonia up to three years ago), exchange students, students with a home language different from the language of instruction, etc.).

According to the data of the Estonian Education Information System (EHIS), 172 new immigrant students (less than 3 years of living or studying in Estonia) with non-Estonian native language were attending general education schools of Estonia in 2013/14; 65 among them attended additional courses of Estonian as a second language. The data of EHIS about the number of new immigrant students in general education schools may be higher than actual because the EHIS data on immigrant students may include students not complying with the definition of new immigrant. Those may be students who came to live in Estonia from abroad more than 3 years ago, students with non-Estonian language of instruction or

returned students with Estonian language of instruction, exchange students, children of representatives of other countries, etc.⁵

Due to upper secondary schools transitioning to Estonian language of instruction, the number of students graduating from upper secondary education in Russian has significantly decreased from year to year. While 3,258 juveniles graduated from upper secondary education as full-time study in Russian language of instruction in 2007 and 2,520 juveniles did so in 2008, over two times less i.e. 1,225 did so in 2013. While essentially half the students graduating from upper secondary schools with Russian language of instruction continued their studies in higher education with Estonian language of instruction in 2008, the proportion of juveniles graduating from upper secondary schools with Russian language of instruction in 2013 who continued their studies in the same year in higher education with Estonian language of instruction was as high as 90%.

Starting with 2013, all upper secondary level schools with Russian language of instruction have transitioned to teaching subject matter in Estonian; in 2014, the transition to teaching in Estonian will start in vocational education. But on the basic education level, nearly 20% of Estonian students are still attending schools with Russian language of instruction. Thus, there are some activities in the domain of education which are integration-oriented: extending the integration of subject teaching and language teaching (incl. developing the language immersion programme), supporting the teaching of Estonian and in Estonian in schools with Russian language of instruction, and supporting students with native languages different from the language of instruction who attend schools with Estonian language of instruction. Also, more and more basic schools with Russian language of instruction are seeking opportunities for subject teaching in Estonian. The dominant preference is given to teaching skill subjects (music, arts, but also physical education) in Estonian. Around one quarter of schools with Russian language of instruction teach various narrative subjects (human science, social science, history, natural science, geography) in Estonian. Integration is supported by the planned training of teachers and school managers as well as the school material development programme and other activities based on the Lifelong Learning Strategy 2014-2020. In the future, more attention needs to be paid to increasing connections between schools with different languages of instruction by using joint activities.

Since 2014 the financing of additional state-language courses in general education is needs-based. Schools are expected to deliver individual study-plans for students who need additional state-language courses. The new system allows to give resources for any student who needs extra educational help because of his/her linguistic background.

⁵ Kasemets, L., Asser, H., Hannust, T., Rahnu, L.; *Uusimmigrantõpilaste akadeemiline ja sotsiaalne toimetulek eesti üldhariduskoolis*, MindPark, 2013, http://www.meis.ee/bw_client_files/integratsiooni_sihtasutus/public/img/File/MH13/Uuringuaruanne_MindPark.pdf

Statistics

Table 12: Estonian general education schools by language of instruction

Language of instruction	2008/09	2009/10	2010/11	2011/12	2012/13	2013/14
Estonian	473	465	454	447	440	447
Estonian/Russian	27	28	28	77	75	73
Russian	62	61	58	8	9	11
Estonian/English	1	1	1	4	4	4
English	2	2	2	2	2	3
Estonian/Finnish	1	2	2	2	2	2
TOTAL	566	559	545	540	532	540

Source: Estonian Education Information System (EHIS)

Table 13: Students attending Estonian general education schools in full-time study, by language of instruction

Year	Language of instruction					TOTAL
	Estonian	Estonian (language immersion)	English	Finnish	Russian	
2008/09	115,221	4,024	117	11	28,146	147,519
2009/10	110,520	4,143	91	43	27,005	141,802
2010/11	107,288	4,432	99	33	26,596	138,448
2011/12	105,272	4,647	189	54	25,942	136,104
2012/13	106,139	4,956	277	71	23,532	134,975
2013/14	107,119	5,358	390	61	22,464	135,392

Source: Estonian Education Information System (EHIS)

Table 14: Graduates from upper secondary school in full-time study in 2013 who continue in higher education, their languages of instruction in higher education, by language of instruction of upper secondary education

