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## **EUROPEAN SOCIAL CHARTER**

9<sup>th</sup> National Report on the implementation of  
the European Social Charter

submitted by

**THE GOVERNMENT OF ESTONIA**

(Articles 1, 9, 10, 15, 20, 24 and 25  
for the period 01/01/2007 – 31/12/2010)

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Report registered by the Secretariat on 21 February 2012

**CYCLE 2012**

**EUROPEAN SOCIAL CHARTER (REVISED)**

**9th Report of  
the Republic of Estonia**

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**On the accepted provisions**

**For the reference period 2007 – 2010**

**Articles 1, 9, 10, 15, 20, 24, 25**

For the period 2007–2010 made by the Government of Estonia in accordance with Article C of the Revised European Social Charter, on the measures taken to give effect to the accepted provisions of the Revised European Social Charter, the instrument of ratification or approval of which was deposited on 11 September 2000.

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

All Estonian legal acts that have been translated to English are available on the Internet at <http://www.legaltext.ee/indexen.htm>. The English version of the new Employment Contracts Act can be accessed at: <http://www.sm.ee/eng/activity/working-and-managing/employment-contracts-act.html>.

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# Article 1 – The right to work

## Paragraph 1 - Policy of full employment

1) Please describe national employment policy and the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

The organisation of provision of labour market services and benefits are regulated in the Labour Market Services and Benefits Act (entered into force on 1 January 2006).

### *Amendments in the national employment policy legal framework*

Amendments of the Labour Market Services and Benefits Act and the Unemployment Insurance Act entered into force on 1 May 2009, pursuant to which the duties of the Labour Market Board were terminated and transferred to the Estonian Unemployment Insurance Fund that had previously only been active in the administration of unemployment insurance.

The Estonian Unemployment Insurance Fund is a legal person in public law. Representatives of social partners also belong to the Council of the new joint body. Pursuant to legislation, the Fund has now two main objectives: organisation of unemployment insurance and implementation of labour policy. Implementation of labour policy means provision of the labour market services provided in the Labour Market Services and Benefits Act and implementation of the measures provided in the employment programme. This amendment has created an excellent basis for more efficient implementation of labour market policy than before. As a result of merger of the employment agencies, the number of participants in active labour market services and the quality of labour market services have significantly increased.

Pursuant to the amendments of the Unemployment Insurance Act that entered into force on 1 January 2011 (adopted in December 2010), a new foundation of labour market services and benefits was established. The unemployment insurance benefit trust fund, the trust fund for benefits upon lay-offs or insolvency of employers and the state budget are included in the funding of the foundation. The activities funded by the foundation shall be agreed in the employment programme. The amendment allows offering efficient labour market measures to a larger number of unemployed persons and implementing the activity requirements for

job-seeking more efficiently. The new funding scheme also creates flexible possibilities to respond to the economic situation and changes in the labour market.

The project for the employment programme shall be drafted by the Estonian Unemployment Insurance Fund in cooperation with the Ministry of Social Affairs. Upon preparation of the employment programme, state strategies and development plans, situation on the labour market, the need to develop labour market measures, the amount of the foundation of labour market services and benefits provided in the Unemployment Insurance Act and analyses of the effects of the provision of labour market services and payment of labour market benefits shall be taken into account. The programme shall be implemented by the Estonian Unemployment Insurance Fund.

*2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.*

#### *Economic Growth and Employment Plan and Competitiveness Plan Estonia 2020*

In autumn 2008, the Government approved the Economic Growth and Employment Plan for 2008-2011. It constituted a strategy handling whole Estonian economic policy encompassing all the important fields for developing the economic environment: macrofinancial policy, business environment and the education and labour market policies.

Having regard rapid changes that took place in Estonia and the world economy as a whole, the Government approved the Estonian Competitiveness Plan for 2009-2011. The Plan is a renewal of the Economic Growth and Employment Plan for 2008-2011, giving an overview of the most important decisions made by the Government in 2009, adjusting and implementing new measures for the new economic environment with the aim of increasing the readiness of the Estonian economy to emerge from the economic crisis.

Preparation of the new competitiveness plan commenced at the end of 2009 and in the beginning of 2010 along with consultations for the Europe 2020 Strategy initiated by the European Commission. A preliminary analysis for setting goals for the Europe 2020 and the Estonia 2020 and for discussion of the policy priorities and Estonian interests with regard to the European Union for the following 10 years was finished in cooperation of the State Chancellery and the Ministries in May 2010. In the framework of the opinions of the European Council of June 2010, the Government approved the initial main objectives, i.e.

numeric targets for the year 2020. Mapping the challenges for competitiveness was improved within the analysis of the implementation of the Government Action Programme for 2007-2011. The Plan was also introduced at the joint meeting of the committees of the *Riigikogu* with the participants being the European Union Affairs Committee, the Economic Affairs Committee, the Cultural Affairs Committee and the Social Affairs Committee. The proposals of the committees of the *Riigikogu* were taken into account upon improvement of the draft of the Plan, which was submitted to the European Commission at the beginning of November 2010.

Thorough analyses regarding the challenges for the current situation and current measures of each field of policy were prepared at the beginning of 2011. Based on the said analyses, the currently efficient activities and measures that needed development or were not existent were mapped. Weighing the most important proposals specified in surveys and reports in the last years and an analysis for possibility of implementation thereof were conducted. New motions suggested in the report were mapped on the basis of the respective analyses and various discussions. The Plan was finished and submitted to the European Commission at the end of April 2011.

#### *ESF Programme “Increasing the Availability of Qualified Labour Force for 2007-2013”*

The programme “Increasing the Availability of Qualified Labour Force for 2007-2013” funded by the European Social Fund (ESF) was established in order to facilitate a more flexible approach for resolving obstacles for persons entering the labour market and to offer additional labour market measures in addition to the standard services listed in the Labour Market Services and Benefits Act.

The programme places greater emphasis on measures that support creating jobs (wage subsidy, business start-up subsidy) while extending the entire choice of active labour market measures (benefits that support readiness for work, additional support for risk groups) as well as the set of persons who have the right to receive assistance by the provided labour market measures in order to ensure a more flexible response to the needs of unemployed persons, job-seekers and the labour market and to mitigate various obstacles that prevent access to employment. In order to improve the accessibility, quality and convenience of active labour market measures, the programme has supported the establishment of various developments and innovative solutions (e.g. self-service portal for supporting job-seekers).

3) Please provide pertinent figures, statistics (for example Eurostat data) or any other relevant information, in particular:

- the GDP growth rate;
- trends in employment covering all sectors of the economy:
- employment rate (persons in employment as a percentage of the population aged 15-64 years), youth employment rate;
- activity rate (total labour force as a percentage of the population aged 15 years and over);
- unemployment rate, long-term unemployment rate, youth unemployment rate;
- employment status (employed, self-employed);
- all figures should be broken down by gender;
- employment policy expenditure as a share of GDP, including the relative shares of 'active' (job creation, training, etc.) and 'passive' (financial compensation, etc.) measures.

**Table 1.** Main labour market indicators, 2007-2010

	2007	2008	2009	2010
Growth of GDP, %	6.9	-5.1	-13.9	3.1
Activity rate (15-74), %	65.7	66.6	66.5	66.4
men	71.3	72	71.3	70.5
women	60.7	61.9	62.3	62.8
Employment rate (15-64), %	69.1	69.5	63.2	60.7
men	72.6	73	63.5	61
women	65.7	66.3	63	60.5
Employment rate of young persons (15-24), %	34.2	35.9	28.5	25.3
men	38.2	38.5	30	26.7
women	30	33.2	27	23.9
Unemployment rate (15-74), %	4.7	5.5	13.8	16.9
men	5.4	5.8	16.9	19.5
women	3.9	5.3	10.6	14.3
Unemployment rate of young persons, %	10	12	27.5	32.9
men	12.1	12.6	31.7	35.2
women	7.1	11.3	22	30
Long-term unemployment rate, %	2.3	1.7	3.8	7.7
men	2.9	2	4.5	9.4
women	1.7	1.4	3	5.9

Source: Statistics Estonia, Estonian Labour Force Survey

**Table 2.** Number of employed persons aged 15-74 by areas of activity, in thousands

	2007	2008	2009	2010
<b>Areas of activity TOTAL</b>	<b>655.3</b>	<b>656.5</b>	<b>595.8</b>	<b>570.9</b>
Agriculture, forestry and fishing	30.3	25.3	24	24,1
Mining and quarrying	5.5	6	6.4	6.9
Manufacturing	131.2	135	113.8	108.4
Electricity, gas, steam and air conditioning supply	8.7	8.2	7.7	8.7
Water supply and sewerage, waste and pollution management	2.1	2.3	2.4	2.3
Construction	82.1	81	58.3	47.9
Wholesale and retail trade; repair of motor vehicles and motorcycles	86.9	92.5	83.2	80
Transportation and storage	52.9	49.9	49.7	43.6
Accommodation and food service activities	22.3	23.6	20.1	19.4
Information and communication	13.6	15.3	14.3	12.4
Financial and insurance activities	9.5	10.4	11.4	9.4
Real estate activities	9.7	10.2	9.2	10.1
Professional, scientific and technical activities	17.6	20.5	20.5	21.2
Administrative and supportive activities	18.2	17.3	16.8	18.9
Public administration and national defence; compulsory social insurance	39.2	38.4	36.7	40.4
Education	55	59.9	62.5	56.1
Health and social welfare	36.2	31.1	33	34.6
Arts, entertainment and recreation	17.7	14.8	14.2	14.7
Other activities	16.8	14.8	11.5	11.9
<b>Men</b>				
Activities total	330	330.9	288.1	275.1
Agriculture, forestry and fishing	20.7	17.6	16	15.9
Mining and quarrying	4.9	5.3	5.6	5.5
Manufacturing	71.3	73.2	64.1	62
Electricity, gas, steam and air conditioning supply	7.6	6.4	5.1	6.5
Water supply and sewerage, waste and pollution management	1.6	1.3	1.4	1.6
Construction	74.2	73.5	52.1	44.6
Wholesale and retail trade; repair of motor vehicles and motorcycles	34.9	37.7	31.7	30.3

Transportation and storage	37.5	36.5	36.2	31.2
Accommodation and food service activities	3.9	5	5.2	5
Information and communication	8.1	8.3	8.3	8.2
Financial and insurance activities	2.6	3.2	2.9	3
Real estate activities	4	4.7	3.7	3.9
Professional, scientific and technical activities	8.1	9	8.6	8.7
Administrative and supportive activities	7.9	8.6	9.5	10.9
Public administration and national defence; compulsory social insurance	18	17.1	14.4	16.4
Education	9.2	12.2	12.3	9.1
Health and social welfare	4.3	2.8	2.6	4.6
Arts, entertainment and recreation	6.9	4.7	4.9	5
Other activities	4.4	3.9	3.6	2.9
<b>Women</b>				
Activities total	325.4	325.6	307.7	295.8
Agriculture, forestry and fishing	9.6	7.7	8	8.2
Mining and quarrying	..	..	..	..
Manufacturing	59.8	61.8	49.8	46.4
Electricity, gas, steam and air conditioning supply	1.2	1.8	2.6	2.2
Water supply and sewerage, waste and pollution management	..	1	..	..
Construction	7.9	7.5	6.2	3.3
Wholesale and retail trade; repair of motor vehicles and motorcycles	52.1	54.8	51.5	49.7
Transportation and storage	15.4	13.4	13.5	12.4
Accommodation and food service activities	18.5	18.6	14.9	14.4
Information and communication	5.4	7	6	4.2
Financial and insurance activities	6.9	7.2	8.5	6.5
Real estate activities	5.7	5.5	5.5	6.1
Professional, scientific and technical activities	9.4	11.5	12	12.5
Administrative and supportive activities	10.3	8.6	7.3	8
Public administration and national defence; compulsory social insurance	21.2	21.3	22.3	24
Education	45.8	47.7	50.2	47
Health and social welfare	32	28.4	30.4	30
Arts, entertainment and recreation	10.9	10.1	9.3	9.7

Other activities	12.4	11	7.9	9
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Source: Statistics Estonia, Estonian Labour Force Survey

**Table 3.** Employed persons by sectors of the economy, in thousands

	2007	2008	2009	2010
<b>TOTAL</b>	655.3	656.5	595.8	570.9
Primary sector	30.3	25.3	24	24.1
Secondary sector	229.6	232.4	188.7	174.2
Tertiary sector	395.5	398.8	383.1	372.6
<b>Men</b>				
TOTAL	330	330.9	288.1	275.1
Primary sector	20.7	17.6	16	15.9
Secondary sector	159.6	159.7	128.2	120.1
Tertiary sector	149.7	153.7	143.9	139.1
<b>Women</b>				
TOTAL	325.4	325.6	307.7	295.8
Primary sector	9.6	7.7	8	8.2
Secondary sector	70	72.8	60.5	54.1
Tertiary sector	245.8	245.1	239.2	233.5

Source: Statistics Estonia, Estonian Labour Force Survey

**Table 4.** Employed persons by status of employment, in thousands

	2007	2008	2009	2010
<b>TOTAL</b>	655.3	656.5	595.8	570.9
Salaried workers	596.8	605.9	547.3	524
Unpaid workers	58.5	50.6	48.5	46.9
companies with salaried workers	20.7	21.3	22.2	18.8
sole proprietors	36.5	28.3	25.3	27.1
unpaid family workers	1.4	0.9	1	1.1
<b>Men</b>				
TOTAL	330	330.9	288.1	275.1
Salaried workers	288.9	296.2	255.4	243.8
Unpaid workers	41.1	34.7	32.7	31.3
companies with salaried workers	15.8	16.4	16.9	15
sole proprietors	24.9	18.1	15.3	15.7
unpaid family workers	..	..	..	..
<b>Women</b>				
TOTAL	325.4	325.6	307.7	295.8
Salaried workers	307.9	309.7	291.9	280.2
Unpaid workers	17.5	15.9	15.9	15.6
companies with salaried workers	4.9	4.9	5.3	3.8
sole proprietors	11.6	10.3	10	11.4
unpaid family workers	1	0.7	..	..

Source: Statistics Estonia, Estonian Labour Force Survey

**Table 5.** Unemployment rate by regions, %

	2007	2008	2009	2010
Southeastern Estonia	4.7	5.5	13.8	16.9
Northern Estonia	3.3	4.4	12.9	16.2
Central Estonia	5.1	5.7	14.9	15.7
Northeastern Estonia	9	10	18.1	25.8
Western Estonia	4.2	4.5	11.5	14.5
Southern Estonia	4.8	5.7	13.8	15.1

Source: Statistics Estonia, Estonian Labour Force Survey

Comparing the years 2007 and 2010, expenses on active labour market policy have increased by almost five times and amount to 0.44% of GDP in 2010.

**Table 6.** Expenses related to employment policy and proportion thereof in GDP

	2007	2008	2009	2010
Active employment policy expenses (million euros)	8.24	10.91	32.78	32.79
% of GDP	0.05	0.06	0.24	0.23
Passive employment policy expenses (million euros)	15.22	33.06	174.65	124.51
% of GDP	0.10	0.21	1.26	0.87
Employment policy expenses, total (million euros)	23.46	43.97	207.43	157.30
% of GDP	0.15	0.27	1.50	1.10

Source: Eurostat

*Unemployment among people with disabilities.*

**Table 7.** Disabled persons aged 15-74 by labour status, 2008-2010, in thousands

	2008	2009	2010
Employed disabled persons	11.5	10.9	9.9
Unemployed disabled persons	-*	3.7	4.4
Inactive disabled persons	60.2	63.0	60.2

\* Estimate not sufficiently reliable for publication

Source: Statistics Estonia, Estonian Labour Force Survey, Ministry of Social Affairs

**Table 8.** Labour status and employment rate of disabled persons aged 15-64, 2008-2010

	2008	2009	2010
Employment rate of disabled persons, %	23.3	19.4	17.8
Employed disabled persons, in thousands	10.4	9.5	8.6
Inactive disabled persons (neither employed nor unemployed), in thousands	33.4	36.2	35.4

Source: Statistics Estonia, Estonian Labour Force Survey, Ministry of Social Affairs

The proportion of registered unemployed disabled persons has significantly decreased in the last few years. One of the reasons therefor has been a general rapid increase in the total number of registered unemployed persons.

**Table 9.** Registered unemployed disabled persons\*, proportion of all registered unemployed persons (persons aged 16 to old-age pension)

	2006	2007	2008	2009	2010
Registered unemployed disabled persons within the year	4,023	3,793	4,840	8,334	6,382
Proportion of all registered unemployed persons	8.4%	9.4%	7.9%	6.1%	4.1%

\* Submission of information regarding disability upon registration as unemployed is voluntary.

Source: Unemployment Insurance Fund (Labour Market Board)

Disabled job-seekers have an equal possibility to engage in the labour market services offered by the Estonian Unemployment Insurance Fund. Various labour market services are provided: services specifically meant for helping disabled persons find jobs as well as wider labour market services intended for all registered job-seekers. A person can thus receive all the assistance required for job-seeking, various labour market services and unemployment

insurance benefits from one body. A job mediation consultant of the Estonian Unemployment Insurance Fund shall help assess the necessity for participation in labour market services. An Individual Action Plan shall be prepared with the consultant with the objective of finding a job for the unemployed person, plan the necessary activities therefor and allow participation in various measures.

*The Russian-speaking minority, most of whom live in the north-east, are the minority that are most affected by unemployment. Unemployment rates vary considerably from one region to another (from 5.1% in the centre to 16.2% in the north-east in 2006). The Committee asks what steps are planned to try to reduce these disparities.*

In Estonia the regional differences are related to population differences. The highest unemployment rate is in the North East region where the non-Estonian population is high (more than 70 % are non-Estonians). This situation has historical background. One of the labor market services addressed to non-Estonian population is the Estonian language teaching. However, it is clear that only this measure is not enough to improve their situation on labour market. Unemployed persons receive the labour market services based on the Individual Action Plan. The Individual Action Plan shall be prepared within thirty days from the registration of the person as unemployed. Unemployed persons who are not proficient in Estonian and whose employment is difficult for such reason belong to the risk group who receive special attention and support. The basis for the regional economic and employment development is Ida-Virumaa County Development Strategy for 2005-2013.

Please see also Article 10 paragraph 4.

*The Committee asks for the next report to include details of the total number of participants in active measures and the activation rate of unemployed persons. It also asks for information on the results of the new measures referred to above.*

**Table 10.** Participation in labour market services

	2007	2008	2009	2010
Wage subsidy	211	116	194	10,885
Business start-up subsidy*	140	162	495	678
Adaptation of workplace*	2	3	0	1
Provision of special aids and equipment*	3	7	2	6
Working with support person*	30	25	10	15
Public work*	832	592	1,561	1,342
Vocational training	5,719	5,604	15,812	9,706
Job-seeking training	1,341	948	2,403	7,207
Career counselling*	10,326	12,046	23,916	19,018
Work practice	945	782	1,722	3,769
Coaching for working life	1,324	862	1,528	1,003
Communication support at interviews*	28	11	2	4
Psychological counselling	-	305	978	725
Social rehabilitation	-	21	67	23
Working club	-	0	225	995
Other service	-	2	21	289
Participation in labour market services	20,901	21,486	48,936	55,666
Activation rate of unemployed persons**	10.6	5.9	...	...

\* entry = participation, as the service is a one-time service

\*\* data of Eurostat

Source: Unemployment Insurance Fund, Eurostat

## Paragraph 2 - Prohibition of forced labour

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

The ban on use of forced labour is provided in the Constitution of the Republic of Estonia (hereinafter *the Constitution*). § 29 of the Constitution provides that an Estonian citizen has the right to freely choose their area of activity, profession and place of work. No one shall be compelled to perform work or service against his or her free will, except service in the armed forces or alternative service, work to prevent the spread of an infectious disease, work in the case of a natural disaster or a catastrophe, and work that a convict must perform on the basis of and pursuant to procedure established by law. The ban on use of forced labour is thereby not only limited to Estonian citizens but applicable to all persons. The Constitution also protects all persons from not being forced to choose an unwanted profession, assume an unwanted area of activity or job and provides that all persons be treated as equal upon the choice of profession, area of activity and job.<sup>1</sup>

The new Employment Contracts Act (hereinafter the *ECA*) entered into force on 1 July 2009, substantially amending the rules formerly imposed on employment relationships. Pursuant to § 3 of the ECA, employers must ensure the protection of employees against discrimination, follow the principles of equal treatment and promote equality in accordance with the Equal Treatment Act (hereinafter the *ETA*) and Gender Equality Act (hereinafter the *GEA*). The ECA obligates employers to take into account the provisions of the ETA and the GEA with regard to employment relationships for relationships with employees.

The ETA entered into force on 1 January 2009 and the objective thereof is to ensure the protection of persons against discrimination on the grounds of nationality (ethnic origin), race, colour, religion or other beliefs, age, disability or sexual orientation. Discrimination of persons is forbidden for example when entering into an employment contract, during work, when agreeing on and amending working conditions, giving work orders, remuneration, promoting the employee, cancelling the employment contract, etc. The ETA obligates employers to

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<sup>1</sup> Eerik-Juhan Truuväli et al. Constitution of the Republic of Estonia. Commented Edition. Second edition (amended), 2008, page 312.

promote the principles of equal treatment. Employers must implement necessary measures in order to protect employees from discrimination.

The objective of the GEA is to ensure equal treatment women and men and to promote gender equality. In professional life, cases in which an employer hires, promotes, selects for performance of a task or sends for training a person of one sex and overlooks a person with higher qualifications of the opposite sex are deemed to be discriminating. Overlooking may be justified by good reasons that have to be proved.

Assessment of adherence to the requirements of the ETA and the GEA is performed by the Gender Equality and Equal Treatment Commissioner<sup>2</sup> who can be addressed by both employees and employers. The task of the Commissioner is to observe adherence to the requirements of the two aforesaid Acts. The Commissioner provides counsel and assistance for persons in disputes regarding discrimination and expert opinions with regard to cases of discrimination. In order to provide an opinion, the Commissioner has the right to obtain information from all persons who may possess information that is necessary to ascertain the facts relating to a case of discrimination, and demand written explanations concerning facts relating to a possible case of discrimination, and submission of documents or copies thereof within the term designated by the Commissioner.

Pease see also Article 20.

*2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.*

As the new ECA substantially amended the rules formerly imposed on employment relationships, the Ministry of Social Affairs prepared a Handbook for the ECA that includes comments and instructions regarding all the sections of the ECA. The Handbook is meant to be usable by both employers and employees. The ECA and the Handbook can be accessed at the website of the Ministry of Social Affairs. A new and more extensive Handbook for the ECA is currently being prepared, further explaining the content of the Act and handling the issues for implementing the ECA in an even more detailed manner. The Handbook shall also

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<sup>2</sup> Information regarding the Gender Equality and Equal Treatment Commissioner is available at: <http://www.svv.ee/index.php?t=2>.

be published on paper in 2012 and electronically on the website of the Ministry of Social Affairs.

In relation to entry into force of the ECA, the Ministry of Social Affairs held free of charge information days all over Estonia where the ECA was explained by the persons who elaborated the Act. Information days were organised in both Estonian and Russian.

In addition to the aforesaid, the Ministry of Social Affairs has prepared 7 booklets regarding various topics of the ECA: entering into an employment contract, wages, working and rest time, holidays, terminating an employment contract, pregnant employees and parents of small children and young people at work. The booklets provide a short summary of the respective provisions of the Act. The booklets are available in Estonian, Russian and English on the website of the Ministry of Social Affairs. The booklets have also been distributed in the course of information days for the ECA all over Estonia. The booklets in English can be accessed at the following address: <http://www.sm.ee/eng/activity/working-and-managing/employment-contracts-act.html>.

Also please see the answer to the question about practical steps taken to promote equality in employment.

*3) Please provide pertinent figures, statistics or any other relevant information, if appropriate*

No statistical data has been prepared with regard to the ECA for the reporting period as the new ECA entered into force on 1 July 2009. As of now, preparations for conducting an *ex-post* survey of the ECA in 2012 are underway.

Statistical data regarding discrimination is provided in the report on Article 20.

*The Committee again asks for information on practical steps taken to promote equality in employment for all of the forms of discrimination prohibited by law.*

The Ministry of Social Affairs has organised free of charge information days in relation to the new ECA in Estonian and Russian all over Estonia with the aim of introducing the new ECA. The objective of the information days was introducing the content of the new ECA to the participants and separate informative materials (slides) were prepared for this purpose. Materials and leaflets regarding the ECA were handed out in the framework of the information days and the aforesaid are accessibly on the website of the Ministry of Social Affairs. Materials have additionally been submitted to the Labour Inspectorate and the

Estonian Unemployment Insurance Fund to be handed out. The booklets in English can be accessed at the following address: <http://www.sm.ee/eng/activity/working-and-managing/employment-contracts-act.html>.

In order to ensure a more equal situation for unemployed persons compared to employed persons for getting a job, the Unemployment Insurance Fund applies individual employment measures for unemployed persons. This means individual support for finding a job and employment for persons for whom it is hard to find a job due to long-term unemployment, social problems or disability. The supportive activities include motivating job-seekers, assisting in finding a suitable job, counselling and support during work and counselling of the employer and co-workers.

Offering any services to an unemployed person takes place according to his or her needs. For this purpose, an Individual Action Plan is prepared whereas the Plan is more detailed for persons belonging to a risk group.

Pursuant to subsection 10 (5) of the Labour Market Services and Benefits Act, the following persons are deemed to belong to a risk group:

- 1) unemployed persons with disabilities who need additional help upon commencing employment due to the disability;
- 2) unemployed persons of 16-24 years of age;
- 3) unemployed persons released from prison within the twelve months preceding registration as unemployed;
- 4) unemployed persons of 55 years up to the pensionable age;
- 5) unemployed persons who have been caring for a person with disability prior to their registration as unemployed to whom a rural municipality or city government has paid an allowance for such care, and who have not been employed or engaged in an activity equal to work during the twelve months prior to their registration as unemployed;
- 6) A long-term unemployed person who has not engaged in the work specified in subsection 26 (3) of the Labour Market Services and Benefits Act or in an activity equal to work for at least the twelve months immediately preceding registration as unemployed. A young person of 16-24 years of age is deemed to be a long-term unemployed person if he or she has not been engaged in the work specified in subsection 26 (3) of the Labour Market Services and Benefits Act or in an activity

equal to work for at least six months immediately preceding registration as unemployed;

- 7) unemployed persons who are not proficient in Estonian and whose employment is difficult for such reason; and
- 8) any other unemployed persons whose possibility to find employment is particularly hindered.

Labour Market Services are afforded by ESF projects, which you can find from the website: <http://www2.sm.ee/esf2007/files/kertu/Tööhõiveprogramm%202007-2013.pdf>.

Information on the activities carried out under the European Social Fund programme “Promotion of Gender Equality in 2008 – 2010” is provided in the report on Article 20.

*According to the current report and the previous one (Conclusions 2006), nationals of European Union member states may be appointed to any post in central or local government, even as senior officials, except ones involving the exercise of public authority. The only conditions to be met are those prescribed in law, such as language proficiency. Nationals of non-European Union member states cannot work as central or local government officials. The Committee asks for confirmation that there is therefore a difference of treatment in access to employment between nationals of European Union member states and those of state parties that are not members of the Union, and for the reasons for this difference.*

Constitution of the Republic of Estonia § 30 provides obligation to fill public service only by the citizens of Estonia. These positions may, as an exception, be filled by citizens of foreign states or stateless persons, in accordance with law. If public interest demand, is possible to make exception by law, for example if it's not possible to find qualified citizens of Estonia and this situation is not continual.

Public Service Act (hereinafter the *PSA*) is following the same principle. According to *PSA* § 14 section 1 an Estonian citizen who has attained eighteen years of age, has at least a secondary education, has active legal capacity and is proficient in Estonian to the extent provided by or pursuant to law may be employed in the service as a state or local government official. Section 3 of the same paragraph is enacting that a citizen of a Member State of the European Union who conforms to the requirements established by law and on the basis of law may also be appointed to a position. Only Estonian citizens shall be appointed to positions which involve exercise of public authority and protection of public interest. Such positions are, for example, exercise of state supervision, national defense and

judicial power, processing of state secrets, representing of public prosecution and diplomatic representation of the state, and the positions in which an official has the right, in order to guarantee public order and security, to restrict the basic rights and freedoms of persons. PSA provides that different requirements for employment in the service shall be established by law or pursuant to law.

According to the principle of free movement, the Estonian labor market must be open to EU citizens. Therefore, the EU citizens have right to stand for public service on equal terms with the citizens of Estonia. Exceptions can be made in positions, which are directly related involving exercise of public authority and presume intense connection with state. Those positions permitted to reserve to the citizens of Estonia.

In order the regulation to be flexible and to enable the public service to enter into service citizens from foreign states, the PSA § 17 foresees that specific legislation could stipulate other hiring requirements in well-grounded cases. Therefore is possible, in accordance with PSA, to assign other citizens of foreign countries, who are not the citizens of European Union.

*Article 29 of the Estonian Constitution prohibits forced labour. The only exceptions are specified in paragraph 2 of this article, and concern military and alternative service, measures to prevent the spread of infectious diseases, natural disasters and work which by law is required of persons convicted of offences. The Committee considers that these exceptions are compatible with Article 1§2 of the Revised Charter. It asks whether there are any other circumstances in which persons may be required under Estonian law to perform work without their consent.*

Pursuant to § 29 of the Constitution, no one shall be compelled to perform work or service against his or her free will, except service in the armed forces or alternative service, work to prevent the spread of an infectious disease, work in the case of a natural disaster or a catastrophe, and work that a convict must perform on the basis of and pursuant to procedure established by law. The Constitution provides the protection of every person from forced labour.

In addition to the provisions of the Constitution, the ECA provides for instances where the employer may demand that an employee perform work. To demand an employee perform the work is possible only in case of special circumstances. Pursuant to subsection 17 (4) of the ECA, performance of work not related to an employment contract, collective agreement

or legislation may be demanded if arising from an emergency. An emergency is presumed to be an event of possible damage or a threat of such damage to the property or other legal rights of the employer caused above all by *Force majeure*. Pursuant to subsection 103 (2) of the Law of Obligations Act, *Force majeure* is deemed to be a circumstance that is beyond the control of the employer and which they could not reasonably have been expected to take into account or avoid. In the event of an emergency, the consequences for the employer arising from the emergency and the rights of the employee beyond the employment relationship shall be compared. In the event that an employee performs the tasks arising from an emergency, the employer has the obligation to pay remuneration to the employee for the work performed. An employee has the right to refuse to perform a task not related to the employment contract if it does not arise from an emergency.

In addition to the aforesaid, an employer may demand performance of overtime from an employee in certain circumstances. Pursuant to subsection 44 (4) of the ECA, according to the principle of good faith the employer may demand that an employee work overtime due to unforeseen circumstances related to the undertaking or activities of the employer, particularly in order to prevent any damage. Upon demand of overtime, protection of an employee is ensured by three prerequisites:

- Firstly, demanding overtime is justified under special circumstances that are not generally existent in an employment relationship. For example avoiding the damage or if the working process must be continuous and an employee is not arriving to work at the right time. In the not exceptional cases the employer must find other solution, that is to say must have the acceptance from an employee to work overtime or recruit complementary labour.
- Secondly, overtime may be demanded if performance thereof is necessary. Overtime is necessary only if the performance thereof cannot be delayed and it must be performed immediately.
- Thirdly, overtime may only be demanded if the performance thereof can be expected from an employee pursuant to the principle of good faith. The legislation herein requires weighing the interests of the employer and the employee whereas overtime may only be demanded if the interests of the employer overwhelm those of the employee.

Performance of overtime on the basis of subsection 44 (4) of the ECA may not be demanded from minors for whom performance of overtime is completely forbidden, as well as from pregnant women and employees who are entitled to pregnancy and maternity leave. Based

on the principle of good faith, it shall be considered in every case whether the employee is able to perform overtime arising from health concerns.

In addition please see the answer of the next question.

*The Committee asks whether prisoners can be required to work outside prison, without their agreement, for a firm or private body. It also asks what types of work prisoners may be obliged to perform.*

Pursuant to subsection 37 (1) of the Imprisonment Act, prisoners are required to work. Pursuant to subsection 38 (1) of the Imprisonment Act, a prison shall ensure that a prisoner is provided with work if possible, having regard to the physical and mental abilities and skills of the prisoner. If it is impossible to ensure that a prisoner is provided with work, the prisoner shall be required to participate in maintenance work if possible. Pursuant to subsection 38 (2), a prison may build plants within or outside its territory, allow prisoners to work outside the prison or require prisoners to participate in the maintenance of the prison in order to ensure prisoners with work. Pursuant to subsection 38 (3) of the Imprisonment Act, a prison may also grant permission to build plants within the territory of a prison to natural persons or undertakings if such persons or undertakings enter into a corresponding contract with the state or a legal person in private law carrying out administrative duties of the state. Pursuant to subsection 37 (5) of the Imprisonment Act, prisoners may be required to work at the plants specified in subsection 38 (3) of the Imprisonment Act only with the consent of the prisoners. According to subsection 39 (4) prisoners shall be required to participate in the prevention of a natural disaster, epidemic, accident or catastrophe or the elimination of the effects thereof and in case of other emergencies. In such event, the prison shall ensure the security and safety of the prisoners.

It is therefore impossible for prisoners to work in an undertaking in private law or for the benefit of such an undertaking without their consent. Prisoners are under the obligation to perform work only with regard to work offered by the state (whether directly or through a legal person in private law carrying out administrative duties of the state).

Pursuant to subsection 41 (2) of the Imprisonment Act, the provisions of labour laws, including the provisions concerning entry into employment contracts, remuneration and holidays, shall apply to unsupervised work of prisoners outside a prison. An employment contract entered into with a prisoner shall not indicate that he or she is serving a sentence.

Currently there are people working outside from open prison unit in Harku and Murru Prison and Viru Prison open prison unit. Also prisoners in Tartu Prison are working outside. 1st of October 2011 in total 93 inmates were working outside:

- Harku and Murru Prison: 26 prisoners;
- Viru Prison: 45 prisoners;
- Tartu prison: 22 prisoners.

Most common areas of work are metal work, carpentry and manufacturing.

*Under Article 1§2 of the Charter, alternative service may not exceed one and a half times the length of armed military service. Since alternative service may last up to twice the length of military service, the situation in Estonia is not compatible with the Revised Charter.*

Having regard to the negative conclusions regarding Estonia, the Defence Forces Service Act was amended. Pursuant to the Defence Forces Service Act, the duration of the conscript service obligation is a period during which a person liable to service in the Defence Forces is required to perform the duty to serve in the Defence Forces as a conscript. The duration of compulsory military service, which shall not be longer than twelve months or shorter than eight months, shall be determined by the Government of the Republic on the proposal of the Minister of Defence. The duration of compulsory military service depends on the service of the Defence Forces, the nature of the military training, the tasks set for the military unit and the acquisition of higher education by the conscript at a vocational educational institution, institution of professional higher education or university on the basis of an accredited curriculum (subsections 61 (1), (3) and (4)). The duration of alternative service may not be longer than 12 months or shorter than eight months. The duration of alternative service shall be determined by the Government of the Republic on the proposal of the Minister of Defence (§ 74). The amendment entered into force on 1 July 2010.

Pursuant to Regulation no. 139 “Determination of Duration of Compulsory Military Service and Alternative Service” of the Government of the Republic, the duration of compulsory military service is 8 months as of 13 August 2009 except for the following cases specified in the Regulation in which the duration of compulsory military service is 11 months:

- 1) conscripts in compulsory military service in the navy;

- 2) conscripts who have been directed to communications or information technology training in the course of compulsory military service and assigned positions in the field of communications or information technology;
- 3) conscripts who have been directed to non-commissioned officer training in the course of compulsory military service and assigned a non-commissioned officer position;
- 4) conscripts who have been directed to reserve officer training in the course of compulsory military service;
- 5) conscripts who have been directed to Military Police training in the course of compulsory military service and assigned a Military Police position; and
- 6) conscripts who have been directed to acquire the right to drive motor vehicles of at least one category in the course of compulsory military service and assigned the position of driver.

The duration of alternative service is 12 months.

*The Committee asks for information to enable it to determine how far human freedom and dignity are protected by legislation and the courts against intrusions into personal or private life that may be associated with or result from the employment relationship (see observations on Article 1§2, General introduction to Conclusions 2006, §§13-21).*

The protection of personal and private life of employees is ensured with the Personal Data Protection Act (hereinafter the *PDPA*) that provides the protection of the fundamental rights and freedoms of natural persons upon processing of personal data and the right to inviolability of private life. In addition to the PDPA, the protection of the personal and private life of employees is ensured by clause 28 (2) 11) of the ECA, pursuant to which an employer is obliged to respect the privacy of employees and inspect the performance of their duties in a manner that does not violate the fundamental rights of the employees. In the event that an employer processes the personal data of an employee, they shall ensure that the personal data of the employee is processed pursuant to the Personal Data Protection Act as provided in subsection 41 (2) of the ECA.

Processing personal data is permitted only with the consent of the employee unless otherwise provided by law. Pursuant to subsection 10 (1) and subsection 12 (7) of the PDPA, an employee may withdraw consent at any time. Subsection 12 (3) of the PDPA provides that before obtaining the consent of an employee for processing personal data, the employer shall notify the employee of the name, address and other contact details of the processor of

the personal data. The employee must therefore be aware of by whom and where the data collected about them is used.

The Data Protection Inspectorate has prepared instructions for personnel workers that covers the subject of processing personal data in employment relationships. The instructions describe how to process personal data upon hiring an employee and for the duration of the employment relationship (e.g. monitoring an employee with various surveillance equipment, collecting health data of an employee, reading e-mails, etc.) and specifications with regard to access to data about an employee. In addition to the PDPA, an employer is obliged to adhere to the explanations of the Data Protection Inspectorate regarding processing personal data in employment relationships. The instructions prepared by the Data Protection Inspectorate can be accessed at: <http://www.aki.ee/est/>.

For protection against discrimination in an individual employment relationship an employee can address the Gender Equality and Equal Treatment Commissioner, **Chancellor of Justice**, The Labour Inspectorate and court. In addition, according to the Trade Unions Act (hereinafter the *TUA*), in individual employment relationships, trade unions shall represent and protect the rights and interests of their members on the basis of authorisations from the members unless otherwise provided by law. Trade unions have the right to represent and protect the rights and interests of employees who are not members of trade unions provided that the employees submit corresponding written authorisations to the trade unions (subsection 16 (2) and (3)). Trade unions can therefore be addressed in relation to discrimination by both members of trade unions as well as employees who are not members of trade unions.

### Paragraph 3 – Free placement services

*1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.*

Please see Article 1 paragraph 1.

*2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.*

In order to ensure faster access to information regarding vacancies for job-seekers and to create possibilities for faster servicing of job-seekers, the Estonian Unemployment Insurance Fund started develop a self-service portal in 2009. The portal was officially opened in April 2011 as a virtual office of the Unemployment Insurance Fund. Various services of the Unemployment Insurance Fund, e.g. entering of job offers for employers, applying for vacancies for job-seekers, submission of applications to the Unemployment Insurance Fund, application for benefits, registering receptions, etc., can be used via the portal. Use of the self-service portal is free of charge.

*3) Please provide indicators, estimated if necessary, on the functioning and the performance of the employment services in practice, including the number of vacancies registered by employment services; placement rate (placements made by the employment services as a share of notified vacancies).*

The Estonian Unemployment Insurance Fund started assessing the efficiency of labour market services regularly (once per half-year) from 2010. The characteristics of the labour market services have to be taken into account upon assessing the efficiency (impact) of labour market measures as only two active labour market services (wage subsidy and business start-up subsidy) are directly related to immediate entry of a person to the labour market.

Efficiency is assessed generally by labour market measures, not by risk groups (i.e. it is not possible to express specific efficiency by risk groups). Assessment results indicate that approximately 50% of unemployed persons registered as unemployed persons returned to employment within 12 months in 2009.

The efficiency of labour market training and work practice is viewed separately as a proportion of persons who gained employment (total impact of the measure) 6 months after the end of the respective measure. As the assessment can only take place after the passing of 6 months, the assessments of the measures are somewhat delayed.

According to current data, the efficiency of labour market training has improved since 2010 compared to data at the end of 2009 thanks to approval of new training principles that better connect the needs of unemployed persons and the labour market. The results of 2010 regarding training sessions that ended in the period from the end of 2009 to the beginning of 2010 indicated that 36% of the participants in labour market training returned to employment within 6 months. The efficiency of work practice (training at an undertaking) has also improved. While 39% of persons had returned to employment thanks to work practice sessions that ended in the period from the second to third quarter of 2009, the rate stood at 59% for work practice sessions that ended in the period from the end of 2009 to the beginning of 2010.

Certain active labour market measures have been assessed in detail in single packages that are provided by means of the programme "Increasing the Availability of Qualified Labour Force for 2007-2013" funded by the European Social Fund. Praxis Centre for Policy Studies assessed the measures provided (work practice, coaching for working life and business start-up subsidy) by relevance, efficiency, impact and sustainability in 2010 for the period from 2007 to 1 July 2010. Three different services were assessed within the framework of the project. The results of the assessment serve as basis for developing the efficiency of labour market services. The assessment report in Estonian can be accessed at:

[http://www2.sm.ee/esf2007/files/hindamine2010/THPhindamine lõpparuanne Praxis 30-11-2010.pdf](http://www2.sm.ee/esf2007/files/hindamine2010/THPhindamine_lõpparuanne_Praxis_30-11-2010.pdf).

#### *Efficiency of the business start-up subsidy*

Pursuant to the assessment conducted by the Praxis Centre for Policy Studies, the users of the service are generally satisfied with the conditions for receiving the subsidy (including the amount of subsidy, which in many cases meets the most of the investment requirements). Thanks to its simple design, the service can be clearly understood and therefore does not raise too many questions. The feedback received in the course of the assessment regarding the dissatisfaction due to bad accessibility of information (including information in Russian) has already been partially resolved by improving the information on the website of the

Unemployment Insurance Fund and by means of information desks set up in all offices of the Unemployment Insurance Fund in 2009 where it is possible to receive information regarding the conditions for receiving any services or benefits via a consultant. Additionally, a call centre for requesting information by phone or Skype was created in September 2009. Bigger offices hold regular information hours for new registered unemployed persons where the conditions for receiving the services and benefits are *inter alia* introduced. The situation has therefore improved by now.