Language of instruction	Upper secondary school graduates	Proportion in all upper secondary school graduates	Continuing in higher education		Language of instruction of those who continue in higher education			Proportion of those continuing with Estonian language of instruction
			Number	Proportion in all upper secondary school graduates with the same language of instruction	Estonian	English	Russian	
Estonian (language immersion)	196	3%	124	63%	109	6	9	87.9%
Estonian	6,241	81%	3,704	59%	3,658	39	7	98.8%
English	47	1%	28	60%	27	1		96.4%
Russian	1,225	16%	605	49%	539	12	54	89.1%
TOTAL	7,709		4,461	58%	4,333	58	70	97.1%

Source: Estonian Education Information System (EHIS)

International general education and adaptation of new immigrants

Concerning the organisation of general education, a more extensive implementation of European School and IB studies has a significant importance to internationalisation in the coming years. Foreign students can attend IB studies with state support in two municipal schools in Tallinn and Tartu. Both schools have implemented the IB Primary and the IB Diploma programmes, with the Middle Years programme being in development. The aim is to ensure that children of employees with international background can obtain high-quality international education. The establishment of European School facilitates the movement of employees of EU institutions and international organisations and companies to work in Estonia. For the year 2013, European School is open for years 1-3; years 4-7 will be opened one by one in 2014–2017.

As the Estonian general education system follows the inclusive education principle, schools are required to ensure high-quality basic education for all students living in the school's catchment area and being subject to the obligation of compulsory school attendance, regardless of their origin or educational specifics. New immigrants have the right to receive needs-based allowance for learning Estonian for 3 years starting from their movement to Estonia. This right also extends to the so-called returners if the student has difficulties coping with the national language.

In 2014-2016, the Ministry of Education and Research will lead a project funded by the Norwegian and the EEA Financial Mechanisms to improve the quality of counselling services for new immigrant students.

Although the new integration strategy „Lõimuv Eesti 2020“ is at this time still being drafted, the responsibility areas of different ministries regarding activities of adaptation and integration have been set. The Ministry of the Interior is responsible for the adaptation of newly arrived immigrants and the Ministry of Culture for integration measures aimed at the whole of society. As said, 2014, the Ministry of the Interior has begun to develop services aimed at newly arrived immigrants in order to facilitate their adaptation. In order to achieve this, information will be disseminated on practical matters.

Article 19 § 12: Teaching the native language of a migrant

General regulation

Pursuant to § 21 of the Basic Schools and Upper Secondary Schools Act, a school will organise language and cultural teaching for students acquiring basic education whose native language is not the language of instruction or who communicate at home in a language different from the language of instruction, which is the native language of at least one parent, provided that no fewer than ten students with the same native language or with the same language of household communication request it. Guided by the procedure established with a regulation the Government of the Republic, language learning and cultural learning are provided for students with a different native language as a chosen subject to in the extent of at least two lessons. If less than ten applications are submitted to the school's management, the school shall decide the provision of language and cultural teaching in co-operation with the rural municipality government or city government.

In reality, this option is not used very often. The main reason is that many national minorities are not concentrated into the catchment area of any single school; another is that Russian is widespread as a *lingua franca* among national minorities. An exception is Tallinn Jewish School which teaches Hebrew and music in the native language. Tallinn Finnish School, established under an international agreement, teaches in Finnish.

Measures, statistics

National minorities have much more extensively used the informal language teaching and cultural teaching opportunities provided by Sunday schools active under cultural associations. Sunday schools can be registered on the basis of the Private Schools Act or the Hobby Schools Act which provides them with consistent state support. The Integration and Migration Foundation "Our People" (MISA) has registered 35 Sunday schools active under cultural associations of national minorities. The Ministry of Education and Research supported the activities of Sunday schools of national minorities with 125,000 euros in 2013 and with 139,550 euros in 2014.

Cultural associations of national minorities obtain support pursuant to the base funding model which is operative through umbrella organisations since 2009. As of 2011, a total of 20 umbrella organisations of cultural associations of national minorities have been registered. Russians, Ukrainians, Belarusians, Uzbeks, Armenians, Azerbaijanis, Tatars, national minorities of Caucasia, Jews, Latvians, Koreans and Ingrians have cultural associations as national minorities.

Representatives of cultural associations of national minorities are actively involved in discussions that started in 2001 and pertain to the preparation of the basis of cultural policy until 2020, as well as in development of the state budget based support benefit i.e. the principles of base funding of umbrella organisations of cultural associations of national minorities.

Additionally, the cultural activities of national minorities are supported by state budget funds through the Ministry of Culture, the Ministry of Education and Research, Cultural Endowment of Estonia, the Council of Gambling Tax and the National Foundation of Civil Society. The languages and cultures of national minorities are supported by local governments. Private funds and foreign embassies also support national minorities. Integration activities are conducted under the Integration Strategy every year by more than 400 co-operation partners i.e. non-profit associations, educational and research institutions, local governments and other non-governmental organisations.