The requirements for preparing a business plan are generally feasible for most of the applicants and assistance for preparing a business plan is used by few. Business training has helped achieve better results. The offered follow-up services (it is possible to receive counselling, participate in mentor-clubs and receive supportive training within two years of receiving the subsidy in addition to financial support) help the positive impact of financial support. As provision of compound assistance commenced more intensively in 2010, the specific aftereffect thereof is difficult to assess as of now.

#### *Efficiency of work practice*

The data of the Unemployment Insurance Fund only allows gathering information with regard to work practice of whether work practice was followed by termination of registration as unemployed in a certain period and whether the reason therefor was employment (including becoming a sole proprietor or commencing business activities). The data of the Unemployment Insurance Fund does not allow observing in detail whether gaining employment took place within the framework of work practice or not. The following Table provides an overview of the efficiency of work practices by using the criterion “employment within 6 months of finishing practice” in use by the Unemployment Insurance Fund. The respective data may underestimate the efficiency of work practice to a certain degree in the respect that in some cases, inefficient (interrupted) work practice may have also resulted in gaining employment. In addition, work practice may have been interrupted due to commencing work.

**Table 11.** Efficiency of work practice

Year	Finished cases of work practice <sup>3</sup>	Number of efficiently ended cases of work practice <sup>4</sup>	Registration as unemployed ended within 180 days of ending practice: employment <sup>5</sup> (efficient cases of work practice)	Gain of employment of all persons who finished work practice, %	Gain of employment of all persons who finished efficiently, % <sup>6</sup>
2008	316	228	112	35%	49%
2009	1,059	784	303	29%	39% <sup>7</sup>

Source: Unemployment Insurance Fund

#### *Efficiency of coaching for working life*

The description of the service of coaching for working life is not specified, thereby allowing for a flexible approach to the needs of the target groups. Third sector organisations clearly dominate in offering the service of coaching for working life. Comparing the offers for the respective service in various types of institutions by duration, the longest durations for coaching for working life are in the public sector – average of 100 days. Service providers of the private sector have organised coaching for working life for a significantly shorter period of time – about two and a half months.

When assessing the efficiency of the service of coaching for working life, it is important to observe whether and to what extent the persons directed to coaching for working life are participating in other services provided by the Unemployment Insurance Fund. For this purpose, the Table below also indicates participation in other services of the Unemployment Insurance Fund among persons participating in coaching for working life. The sessions of

<sup>3</sup> All work practices with date of ending noted; 0-day work practices not taken into account.

<sup>4</sup> Result: "finished".

<sup>5</sup> Includes sole proprietors and persons who commenced business activities.

<sup>6</sup> Result: "finished".

<sup>7</sup> 2009 data may not be final as 6 months had not yet commenced by May 2010 of the work practices that commenced at the end of 2009.

coaching for working life commenced in 2008 and 2009 have been observed as they have respectively ended by the time of observation and assessing the results is relevant. The Table indicates that the most frequently used services were career counselling along with training and psychological counselling.

**Table 12.** Participation in other services of the Unemployment Insurance Fund among persons participating in coaching for working life, 2008-2009

	N	%
Career counselling	429	24
Training	146	8
Psychological counselling	138	8
Work practice (including long work practice)	31	2
Social rehabilitation	4	0
Working club	1	0
Other service	1	0
Business start-up subsidy	0	0
Total number of persons participating in coaching	1,789	

Source: Database of the Unemployment Insurance Fund

Current coaching for working life services encompass various simple manual activities (the work component of coaching for working life) and counselling activities to a general extent of 20%. The content of counselling activities is varied. It generally includes psychological counselling, but also various training for unemployed persons in certain cases (computer literacy, language training, applying for jobs in the labour market, etc.) as well as debt counselling, etc. The coaching for working life service is often not addressed at the aspects that impact the competitiveness of the unemployed person (education, lack of skills necessary on the labour market, etc.). However, as the service is essentially a preliminary service for entry into other active labour market measures, the prerequisite lies in the fact that activities that directly increase competitiveness are included in the measures following the coaching for working life service.

The assessment conducted by the Praxis Centre for Policy Studies indicates that coaching for working life should be a part of a longer process that is immediately followed by further participation in other services, respectively depending on the motivation and needs of the participant, in order to fulfil the objective of coaching for working life and meet the needs of the target group. It is important to avoid a pause between various services in order to preserve the work habit. This assumes an individual planning process and smooth transition

between the services. This is made feasible by individual feedback from the person offering the service.

*The Committee asks what percentage of the market the public employment services represent, that is placements made by the public employment services as a percentage of the total number of persons recruited on to the labour market.*

**Table 13.** Market share of state employment offices, role of state employment offices in supporting persons in finding a job

	2007	2008	2009	2010
Number of persons who gained employment per year*	185,256	151,653	81,108	111,885
Number of persons who gained employment via the Unemployment Insurance Fund	14,167	17,078	28,286	58,550
Vacancies registered by the Unemployment Insurance Fund	30,096	21,221	14,460	38,406
Ratio between number of persons who gained employment via the Unemployment Insurance Fund and registered vacancies	0.5%	0.8%	2.0	1.5
Number of persons who gained employment via the Unemployment Insurance Fund as proportion of all persons who gained employment	7.6%	11.3%	34.9%	52.3%

\* data of Statistics Estonia

Sources: Statistics Estonia, Unemployment Insurance Fund

#### **Paragraph 4 – Vocational guidance, training and rehabilitation**

Please refer to Article 9 for information related to vocational counselling.

Please refer to Article 15 for information related to disabled persons.

*1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.*

The Vocational Educational Institutions Act (1998) regulates matters related to vocational educational institutions. The purpose of the Act is to provide the bases for the establishment, reorganisation and closure of vocational educational institutions, the bases for organisation of studies, the principles of management of vocational educational institutions, the bases for budgeting and financing of vocational educational institutions, the rights and obligations of members of vocational educational institutions, and state supervision over the activities of vocational educational institutions.

The Professions Act entered into force on 1 September 2008. The purpose of the Act is creating a compound professional qualifications system and ensuring the operation thereof for increasing the competitiveness of Estonian employees - developing, assessing, recognising and comparing their professional competence. The professional qualifications system is a part of the qualifications system for recognition of learning outcomes. The professional qualifications system connects educational system with labour market.

*2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.*

The Estonian Vocational Education System Development Plan for 2005-2008 was finished at the end of 2004.<sup>8</sup> Two significant documents that determine developments in vocational education were based on the development plan: the Vocational Education Standard (2006) for creating a system of study programmes, including national vocational programmes, and the State Vocational Educational Institutions Network Reorganisation Plan for 2005-2008

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<sup>8</sup> The Development Plan in Estonian can be accessed at: [www.hm.ee/index.php?popup=download&id=3812](http://www.hm.ee/index.php?popup=download&id=3812).

(2005). On the basis of the objectives provided in the development plan, the Vocational Educational Institutions Act was amended, with the most important amendment being the establishment of new types and forms of vocational education (2005).

A new procedure for state-commissioned education in vocational education was established in 2007. The procedure amended the former one-year admission-based state-commissioned education to a state-commissioned education for a three-year period based on the average filled spots per year. The state-commissioned education shall be presented to schools by curriculum groups without determining the type, form or specific vocational programme for vocational education; the school also determines the time of admission of students. The purpose of the amendments is to increase the autonomy of schools in organised vocational education and to motivate schools to engage more in mechanisms that help students graduate successfully. Draft legislation for specifying the procedure and definitions of state-commissioned education was prepared in 2009. The draft legislation provides for establishment of a permanent committee for resolving issues related to state-commissioned education. The procedure for state-commissioned education approved by Regulation of the Minister of Education and Research and the committee established on the basis thereof encompass both initial vocational education as well as adult vocational training.

The procedure for workplace-based study (apprenticeship) was established in 2007. Schools have thus been able to implement apprenticeship pursuant to general procedure as of the 2007/2008 academic year whereas it formerly took place within the framework of two pilot projects managed by SA Innove with funding support from Phare and the ESF.

In addition to formal education acquired within the adult education system, vocational educational institutions offer more in-service training and retraining in order to ensure the accessibility of professional education and training for all interest groups and in all regions. As of autumn 2007, state-commissioned education has been implemented for vocational educational institutions and institutions of professional higher education that provide formal education acquired within the adult education system mainly from the funds of the European Social Fund. Over 27,000 persons studied in adult professional education and training courses in vocational educational institutions in 2008; the respective number was approximately 25,500 in 2009.

Pursuant to the initial assignment approved by the Government of the Republic, the Ministry of Education and Research prepared the Estonian Vocational Education System Development Plan for 2009-2013 in 2009. The Government of the Republic approved the

draft Development Plan and the implementation plan for 2009-2011 on 11 September 2009. The Development Plan provides four main objectives for the vocational education system that include focusing on students, the quality of studies, connection with the society and the labour market and the organisation of vocational education.

Several amendments are planned in vocational education and related fields. Discussions about ensuring the quality of vocational education have progressed more than other discussions. There is an agreement regarding a model for ensuring the quality of the vocational educational system that is based on and in accordance with the recommendations of the European Commission. The principles for extending the accreditation and education licence system of vocational educational institutions have been elaborated – education licences are currently only applicable for private and municipal vocational educational institutions.

Supplementation of the detailed conception and legislation as well as preparations for implementation of accreditation took place in 2009-2010. Internal evaluation (related to accreditation) was made mandatory for vocational educational institutions. For accreditation and education licences, it has been agreed that the aforesaid shall be based on the curriculum groups. The resources of the European Social Fund for the period 2007-2013 are used for elaboration and introduction of the system (by means of a programme of substantive development of vocational education managed by the National Examinations and Qualifications Centre).

*3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.*

Studies in vocational education may be commenced after graduation from basic school or upper secondary school. Acquisition of vocational secondary education on the basis of basic education is performed within a minimum time period of 3 years. Graduates receive a diploma regarding acquisition of vocational secondary education. Acquisition of vocational training on the basis of secondary education is performed within a time period of half a year to two and a half years (20-100 weeks of study). Graduates of vocational educational institutions who wish to continue their studies in a university shall generally have to perform final examinations on the same grounds as persons graduating from upper secondary schools as required by universities for admission.<sup>9</sup>

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<sup>9</sup> Organisation of Estonian Education System 2009/2010.

### *Students in vocational education*

While the total number of vocational educational institutions was 48 in the 2006/2007 academic year, a total of 51 schools providing vocational education were active in the 2010/2011 academic year in Estonia.<sup>10</sup>

**Table 14.** Number of students by type of study, academic years 2006/2007 to 2010/2011

<b>Type of study</b>	<b>2006/07</b>	<b>2007/08</b>	<b>2008/09</b>	<b>2009/10</b>	<b>2010/11</b>
Vocational training without requirement of basic education	169	307	414	420	354
Vocational training on the basis of basic education	208	424	505	598	581
Vocational secondary education	18,795	18,030	17,648	17,627	16,897
Vocational training on the basis of secondary education	9,478	8,620	8,672	9,718	10,180
<b>TOTAL</b>	<b>28,651</b>	<b>27,381</b>	<b>27,239</b>	<b>28,363</b>	<b>28,012</b>

Source: Estonian Education Information System (EHIS), 10.11.2006–10.11.2010

**Table 15.** Change in number of students by group of studies, academic years 2006/2007 to 2010/2011

<b>Group of studies</b>	<b>2006/07</b>	<b>2007/08</b>	<b>2008/09</b>	<b>2009/10</b>	<b>2010/11</b>	<b>Change in 5 years</b>
Humanities and art	1,084	1,016	1,080	1,225	1,295	+19%
Science	1,215	1,221	1,459	1,894	2,215	+82%
Agriculture	1,979	1,952	1,898	1,867	1,764	-11%
Social sciences, business and law	3,468	3,339	3,372	3,288	2,960	-15%
Services	6,514	6,183	6,337	7,088	7,162	+10%
Engineering, manufacturing and construction	13,602	12,970	12,491	12,334	11,819	-13%
Health and welfare	789	700	602	667	797	+1%
<b>TOTAL</b>	<b>28,651</b>	<b>27,381</b>	<b>27,239</b>	<b>28,363</b>	<b>28,012</b>	<b>-2%</b>

Source: EHIS 10.11.2006–10.11.2010

By gender, there are more male students in vocational education. In the 2010/2011 academic year, male students comprised 57% of all students (by comparison, the rate was at 55% in the 2006/2007 academic year). Gender proportions are more different by groups of studies. The proportion of male students has been the biggest in the field of engineering, manufacturing and construction throughout time. The proportion of male students is also high in the field of science. There are more female students in the fields of study of services and social sciences, business and law. The field of health and welfare is practically dominated by female students.

The data of the EHIS can be followed from the year 2006 with regard to the age of the students. While the average age of students in post upper secondary vocational education training has remained relatively stable at 27 years, it has constantly increased in vocational education training on the basis of basic education (upper secondary vocational education training included). Instead of persons graduating from basic school, there are more students whose studies in secondary education have been interrupted or who have strayed from their education for a few years.

**Table 16.** Change in average age of students in vocational education, academic years 2006/2007 to 2010/2011

	2006/07	2007/08	2008/09	2009/10	2010/11
Post upper secondary vocational education training	26.9	27.5	27.3	26.6	26.8
Vocational education training on the basis of basic education (upper secondary vocational education training included)	17.6	17.8	17.9	18.2	18.4

Source: EHIS 10.11.2006-10.11.2010

It is possible to obtain education both in Estonian and Russian in Estonian vocational educational institutions. While the number of persons who wished to study in Russian has constantly decreased in previous years, there was no change in the 2010/2011 academic year compared to the previous academic year and the proportion of students obtaining education in Russian remains at 25% of all students. For comparison, in the 2006/2007 academic year, 69% of all the students obtaining vocational education studied in Estonian and 31% in Russian.

#### *Admission to vocational education*

Admission in vocational educational institutions was particularly successful in autumn 2009. Admission to vocational education increased by 10% in the 2009/2010 academic year compared to the 2008/2009 academic year, meaning the admission of nearly 1,200 new students. However, the respective increase was rather a single occasion that probably resulted from the economic crisis (various persons who lost their position in the labour market returned to the education system to continue their interrupted studies or acquire a new profession) as the number of admissions decreased to the level of 2007 again in autumn 2010.

**Table 17.** Admission to vocational education, academic years 2006/2007 to 2010/2011

2006/07	2007/08	2008/09	2009/10	2010/2011
11,768	11,314	11,456	12,609	11,319

Source: EHIS 10.11.2006-10.11.2010

By observing admission by types of study, it becomes apparent that the number of admissions is above all decreasing in vocational secondary education. Admission to vocational training on the basis of secondary education has also decreased in the last years; however, compared to the 2006-2008 period, the respective rate still remains high.

**Table 18.** Admission to vocational education by types of study, academic years 2006/2007 to 2010/2011

Type of study	2006/07	2007/08	2008/09	2009/10	2010/11
Vocational training without requirement of basic education	132	255	352	291	245
Vocational training on the basis of basic education	117	98	158	326	246
Vocational secondary education	6,891	6,469	6,357	6,389	5,497
Vocational training on the basis of secondary education	4,628	4,492	4,589	5,603	5,331
TOTAL	11,768	11,314	11,456	12,609	11,319

Source: EHIS 10.11.2006–10.11.2010

### *Interruption of studies*

Interruption of studies is a problem in vocational education, but there have been signs of improvement in the last years. The proportion of persons whose studies are interrupted is found on a person-based method, i.e. it is examined how many of the persons listed in the list of students as of 10 November have stopped studying during the academic year. Persons who were admitted but did not actually turn up for studies as well as students who changed their profession within the educational institution in the same curriculum group are not counted among persons who have interrupted their studies.

Compared to the 2006/2007 academic year, the dropout rate in vocational education decreased by more than two percentage points by the 2009/2010 academic year. In terms of type of study, the dropout rate is the highest in vocational training on the basis of basic education and vocational training without requirement of basic education. It is hereby important to note that the dropout percentage in both types of study is affected by the big proportion of studies in prison. The reason for interruption of vocational education conducted in prison is often the release of the prisoner. The dropout rate of regular students in vocational training without requirement of basic education was 29.7% and the rate was 30.1% in vocational training on the basis of basic education in the 2009/2010 academic year.

The proportion of persons whose studies were interrupted is the lowest in vocational secondary education – 15.5% in the 2009/2010 academic year. The dropout rate from vocational secondary education somewhat increased compared to the 2008/2009 academic year, yet it was still significantly lower than the respective rate in the 2006/2007 academic year. The dropout rate from vocational training on the basis of secondary education has also decreased.

**Table 19.** Interruption of studies in vocational education, academic years 2006/2007 to 2009/2010

Type of study	Number of dropouts	Proportion of dropouts						
Vocational training without requirement of basic education	199	61.5 %	302	60.9 %	254	47.8 %	182	31.9 %
Vocational training on the basis of basic education	109	26.4 %	202	26.9 %	166	23.6 %	286	33.9 %
Vocational secondary education	3,857	18.3 %	3, 358	16.6 %	2,920	14.7 %	3,090	15.5 %
Vocational training on the basis of secondary education	2,560	23.4 %	2, 280	22.4 %	2,225	22.6 %	2,325	21.1 %
TOTAL	6,725	20.3 %	6,142	19.1 %	5,565	17.9 %	5,883	18.1 %

Source: EHIS 10.11.2006–10.11.2010

#### *Gain of employment following studies*

As of 2007, the Ministry of Education and Research collects data from vocational educational institutions and institutions of professional higher education that provide vocational education regarding gain of employment of graduates within 6 months of graduation within the framework of state-commissioned education. The contact details of graduates are traditionally recorded in schools every year and the former course instructors contact the graduates in the autumn/winter period in order to learn about their status.

During the recession, the number of persons who continued their studies after graduating from vocational training (generally in vocational training on the basis of secondary education or in higher education) increased substantially.

**Table 20.** Gain of employment of graduates from vocational education within 6 months of graduation, 2007-2010 (%)

	2007	2008	2009	2010
Working in the studied or similar profession	58%	52%	35%	39%
Working in another profession	16%	16%	15%	18%
Working and continues studying	3%	7%	4%	5%
Continues studying	10%	11%	20%	18%
In service in the Defence Forces or at home with child	9%	9%	8%	7%
Unemployed	3%	7%	19%	14%

Source: Vocational Educational Institutions Division of the Ministry of Education and Research, 2011

*The Committee found that the situation with regard to vocational guidance (Article 9) is not in conformity with the Revised Charter on the ground that only registered unemployed persons and those threatened with unemployment have access in practice to vocational guidance services in the labour market.*

Please see Article 9.

*It also found that the situation with regard to education and training of persons with disabilities (Article 15§1) is not in conformity with the Revised Charter on the ground that the anti-discrimination legislation covering education and training for persons with disabilities is inadequate.*

Please see Article 15 paragraph 1.

## Article 9 – The right to vocational guidance

*1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.*

The European Union Resolution “Better Integrating Lifelong Guidance into Lifelong Learning Strategies” of 21 November 2008 serves as basis for the development of career services.

*2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.*

### *Development of career services*

The amendment in the management of the field arises from Decision of 28 March 2007 to elaborate the programme “Development of System of Career Services” for implementation of measure 1 “Development of Notification and Counselling System” of the priority axis of the operational programme of the Human Resources Development Plan. The programme was prepared by the Ministry of Education and Research and the Ministry of Social Affairs. Representatives of social partners were also consulted in the framework of elaborating the programme.

In March 2008, the Minister of Education and Research and the Minister of Social Affairs of the Republic of Estonia signed a cooperation agreement for career services. The agreement focused on the priorities of the field (development of methodology, elaboration and development of a training system, offering career services, ensuring the quality of career services, integration and coordination of career services) and persons or bodies responsible for up to 2013. It was agreed that development of the methodology of career services and the training and quality system shall be ensured by the Ministry of Education and Research with SA Innove Career Services Development Centre implementing the development activities.

### *ESF programme “Development of Career Services System”*

The ESF programme “Development of Career Services System” (hereinafter *the Programme*) was initiated in 2008 pursuant to the aforesaid cooperation agreement. The objective of the Programme is to improve the quality of career services and make the services accessible for everyone. A quality assurance system has been initiated, including training of career specialists. Informative and methodological materials have been published and the career portal *Rajaleidja* has been developed. Arising from the activity plan and budget of the Programme, SA Innove has been developing provision of career services in 17 regional notification and counselling centres and in 32 partner schools since 2009.

The field is developed by means of three career services:

- formation of the knowledge, skills and attitude necessary for career planning in career studies;
- creation and distribution of well-structured and relevant career information; and
- career counselling that supports the process of making decisions and choices.

Various interest groups are involved in the development of career services in order to ensure cohesive and concerted development of career services. A cooperation board for career services was established at the Career Services Development Centre in 2009. The board carries an important role in systematic development of the entire field. The cooperation board consists of Ministries and the Divisions thereof, representatives of local governments, educational and scientific institutions, organisations that represent the target groups and service providers and representatives of undertakings – covering organisations.<sup>11</sup> As of 2010, the cooperation board serves in the role of an advisory committee for the Programme by providing strategic advice, observing the course of the programme, giving recommendations if necessary and proposing amendment motions.