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

Article 27 § 1: Participation in professional life

Employment, vocational guidance and training

Legal framework

The Committee asks if any specific vocational guidance, counselling, information and placement services exist for workers with family responsibilities, to assist such workers in participating or advancing in economic activity.

The Labour Market Services and Benefits Act does not prescribe special measures for job seekers with family responsibilities, but § 16 of the Employment Programme 2014- 2015 of the Government of the Republic does prescribe the labour market service “Individual employment”, based on which the Estonian Unemployment Insurance Fund may compensate a person or pay for the person additional costs related to participation in the labour market service and starting work, primarily the costs of care service and other costs stemming from the person’s special needs. The costs of care service may be compensated for an unemployed person who cannot participate in the labour market service and cannot work due to raising a child of up to 7 years of age or caring for an elderly or a disabled person. The costs of care service shall be compensated for each day of participation in the labour market service or for each worked day during the first three months of employment. If the costs of care service include a placement fee, the costs shall be compensated regardless of the number of days of participation in the labour market service or days worked. The costs of care service shall be compensated as up to 16 euros per day per person under care. If the costs of care service include a placement fee, the costs shall be compensated as up to 352 euros per month per person under care. In case of justified need, primarily in case of special needs of the person under care, the costs of care service may be compensated in larger amounts.

Similar to the Employment Programme in force, the Employment Programme 2012-2013 also included compensation of costs of care services to persons participating in the labour market service or starting work.

As compensation for costs of care and establishment of care opportunities are social services which should be provided to people by their local government, Estonian Unemployment Insurance Fund shall not compensate the cost of care service to a person if it is compensated to the person by a local government. The Estonian Unemployment Insurance Fund compensates the cost of care to people only in exceptional cases due to regionally uneven capabilities of local governments. It is presumed that once a person has been helped to

employment with the aid of the Unemployment Insurance Fund, the local government will find the opportunities for subsequent support to the person by way of combining the care obligation and work as necessary.

Pursuant to § 28 of the Vocational Education Institutions Act, vocational education takes place in the form of full-time study or non-stationary study, incl. as full-time study in a school or in a workplace. Therefore, flexible learning opportunities can be used for the purpose of combining vocational education and family responsibilities. Pursuant to § 43 (2) 9), students can take academic leave to care for a child until the child attains three years of age; until that time, the obligation to pay interest on a study loan shall be suspended for one parent (§ 18 of the Study Allowances and Study Loans Act). A vocational education student can apply for special allowance to alleviate a difficult economic situation (§ 5) and the travel expenses of students are compensated pursuant to the established procedure.

The cost of a trip to the educational institution and back to permanent residence with a commercial transport line (except an airline) shall be compensated from the state budget to a student attending a study place formed under a national order for training in formal vocational education within the adult education system in the format of full-time study. The exact organisation of obtaining the travel support depends on the school's regulations on organisation of studies and on the distance covered. Moreover, some vocational education institutions have adapted their student homes to provide a family room or a child bed.

Statistics

The Estonian Unemployment Insurance Fund compensated the costs of care to 31 people in 2011 (the proportion in all people registered as unemployed was 0.03%); the service was provided to 169 people in 2012 (i.e. 0.16% of all people registered as unemployed); and the costs of care were compensated to 221 people in 2013 (i.e. 0.2% of all people registered as unemployed)

Work conditions, social insurance

Legal framework

The Committee asks that the next report describe any other legislative provisions and/or collective agreements governing work conditions that may facilitate the reconciliation of working and private life, such as working from home or flexible working hours.

In 2010, Estonia presented the Committee with information about balancing work and private life. The regulation has not been amended since that information was presented. In addition to the information presented earlier, we now add that the working time is agreed between the employee and the employer. The parties may agree that if the employee

cannot work full-time due to family responsibilities then the employee shall work part-time. The employee and the employer may also agree that the employee shall work with a flexible schedule. For example, if the employee has to bring his or her child home from the preschool at 6 PM at the latest, the employer takes this into account upon preparing the work schedule if the employee so wishes. In addition to the foregoing, the parties may agree for example that the employee shall work from home.

Statistics

The numbers of collective agreements regulating work conditions that may facilitate the balancing of work and private life are stated on the basis of the data in the database of collective agreements as of 2011. Agreements for parental leave as prescribed in laws (§ 63, § 64, § 60 of the ECA, etc.) have been entered into on 49 occasions i.e. in 16% of all valid collective agreements; agreements for paid vacations / days off not stemming from laws (e.g. September 1st, health days, funeral day, marriage day) have been entered into on 204 occasions i.e. in 66% of all valid collective agreements; agreements for unpaid vacations / days off not stemming from laws have been entered into on 84 occasions i.e. in 27% of all valid collective agreements. Teleworking agreements (§ 6 (4) of the ECA) have been entered into on 9 occasions i.e. in 3%, agreements for part-time work (§ 43 (1) of the ECA) have been entered into on 22 occasions i.e. in 7% and agreements for additional time off (§ 38 (4) of the ECA) have been entered into on 32 occasions i.e. in 10% of all valid collective agreements as of the end of 2011.

The Committee has previously noted that the State pays social contributions/tax for persons receiving child care allowance (Conclusions 2005). The payment of the social tax will ensure health insurance and the period of leave will qualify for pension purposes and will be taken into account for determining the amount of pension. The Committee asks if the crediting of periods of childcare leave in pension schemes is secured equally to men and women. It also asks whether workers on childcare leave are entitled to other social security benefits under different schemes besides healthcare.

The state pension system ensures that parental leave periods are accounted equally for men and women in their pension plans.

Until December 31, 1998 the pension-eligible work experience of a man or a woman shall include the time of being on a parental leave.

Starting from 1999, the state shall pay social tax for one parent (man or woman) residing in Estonia and raising a child below 3 years of age residing in Estonia or a person who uses parental leave instead of a parent and who is raising a child below 3 years of age in Estonia. The aforementioned social tax shall be accounted into the summary pension insurance of the man or a woman.

In the mandatory funded pension system, additional mandatory funded pension payments for raising a child born on January 1st 2013 or later are made from the state budget (4% of the average Estonian monthly income taxable with social tax) for one parent (man or

woman) from the child's birth until the child attains 3 years of age. The payment is made regardless of whether the person is on parental leave or not.

Child day care services, other childcare arrangements and family services

General regulation, measures for implementation of legal regulation

In Estonia the ECEC combines both

- a) nursery schools/kindergartens (preschool institutions) which are a part of the pre-educational system in the administrative field of the Ministry of Education and Research, regulated by the Preschool Child Care Institutions Act (see article 16), and
- b) childcare service, including childminders (in the administrative field of the Ministry of Social Affairs, regulated by the Social Welfare Act).
- c) Pursuant to the Preschool Child Care Institutions Act, local governments (LG) shall provide childminder
- d) preschools/kindergartens (preschool institutions) which are a part of the pre-educational system in the administrative field of the Ministry of Education and Research, regulated by the Preschool Child Institutions Act (see article 16), and
- e) private childcare, including childminders (in the administrative field of the Ministry of Social Affairs, regulated by the Social Welfare Act).

Pursuant to the Preschool Child Institutions Act, local governments (LG) shall provide all children from eighteen months to seven years of age whose residence is in the administrative territory of the given LG and whose parents so wish with the opportunity to attend a preschool institution in the catchment area. Preschool institutions meet the needs of a parent working 40 hours per week. The institutions are open 10-12 hours per weekday and provide children 3 meals per day.

The service is mainly financed by LG; the amount covered by parents per child shall not exceed 20 per cent of the minimum wage rate established by the Government of the Republic. The child care institution can decide upon the amount paid by parent for food costs, including making individual decisions concerning children from low-income families.

The child-care services which are not part of LG's obligation and are mainly provided by private sector are paid for by the parents. Some LGs support parents by covering part of the

parent's fee. The procedures for and conditions of financing childcare services differ from one LG to another.

As an exception, the Social Welfare Act obliges local governments to organize and finance childcare services for children with severe and profound disabilities with funds allocated from the state budget. The state covers child-care service fees for children with a severe or profound disability aged 0-18 in a fixed amount. The limit on state-funded childcare services in 2014 is 371 euros per calendar year per child with a severe or profound disability. Parents may use the service either during the day or 24 hours a day. It can also be used on an hourly basis. If the service is required to an extent greater than that established in the state limit, the legal representative of the child (alone or with the assistance of the local government) must cover the additional cost.

The Committee recalls that staff working in nurseries should be suitably qualified (Conclusions 2006, Lithuania). It asks in this respect how qualifications of personnel and the quality of child care services in general are monitored.

Professional standards have been established for both preschool child care institution teachers and childminders. Additionally, pedagogues working in a preschool child care institution must comply with the qualification requirements prescribed by the Minister of Education and Research.