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<sup>11</sup> Members of the cooperation board for career services: Ministry of Education and Research (Vocational and Adult Education Department, Higher Education Department, General Education Department, Youth Affairs Department), Ministry of Social Affairs, Ministry of Economic Affairs and Communications, National Examinations and Qualifications Centre, Youth Work Centre, Unemployment Insurance Fund, Association of Heads of School, Association of Estonian Cities, Education Organisation Council, Estonian Chamber of Commerce and Industry, Association of Municipalities of Estonia, Hiiumaa Notification and Counselling Centre, University of Tartu, Estonian Student Councils Union, Estonian National Youth Council.

## *Youth counselling*

In 2007-2008, the activities of notification and counselling centres in offering career services for young persons was coordinated by the Estonian Youth Work Centre, an institution administrated by the Ministry of Education and Research.

As of 2009, the Career Services Development Centre coordinates the development of the field of career services.

Provision of career services (career counselling, career studies and career information) for young persons aged 7-26 is ensured within the framework of the operational programme of the "Youth Work Strategy 2006-2013". The strategy defines three development directions and activities in order to ensure development in the respective directions:

- 1) activities directed at young persons depend on their situation and actual needs;
- 2) young persons participate in the decision-making processes and policy shaping that affects them; and
- 3) formation, planning and execution of the integrated youth policy shall take place in cooperation of various parties.

The strategy specifies that development directions of youth policy shall be executed at all administrative levels and various fields by supplementing the existing development plans and strategies and elaborating and implementing new development plans and strategies. Although the raised objectives are still assessed as relevant on the basis of current implementation of the strategy, in-depth development has taken place in 2009 and 2010 in determining the strategic directions of Estonia and the entire European Union, thereby also affecting the strategic choices in the youth sector. Council Resolution of 27 November 2009 on a renewed framework for European cooperation in the youth field (2010-2018) is of utmost importance. In the Resolution, the Member States of the European Union have agreed on two main objectives for the next nine years in cooperation of the European Union in the youth field:

- 1) creating more and equal opportunities in education and on the labour market for all young persons; and
- 2) promoting the active citizenship, social inclusion and solidarity of all young persons.

The aforesaid objectives shall also be taken into account upon development of the career services system.

Annual activity plans shall be prepared for meeting the objectives of the Programme with high priority at the direction "Provision of career counselling and career information mediation services for young persons by means of notification and counselling centres".

Career counselling and information services are provided by regional youth notification and counselling centres in all the counties of Estonia. The Career Services Development Centre enters into partnership agreements with counselling centres for provision of the services. Provision of career services by mediation of the centres and quality assurance is supported by the instructive material "Career information mediation and career counselling quality guidebook" that was finished in 2010.

Career services are offered free of charge to young persons in the centres. The high-priority target groups for career services offered within the framework of the programme are the final grades of general education schools and final courses of vocational educational institutions. The objective is to ensure group counselling and career information lectures for all young persons belonging to the target group and to ensure individual career counselling for 25% of the target group.

The accessibility of career counselling and career information for young persons has increased by 2010 compared to previous years as a result of the activities implemented to ensure the accessibility of career services.

Direct notification of young persons of career services takes place by means of the notification and counselling centres and the Career Services Development Centre coordinates notification of the public. The web portal *Rajaleidja* and the possibilities of social media networks are used and notification events are held.

Development work of career studies in general education schools is supported by the national curriculum that *inter alia* defines the role of the school in ensuring the accessibility of career services. The results of the career services field survey conducted in 2006 are taken into account upon developing career studies. The survey indicated that schools need support in planning career studies, ensuring the preparation of teachers and developing methodologies.

In order to ensure the accordance of career services with the development directions of national curricula, the Career Services Development Centre engages in tight cooperation with curriculum development specialists. The career studies elective subject syllabus for basic schools and the career studies syllabus for upper secondary schools have been approved as appendices to the national curricula. Instructive materials for implementation of the new national curriculum have been created in order to support the subject of career studies, consisting of a student book of career studies for basic school teachers as well as a teachers' book with a collection of worksheets. The national curriculum handles the career field in the third stage of study as a recurring topic called "Lifelong learning and career planning".

Development of career studies also takes place within the framework of the Programme and as of 2010, the cooperation involves 32 partner schools of whom 26 are general education schools and 6 are vocational educational institutions. The task of schools is to elaborate systematic career studies at the school level. Based on the experience of the partner schools, valuable inputs in order to elaborate supportive and methodological materials have been received.

Separate divisions (counselling centre, career and psychological counselling division, etc.) or positions for career counselling and/or psychologists have been created in bigger universities in public law (University of Tartu, Tallinn University of Technology, Tallinn University, Estonian University of Life Sciences). In smaller universities, the study organisation workers, workers of the study divisions, etc., are working part-time as study and career advisers, or external specialists are involved in order to ensure the counselling services. Improving the accessibility of counselling services encompasses notification and training events in addition to individual and group counselling. The services offered by institutions of higher education include counselling with regard to study organisation, study skills counselling, career counselling, psychological counselling and counselling of students with special needs.

#### *Counselling offered by the Unemployment Insurance Fund*

The objective of the career services provided by the Unemployment Insurance Fund is supporting and advising unemployed persons and any other persons in making choices regarding employment, including mediation of the information required therefor and making it accessible. The respective services can be characterised as follows:

- Individual career counselling for unemployed persons and employees who have received a notice of lay-off: the purpose of individual career counselling is supporting persons in making choices related to profession, education and choice of employment. Career counselling is available in all offices of the Unemployment Insurance Fund and mainly includes the following activities:
  - analysis of knowledge, skills and personal characteristics related to work; and
  - planning further activities in order to find a job.

In bigger offices, career counselling takes place both individually and in groups.

- Career information rooms: career information rooms are available in the Unemployment Insurance Fund as of November 2009 when the first career information room in Tõnismäe office, Tallinn, was opened. Preparatory work for opening career information rooms was initiated in 2008. By the end of 2010, career information rooms were available in Tallinn, Narva, Jõhvi, Rapla, Tartu, Kuressaare, Valga, Pärnu, Viljandi, Rakvere, Paide and Võru. The career information room activities are conducted by a career adviser in Haapsalu, Põlva and Kärdla. A career information room is being created in Jõgeva.

Information related to career and job-seeking is given to all persons who so wish. All persons, regardless of whether they are studying, working, or are registered as unemployed, have the possibility to address a career information room. In the career information rooms, the clients are advised in finding information necessary for job-seeking and making choices related to employment, and workshops are held. In the career information rooms, the clients have the possibility to use a client computer in order to prepare documents for applying for a position and searching for the necessary information as well as receive advice and counsel from a career information specialist. It is also possible to examine various informative materials regarding working and studying opportunities. Samples of documents for applying for a position and workbooks that help persons make their choices may be taken along. In addition, it is possible to use the self-service portal of the Unemployment Insurance Fund in the career information room and, if necessary, ask for a career information specialist to assist in the use thereof.

- Career information specialists shall hold workshops for job-seeking for unemployed persons and employees who have received a notice of lay-off. In the job-seeking workshop, the participants are able to receive the knowledge and skills required for

successful job-seeking. Upon holding workshops, the needs of the target group are taken into account and therefore the duration of the workshops and the covered topics vary. For example, if the participants require more assistance for handling a job interview, it is possible to hold the workshop in several parts, including exercising behaviour for a job interview, receive feedback from other participants and the instructor, etc.

*3) Please supply any relevant statistics or other information on public spending on vocational guidance services, their geographical distribution and the institutions that provide them, their staffing levels and the qualifications of those staff, and the number of persons served and their characteristics, in terms of age, sex, educational level and occupation.*

### *Youth counselling*

In the period of 2007-2010, the accessibility of career services for young persons aged 7-26 was supported from the Estonian state budget in a total amount of 609,637.25 euros by means of the notification and counselling centres.

**Table 21.** State budget appropriations for youth notification and counselling centres

Year	Support from the state budget, euros
2007	149,553.26
2008	160,977.47
2009	149,553.26
2010	149,553.26

Source: Ministry of Education and Research

As of 2009, the financial resources of the ESF usable within the framework of the programme “Development of Career Services System” in a total amount of 2,284,870 euros have been made available for ensuring the accessibility of career services for young persons.

In addition to accessibility of career counselling and information, resources have been directed in 2008-2011 in the framework of the Programme for implementation of the quality assurance system of career services, training career specialists, publishing career information and methodological materials, supporting organisation of career studies and development of the career portal *Rajaleidja*.

Offering career services for young persons encompasses the entire territory of Estonia and the accessibility of services is ensured in all counties. 17 youth notification and counselling centres operate as service providers. The notification and counselling centres that act as service providers include state and local government enterprises and undertakings of the private sector.

57 specialists work in the 17 notification and counselling centres that offer career services for young persons as of 30 August 2011; 32 of the specialists work as advisers and 25 work as career information specialists. 32 career coordinators are active in the partner schools involved in the development of career studies; 26 of the career coordinators work in general education schools and 6 work in vocational educational institutions.

In 2008, the survey "Training needs of career specialists, career information materials and counselling methodology" was conducted. Upon conduct of the survey, data regarding the professional training of persons working as career specialists was also collected. The most frequent obtained professions were psychology (29 specialists) and education (22 specialists) among career specialists working in the field of career services for young persons in 2008. 8 specialists had obtained education in the field of social work or youth work and another profession was marked as the acquired profession in 10 cases.

The accessibility of career services has increased thanks to the established network of service providers of career services, constant support from the state budget and use of the ESF resources. While career services were offered in 51,343 instances by notification and counselling centres in 2009, the offering rate of career services reached 90,256 contacts per year in 2010.

**Table 22.** Number of contacts of career counselling and information (for young persons aged 7-26), 2007-2010

<b>Year</b>	<b>Number of contacts of career counselling and information</b>
2008*	43,186*
2009	51,343
2010	90,256
TOTAL:	141,599

\* Youth information, career information and youth counselling was treated as a compound service in 2008; therefore, the proportion of career counselling and information cannot be defined.

Source: Ministry of Education and Research

Data reflecting the accessibility of services for the priority target groups in the 2009/2010 academic year shows that counselling services were ensured for all basic school graduates and for 90% of students in the final grade of upper secondary school.

**Table 23.** Involvement of priority target groups of programme in career services

	2009/ 2009/2010 academic year students:	Number of contacts of career services, 2009/2010 First half-year			Proportion of participants in services in 2009 and first half-year of 2010 of students of respective grades in 2009/2010 academic year		
		Mediation of career information	Individual career counselling	Group counselling	Mediation of career information	Individual career counselling	Group counselling
Grades 7-8	<b>26,091</b>		909	3,829		3%	15%
Grade 9	<b>13,647</b>	10,064	4,699	14,474	74%	34%	106%
Grades 10-11	<b>19,046</b>		1,616	3,958		8%	21%
Grade 12	<b>9,673</b>	5,787	2,850	8,727	60%	29%	90%
Students in vocational education, total	<b>28,363</b>	2,215	951	1,730	8%	3%	6%
Other target groups*		6,877	1,493				
Number of contacts in career information events		30,096					
<b>Career counselling and information TOTAL</b>		<b>55,039</b>	<b>12,518</b>	<b>34,740</b>			

\* Other target groups – other young persons aged 7-26 (e.g. university students, young persons with special needs, dropouts, etc.) who have received career services by means of notification and counselling centres.

Source: Ministry of Education and Research

14,227 students are studying in partner schools involved in the development work of career studies, including 3,666 in stage III of study. In the respective schools, 20 career days have been held and over 50 days of visiting various undertakings have been organised during the last 1.5 academic years.

#### *Accessibility of career information and career counselling in the education system*

Career centres (hereinafter *partner centres*) offer career information and counselling for young persons aged 7-26 all over Estonia. The Career Services Development Centre has entered into partnership agreements with 17 regional notification and counselling centres (one in every county + 3 in Harju County) within the framework of the Programme. As the resources of the programme are limited, the final grades of general education schools and final courses of vocational educational institutions were chosen as the high-priority target groups. The objective for a high-priority target group is 2 hours of group counselling and 2 hours of career information lectures per year for everyone and individual career counselling for 25% of graduates.

Career services were offered in 51,343 instances, i.e. to approximately 15% of young persons aged 7-26 in 2009. Career services were offered in 82,998 instances in the centres, i.e. to approximately 25% of young persons aged 7-26 in 2010. About 90% of the high-priority target groups (graduates) were serviced.

According to data of 2010, at least 1 career adviser and 1 career information specialist are available in the centres thanks to the resources of the programme.

The budget for providing direct services is approximately 565,000 euros per year in total for the 17 regional centres (i.e. ESF + state budget appropriation of 26%) – 1.7 euros per young person aged 7-26 (including the state budget appropriation of 0.44 euros).

#### *Career studies in schools*

Development of career studies takes place in cooperation with partner schools: 26 general education schools and 6 vocational educational institutions. It is the task of the schools to elaborate systematic career studies at the school level and based on the experience give an input to supportive and methodological materials of the field and serve as an example for other Estonian schools in organising career studies. The position of career coordinator with 0.2 part-time work load has been created in the partner schools (general education schools). The career coordinators have achieved the necessary competence in order to develop

organisation of career studies and the methodology of the subject through various training events.

14,227 students are studying in partner schools all over Estonia, including 3,666 in stage III of study. In the respective schools, 20 career days have been held and over 50 days of visiting various undertakings have been organised during the last 1.5 academic years. Development work of career studies allows determining the actual needs of students and taking them into account.

Schools have elaborated management plans for career services that include all the activities that support career planning for students and the school resources necessary to carry them out. In the 2010/2011 academic year, partner schools are divided into 6 groups whereas each group focuses on a certain sub-activity or organisation work section. The sub-topics are as follows: quality of career studies, visiting undertakings, cooperation upon organisation of career studies, including involvement of students, career information at school, recurring topics, and career studies events at school in the course of extracurricular activities.

In order to ensure harmony with the development directions of curricula, the Career Services Development Centre engages in tight cooperation with all of the other curriculum development specialists. The career studies elective subject syllabus for basic schools and the career studies syllabus for upper secondary schools have now been approved as appendices to the national curricula. Instructive materials for implementation of the new national curriculum have been created in order to support the subject of career studies, consisting of a student book of career studies for basic school teachers as well as a teachers' book with a collection of worksheets. Supportive materials have been prepared for supporting the recurring topic "Lifelong learning and career planning" in the third stage of study. The materials consist of descriptions of 88 different study situations, contain numerous descriptions of various exercises, worksheets for students, etc.

#### *Career services provided by the Unemployment Insurance Fund*

In 2010, the Unemployment Insurance Fund achieved the goal of having the career information room and the job-seeking workshop operating all over Estonia on the basis of cohesive principles and at a good level of service.

In relation to commencement of the activities of the career information rooms, the volume of provision of career services (career counselling, visiting career information rooms and participation in job-seeking workshops) increased significantly. As of 2010, job-seeking

training is conducted in the job-seeking workshops of the Unemployment Insurance Fund with a career information specialist mainly involved in the said activity. Before 2010, training events for job-seeking were conducted by means of procured services. After the Unemployment Insurance Fund started conducting job-seeking training itself, the number of persons who passed job-seeking training (job-seeking workshop) increased substantially (please refer to column “2010” in the Table below).

**Table 24.** Participation in career services and measures supporting career choices

	2007	2008	2009	2010
Career counselling	10,326	12,046	23,916	19,018
Job-seeking training	1,341	948	2,403	7,207
Career information room (open for everyone)	-	-	386	13,025
<b>TOTAL</b>	<b>11,667</b>	<b>12,994</b>	<b>26,705</b>	<b>39,250</b>

Source: Unemployment Insurance Fund

Establishment and activities of the career information rooms of the Unemployment Insurance Fund are supported in a total amount of 7,200,000 kroons (~460,160 euros), including 3,400,000 kroons in 2011 (~218,300 euros) within the framework of the programme “Increasing the Availability of Qualified Labour Force for 2007-2013”.

**Table 25.** Participation in career counselling service provided by the Unemployment Insurance Fund by counties

	2007	2008	2009	2010
Harju County	3,827	4,169	8,183	4,822
Hiiu County	145	67	327	561
Ida-Viru County	2,983	2,878	5,051	4,488
Jõgeva County	360	509	690	514
Järva County	196	486	1,184	1,066
Lääne County	67	171	596	463
Lääne-Viru County	587	805	966	776
Põlva County	182	348	720	496
Pärnu County	217	201	533	848
Rapla County	288	389	576	596
Saare County	141	207	635	483
Tartu County	476	556	1,679	1,356
Valga County	346	453	1,110	512
Viljandi County	349	516	840	772
Võru County	162	291	826	1,265
<b>TOTAL</b>	<b>10,326</b>	<b>12,046</b>	<b>23,916</b>	<b>19,018</b>

Source: Unemployment Insurance Fund

Career counselling for various target groups (1 July 2007-31 December 2009):

- campaign regarding the possibilities of career counselling directed at employed persons and students (notification events, leaflets, advertisements in the media); 40,000 leaflets were distributed in the course of various events;
- offering career services in student summer work events – 28 groups;
- testing offering of services to prisoners before term of release – 278 instances of career counselling;
- testing the service of job-seeking support in Tallinn and Ida-Viru County for persons who had received the service of coaching for working life but needed continued support in job-seeking – 2,938 instances of career counselling;
- unemployed disabled persons – 756 instances of career counselling;
- improving employment of older persons – promoting employment, 1,185 instances of career counselling.

21 career advisers worked for the Unemployment Insurance Fund at the end of 2010 (22 in September 2011) who had mainly acquired a bachelor's degree or master's degree in the following professions: psychology, social work, social education, teacher, business management. 4 career advisers are in possession of a professional certificate (career adviser IV).

13 career information specialists were working at the end of 2010 (15 in September 2011) who had mainly acquired a bachelor's degree or master's degree in the following professions: business management, social work, psychology, education sciences, teacher, information sciences, business and business organisation and law. 1 career information specialist is in possession of a professional certificate (career adviser V).

**Table 26.** Extract from final report of the programme, reporting period: 1 July 2007-31 December 2009

Item of expenditure	Total expenses by the end of the programme (in kroons)
<b>CAREER COUNSELLING</b>	1,744,300.06
<b>Methodological materials</b>	543,274.17
Amendable tests (including training)	99,086.78
Elaboration of workbook, translation, training	7,097.94
Printing of workbooks	327,996.00
Profession films	11,233.60
Counselling books for advisers (including translation and printing of material supporting the handbook)	33,020.70
Counselling books for users	33,473.80
Issued and distributed leaflets	31,365.35
<b>Counselling</b>	855,452.47
Counselling in student summer work events	1,416.00
Departure counselling	359.00
Mobile career consultants (remuneration etc.)	579,080.10
Career counselling (remuneration of career information workers)	172,776.00
Mobile consultation	101,821.37
Creation of career information rooms (8 counties), including a server, computers (19 pc.), accommodation and maintenance of terminal, maintenance of computers	345,573.42
<b>Training events for career advisers</b>	
Group counselling and adult training	26,630.66
Work opportunities of disabled persons	9,518.00

Source: Ministry of Social Affairs

*The Committee considers that the situation is not in conformity with Article 9 of the Revised Charter on the ground that vocational guidance services in the labour market are accessible only to unemployed persons and workers given notice of redundancy.*

Several amendments of the Labour Market Services and Benefits Act entered into force on 1 July 2009. The definition of labour market services was *inter alia* changed: pursuant to clause 2 2) of the Act, labour market service is a service provided to unemployed persons and job-seekers and other persons prescribed in the Act in order to assist them in finding employment and promote their professional development, and the services provided to employers in order to assist them in finding suitable labour force. Pursuant to subsection 4 (1), the Estonian Unemployment Insurance Fund organises provision of labour market services and grants labour market benefits. The Estonian Unemployment Insurance Fund shall ensure that unemployed persons, job-seekers and other persons prescribed in the Act and employers are able to exercise their rights and perform their obligations at least in every county.

An employment programme has been prepared for flexible provision of labour market services. Pursuant to the amendments of the Labour Market Services and Benefits Act (§ 4<sup>1</sup>) that were prepared in 2010 and entered into force on 1 January 2011, the employment programme allows the following:

- 1) to establish labour market services and enable the provision of labour market services on more favourable conditions than provided in the Act based on the forecasts for labour supply and demand, changes in the situation on the labour market and the current situation on the labour market, the total number of the unemployed and job-seekers and the unemployed persons who are not registered at the Estonian Unemployment Insurance Fund, the possibility for the persons entitled to receive labour market services to find employment and the need to receive labour market services, the needs of employers and requirements for the skills and qualifications of employees, special needs of the risk groups of the labour market, the need of the employed persons to maintain competitiveness, or the demographic situation;
- 2) to extend the circle of the persons entitled to use labour market services and receive labour market benefits based on the forecasts for labour supply and demand, changes in the situation on the labour market and the current situation on the labour

market, the total number of the unemployed and job-seekers, special needs of the risk groups that need assistance in finding employment, persons at risk of losing their jobs and persons not actively seeking employment or the serious danger that employed persons may become unemployed and long-term unemployment may increase arising from the current situation on the labour market; and

- 3) to establish increased rates for labour market services and benefits based on the existence of reserves of the foundation of the labour market services and benefits of the Estonian Unemployment Insurance Fund, analyses of the effects of the provision of labour market services and payment of labour market benefits, special needs of the persons using labour market services due to their place of residence, regional characteristics, or the location of the provision of labour market services.