Pursuant to § 37¹ (2) of the Social Welfare Act, a county governor or a person authorised by him or her shall exercise administrative supervision over the quality of childcare service. In the course of supervision, the county governor inspects the compliance of the providers of the childcare services provided in its area of government to the requirements prescribed and their use of the funds allocated by the state. The relevant report shall be presented to the Government of the Republic at least once a year.

Pursuant to § 12⁷ (3) of the Social Welfare Act, In order to act as a childminder, a person shall:

- 1) hold a childminder's professional certificate issued on the basis of the Professions Act; or
- 2) have completed the specialty of special needs education, preschool education, childminder or social work.

According to the data of the Estonian Education Information System for the school year of 2012/2013, 62% of teachers and 98% of managers in preschool child care institutions have professional higher education (Bachelor's degree), the rest have vocational education following upper secondary education. 99% of childminders comply with the professional standard (data of the Ministry of Social Affairs for 2012). Childminders have acquired knowledge and skills to support a child's physical, emotional, intellectual and social development, taking into account the family's needs upon caring for the child. State supervision is performed over the service quality of preschool child care institutions and childcare, guided by the Preschool Child Care Institutions Act and the Social Welfare Act. The state supports in-service training of teachers and managers of preschool child care

institutions, directed towards achievement of the aims of the national study programme for preschool child care institutions.

The Committee notes that in 2008 funds were allocated for the construction of new preschools and the renovation of existing ones (520 new places were created). It asks if further constructions/renovations are underway to fill up the shortage of places which still exist in some municipalities.

According to the data of the Estonian Education Information System (EHIS) for the school year of 2012/2013, 76.4% of children of 1.5 – 3 years of age attend preschool child care institutions. The participation rate of children of 4–6 years of age in preschool child care institutions and schools is 98.1% of the relevant age group (in the school year of 2012/2013). In total, 68,684 children are obtaining preschool education in 652 preschool child care institutions. According to the survey conducted by the Ministry of Education and Research in September 2013, children of 1.5-3 years of age are in queue for a preschool placement in 21 local government regions. A more flexible preschool education and childcare for children of 1.5-3 years of age are needed in order to provide preschool placements to all who wish to obtain them. For that purpose, a draft Act to Amend the Preschool Child Care Institutions Act has been prepared by the Ministry of Education and Research and is currently being proceeded by the Riigikogu; pursuant to the draft Act, local governments may enable childcare service instead of preschool for children of 1.5-3 years of age if their parents consent to that, whereas the self-payment part of parents for any single child must not exceed 20 percent of the minimum salary rate established by the Government of the Republic.

In the framework of the European Social Fund 2014+ measure “Development of childcare and development of welfare services for children with disabilities in order to reduce care burden”, the Ministry of Social Affairs plans to support the creation of 1,200 childcare placements with ca. 6.5 million euros, supplemented by a 30% self-payment part by local governments.

As one of the activities in the framework of the measure “Sustainable development of urban regions”, the Ministry of the Interior plans to support the infrastructure of preschool education and childcare in order to ensure near-home preschool and childcare opportunities in larger urban regions (Tallinn, Tartu, Pärnu with their surrounding local government regions). Construction of new buildings, expansion of existing buildings and adaptation of buildings with other functions are supported. The target is to create new infrastructure for 2,000 new preschool or childcare placements. The volume of support funds from the ERDF as of December 2013 is 34 million euros. Projects are chosen on the basis of strategies for sustainable urban development, to be prepared by the autumn of 2014.

Statistics

Table 1. Children attending preschools by counties, 2009-2013

	2009	2010	2011	2012	2013	Growth in 2013 compared to 2009
Estonia	62,804	64,259	66,207	67,034	68,684	+9.4%
Harju County	28,979	29,770	31,085	31,717	32,952	+13.7%
Hiiu County	359	342	335	368	371	+3.3%
Ida-Viru County	7,012	6,994	6,966	6,754	6,574	-6.3%
Jõgeva County	1,306	1,286	1,384	1,362	1,366	+4.6%
Järva County	1,373	1,413	1,415	1,460	1,473	+7.3%
Lääne County	1,012	1,062	1,047	1,065	1,036	+2.4%
Lääne-Viru County	2,669	2,663	2,759	2,775	2,762	+3.5%
Põlva County	1,076	1,060	1,112	1,164	1,169	+8.6%
Pärnu County	3,881	3,962	4,093	4,165	4,302	+10.9%
Rapla County	1,534	1,581	1,610	1,697	1,762	+14.9%
Saare County	1,404	1,492	1,530	1,568	1,559	+11.0%
Tartu County	7,388	7,751	7,981	8,017	8,467	+14.6%
Valga County	1,286	1,314	1,313	1,277	1,255	-2.4%
Viljandi County	1,995	2,019	2,008	2,095	2,073	+3.9%
Võru County	1,530	1,550	1,569	1,550	1,563	+2.2%