The aforesaid principles were already applied earlier for implementation of measures financed by the ESF.

In addition to the aforesaid, the programme “Increasing the Availability of Qualified Labour Force for 2007-2013” financed by the ESF allows execution of the following activities in the field of career services:

- provision of information related to career and job-seeking for all persons in the career information rooms. A career services room is available at every regional office of the Estonian Unemployment Insurance Fund as of 2010 in order to ensure free of charge access to high-quality career information for all persons (regardless of their age, professional background, employment status, etc.) Career information specialists work in the career information rooms. The purpose of the specialists is to assist persons in finding the necessary career-related information and hold workshops for job-seekers (unemployed persons or workers who have received a notice of lay-off);
- job-seeking workshops for unemployed persons and workers who have received a notice of lay-off; and
- career counselling for unemployed persons with special needs at other service providers, if necessary (cooperation with specialised counselling centres).

A mobile counselling service (MOBI) has also been initiated within the framework of the programme “Increasing the Availability of Qualified Labour Force for 2007-2013”. The purpose of the service is notification and counselling and instruction regarding job-seeking in all the regions of the counties where the accessibility of information and labour market

measures required for job-seeking is limited due to location and where the proportion of registered unemployed persons is big. The service is targeted at any persons who wish to receive the service. The most common topics handled in the framework of the MOBI are the following:

- job-seeking (the activities that need to be done in order to find a job);
- introduction of local employers, the business environment and opportunities;
- counselling (e.g. career counselling, debt counselling, psychological counselling);
- introduction of the services of the Unemployment Insurance Fund; and
- the labour market and labour legislation, Employment Contracts Act.

The MOBI service was tested in six counties (Jõgeva County, Tartu County, Põlva County, Võru County, Valga County and Viljandi County) from 5 October to 9 November 2009. There were 354 participants from 31 rural municipalities. The events were generally held at the centre of the rural municipality, library, community cultural centre, community centre, etc. People highly valued the fact that they were listened to and given advice. The service helped persons better acknowledge their possibilities and motivated them to continue job-seeking regardless of the difficult period on the labour market.

In 2010, the service was provided in all counties in two parts – in spring and in autumn. The MOBI was conducted in active cooperation with local governments and important local employers and other specialists, e.g. advisers, were also involved if necessary.

The spring mobile counselling was conducted from 15 March to 2 June and the MOBI was conducted in all the counties except Rapla County and Ida-Viru County in the respective period. The autumn MOBI was conducted from 29 September to 17 November. The MOBI was conducted twice per year in Järva County, Harju County and Pärnu County. In 2010, the MOBI was conducted in 84 rural municipalities with 1,369 participants.

## **Article 10 – Everyone has the right to appropriate facilities for vocational training**

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

*1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.*

Technical and professional training for everyone, including disabled persons, was ensured in Estonia for the 2007-2010 period. Development of the vocational education system continued. Legislation regarding the topic of vocational education is as follows:

- Vocational Educational Institutions Act;
- Conditions and Procedure for Studies of Persons with Special Needs in Vocational Educational Institutions; and
- The Vocational Education Standard.

*2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.*

Two development plans were valid during the reporting period: the “Estonian Vocational Education Development Plan for 2005-2008” and the “Estonian Vocational Education System Development Plan for 2009-2013”. An additional operational plan for the years 2009-2011 was prepared.

Broad working groups involving various interested parties for vocational education were established for preparing the development plans. Representatives of social partners, the Estonian Association for Promoting Vocational Education, professional associations, local governments, the *Riigikogu*, schools, ministries and other relevant governmental authorities were involved in the process of preparing the development plans.

In addition to involvement in strategic planning, social partners are also involved in planning the state-commissioned education, elaboration of professional standards and national curricula, professional examination committees, etc.

3) Please supply statistics or any other relevant information to show how this provision is applied in practice. The main indicators of compliance with this provision are: the total amount of public expenditure devoted to vocational training; the number of vocational and technical training institutions and types of education and training provided; number of teachers and pupils.

Expenses on the field of vocational education were as follows in the general government sector:

- 89 million euros in 2007;
- 85 million euros in 2008;
- 96 million euros in 2009.

**Table 27.** Vocational educational institutions by form of ownership, academic years 2007/2008 to 2010/2011

Form of ownership	2007/08	2008/09	2009/10	2010/11
State vocational educational institutions (area of administration of the Ministry of Education and Research)	31	30	30	30
State vocational educational institutions (area of administration of other ministries)	1	1	1	0
Municipal vocational educational institutions	3	3	3	3
Private vocational educational institutions	12	11	11	10
<b>Vocational educational institutions TOTAL</b>	<b>47</b>	<b>45</b>	<b>45</b>	<b>43</b>
Institutions of professional higher education providing vocational education	6	6	6	8
<b>Educational institutions providing vocational education TOTAL</b>	<b>53</b>	<b>51</b>	<b>51</b>	<b>51</b>

Source: Estonian Education Information System (EHIS)

**Table 28.** Number of students by educational institutions and types of study

Type of educational institution	Type of study	2007/08	2008/09	2009/10	2010/11
Vocational educational institution	Vocational secondary education	17,874	17,485	17,412	16,725
	Vocational training on the basis of secondary education	7,606	7,575	8,675	9,057
	Vocational training on the basis of basic education	424	505	589	558
	Vocational training without the requirement of basic education	307	414	403	319
Vocational educational institutions TOTAL		26,211	25,979	27,079	26,659
Institution of professional higher education	Vocational secondary education	156	163	215	172
	Vocational training on the basis of secondary education	1,014	1,097	1,043	1,123
	Vocational training on the basis of basic education			9	23
	Vocational training without the requirement of basic education			17	35
Institutions of professional higher education TOTAL		1,170	1,260	1,284	1,353
<b>TOTAL</b>		<b>27,381</b>	<b>27,239</b>	<b>28,363</b>	<b>28,012</b>

Source: Estonian Education Information System

The number of teachers in vocational educational institutions was the following during the observed period:

- 2,212 teachers in the 2007/2008 academic year;
- 2,096 teachers in the 2008/2009 academic year;
- 2,225 teachers in the 2009/2010 academic year;
- 2,224 teachers in the 2010/2011 academic year.

### Paragraph 3 – Vocational training and retraining of adult workers

*1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.*

Flexible solutions are implemented for the acquisition of vocational education. Studying possibilities in vocational education have been created for persons of at least 17 years of age without basic education whereas the curricula are directed at acquisition of easier professions. Possibilities have been created in vocational and higher education for taking into account former studies by means of the programme of accounting for earlier studies and work experience (VÖTA).

In order to allow better access for working persons to training, the possibilities for receiving study leave have been extended with the Adult Education Act as of 1 July 2009. Working persons have the right to receive study leave for up to 30 calendar days per calendar year. During study leave related to formal education acquired within the adult education system and vocational training, employees and public servants are paid the average remuneration for 20 calendar days. An additional study leave of 15 calendar days shall be granted for finishing formal education acquired within the adult education system.

As of 2007, the Vocational Educational Institutions Act provides a basis for presenting state-commissioned education of adult vocational training to institutions of professional higher education that provide vocational and professional training, based on the group of studies with a high priority in the labour market. The courses are free of charge for students.

In order to ensure that an unemployed person participating in labour market training who finds a suitable job during training would not have their studies interrupted, the amendments of the Labour Market Services and Benefits Act that entered into force on 1 July 2009 provide that persons have the possibility to participate in the service of labour market training until the end of training even when they have gained employment. This amendment allows for more efficient contribution to improving and modernising the skill level of persons. Within the framework of the programme “Increasing the Availability of Qualified Labour Force for 2007-2013” financed by the ESF, it is also possible to participate in the service of labour market training until the end thereof if the person has meanwhile commenced studies in full-time study.

*2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.*

The following programmes have been implemented for promoting participation in lifelong learning<sup>12</sup>:

- 1) The TULE programme for persons whose studies were interrupted at the higher education level was implemented in 2009. With the aid of the programme, persons whose studies were interrupted during academic years 2003/2004-2008/2009 who have passed more than half of the curriculum and who are not studying according to another higher education curriculum at the time can continue their studies free of charge.
- 2) The KUTSE programme for persons whose studies in vocational education were interrupted was initiated in 2009. With the aid of the programme, persons who have formerly passed at least 30% of the volume of the curriculum and whose studies were interrupted not earlier than 2000 are able to obtain vocational education. Thanks to the VÕTA programme, work experience is taken into account in addition to earlier studies for fulfilment of the curriculum. All regular rights and obligations of students apply to persons who continue their studies, including the right to study allowance.
- 3) Programmes for adults that allow free of charge offering of in-service training and retraining through vocational educational institutions, institutions of professional higher education and informal education training centres were additionally initiated in 2009. Both employed and unemployed adults participate in the training. 33,000 persons shall be trained free of charge in vocational educational institutions in the course of in-service training courses during the period 2009-2013 within the framework of the programme "Adult professional training and development activities". 40,000 persons shall be trained free of charge in the course of in-service training and courses that develop key competence abilities during the period 2009-2013 within the framework of the programme "Adult professional training in informal education training centres".
- 4) The following strategies in the field of education have been approved in Estonia at the state level<sup>13</sup>:

- Smart and Active People;

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The development plans are available at the address <http://www.valitsus.ee/et/valitsus/arengukavad>.

- Development plan for Estonian adult education for 2009-2013 (approved 2009).

Pursuant to the development plans, the main objectives in the field of education are high-quality education and creating equal opportunities for lifelong learning for everyone according to their abilities and interests; development of the allowance system for vocational training students in a direction that focuses on their needs; constant extension of possibilities for studying and support services in vocational education for risk groups, thereby improving the accessibility of education to persons whose economic situation is not good and who wish to study; better possibilities for studying and offering support services for students with special educational needs, young persons with learning difficulties and behavioural problems and students in penal institutions.

Implementation of the Development plan for Estonian adult education for 2009-2013 facilitates better access for adults to both formal and informal education; the objective is to improve the knowledge of people, the level of education of the population and increase the proportion of participants in lifelong learning among persons aged 25-64 to 13.5% by 2013.

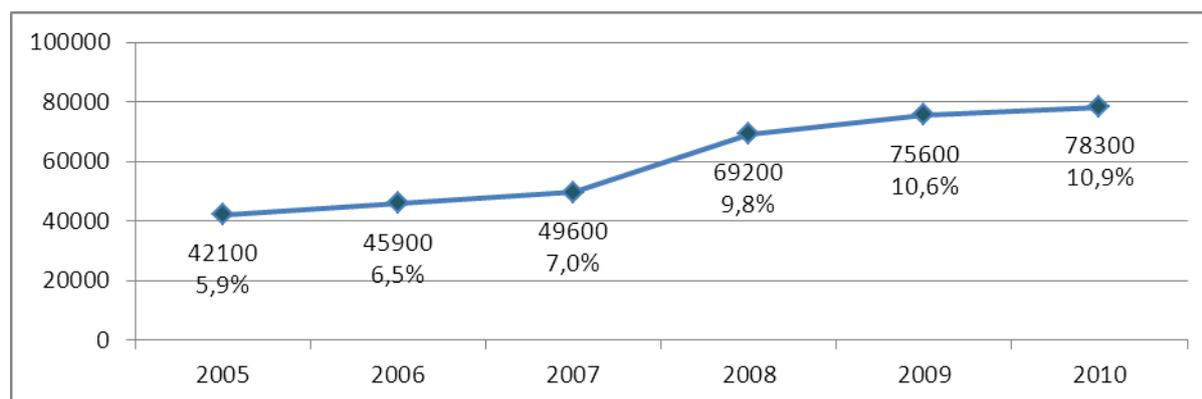
Two other objectives of the development plan specify qualitative indicators in addition to measuring the participation rate – decrease of the proportion of adults with general education (general secondary education, basic education or a lower level of education) and without professional training among persons aged 25-64 to 32% of the population and creating possibilities for acquiring one level higher level of education or qualification for as many people as possible by means of high-quality training.

*3) Please supply statistics or any other relevant information to show how this provision is applied in practice. The main indicators of compliance with this provision are: the existence of facilities for training and retraining of adult workers, in particular the arrangements for retraining redundant workers and workers affected by economic and technological change; the approximate number of adult workers who have participated in training or retraining measures; the activation rate – i.e. the ratio between the annual average number of previously unemployed participants in active measures divided by the number of registered unemployed persons and participants in active measures; equal treatment of non-nationals with respect to access to continuing vocational training.*

Participation of adults aged 25-64 in lifelong learning in Estonia remained steadily between 5.4-7% for the period 2000-2007. The proportion of participants in lifelong learning increased

to 9.8% in 2008, 10.6% in 2009 and to 10.9% in 2010. The possibilities of participating in training were created thanks to measures initiated through vocational educational institutions in 2007 and increasing the financing of adult education by the state ensures constant increase of the participation rate. The rate of participants in work-related in-service or retraining courses and work-related conferences or seminars has increased the fastest.

**Figure 1.** Participation of persons aged 25-64 in formal education acquired within the adult education system or training within the last 4 weeks, 2005-2010



Source: Statistics Estonia, Labour Force Survey 2011.

The number of adult students (older than 25 years of age) in formal education acquired within the adult education system of vocational educational institutions has constantly increased, having reached 4,767 persons by 2010 and constituting 17% of all vocational education students.

**Table 29.** Number and proportion of participants in lifelong learning

	2007	2008	2009	2010
TOTAL (in thousands)	49.6	69.2	75.6	78.3
Men	15.1	22.4	25.7	29.1
Women	34.4	46.9	49.9	49.2
TOTAL (%)	7	9.8	10.6	10.9
Men	4.5	6.7	7.6	8.5
Women	9.2	12.6	13.3	13

Source: Statistics Estonia, Estonian Labour Force Survey

**Table 30.** Proportion of students of 25 years of age and older in formal education acquired within the adult education system of vocational educational institutions by types of study

	2007/08		2008/09		2009/10		2010/11	
	No of students of 25+ years of age	Proportion of students of 25+ years of age	No of students of 25+ years of age	Proportion of students of 25+ years of age	No of students of 25+ years of age	Proportion of students of 25+ years of age	No of students of 25+ years of age	Proportion of students of 25+ years of age
Vocational training without the requirement of basic education	134	43.6 %	225	54.3 %	115	27.4 %	140	39.5 %
Vocational training on the basis of basic education	158	37.3 %	198	39.2 %	281	47.0 %	260	44.8 %
Vocational secondary education	117	0.6%	151	0.9%	204	1.2%	269	1.6%
Vocational training on the basis of secondary education	3,718	43,1 %	3,707	42.7 %	3,748	38.6 %	4,098	40.3 %
TOTAL	4,127	15.1 %	4,281	15.7 %	4,348	15.3 %	4,767	17.0 %

Source: Estonian Education Information System

Unemployed persons have also participated in free of charge work-related in-service training for adults in vocational educational institutions in addition to employed persons (including persons who are in danger of lay-off) as of the second half-year of 2010.

**Table 31.** Summary of monitoring of participants in work-related training in the framework of ESF programme “Adult work-related training and development activities”

No.	Time of commission	Number of courses started	Number of participants in courses				Classification of participants by gender		Classification of participants by status on the labour market				
			Beginners	Dropouts	Graduates	Total participants	Men	Women	Working	sole proprietors	Unemployed	Including long-term	Inactive
1	2009 II half-year	372	4,926	266	4,660	4,926	2,173	2,753	4,124	215			802
2	2010 I half-year	443	5,795	210	5,585	5,795	3,168	2,627	4,713	227			1,082
3	2010 II half-year	456	5,979	221	5,758	5,979	3,607	2,372	4,238	236	1,123	205	618
		<b>1,271</b>	<b>16,700</b>	<b>697</b>	<b>16,003</b>	<b>16,700</b>	<b>8,948</b>	<b>7,752</b>	<b>13,075</b>	<b>678</b>	<b>1,123</b>	<b>205</b>	<b>2,502</b>

Source: Report of ESF programme “Adult work-related training and development activities”

#### **Paragraph 4 – Long term unemployed persons**

*1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.*

Pursuant to the Labour Market Services and Benefits Act, long-term unemployed persons belong to the risk groups of the labour market. A long-term unemployed person is a person who, for at least twelve months, has not engaged in work or in an activity equal to work. A young person of sixteen up to twenty-four years of age is deemed to be a long-term unemployed person if he or she, for at least six months, has not engaged in work or in an activity equal to work.

*2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.*

Within the framework of the programme “Increasing the Availability of Qualified Labour Force for 2007-2013” financed by the ESF, it is also possible to participate in the service of labour market training by means of a training card as of 2009. A person with a training card can choose a suitable training among the training events offered by qualified training providers of the Unemployment Insurance Fund. Directing persons to professional training in this manner is more flexible and faster, corresponding to the current labour market needs more efficiently. Only professional in-service training was allowed with a training card up to 2010. As of 2011, the training card can also be used for professional retraining. A training card does not allow participation in general training with the purpose of developing management and social skills and personal characteristics.

Within the framework of the programme “Increasing the Availability of Qualified Labour Force for 2007-2013” financed by the ESF, it is also possible for unemployed persons to participate in training organised in the form of workplace-based study (apprenticeship). Such training is meant for unemployed persons without basic education and professional qualification or who have basic education but no professional qualification or who have general secondary education but no professional qualification.

If the main obstacle for a person in entering the labour market is lack of competency in Estonian, they shall be given the opportunity to receive professional training along with language learning by the Estonian Unemployment Insurance Fund.

In order to preemptively react to the far-reaching negative impacts of the economic crisis, the criteria for participation in the wage subsidy measure provided within the framework of the programme “Increasing the Availability of Qualified Labour Force for 2007-2013” financed by the ESF were amended for provision of the service in 2010 for the entire observed year. Pursuant to the amendments, unemployed persons without work for 6 months (instead of the former 12 months without work) and young unemployed persons (aged 16-24) without work for 3 months (instead of the former 6 months without work) were able to participate in the wage subsidy service. While 211 persons participated in the wage subsidy service in 2007, the respective number was 10,885 in 2010 as a result of the amendment.

A new measure (active offering since 2009) provided within the framework of the programme “Increasing the Availability of Qualified Labour Force for 2007-2013” financed by the ESF is the working club service. The content of the measure is counselling persons in the course of job-seeking and helping them solve issues that hinder gaining employment. The service is organised in both Estonian and Russian (depending on the main communication language of the region); this helps improve the efficiency of the service. Working club is meant for persons who are motivated to gain employment but are lacking in the necessary job-seeking skills and suffer from low self-esteem and small hope to find a job as a result of being unemployed. Working clubs have a positive impact on improving the work readiness of long-term unemployed persons by means of regular activities and systematic increase of skills related to job-seeking. While 225 persons participated in the working club service in 2009, the number of participants was 995 in 2010.

Employment of long-term unemployed persons is also supported by various counselling services within the framework of the programme “Increasing the Availability of Qualified Labour Force for 2007-2013” financed by the ESF:

- debt counselling for unemployed persons (in cooperation with local governments and NGOs);
- psychological counselling for unemployed persons and workers who have received a notice of lay-off; and
- addiction counselling and social rehabilitation for unemployed persons whose job-seeking, participation in active labour market measures or gaining employment is hindered by addiction problems.

*3) Please supply statistics or any other relevant information to show how this provision is applied in practice. The main indicators of compliance with this provision are: types of training and retraining measures available; the number of persons in this type of training and the impact of the measures on reducing longterm unemployment; equal treatment of non-nationals with respect to access to training and retraining for long-term unemployed persons.*

*The Committee wishes to be kept informed about the activation rate of the long-term unemployed persons who have participated in training programmes.*

**Table 32.** Number of registered long-term unemployed persons (calculated average per day)

	2007	2008	2009	2010
TOTAL	5,990	7,246	23,776	40,625

Source: Unemployment Insurance Fund

One of the reasons why the number of registered long-term unemployed persons has substantially increased lies in the amendments of the Social Tax Act. While only unemployed persons with a right to receive unemployment insurance benefits or unemployment allowance had health insurance before, the Unemployment Insurance Fund pays social tax (thereby ensuring the person with health insurance) for every person registered as unemployed as of 1 May 2009 pursuant to clause 6 (1) 6<sup>1</sup>) of the Social Tax Act. Persons who receive unemployment insurance benefits or unemployment allowance or participate in coaching for working life, a training of at least 80 hours or work practice have health insurance as of the date when they started receiving the benefit or allowance or commenced participation in one of the aforesaid three labour market services. Health insurance is ensured in other cases when a person has been registered as unemployed for a month. Health insurance shall be ensured for the entire duration of registration as unemployed and it shall remain in effect for a month after the end of registration as unemployed. In the event that registration as unemployed ends with the end of the unemployment insurance benefit, health insurance shall remain in effect for two months after the respective date.