Source: Statistics Estonia

Table 2. Number of preschool child care institutions by counties, 2009-2013

	2009	2010	2011	2012	2013	Growth in 2013 compared to 2009
Estonia	635	638	643	644	652	+2.7%
Harju County	213	211	216	218	225	+5.6%
Hiiu County	7	6	6	6	6	-14.3%
Ida-Viru County	61	63	63	63	61	0
Jõgeva County	23	24	24	24	23	0
Järva County	22	22	21	21	21	-4.5%
Lääne County	17	18	18	19	19	+11.8%
Lääne-Viru County	31	31	31	32	31	0
Põlva County	18	18	18	18	18	0
Pärnu County	46	45	45	45	46	0
Rapla County	30	30	29	29	29	-3.3%
Saare County	21	21	22	21	21	0
Tartu County	66	69	70	70	73	+10.6%

Valga County	22	23	23	21	21	-4.5%
Viljandi County	39	38	38	38	38	-2.6%
Võru County	19	19	19	19	20	+5.3%

Source: Statistics Estonia

The Committee notes from another source that leave can be taken by either parent to care for a sick child under 12 years, for up to 14 calendar days per episode of illness. It asks if urgent family leave is available in connection with other relatives.

The basis for calculating the care allowance is the care certificate which is issued to the child's actual caregiver or nurser, i.e. not only to parents but also to e.g. a grandmother or other persons with health insurance (basis: § 59 (1) of the HIA; § 6 (2) of the Minister of Social Affairs Regulation No. 114 dated 26.09.2002 "Conditions and procedure for registration and issuance of certificate of incapacity for work; forms of certificate of incapacity for work").

Article 27 § 2: Parental leave

The Committee recalls that childcare leave should in principle be an individual entitlement granted separately to each parent, and asks if the authorities have considered making the right to parental leave individual and non-transferable.

In 2013, the study "Analysis of the Estonian system of parental leaves" was conducted by the PRAXIS Centre for Policy Studies, ordered by the Ministry of Social Affairs and funded by the ESF. One of the aims of that analysis was to assess how the current system enables parents to combine work and family life as well as whether and how it motivates fathers to use parental leaves. The analysis discussed four possible new parental leave scenarios:

1. granting fathers the right to a 1-month individual non-transferable leave;
2. dividing the parental leave period covered by the parental benefit into three equal parts – one intended as an individual right for the mother, another for the father and the third to be shared between the parents in the family;
3. enabling partial parental leave;
4. relating all parental leaves.

One of the conclusions reached in the analysis was that in order to increase the involvement of fathers in bearing the care load, it would be appropriate to consider establishing an individual non-transferable compensated parental leave period for fathers. There are plans

to additionally analyse this matter and make relevant policy recommendations in the Green Paper on Family Benefits and Services to be adopted by the Government of the Republic (by the 4th quarter of 2014).

The Committee asks if workers have the right to return to the same job after the parental leave.

Pursuant to § 19 1) of the ECA, an employee has the right to refuse to perform work if the employee is on holiday (incl. on parental leave). After the end of the holiday, the employee has the right to return to the same job. Thus, the rights and obligations of an employee being on a holiday and returning after a holiday remain unchanged. For example, an employee returning from parental leave has the right to continue in his or her previous job with the same conditions as before taking the parental leave. During an employee's leave or upon his or her returning to work, the employer cannot amend the employment contract's provisions unilaterally without the employee's consent. Pursuant to § 12 of the ECA, an employment contract can be amended only with an agreement between the parties.

Statistics

Table 3. Inactive persons on pregnancy, maternity or parental leave by age groups, in thousands, 2009-2013

Age group	2009	2010	2011	2012	2013
15-74	33.4	28.7	26.8	27.8	29.6
15-24	7.4	5.8	4.5	4.1	3.8
25-49	25.8	22.7	22.2	23.7	25.6

Source: Statistics Estonia

Note: the data for 2000-2012 were adjusted on 14.02.2014.

Data are not gathered about the use of parental leave (§ 62 of the ECA). The use of parental leave has been studied in the framework of the module "Combining work and family life" of the 2010 Estonian Labour Force Survey of the Statistical Office.