**Table 33.** Participation of long-term unemployed persons in active labour market measures, 2007-2010

	2007	2008	2009	2010
Use of services by long-term unemployed persons	8,376	7,799	17,161	29,943
Use of professional training	1,617	1,502	4,265	6,019
Average daily number of long-term unemployed persons using a service	1,084	573	1,440	3,646
Average daily number of long-term unemployed persons using professional training	156	189	463	405
Activation rate of long-term unemployed persons	18%	8%	6%	9%

Source: Unemployment Insurance Fund

Please also refer to answers to the previous question.

## **Article 15 – The right of persons with disabilities to independence, social integration and participation in the life of the community**

### *Definition of disability*

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

The amendment to the Social Benefits for Disabled Persons Act that entered into force on 1 January 2008 specified the purpose of the Act and the definition of disability.

While the purpose of the Act was formerly to support the ability of disabled persons to cope independently, social integration and equal opportunities, the amendment added the measure to achieve the aforesaid – promoting studies and work.

The definition of disability was supplemented pursuant to the UN Convention on the Rights of Persons with Disabilities and the International Classification of Functioning, Disability and Health by relating the definition of disability not only to the loss or abnormality in a structure or function of the body, but also to relational and environmental restrictions. As of 1 October 2008, the definition of disability in the Social Benefits for Disabled Persons Act is worded as follows:

- disability is the loss of or an abnormality in an anatomical, physiological or mental structure or function of a person which in conjunction with different relational and environmental restrictions prevents participation in social life on equal bases with the others.

The amendment to the Social Benefits for Disabled Persons Act that entered into force on 1 October 2008 provided for establishing disability for persons of working age on a new basis. While the degree of severity of disability is established arising from the need for personal assistance or guidance for children and persons of the retirement age, the basis for establishing disability for persons of working age proceeds from restrictions on participation in daily activity and social life.

- a person whose daily activity or participation in social life is wholly restricted has a profound disability;
- a person whose daily activity or participation in social life is restricted has a severe disability;
- a person who has difficulties in his or her daily activity or participation in social life has a moderate disability.

As disabled persons incur expenses in order to overcome the restrictions arising from disability, the necessity for additional expenses is determined for persons of working age in addition to the degree of severity of disability. The amount of the benefit is individual, depends on the specific needs of the person and is directly related to his or her living environment. Several various expenses that persons incur upon participation in daily life are taken into account as additional expenses – medicinal products, transport, devices, special needs concerning clothing and footwear, increased self-care and household expenses, means of communication. The purpose is to support independent coping and working of disabled persons, i.e. activity of disabled persons.

The former system still applies to disabled children and disabled persons of the retirement age, where the additional expenses are not identified and the degree of severity of disability is determined according to the frequency and scope of personal assistance or guidance. The amount of the benefit depends on the degree of severity of disability.

In order to motivate disabled persons to participate in the labour market, the Act provides a new type of benefit for disabled persons – work allowance. This benefit is paid to working disabled persons who incur real additional expenses related to working that are caused by their disability. The respective expenses may be transport expenses, greater need for an assistant or medical devices, etc.

In addition to the work allowance, disabled persons may still apply for education allowance and in-service training allowance. No amendments were made concerning the mentioned two allowances in 2008. Education allowance has been provided for disabled students in order to reduce any obstacles arising from the disability in acquiring formal education acquired within the adult education system. The in-service training allowance is paid to working disabled persons for professional training and formal education acquired within the adult education system in order to promote their employment.

The last few years have not been very suitable for assessing the impact of the amendments of the Social Benefits for Disabled Persons Act. In relation to the general recession, the employment rate, including the employment rate of disabled persons, decreased at a rapid speed. However, as a positive aspect, the average monthly amount of benefit per recipient paid to disabled persons of working age has increased as a result of the amendment.

**Table 34.** Disabled persons\* by age groups, 2007-2010 as of 1 January

	2007	2008	2009	2010
TOTAL	115,354	117,646	118,367	120,432
children (aged 0-15)	5,812	5,699	6,408	6,791
persons of working age (16-64)	44,402	43,470	45,736	47,454
persons aged 65 and older	65,140	68,477	66,223	66,187

\* Disabled persons according to the Social Benefits for Disabled Persons Act

Source: Ministry of Social Affairs

**Table 35.** Persons on round-the-clock care, 2007-2010, as of 31 December

	2007	2008	2009	2010
Disabled persons TOTAL	115,354	117,646	118,367	120,432
Number of disabled persons on round-the-clock care	5,303	5,598	5,899	6,289
persons in substitute homes (children and young persons)	564	525	479	489
persons on special care services	2,233	2,346	2,457	2,478
persons in welfare institutions, except special care	2,506	2,727	2,963	3,322
Proportion of total amount of disabled persons, %	4.5	4.7	4.9	4.9

Source: Ministry of Social Affairs

In the education policy, persons with special needs are treated arising from the special educational needs and the special educational needs are not related to existence of the degree of severity of disability or the lack thereof for the purposes of the Social Benefits for Disabled Persons Act and the respective indicator is not included in the education register. Special education needs only partially connect with the target group of disabled children arising from the difference in definitions. However, the majority of disabled children (but not all, as the existence of a disability does not always mean special needs in the education system) also belong among children with special educational needs. The number of persons

with special educational needs is also significantly increased by the fact that persons of up to 24 years of age studying in formal education acquired within the adult education system are considered to be in the respective target group.

The definition of a child with special needs used in the database of Statistics Estonia encompasses children with physical or sensory disability or speech impairment and/or learning disability, mental disorder or who require special treatment due to behavioural problems and are learning in a school for children with special needs.

In legislation, extremely talented children are also classified as children with special needs.

In legislation related to pension, the definition of disabled person is not used; instead, the definition of person receiving pension for incapacity for work is used. Pension for incapacity for work is granted to a person whose capacity for work has decreased. Pursuant to subsection 14 (1) of the State Pension Insurance Act, a person has the right to receive a pension for incapacity for work if they are between the age of 16 and the pensionable age, who are declared permanently incapacitated for work with the 40 to 100 percent loss of the capacity for work pursuant to the procedure established by the Minister of Social Affairs and who have earned the pension qualifying period required for grant of a pension for incapacity for work. Loss of capacity for work of less than 40% shall be declared for a person in case of an occupational accident or disease. The respective persons have the right to receive compensation from the employer (paid in addition to pension for incapacity for work; the description of the system has been previously presented with regard to adherence to Article 12 (1)). Depending on coping with social life, persons receiving pension for incapacity for work may be either be disabled or not. On the other hand, a person may have a disability, but no permanent incapacity for work has been established (e.g. children and persons of the retirement age).

**Table 36.** Persons aged 15-64 by degree of severity of disability and percentage of loss of capacity for work, 2008-2010

<b>Persons aged 15-64 by degree of severity of disability and percentage of loss of capacity for work</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>
Disabled, no permanent incapacity for work	9.1	7.3	9.2
Disabled, permanent incapacity for work of 10-100%	35.5	42.0	39.2
Not disabled, permanent incapacity for work of 10-100%	38.2	42.1	39.2

Average annual estimates

Source: Statistics Estonia, calculations of the Ministry of Social Affairs based on the materials of the Labour Force Survey

The Ministry of Social Affairs has draft legislation for the Act on Ratification of Convention on Rights of Persons with Disabilities to be approved. The objective is to promote, protect and ensure full and equal exercise of all human rights and fundamental freedoms by disabled persons and promote respect for their natural dignity.

## Paragraph 1 – Education and training for persons with disabilities

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

*The Committee asks the next report to indicate whether the new Law on Equal Treatment has been adopted and if it includes provisions explicitly protecting persons with disabilities against discrimination in education and training. Meanwhile, the Committee considers that the anti-discrimination legislation in the field of education and training is inadequate.*

Subsection 2 (2) of the Equal Treatment Act that entered into force on 1 January 2009 provides a prohibition of discrimination of persons on the grounds of disability. Pursuant to the Act, discrimination of disabled persons in access to all types and to all levels of vocational guidance, vocational training, advanced vocational training and retraining is prohibited. The Act provides the principles of equal treatment, duties upon implementation and promotion of the principle of equal treatment and the resolution of discrimination disputes. Subsection 13 (2) of the Act specifies the implementation and promotion of the principle of equal treatment in the field of education and training. Educational and scientific institutions and other institutions and persons that organise training shall take the need to promote the principle of equal treatment into account upon determining the content and organisation of studies.

The right to education pursuant to § 37 of the Constitution also applies to disabled persons. Subsection 8 (2) of the Education Act obligates persons to acquire education until attaining 17 years of age and the obligation applies to everyone. Pursuant to the Act, home schooling is also allowed. Pursuant to subsection 10 (1) of the Education Act, the local government shall provide persons with physical disabilities, speech impairments or sensory or learning disabilities and persons who need special support with the opportunity to study at a school of their residence. If suitable conditions are not found, the state and local governments shall provide such persons with the opportunity to study at an educational institution established for that purpose pursuant to the procedure and under the conditions prescribed by legislation.

Subsection 52 (2) of the Republic of Estonia Child Protection Act provides the right of disabled children to have opportunities for education, development and self-realisation equal to those of able children.

The general purpose of developing the general education system has been defined as follows in the Development plan for general education system for 2007-2013 approved by the Government of the Republic in 2007: the general education system shall create equal opportunities and conditions for all students for the acquisition of high-quality education corresponding to their abilities and interests and enabling them to continue their studies and cope in life in a dignified way.

In order to meet the objective, the main focus is on implementation of the principles of inclusive education along with accessibility of services related to counselling and support specialists, elaboration of study materials required for students with special educational needs and ensuring a suitable study environment.

In 2010, the new Basic Schools and Upper Secondary Schools Act entered into force, providing organisation of studies for students with special educational needs. The Act emphasises the obligation of supporting the development of all students. Teachers observe the development and coping of students at school and adjust studies according to the needs of students where necessary. Students shall be provided with the services of at least a special education teacher, psychologist and social educator (hereinafter *support specialists*). Owners and heads of schools create and organise the opportunities for implementation of the services of support specialists. A developmental conversation is held at school with each student at least once per academic year for the purpose of supporting the development of the student, and further study and development goals are agreed on the basis thereof.

Pursuant to the Act, the definition of a student with special educational needs is as follows:

- a student with special educational needs means a student whose talent, specific learning difficulties, health status, disability, behavioural and emotional disorders, long-term absence from studies or insufficient proficiency in the language of instruction of a school brings about the need to make changes or adjustments in the subject matter, process, duration, workload or environment of study (e.g. teaching materials, school rooms, language of communication, including a sign language or other alternative means of communication, support staff, teachers who have received special training) or in the expected learning outcomes or in the work plan drawn up by a teacher for working with a class.

A special educational need is identified using pedagogical-psychological assessment, repeat and more accurate observation of the behaviour of a student in different conditions, gathering information about the student and the environment of their upbringing, and medical and speech therapy examinations of the student.

The Act provides the principle of inclusive studies. Upon the organisation of the studies of a student with special educational needs, the principles of inclusive studies are followed. Students with special educational needs study in an ordinary class of their school of residence. In the event that it is not possible to ensure the support services required by the students in an ordinary class, they shall be provided with the respective possibilities in a group, class or school for students with special educational needs.

The Act specifies the obligations of the state, local governments and the schools in organising the studies of students with special educational needs. The Act also provides the supportive services that have to be available for students.

The head of the school shall appoint a person (hereinafter *special educational needs coordinator*) whose duty is to organise cooperation between support specialists, instructors of talented students and teachers for the purpose of supporting the teaching and development of a student with special educational needs.

The special educational needs coordinator supports and instructs a teacher in identifying special educational needs and makes proposals to the teacher, parent and head of school regarding further educational work and application of measures offered by the school in support of the development of the student or conducting further investigations.

Schools are obliged to implement the required measures and supportive services for supporting the studies of students with special educational needs and assess the efficiency of the implemented measures. At the end of the period of application of the measures, the special educational needs coordinator shall assess the effectiveness of the measures in cooperation with teachers and support specialists and make proposals to the parents and, where necessary, to the head of school for further activities: termination of the application of the measures; continuance of the application of the measures in the same or improved manner; replacement of a measure or addition of another measure; conducting further investigations; recommending that the student see a specialist doctor, a specialist of a particular field or the consulting committee.

The results of the pedagogical-psychological assessment carried out for identification of special educational needs, additional observations and recommendations of teachers regarding the strengths and weaknesses of a student, recommendations of the support specialists of the school, test and examination results, and the recommendations of the counselling committee regarding organisation of studies and the measures applied to the student on the basis thereof shall be documented in a child development observance chart drawn up for the purpose of observance of the development and coping of the student with special educational needs.

Schools aimed at students with special educational needs may also be founded and managed for the purpose of improvement of the organisation of the studies of students with special educational needs.

The obligation for acquisition of education of disabled persons is imposed on local governments who shall ensure the possibility to study in the school of residence of the person. If suitable conditions are not found, the state and local governments shall provide such persons with the opportunity to study at an educational institution established for that purpose pursuant to the procedure and under the conditions prescribed by legislation. Acquisition of education by disabled children and creating suitable conditions for them is thereby specially emphasised in the Education Act.

The state shall ensure the foundation and management of schools for visually impaired, hearing impaired and speech impaired students who, in addition to a physical/motor disability, have an additional special educational need, as well as for students with multiple disabilities, students with intellectual disabilities, students with emotional and behavioural disorders, and students in need of special treatment due to behavioural problems.

Pursuant to subsection 8 (4) of the Education Act, acquisition of education is also allowed in the form of home schooling. Home schooling has been provided as an extreme measure when it is not possible to organise studies otherwise; on the other hand, it makes it possible for disabled students to acquire education.

By a decision of the owner of a school additional studies may be organised for students with intellectual disabilities after graduation from basic school. The purpose of additional studies is to provide additional preparation and support for fluent continuation of studies or transition to the labour market. The duration of additional studies is one academic year. Persons attending additional studies are provided with instructed studies to the extent of 1,050

lessons, including 525 lessons of general education studies and 525 lessons of vocational training and development of social and personal skills. Vocational training is carried out in cooperation with a relevant vocational educational institution or employer. A transition plan is made for each student for reaching the next level of education.

The provisions of the Basic Schools and Upper Secondary Schools Act are also supported by the principles and ideology of the amended national curricula. Provisions concerning individual curriculum are also provided in the Regulations of national curricula:

- Regulation no. 1 “National Curriculum for Basic Schools” of the Government of the Republic of 6 January 2011,
- Regulation no. 2 “National Curriculum for Upper Secondary Schools” of the Government of the Republic of 6 January 2011 and
- Regulation no. 182 “Simplified National Curriculum for Basic Schools” of the Government of the Republic of 16 December 2010.

The last of the aforesaid Regulations establishes a standard for basic education for students with intellectual disabilities with regard to students with mild learning difficulties, students with moderate learning difficulties, and students with severe and profound learning difficulties who are studying pursuant to a recommendation of the counselling committee and upon the agreement of the parent.

The principle of lifelong learning is provided in clause 2 (3) 3) of the Education Act, pursuant to which one of the objectives of education is to create opportunities for everyone to engage in continuous learning. The principle of lifelong learning is emphasised in the Higher Education Standard and Vocational Education Standard approved by the Government of the Republic and in the Standard for Hobby Education approved by the Minister of Education and Research.

The Adult Education Act provides the bases for adult education and training and the legal guarantees for adults to be able to access the learning they desire during their lifetime. Subsection 7 (2) of the Adult Education Act specifies separately that local governments shall ensure the education of disabled persons.

Acquisition of vocational education by disabled persons is ensured by Regulation no. 25 “Conditions and Procedure for Studies of Persons with Special Needs in Vocational Educational Institutions” of the Minister of Education and Research of 30 August 2006. The Regulation provides the principles for conducting vocational education for persons with

special needs, including conducting developmental conversations, the principles for preparing an individual curriculum, offering the required supportive services, adjusting the physical study environment, etc.

Clause 26 (1) 2) of the Social Welfare Act provides that rural municipality and city governments shall establish, in cooperation with competent state authorities, opportunities for vocational training that would raise the ability of disabled persons to compete in the job market in order to provide disabled persons with equal opportunities with other persons, their active participation in community life and independent ability to cope.

*2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.).*

One of the most important sub-objectives of the Development plan for the general education system for 2007-2013 is creating possibilities for students for education that corresponds to their abilities and takes into account their individuality. Improving the accessibility of supportive services for students with special educational needs, developing the counselling system, amending the national curriculum and preparing the study materials necessary to implement the curriculum have been initiated as some of the most important activities.

For example, textbooks in Braille are ensured for students in both regular schools and specialised schools in Estonia in order to promote acquisition of education by people with disabilities. The necessary support, counsel and training can be acquired from a counselling centre created on the basis of a state school that regular schools are successfully using. The Hearing rehabilitation programme for 2008-2011 has been prepared in cooperation with organisations that actively deal with hearing impaired persons. The programme describes the necessary activities for various parties, including the aim of better organisation of education. Education allowance and in-service training allowance are provided in the Social Benefits for Disabled Persons Act in order to promote education of disabled persons.

As of 2008, the following national programmes are implemented with aid from the ESF for the purpose of supporting the studies of students with special educational needs and implementing inclusive studies:

### *Programme “Development of Education Counselling“*

The objective of the programme is to improve the accessibility of counselling services by creating regional education counselling centres and developing the counselling quality in order to prevent students from dropping out of schools and to improve the further coping and increase of competitiveness of young persons in daily life and on the labour market.

The following has been performed within the framework of the programme:

- regional coordinators have been hired with the purpose of conducting local development work for the education counselling system;
- education counselling centres have been established in every county and the City of Tallinn where psychological, special education, speech therapy and social pedagogy counselling services are provided;
- the specialists and managers/coordinators of the centres have passed training; and
- a web portal has been created for specialists of education counselling and the target group of the service. The portal includes all the information related to the programme and introducing the counselling centres as well as electronic instructive and supportive materials.

### *Programme “Development of teaching materials for students with special educational needs“*

The general purpose of the programme is to improve the accessibility of students with special educational needs to education, improve the quality of education, create prerequisites for ensuring equal studying possibilities and prevent dropping out of school. The portal [www.hev.edu.ee](http://www.hev.edu.ee) is developed thanks to the resources of the programme. The portal includes information regarding the education, teaching materials, projects and other events, in-service training courses and relevant literature for students with special educational needs.

Main activities of the programme:

- Developing the system of teaching materials for students with special educational needs encompasses gathering information regarding persons preparing teaching materials, mapping the demand for teaching materials for students with special educational needs, examining the need for training of persons preparing teaching materials and elaboration of the description of the system of teaching materials for students with special educational needs after the end of the programme period.
- All the information regarding studies and teaching materials of students with special educational needs is gathered for developing the web portal. The electronic teaching

materials prepared in the course of the programme and other important information regarding special educational needs can be accessed in the portal.

- Preparing and publishing the respective main teaching materials for students with special educational needs. Working groups for preparing the teaching materials by subjects have been formed. The working groups prepare new materials, amend the existing materials or adjust suitable materials for main subjects from teaching materials published in foreign countries for translation.
- Sample and instructive materials regarding education of students with special educational needs published in foreign countries are translated in addition to preparing the teaching materials.

*Programme “Raising the qualifications of general education teachers, 2008-2014”*

The general objective of the programme is creating the necessary conditions for professional development and high-quality professional activities throughout the career of general education teachers. Training in order to increase the professional abilities of teachers for teaching students with special educational needs is provided for teachers within the framework of the activities of the programme.

A career adviser helps determine the suitable training for disabled persons. The vocational guidance service is provided to persons with disabilities by advisers with special training in the Astangu Vocational Rehabilitation Centre, a unique centre in Estonia that offers rehabilitation services and professional and vocational training courses for persons of working age. It is possible to acquire professional and vocational skills in the study fields of carpentry, bakery, craftsmanship, household maintenance and information technology. Persons with special needs who need to develop their social skills, make a decision regarding their profession or receive professional support for coping in life after a traumatic brain injury can participate in various adjustment courses. There are 14 educational institutions that facilitate vocational education for persons with disabilities in different professions in Estonia.

Including students with special needs in pre-training as well as in-service training and retraining is one of the priorities of developing vocational education. This is also reflected in the Development plan for Estonian vocational education system for 2009-2013. One of the sub-activities of measure 1.2 “Increasing possibilities of vocational education for various target groups” of the development plan is offering extensive studying possibilities and more suitable forms and manners of studying for students with special needs. Students with a more severe degree of disability are able to acquire a profession in the Astangu Vocational

Rehabilitation Centre where cooperation with the Haapsalu Vocational Education Centre is performed.

The Estonian Education Strategy 2020 presented to the Government of the Republic in June 2011 provides supporting of less represented social groups in higher education studies. Disabled students in institutions of higher education also belong to a minority group in higher education. The strategy also specifies possibilities for acquiring preschool education for every child (including disabled children) that are ensured by the state as a necessary step.

*Programme “Primus”*

The objective of the programme is to improve the quality of studies in institutions of higher education and increase the competitiveness of graduates. One of the six programme activities is supporting the coping of the student; one of the sub-activities thereof for 2009-2013 is offering supportive services to students with special needs. It is possible for students with special needs to apply for a grant in order to cover the additional expenses caused by the special needs and related to the studies within the framework of the programme “Primus”. The grant can be applied for in order to pay for periodical supportive services (e.g. personal assistant, sign language interpreter, transportation for the disabled) and single or irregular services (e.g. acquisition of a medical device necessary for studies). Pursuant to the procedure, institutions of higher education can apply for support for elaborating and implementing supportive services or activities that can be organised centrally in the institution of higher education (e.g. training of supportive students, sign language interpreter services for enrolled persons, notification events for employees and students of the institution of higher education) from the programme.

3) Please supply any relevant statistics or other information

**Table 37.** Schools for children with special needs, 2006-2010

Year	Schools for children with special needs
2006	46
2007	45
2008	45
2009	43
2010	43

\* Number of educational institutions as of beginning of academic year

Source: Statistics Estonia

A total of 145,939 students studied in general education schools in the 2010/2011 academic year, including 3,779 students in schools for students with special educational needs.

**Table 38.** Number of students in general education schools by classes for students with special needs, 2010/2011

Type of class (basis of classification: § 51 of the Basic Schools and Upper Secondary Schools Act)	School for students with special educational needs	Regular school and filial	Upper secondary school for adults	Total
Class for students with severe and profound learning difficulties	257	13		<b>270</b>
Class for students with behavioural problems	108	526	95	<b>729</b>
Language immersion class		4,420		<b>4,420</b>
Class for students with hearing impairment	87	8		<b>95</b>
Class for students with speech impairment	241			<b>241</b>
Class for students with mild learning difficulties	1,179	299		<b>1,478</b>
Class for students with physical/motor disability	66			<b>66</b>
Class for students with multiple disabilities	143	1		<b>144</b>
Class for students with visual impairment	40			<b>40</b>
Class for students with severe somatic illnesses	133			<b>133</b>
Ordinary class	15	130,152	6,046	<b>136,213</b>
Class for students with moderate learning difficulties	649	47		<b>696</b>
Class for students with emotional and behavioural disorders acquiring basic education	311			<b>311</b>
Small class	46	1		<b>47</b>
Class for students with specific learning difficulties acquiring basic education	504	552		<b>1056</b>
<b>TOTAL</b>	<b>3,779</b>	<b>136,019</b>	<b>6,141</b>	<b>145,939</b>

Source: Estonian Education Information System

It is possible to bring out the number of students by different types of classes. In 2010, 270 children were studying in classes for students with severe and profound learning difficulties, 95 in classes for students with hearing impairment, 241 in classes for students with speech impairment, 66 in classes for students with physical/motor disability, 144 in classes for students with multiple disabilities, 40 in classes for students with visual impairment, 133 in classes for students with severe somatic illnesses, 696 in classes for students with moderate learning difficulties, 311 in classes for students with emotional and behavioural disorders acquiring basic education and 1,478 in classes for students with mild learning difficulties. A total of 3,779 students are studying in the basic school and upper secondary school levels in schools specially meant for students with special educational needs.

A total of 28,012 students studied in vocational educational institutions in the 2010/11 academic year as of 10 November 2010. 966 of the students were students with special educational needs who studied in 25 different educational institutions.

**Table 38.** Number of students with special educational needs in vocational educational institutions, 2007/2008-2010/2011

Year	2007/08	2008/09	2009/10	2010/11
Number of students	689	595	769	966

Source: Estonian Education Information System

The data in the Estonian Education Information System regarding disabled students in higher education does not reflect the actual situation as students are not interested in giving notice of their disability. The Social Insurance Board pays education allowance for students with disabilities. Students with special needs are additionally supported within the framework of the Primus programme financed from the European structural resources (<http://primus.archimedes.ee>). 26 persons received benefits via Primus in 2009, 55 in the spring of 2010 and 86 in the 2010/2011 academic year.

*The Committee notes the issuing of Regulation no. 25 on the Conditions and Procedure for Persons with Special Needs Studying in Vocational Educational Institutions, by the Minister of Education and Research in August 2006, which stipulates that activities supporting individual development must be guaranteed to students with special needs acquiring vocational education. The Regulation specifies that individual study plans must be prepared and implemented, regular appraisals must be conducted and transition into working life in cooperation with a company and, if necessary, access to the services of support staff must be organised. The Committee asks the next report to describe the impact of this Regulation on the opportunities for persons with disabilities to acquire vocational education.*

In vocational education schools the number of students with special needs has increased. In 2010/2011, the proportion of students with special needs was 3.4% of the total number of students in vocational education (in 2007/2008 the figure was 2.5%). Increase in the number of students with special needs was supported by Regulation no. 25 "The Conditions and Procedure for Persons with Special Needs Studying in Vocational Educational Institution". Regulation provides legal basis for supporting these students, inter alia having influence on decrease of the number of school leavers and improving graduates competitiveness in the labor market ensuring their smooth transition from school to work. The students with special needs get individualized attention and depending on their need, psychologists, teachers, special education teachers, and other specialists help them.

*The Committee notes from the report that in 2006, the Estonian Chamber of Disabled People prepared a 64-hour training programme for local government and education specialists (a total of 50 people) to inform them about different types of disabilities, the needs and problems of disabled students and to improve the knowledge of social workers and teachers about disabilities. The project was launched in 2007. The Committee asks the next report to inform it about the impact of this project on the education and training of persons with disabilities.*

The purpose of the training "Involving local governments in topics related to disabilities" was to improve the awareness of social workers and child protection officials regarding the requirements and problems of disabled persons in order for the former to better understand and assist disabled persons. The training programme was also intended to provide an overview of amendments of legislation related to disabilities in the following years and to introduce the most common types of disabilities, their nature and circumstances for cause thereof. The training programme was not directly/strictly for persons involved in education

work or for covering issues related to education of disabled students. The training was above all necessary due to the fact that several amendments of legislation were established in the respective period, affecting the organisation of social work at the local government level. The training programme contained a total of 20 different topics – visual impairment, hearing impairment, learning disability, motor/physical disability, disabled child in a family, needs of elderly disabled persons, diabetes, epilepsy, sclerosis multiplex, schizophrenia, autism, cardiovascular diseases, childcare services for children with severe and profound disability, substitute home services, personal assistant service, medical devices and medical device service, development of services at the local government level, evaluation in social work, integrated conception of care and nursing care and conception of social benefits for disabled persons. The 45 local government social work specialists who participated in the training pointed out that training was necessary and specially emphasised the usefulness of introduction of various types of disabilities and disease conditions. The training programme also served as an important place for exchanging contacts and experiences and provided a good opportunity for individual development and additional learning from the experience of other persons.

## Paragraph 2 – Employment of persons with disabilities

*1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.*

Subsection 2 (2) of the Equal Treatment Act that entered into force on 1 January 2009 provides a prohibition of discrimination of persons on the grounds of disability. Pursuant to the Act, discrimination of persons on the grounds of disability is prohibited in relation to conditions for access to employment, to self-employment or to occupation, including selection criteria and recruitment conditions, including promotion and entry into employment contracts or contracts for the provision of services, appointment or election to office, establishment of working conditions, giving instructions, remuneration, termination of employment contracts or contracts for the provision of services, or release from office.

In order to motivate disabled persons to participate in the labour market, an amendment of the Social Benefits for Disabled Persons Act entered into force in January 2010 that provides a new type of benefit for disabled persons – work allowance. This benefit is paid to working disabled persons who incur real additional expenses related to working that are caused by their disability.

The work allowance has not been used much so far. This may be caused by the fact that there are persons who are not yet aware of the possibility to receive the allowance. On the other hand, there might not be a need for this specific allowance in all circumstances. Many disabled persons can cope very successfully in the existing working and study environments and do not have special work-related expenses.

The amount of monthly benefit paid to disabled persons of working age depends on how much their participation in daily life is hindered. If the person is active, they also incur bigger expenses and these shall be taken into account upon determining the monthly benefit. If the person does not incur additional expenses, they have no need to apply for benefits.

In 2009, amendments to the Labour Market Services and Benefits Act and the Unemployment Insurance Act were adopted, pursuant to which the Estonian Unemployment Insurance Fund and the Labour Market Board were merged for the purpose of improving the accessibility and quality of services. A person can now receive all the assistance required for

job-seeking, various labour market services and unemployment insurance benefits from one body that has simplified the procedures and made access to services easier and more convenient for persons. Disabled persons who are registered as unemployed have an equal possibility to engage in the labour market services offered by the Estonian Unemployment Insurance Fund. A job mediation consultant of the Estonian Unemployment Insurance Fund shall help assess the necessity for participation in labour market services. An Individual Action Plan shall be prepared with the consultant with the objective of finding a job for the unemployed person and plan the necessary activities therefor. The Estonian Unemployment Insurance Fund has facilitated the adaptation of premises and equipment, special aids and equipment, communication support at interviews and the possibility of working with a support person as measures that increase the employment rate of disabled persons and services that promote employment (in addition to the regular active labour market measures). Possibilities that are meant as supportive measures for employers upon hiring disabled persons such as provision of the service of working with a support person, special aids and equipment and adaptation of premises and equipment can be set out by the Unemployment Insurance Fund in a contract under public law entered into with the employer. In addition to the services that specially promote hiring of disabled persons, the latter are also able to participate in other offered labour market services based on their needs, for example labour market training (pre-training, in-service training and retraining) and career counselling.

*2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.*

Pursuant to the State Pension Insurance Act, permanent incapacity for work may be established in a range of 10-100%. In the event that permanent incapacity for work of up to at least 40% is identified for a person, he or she shall have the right to apply for pension for incapacity for work. Pension for incapacity for work serves as replacement income for the extent of the loss of capacity for work. Permanent incapacity for work established for a person does not prohibit working. It is presumed that the person is able to work and earn an income for the extent of the remaining capacity for work. The Act does not prohibit a person receiving pension for incapacity for work from working full-time. The pension for incapacity for work determined for the person remains the same in case of working and it is not reduced.

The state promotes working of persons receiving pension for incapacity for work by paying the employer's part of the social tax of an employee receiving pension for incapacity for work

pursuant to the Social Tax Act. The state pays social tax from the monthly rate that serves as basis for the payment thereof (278.02 euros in 2011). In order to receive the benefit, the employer shall submit an application for transfer of social tax by the state to the Social Insurance Board every month. Beforehand, the employee shall prove to the employer that he or she is a person receiving pension for incapacity for work by presenting a pension certificate with the note about the respective type and term of pension.

In addition to the aforesaid, persons receiving pension for incapacity for work have a right to an annual holiday of 35 calendar days instead of the regular annual holiday of 28 calendar days pursuant to the Employment Contracts Act. The extension shall be paid from the financial resources of the state budget, thereby not causing a direct additional expense for the employer.

Over one hundred projects with the common purpose of ensuring long and high-quality working life have been supported with structural assistance in the period 2007-2010 from open application of measure 1.3.1 of the programme “Increasing the Availability of Qualified Labour Force for 2007-2013” financed by the European Social Fund. The activities supported within the framework of the measures *inter alia* include the development and implementation of measures that support employment of disabled persons and entry to the labour market and working of disabled persons. Various projects have been supported in the framework of the measure. In addition to producing series that concern training disabled persons, teaching advanced coping, facilitating disabled integration and employment of persons with special needs, the facilitation of the employment service has also received assistance and the creation of protected jobs has been made possible. Disabled persons have improved their skills and knowledge thanks to these projects and have thereby become more favourable labour force for employers and improved their possibilities for finding employment in the open labour market as well as at protected/supported positions.

One of the objectives of the ESF programme “Increasing the Availability of Qualified Labour Force for 2007-2013” is integrating disabled persons with the labour market through innovative approaches. The objective of the sub-programme “Improving employment of disabled persons” is to *inter alia* offer training for job-seeking, commencing business activities and professional training, longer work practice, psychological counselling, career counselling, etc. In addition to that, it is possible for disabled workers to apply for in-service training allowance on the basis of the Social Benefits for Disabled Persons Act. Exceptional solutions have also been offered within the framework of the programme, e.g. procuring a

CPAP machine and a high-powered stethoscope and granting it for use free of charge, procuring transport services and using sign language interpreter services.

Possibilities that are meant as supportive measures for employers upon hiring disabled persons such as provision of the service of working with a support person, special aids and equipment and adaptation of premises and equipment can be set out by the Unemployment Insurance Fund in a contract under public law entered into with the employer. In case of the service of adaptation of premises, the Labour Market Board initially offered covering only 50% of the expenses of the adaptation for the employer; therefore the employer had to share considerable costs in covering the expenses. It is possible to cover the expenses of an employer who has made adjustments to the workplace in order to hire a disabled person in the extent of 100% from the ESF programme "Increasing the Availability of Qualified Labour Force for 2007-2013". In the event that adaptations have been made for a disabled person who is already working, up to 50% of the expenses of the employer shall be covered.

In 2009, the Labour Market Board organised procurement and entered into a contract for services with InterAct Projektid & Koolitus OÜ for assessing workplaces and developing a system for assessing the necessity for special aids and equipment. An analysis of the service of adaptation of workplaces and providing special aids and equipment necessary for work, informative materials (circulation 2,500 pc.) in Estonian and Russian regarding sample adaptations and special aids and equipment and a list of experts who provide expert services for assessing the necessity of special aids and equipment and the need for adaptation of the workplace were prepared as a result of the work performed. The informative materials have been distributed to the regional offices of the Unemployment Insurance Fund as well as local partners, and the list of experts has been forwarded to the Astangu Centre for Disability-related Information and Assistive Technology.

3) Please provide pertinent figures, statistics or any other relevant information on the number of persons with disabilities in working age, in ordinary employment and in sheltered employment (estimated, if necessary). Please, also indicate whether the basic provisions of labour law applies to persons working in sheltered employment where production is the main activity.

The Committee highlights that it also needs to systematically be provided with up-to-date figures concerning the total number of persons with disabilities employed (on the open market and in sheltered employment), those benefiting from employment promotion measures and those seeking employment. In the absence of these figures, it cannot be established whether the situation is in conformity with Article 15 § 2.

**Table 39.** Number and employment of disabled persons

	2008	2009	2010
Total number of disabled persons of working age (aged 15-74)	71,700	77,600	74,500
employed	11,500	10,900	9,900
unemployed		3,700	4,400
inactive	60,200	63,000	60,200
Employment rate of disabled persons	16%	14%	13%

Source: Statistics Estonia, materials of the Estonian Labour Force Survey, Ministry of Social Affairs

**Table 40.** Number and employment of persons receiving pension for incapacity for work (permanent loss of capacity for work of 40-100%)

	2008	2009	2010
Total number of persons of working age receiving pension for incapacity for work, average per year (aged 15-64)	72,200	82,200	83,800
employed	27,900	27,400	27,600
unemployed		9,000	13,200
inactive	41,400	45,800	43,000
Employment rate of persons receiving pension for incapacity for work	38.6%	33.4%	32.9%

Source: Statistics Estonia, materials of the Estonian Labour Force Survey, Ministry of Social Affairs

**Table 41.** Social tax for a working person receiving pension for incapacity for work (on the basis of clause 6 (1) 5) of the Social Tax Act), kroons (in thousands)

2007	2008	2009	2010
16,390.2	14,837.7	91,366.6	112,756.2

Source: Ministry of Social Affairs

*Persons who have gained benefit from labour market measures*

In the period 2007-2011 (September), the following labour market services for disabled persons were provided:

- adaptation of premises and equipment for disabled persons was facilitated in 7 instances;
- special aids and equipment for disabled persons were facilitated in 24 instances;
- the service of working with a support person has been provided for disabled persons in 99 instances; and
- disabled persons have received support by means of provision of the communication support at interviews in service in 53 instances.

*The Committee refers to its previous conclusion (Conclusions 2007) for a description of the Employment Contracts Act (ECA Consolidated text 2004, Section 10), which prohibits direct and indirect discrimination in employment and access to training on the ground of, inter alia, disability and the Occupational Health and Safety Act, which provides that work places be adapted to be suitable for workers with disabilities. In order to assess whether the right to non-discrimination in employment is effectively guaranteed for persons with disabilities, the Committee reiterates its previous questions concerning the implementation of the reasonable accommodation obligation as they were not sufficiently addressed in the current report, i.e. :*

- How is the reasonable accommodation obligation implemented in practice?*
- Has the reasonable accommodation obligation given rise to cases before courts?*
- Has the reasonable accommodation obligation prompted an increase in employment of persons with disabilities in the open labour market?*

The protection of disabled persons is based on §10<sup>1</sup> of the Occupational Health and Safety Act pursuant to which the employer shall adapt the work, work equipment and workplace of the disabled person according to the physical and mental abilities of the disabled person. Adaptation means the rendering of the construction works, premises, workplace or work equipment accessible to and fit for use by a disabled person. This requirement also applies to public routes and non-work rooms used by disabled workers.

The working environment council of an undertaking specified in § 18 of the Act helps create the suitable working conditions and organisation of work for disabled workers.

Protection of the employee is also ensured in the Employment Contracts Act. Before cancellation of an employment contract, the employer shall offer another job to the employee if possible (subsection 88 (2) of the ECA). Although the reasons for cancellation of an employment relationship for reasons arising from the employee may vary a lot, the obligation to offer another job is above all applied upon decrease in the capacity for work of an employee, i.e. when an employee fails to perform work duties for a long time due to insufficient work skills or their state of health or when the employment relationship cannot be continued due to unsuitability or inadaptability of the employee (subsections 88 (1) and (2) of the ECA). The purpose of the obligation to offer another job is to avoid cancellation of the employment relationship and allowing the employee to continue working, thereby ensuring his or her income. As the realisation of the right of protection of the employee against cancellation is clearly expressed in the obligation to offer another job, the obligation shall be interpreted in the wider sense. Cancellation is not permitted if the employer has work to offer that the employee is able to perform. The offer cannot therefore only be limited to the

professional work of the employee. The employer shall offer jobs in any and all of its undertakings, not just the undertaking where the employee is working. In addition, the employer shall also offer jobs to the employee in case of which the employer would have to organise in-service training, adapt the workplace or change the working conditions if this allows the employee to continue the employment relationship. However, the obligation is imposed on the employer only if the changes do not cause disproportionately high expenses for the employer and offering another job is reasonable, taking all circumstances into account.

In addition to the Occupational Health and Safety Act and the Employment Contracts Act that offer legal protection for disabled persons and impose the obligation of adapting the workplace for the employer, the services and measures provided for disabled persons are also regulated by the Labour Market Services and Benefits Act. The overview of the measures in force within the framework of the Act that improve the employment of disabled persons is provided beforehand.

An informative leaflet “Disability and work: guidebook of good practice for employers” has been composed for raising the awareness of people.

In 2008, the Centre for Disability-related Information and Assistive Technology commenced operations at the Astangu Vocational Rehabilitation Centre thanks to support by the ESF. The Centre *inter alia* prepares expert assessments for adapting the environment based on the principles of accessibility and usability, counsel is provided for the choice and procurement of special aids and equipment, instructions for the use of the latter is provided and counsel regarding issues of how and from where support can be received for adapting the environment is provided. The Centre provides counsel for both clients and specialists. Thanks to the activities of the Centre, awareness regarding adaptation possibilities and the quality thereof has substantially improved. The party ordering the assessment for adaptation possibilities is not obliged to implement the adaptation on the basis of the assessment and the respective official statistics are not currently gathered. According to the Annual Report 2010, the number of clients received service was 620.

The Employment Contracts Act and the Occupational Health and Safety Act provide for protection of disabled workers, but the Labour Inspectorate has no data regarding the practical results of protection of disabled workers provided by legislation. The Labour Inspectorate has the right to exercise supervision, i.e. inspect whether and how the employer has performed the obligations provided in legislation in the event that a respective complaint or request for explanation is received by the Labour Inspectorate.

114 labour disputes related to cancellation of an employment contract arising from circumstances concerning the employee (§ 88 of the ECA) have been pending in labour dispute committees within the 10 months of the current year. The aforesaid provision includes several reasons for cancellation of an employment contract arising from circumstances concerning the employee, including circumstances of wrongful behaviour by the employee. The database of the Labour Inspectorate cannot provide more detailed data with a query regarding cancellation of employment contracts.

*The Committee also reiterates that it wishes to be informed about any case law relating to discrimination on the ground of disability in the field of employment. It is particularly interested in any such cases handled by the Chancellor of Justice.*

As we noted in our last report, § 12 of the Constitution of the Republic of Estonia provides the principle of equal treatment. Discrimination on grounds of disability is not explicitly prohibited, but the list of grounds of discrimination is not limited either. Discrimination on other grounds is prohibited. Discrimination on grounds of disability is considered to belong among the aforesaid. In addition, § 28 of the Constitution provides the obligation to ensure special protection for disabled persons; therefore only positive discrimination of disabled persons is permitted.

The provisions of the Constitution are not merely declarative in their nature but contain specific subjective rights and *inter alia* the right to equal treatment on the basis of disability as confirmed by judicial practice. We present an example that reached the Supreme Court and is hereat relevant. The example is from 2003 (no. 3-3-1-47-03) and concerned fulfilling the requirements for receiving Estonian citizenship. One of the mandatory requirements is passing the language examination. In the given case, the Supreme Court found that the requirement for passing the language examination for a person with hearing impairment who was unable to learn Estonian due to their state of health was in violation of the fundamental right to equality provided in § 12 of the Constitution. The Supreme Court therefore found in the given case that the provision that allowed unequal treatment with regard to disabled persons was unconstitutional and certified that the provision of the Constitution that prohibits discrimination includes the rights of disabled persons.