Table 4. Number of parents with children under 8 years of age who have / have not taken a parental leave after the birth of their youngest child, 2010

	Total	Took a parental leave	Did not take a parental leave
Number of parents, thousand	176.4	91.8	84.6
Men	79.4	4.3	75.1
Women	97	87.4	9.6

¹ Parents of children under 8 years of age include people of age 15–64 years who have younger than 8-year-old children of their own or their marriage partner / cohabitee in their household.

Source: Statistics Estonia, Estonian Labour Force Survey module “Combining work and family life”

Table 5. Granting of parental benefit¹ by benefit types and gender; average benefit amount granted, 2009–2013

Year	2009	2010	2011	2012	2013
Total persons to whom parental benefit was granted	17,147	16,514	18,905	14,698	14,464
men, %	8.5	6.9	5.2	7.3	7.4
women, %	91.5	93.1	94.8	92.7	92.6
By parental benefit types:					
Parental benefit as a calendar month's 100% income	11,327	11,125	11,885	9,256	8,951
men, %	10.1	8.7	7.0	9.5	9.5
women, %	89.9	91.3	93.0	90.5	90.5
Parental benefit as maximum amount	847	448	586	571	616
men, %	26.7	24.3	18.1	19.4	23.2
women, %	73.3	75.7	81.9	80.6	76.8
Parental benefit as minimum monthly wage	3,008	2,318	2,810	2,265	2,473
men, %	1.7	1.3	1.0	1.4	1.6
women, %	98.3	98.7	99.0	98.6	98.4
Parental benefit as parental benefit rate	1,965	2,623	3,624	2,606	2,424
men, %	1.9	.1.2	0.6	2.0	1.8
women, %	98.1	98.8	99.4	98.0	98.2
Annual average amount of parental benefit granted, euros³					
Men	1,150.86	1,167.79	1,206.56	1,154.50	1,260.58
Women	462.40	705.97	685.12	699.81	738.88

¹ Paid for the first time per child in a year.

² The average benefit paid in 2004–2010 is converted from Estonian kroons to euros with the exchange rate of 1 EUR=15.6466 EEK.

Source: Estonian National Social Insurance Board

Table 6. Number of recipients and expenditure of child care allowance, 2009–2013

	2009	2010	2011	2012	2013
Number of recipients of child care allowance¹, at the end of the year	40,928	40,629	41,034	41,581	40,580
for a child of up to 3 years ¹	24,108	23,678	23,090	22,617	21,262
for children of 3–8 years in families with a child of up to 3 years	8,122	8,139	8,899	9,567	9,123
for children of 3–8 years in families with 3 and more children	8,698	8,812	9,045	9,397	10,195
Expenditure, thousand euros³	14,607.8	14,797.3	14,805.8	14,747.4	14,528.8

¹ Since January 1, 2009 a parent is not paid child care allowance for any child in the family during the period of paying parental benefit to the parent.

² Incl. the additional child care allowance for a child up to 1 year of age.

³ Since January 1, 2009 a parent is not paid child care allowance for any child in the family during the period of paying parental benefit under the Parental Benefit Act to the parent. Before, the child care allowance was not paid for the child or children for whom a parental benefit was paid. Due to the law amendment, the expenditure of paying child care allowance decreased.

Source: Estonian National Social Insurance Board

Table 7. Expenditure on care allowances, 2009-2013

	2009	2010	2011	2012	2013
Number of leaves	103,883	76,141	89,716	91,145	104,019
Number of compensated days	902,775	643,276	742,621	740,609	846,660
Amount of allowances paid (in thousand euros)	20,352	10,250	11,626	12,214	15,192
Average allowance per day (in euros)	22.5	15.9	15.7	16.5	17.9
Average duration of leave (in days)	8.7	8.4	8.3	8.1	8.1

Source: Health Insurance Fund

Parental leave statistics (see Article 8 § 1)

Table 8. Use of child leave (§ 63 of the ECA), 2009–2013

	2009	2010	2011	2012	2013
Number of persons using it in a year	29,186	25,035	26,379	25,016	32,867
Total days used	101,969	85,584	88,524	83,172	110,665
Expenditure, in euros ¹	430,612. 6	361,212. 1	375,697. 7	353,609. 5	1,500,653. 1

¹ Pursuant to § 63 of the ECA, each calendar year a mother or father has the right to receive child leave: for three working days if she or he has one or two children under 14 years of age; for six working days if she or he has at least three children under 14 years of age or at least one child under three years of age. Since 01.01.2013, the child leave shall be remunerated on the basis of the minimum wage established by the Government of the Republic (earlier, the daily rate for the remuneration was 4.25 euros).

² The benefit amounts until 2010 (incl.) have been converted from Estonian kroons to euros with the exchange rate of 1 EUR=15.6466 EEK.

Source: Estonian National Social Insurance Board

No data are available about the use of unpaid child leave (§ 64 of the ECA).

Article 27 § 3: Prohibition of dismissal for reasons relating to family responsibilities

Legal framework

Under Section 92 of the Employment Contracts Act, an employer cannot terminate the employment contract of an employee who is raising a child under three years of age, unless the employer proves that the contract was cancelled on a permitted basis under the Act. The Committee asks if this enhanced protection applies also to male employees.

Pursuant to § 92 (2) of the ECA, if an employer cancels an employment contract with an employee who is pregnant or raising a child under three years of age, it shall be deemed that the employment contract has been cancelled on the ground that the employee performs important family obligations, unless the employer proves that it cancelled the employment contract on a basis permitted in that Act. As the Act does not differentiate the cancellation of an employment contract with employees on gender basis, the aforementioned principle is valid for both women and men.

Statistics

Table 9. Petitions filed with Labour Inspectorate to cancel an employment contract with an employee who is pregnant or raising a child under three years of age (§ 92 (2) of the ECA), 2009-2013

2009		2010		2011		2012		2013	
Application	Consent								
190	154	0	0	0	0	0	0	0	0

Source: Labour Inspectorate

Note: since July 2009, no consent by the Labour Inspectorate is required.

Table 10. Contestations of cancelling an employment contract (a pregnant employee, a woman entitled to the pregnancy and maternity leave, a person using a parental leave / child leave pursuant to § 93 of the ECA)

2009	2010	2011	2012	2013
53	21	5	5	4

Source: Labour Inspectorate

Since the notion of “family responsibilities” in the Appendix of the Revised Charter is understood as obligations in relation to dependent children as well as other members of the immediate family who need care and support, the Committee asks if the Employment Contracts Act also protects employees against dismissal because of obligations with respect to other members of the immediate family (elderly parents, for example) that require care.

§ 92 (2) of the ECA prescribes that an employer cannot cancel an employment contract with an employee on the ground that the employee performs important family obligations. Performance of family responsibilities is a wider notion and includes more than just raising children (incl. children under three years of age). Performance of family responsibilities also includes e.g. caring for one’s parents, etc.

Statistics

Table 11. Inactive persons of 15-74 years of age, 2009-2013

	2009	2010	2011	2012	2013
Total inactive persons (in thousands)	347.4	346.6	331.9	327.4	320.3
...incl. caring for children or other family members (in thousands)	9.2	11.1	9.9	14.5	13.5
... incl. caring for children or other family members (proportion in %)	2.7	3.2	3.0	4.4	4.2

Source: Statistics Estonia

The Committee asks for some examples that illustrate the level of compensation awarded in cases of unlawful dismissals based on family responsibilities, and reserves its position on the matter.

Labour Dispute Committee's decision No. 4.4-1_44 (8.01.2013)

Petitioner: a woman of 34 years of age

Content of the petition: after a parental leave of 4.5 years, the petitioner returned to work and on the same day the employee was made redundant. The petitioner's request was to identify that she had been discriminated against on gender basis due to being a parent and fulfilling family responsibilities and to pay a compensation of 10,000 euros.

The employer has reorganised the work. There was no employee with the petitioner's position at the time of the petitioner's return and changes had been made in the department, i.e. a logistics manager had been hired and the former position's tasks had been distributed between carriage logistics specialists and external processing permit specialists. The job descriptions of the petitioner and the carriage logistics specialists were identical. If the employee had not been on parental leave, such situation would not have occurred, i.e. the petitioner had been put into an unfavourable situation due to being a parent. The discrimination was essentially that the employee was not taken into account in reorganisation, although the employer is required to presume that the person on leave will return and has to get the previous position back.

Labour Dispute Committee's decision No. 4.4-1 44 (2013):

1. The petitioner shall be considered discriminated against on gender basis due to fulfilling family responsibilities and being a parent.
2. The employer shall be ordered to pay a compensation of 1,000 euros to the benefit of the petitioner on the basis of § 13 (2) of the Gender Equality Act.

The Labour Dispute Committee identified that the employee was discriminated against on gender basis because the employer did not account for the petitioner being on parental leave and did not plan to continue the employment relationship with the petitioner returning from parental leave, as the employer refrained from informing the employee about the reorganisation of work and about the petitioner's position being made redundant while conversing with the petitioner in correspondence and in meeting during the parental leave. The employer also did not use the opportunity to enter into a fixed-term contract with an employee performing the logistics specialist's work tasks, with that employee's employment relationship starting during the petitioner's parental leave.