The Supreme Court has made a number of decisions related to the protection of the rights of people with disabilities. None of the decisions dealt with disability-related discrimination in employment. There is one employment-related case raised by the disabled person (no. 3-2-1-18-00), but the person did not complain on discrimination. To our knowledge, also the Chancellor of Justice has not reached such complaints.

*Even though the Labour Market Board is offering support services and jobs are found for a certain amount of persons with disabilities, the majority of persons with disabilities have either never worked or have been out of work for a very long time. Moreover, general awareness of disabilities and the requirements and possibilities for the employment of persons with disabilities is not sufficiently high and this may explain the still modest use of services aimed at promoting their employment.*

*Moreover, in its previous conclusion (Conclusions 2007), the Committee had noted from another source<sup>14</sup> that the choice of Estonia to integrate persons with disabilities mainly through tax concession and active employment measures does not really benefit persons with intellectual disabilities, who mainly rely on social benefits and are largely excluded from the labour market. The Committee had therefore asked the Government to comment on this issue, to indicate the measures planned, as well as figures on the situation of persons with intellectual disabilities.*

In Estonia there are the following employment measures for the people with disabilities:

- social benefits for the people with disabilities;
- disability pension (pension for incapacity for work);
- social rehabilitation service;
- technical special aids and equipment;
- personal assistant service;
- support person service;
- transport services for people with disabilities;
- counselling service;
- medical rehabilitation;
- special labour market services;
- other measures: sign language interpretation services, the housing adjustment (eg, bathroom modification, etc.), drug compensations, caregiver service, services offered by disabled people's organizations (student clubs, training, information sharing, meetings, etc.), student loan repayment, regular meetings with psychiatrist, local government grants (eg, firewood, compensation, tax exemptions, etc.), longer annual leave, the right for a full holiday in case of part-time work, the tax incentives.

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<sup>14</sup> EUMAP (EU Monitoring and Advocacy Programme of the Open Society), Right of People with intellectual disabilities: access to education and employment, Summary Report Estonia, 2005.

Unfortunately all services are not equally available everywhere. Also, the fact that people are still not sufficiently aware of their rights.

*As concerns sheltered employment, the Committee notes from the report that during the reference period, the total number of people employed in sheltered work centres were 416 persons. While noting from the report that the organisation representing persons with disabilities interests also in sheltered employment facilities is the Estonian Chamber of Disabled People, the Committee reiterates that it wants to know the status and level of pay of these employees and recalls that disabled people working where production is the main activity must enjoy the usual benefits of labour law. It asks again whether this is the case.*

The Astangu Vocational Rehabilitation Centre is elaborating the conception (description and cost model) of a protected working service. The conception shall also provide an input for legislation as to what type of contract should be used to regulate the work of a person working at the sheltered employment. On the basis of the input, the Ministry of Social Affairs shall analyse whether the specifications to the Employment Contracts Act should be used for the purposes of efficiency.

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

*1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.*

Please see general answer to the Article 15.

In the legislation currently in force in Estonia, the definition of disability is defined in subsection 2 (1) of the Social Benefits for Disabled Persons Act and § 5 of the Equal Treatment Act. Pursuant to the Social Benefits for Disabled Persons Act, disability is the loss of or an abnormality in an anatomical, physiological or mental structure or function of a person which in conjunction with different relational and environmental restrictions prevents participation in social life on equal bases with the others. Pursuant to the Equal Treatment Act, disability is the loss of or an abnormality in an anatomical, physiological or mental structure or function of a person that has a significant and long-term unfavourable effect on the performance of everyday activities. The education system uses the definition of special educational needs that encompasses disabled children and young persons and persons with learning difficulties as well as talented persons or persons who need adjustment in the study environment for other reasons (§ 10 of the Education Act).

Subsection 28 (4) of the Constitution emphasises that disabled persons are under the special care of the state and local governments. Pursuant to subsection 2 (2) of the Equal Treatment Act, discrimination on grounds of disability is prohibited among other grounds. Pursuant to § 11 of the Equal Treatment Act, grant of preferences to disabled persons, including measures aimed at creating facilities for safeguarding or promoting their integration into the working environment shall not constitute discrimination. Disabled children have the same rights as other children – they have an equal right to receive the necessary aid, support, services and a right to participate in society and express their opinions. The principle of non-discrimination of disabled children is provided in § 10 of the Republic of Estonia Child Protection Act, pursuant to which a child has an equal right to receive assistance and care whether he or she is disabled or not. The rights of disabled children are regulated in more detail in Part 8 of the Act.

Estonia signed the UN Convention on the Rights of Persons with Disabilities on 25 September 2007. Estonia is preparing ratification of the UN Convention on the Rights of

Persons with Disabilities and joining the Optional Protocol in order to better promote, protect and ensure full and equal exercise of all human rights and fundamental freedoms by disabled persons and promote respect for their natural dignity.

In Estonia, disabled persons with an established degree of severity of disability form 9.6% of the population, i.e. a heterogeneous group containing 128,087 persons as of the beginning of 2011. 59% of disabled persons are women and 41% are men; 53% are of the pensionable age, 41% are of working age and 6% are children (up to 16 years of age). The most prevalent are mobility disability (47,000 persons), other disabilities (various illnesses – 29,000 persons), special psychological needs (21,000 persons) and multiple disability (21,000 persons). Visual impairment (3,800 persons) and hearing impairment (2,000 persons) are less prevalent.

The Social Welfare Act provides the following social services: counselling, rehabilitation service, special care services (everyday life support service, employment support service, supported living service, community living service and 24-hour special care service), provision of prosthetic, orthopaedic and other appliances, childcare service, domestic services, housing services, foster care, substitute home service and care in social welfare institutions. In order to provide disabled persons with equal opportunities with other persons, their active participation in community life and independent ability to cope, the rural municipality government shall establish a support person or personal assistant, if necessary, and organise transportation for the disabled. Local governments also have the right to offer additional social services and social benefits for coping. Of the aforesaid services, the childcare service and substitute home service entered into force during the reporting period (1 January 2007) in addition to the welfare services of persons with special psychological needs (formerly regulated by Regulation of the Minister of Social Affairs).

The state organises the welfare services that are not rational to be organised at the local level due to the complexity of the service. State welfare services are the following: special care services for persons with severe and long-term special psychological needs, the service of provision of special aid equipment at a discount, rehabilitation service for disabled persons and the substitute home service for children. The state also supports provision of childcare services for children with severe and profound disability.

Several significant amendments have been introduced to the Social Welfare Act in 2007-2010. The content and reasons for the amendments are introduced below.

### *Rehabilitation service*

Rehabilitation service entered into force in the Act on 1 January 2005. The purpose of the rehabilitation service is to improve the independent coping of a disabled person, promote working or gaining employment and increase participation in social life and independent coping. In case of disabled children, the purpose is to aid the development of the child and acquisition of education. The following persons have the right to receive rehabilitation services: children and adults applying for severity of degree of disability, disabled children and adults, persons of 16 years of age until attaining the pensionable age provided that they have a mental disorder and their percentage of loss of capacity for work is at least 40 and juvenile offenders on the basis of the decision of the juvenile committee.

In the course of the rehabilitation service, a rehabilitation team of at least five specialists of different areas of specialisation formed on the basis of §11<sup>11</sup> of the Social Welfare Act shall assess the coping of the person and the need for personal assistance, propose suggestions for adjusting the (home and working) environment and for the receipt and use of technical aid. The need for care services is assessed and the person and his or her family members are given counsel if necessary in order to improve further social coping. In addition, the services noted in the rehabilitation plan are provided and the person is instructed as to how to implement the activities described in the rehabilitation plan. In 2010, the term of validity of the rehabilitation plan was extended – within the framework of the rehabilitation service, a personal rehabilitation plan with a validity term of 6 months up to 5 years is composed. A rehabilitation plan valid for a term of six months up to three years is prepared for a minor. As of 2009, the Social Welfare Act provides that upon preparation of a rehabilitation plan to an adult with a mental disorder, a psychiatrist shall belong to the rehabilitation team.

Provision of the rehabilitation service and state supervision over provision of the rehabilitation service is organised by the Social Insurance Board. Rehabilitation service may be provided by sole proprietors, legal persons, local government authorities or authorities administered by governmental authorities registered as providers of rehabilitation services in the register of economic activities. In 2009, the procedure for entry into contracts under public law for organisation of provision of rehabilitation services was specified in 2009 by amendment of the Social Welfare Act.

In order to provide rehabilitation services, the provider of rehabilitation services shall prepare a list of the persons who wish to receive the service. As of 2009, the provider of rehabilitation service shall give priority to persons for whom a disability has been established for the

purposes of § 2 of the Social Benefits for Disabled Persons Act or persons of 16 years of age until attaining the pensionable age provided that they have a mental disorder and their percentage of loss of capacity for work is at least 40 who have a severe, profound or permanent mental disorder and who were receiving the supported living service or the community living service or the 24-hour special care service before applying for rehabilitation services and for whom a rehabilitation plan shall be prepared in order to determine whether they need to be directed to receive special care services or not.

#### *Technical special aids and equipment*

Individual need is the precondition for applying for technical special aids and allocation thereof at a discount. In addition, technical special aids shall help prevent aggravation of a caused or congenital damage or disability, compensate for functional impairment caused by damage or disability and improve or maintain the highest possible level of physical and social independence and capability to act. Regulation no. 79 “Conditions and procedure for applying for technical special aids and allocation thereof at a discount” of the Minister of Social Affairs of 14 December 2000 regulates the acquisition or rental of technical special aids at a discount or compensation of services related thereto.

The aforesaid Regulation has been amended as specified below in the reporting period. As of 9 August 2008, the group of persons who may apply for acquisition or rental of technical special aids at a discount or compensation of services related thereto was expanded. Persons of working age with an established loss of capacity for work of at least 40% or for whom a degree of severity of disability has been established as well as persons for whom hearing impairment from 30 decibels has been established may also apply for allocation of technical special aids at a discount. An individual technical special aids card shall be issued to a person for the technical special aids sold or rented at a discount. As of 9 August 2008, an individual technical special aids card shall also be issued to persons for whom hearing impairment from 30 decibels has been established for purchasing hearing aids and sound transmission systems.

#### *Childcare service*

In addition to the pre-school education system, the childcare service was established in the Social Welfare Act as of 1 January 2007. The Minister of Social Affairs shall establish the format of the application for the childcare service financed by the state and the list of documents to be appended to the application, the maximum cost of the childcare service

financed by the state and the health protection requirements for the childcare service with a Regulation.

The childcare service is a service that supports the working, studying or coping of a parent during which the provider of the childcare service shall ensure caring for, development and safety of a child. The parent shall generally pay for the childcare service. The legal representative (parent or guardian) of a child with a severe or profound disability or the person offering foster care for a child shall have the right to have the childcare service compensated by the state until the end of the calendar year when the child turns 18 on the condition that the necessity of care services for the child is noted in the rehabilitation plan of the child, caring for the child is not ensured with other social services at the same time (except foster care) and the child is not at an educational institution at the same time. In 2011, the limit for the childcare service financed by the state for a child with severe or profound disability is 371 euros per calendar year. Additional financing for the childcare service is provided by local governments. The childcare service does not compensate the disabled child and their family for the absence of a pre-school spot or the lack of possibility to attend school (in contrast to home schooling). Disabled children have a right equal to other children to attend pre-school and school and the childcare service serves as additional aid for the parent for raising a disabled child.

The Social Welfare Act provides the requirements for ensuring the quality of the childcare service and for constant development of the service. Requirements for childcarers include e.g. educational requirements, health requirements, existence of a professional certificate of a childcarer, legal behaviour requirements, requirements for absence of dependence disorders, existence of parental rights, etc. The requirements for the childcare service regulate the number of children on childcare service, the terms and conditions therefor and the conformity of the service to health protection and fire safety requirements. A single childcarer may care for up to five children in the residence of the child who belong to the same family and live in the same residence for the purposes of provision of the service, or for up to ten children outside the residence of the children. Children with severe and profound disability, children under 3 years of age and children of the childcarer being cared for at the same time with severe and profound disability or under 3 years of age shall count as two children. In the event that the childcare service is provided outside the residence of the child receiving the childcare service, the premises for providing the childcare service shall conform to the health protection requirements for childcare service established on the basis of the Public Health Act. Upon provision of the childcare service for more than ten children at a time at one location, the premises for provision of the childcare service, the access routes to the

premises and exit routes from the premises shall conform to the fire safety requirements applicable for pre-school child care institutions provided in the Building Act and the fire safety requirements established on the basis thereof. The provider of the childcare service shall have an activity licence issued by the county governor. The conditions for application, receipt, validity, etc., of the licence are provided in the Social Welfare Act.

#### *Welfare for persons with special psychological needs*

As of 1 January 2009, welfare for persons with special psychological needs is regulated in the Social Welfare Act. Welfare for persons with special psychological needs was previously regulated on the basis of Regulation no. 5 “Mandatory requirements and procedure for provision of services for welfare services for persons with special psychological needs” of the Minister of Social Affairs of 9 January 2008.

The Social Welfare Act provides the list of special care services, the general requirements for special care services (e.g. notification of the rules of procedure of provision of the services, preparing an activity plan for a person, collection and preservation of information regarding provision of the service, etc.) and the requirements for persons providing special care services (e.g. educational requirements, passing in-service training established by Regulation of the Minister of Social Affairs, law-abiding behaviour). The Act also provides the conditions and procedure for application for special care services and making decisions, issue of referral decisions, maintaining an order for provision of rehabilitation services, entry into framework contracts for provision of special care services, compensation of expenses for providers of special care services, termination of provision of special care services and notification thereof, change of provider of special care services and decision to terminate provision of special care services.

The Act provides that in order to achieve the objective set out in the referral decision, a provider of special care service shall prepare an activity plan for the performance of concrete activities with the person and his or her legal representative, if the representative exists, within thirty days after referral of the person for receipt of a service. The aforesaid activity plan shall include the objective established for the person by the Social Insurance Board and the recommended activities for the achievement of the objective and the schedule and description of the performance of the activities that comply with the needs of the person and assessment of the service provider concerning the performance of the activities at least each month. The activity plan shall be prepared for a person for the time of the provision of special care service and the plan shall be reviewed and, where necessary, specified at least once a year.

Special care services, the objectives thereof and the entitled persons (except for persons whose services are not financed from the state budget, see below) are:

- The objective of everyday life support service is the best possible independent coping and development of a person through supporting psycho-social coping, the development of everyday life coping skills and working skills and counselling of the people close to and people living with the person. Adult persons with a severe, profound or permanent mental disorder who are not receiving the community living service or 24-hour special care service at the same time are entitled to receive everyday life support service financed from the state budget.
- The objective of employment support service is to supervise and advise a person in order to support the ability of the person to cope independently and improve the quality of life during seeking a job corresponding to the abilities of the person and during employment. Adult persons with a severe, profound or permanent mental disorder are entitled to receive everyday life support service financed from the state budget if a recommendation to use employment support service is set out in the rehabilitation plan (or in a reasoned written proposal of the provider of rehabilitation services concerning the referral to receive employment support service for the time of the preparation of the rehabilitation plan), the person requires continuous support and supervision during working and no community living service during which the possibility to work on the territory of the service provider is ensured to the person or 24-hour special care service is provided to the person at the same time.
- Supported living service means supporting social coping and integration of a person through the creation of the possibility to grant him or her the use of a residence with supervision in the organisation of household and everyday life with the aim of ensuring the as independent coping as possible for the person when living independently. Adult persons with a severe, profound or permanent mental disorder are entitled to receive supported living service financed from the state budget if the person does not have a residential space for independent living and he or she is not able to obtain it, a recommendation to use supported living service is set out in the rehabilitation plan of the person (or in a reasoned written proposal of the provider of rehabilitation services concerning the referral to receive supported living service for the time of the preparation of the rehabilitation plan), the person can take care of himself or herself and the person can cope, in case of supervision, with everyday life activities.
- The content of community living service is to create a mode of life similar to a family favourable for the satisfaction of the basic needs and for the development of a person with accommodation and alimentation with the aim of increasing the ability of the person

to cope independently and to develop the skills of the organisation of everyday life activities through participation in joint activities. Adult persons with a severe, profound or permanent mental disorder are entitled to receive community living service financed from the state budget if a recommendation to use community living service is set out in the rehabilitation plan of the person, the person can take care of himself or herself and is able to participate in housework and no everyday life support service, supported living service or 24-hour special care service is provided for the person at the same time.

- 24-hour special care service means 24-hour care and development of a person with accommodation and alimentation with the objective to ensure preservation and increase of independent coping of the person receiving the service and safe living environment on the territory of the service provider. Adult persons with a severe, profound or permanent mental disorder are entitled to receive 24-hour special care service financed from the state budget if it has been established on the basis of the Social Benefits for Disabled Persons Act that the person has severe or profound degree of disability or the percentage of loss of capacity for work of the person of working age is at least 80%, a recommendation to use 24-hour special care service is set out in the rehabilitation plan of the person, the coping of the person cannot be ensured by any other social service, no everyday life support service, employment support service, supported living service or community living service is provided for the person at the same time, the person needs assistance in taking care of himself or herself and the person cannot cope with everyday life activities or needs significant regular assistance or supervision for this purpose.

The specific content and requirements for the all the above special care services (e.g. the frequency of receiving the service, conditions for premises for providing the service, including residence) are provided in the Social Welfare Act separately for each service.

An activity licence is required to provide the everyday life support service, employment support service, supported living service and the 24-hour special care service. The Social Welfare Act provides the conditions and procedure for the application, issue, refusal to issue, revocation, changing the information that is the basis for the issue of an activity licence and the suspension or termination of activities specified in an activity licence and the content of the decision on issue of an activity licence.

Special care services are generally financed from the state budget by means of the budget of the Social Insurance Board. The Social Welfare Act provides that provision of special care service (except 24-hour special care service on the basis of a court ruling) shall not be financed from the state budget for persons who have attained the pensionable age on the

basis of the State Pension Insurance Act and have been diagnosed with dementia and who do not have any other severe, profound or permanent mental disorder in addition to dementia and persons who have a dependency on alcohol or narcotic drugs as the primary mental disorder. A person referred to receive community living service or 24-hour special care service is required to pay his or her own contribution for alimentation and accommodation. In order to ensure that access to services is not limited due to lack of financial resources, the Social Welfare Act provides the conditions and procedure for application for compensation of the part not covered by the contribution of the person from the state budget. The local government shall ensure that the expenses related to the premises for providing the everyday life support service in the use or ownership of the service provider of the everyday life support service are covered in the extent established by the local government.

The maximum cost of special care services financed from the state budget per person in one calendar year, the components of the expenses of special care services that are covered from the state budget within the maximum cost and the components of the expenses of their own contribution of community living service and 24-hour special care service by the person shall be established by the Government of the Republic by respective Regulations.

Division 13 "Care without consent of person" of the Social Welfare Act provides the legal basis for placing persons in a social welfare institution on the basis of a court ruling, the list of prohibited objects and substances upon staying in a social welfare institution, the right to restrict the freedom of movement of persons receiving social services and the preconditions for isolating a person from other persons receiving services.

Pursuant to subsection 19 (1) of the Social Welfare Act, a person is placed in a social welfare institution to receive 24-hour special care service without his or her consent or the consent of his or her legal representative upon the existence of all the following circumstances:

- 1) the person has a severe mental disorder that restricts his or her ability to understand or control his or her behaviour;
- 2) the person is dangerous to himself or herself or others if he or she is not placed in a social welfare institution to receive 24-hour special care service; and
- 3) the application of earlier measures has not been sufficient or the use of other measures is not possible.

During the reporting period, care without consent of the person has been supplemented with provisions regarding restricting the freedom of movement of persons receiving social services and isolating a person from other persons receiving services. The amendment that

entered into force on 1 January 2009 provides that the right for freedom of movement may be limited for: persons who are placed in a social welfare institution on the basis of a court ruling according to the aforesaid circumstances and persons who receive 24-hour special care service, if this is necessary for the protection of the rights and freedoms of the person and other persons. A provider of 24-hour special care service may restrict the right of a person with a mental disorder receiving 24-hour special care service to move freely only as far as it is necessary for the protection of the rights and freedoms of the person and other persons.

A provider of 24-hour special care service may only use isolation as a restriction on freedom of movement with respect to persons who have not been placed to receive 24-hour special care service by a court ruling. Isolation may be used in addition with respect to persons placed in a social welfare institution by a court ruling. Isolation may be used with respect to a person receiving 24-hour special care service only if:

- 1) there is immediate danger to the life, physical integrity or physical freedom of the person himself or herself or other persons receiving the service;
- 2) verbal appealing of a person or application of other measures known to the service provider and indicated by the doctor with respect to the specific person has been insufficient; and
- 3) to the knowledge of the service provider, the doctor has not excluded the use of isolation with respect to the specific person.

In the event that the aforesaid circumstances become evident and before isolation the provider of 24-hour special care service shall notify the provider of emergency medical care or the police, yet in the case of the need for immediate isolation, the service provider may isolate the person before notification.

In addition, the Social Welfare Act provides conditions for isolating a person from other persons receiving services (including the obligation to prepare a report and the requirements therefor). The Act also provides that a provider of 24-hour special care service shall prepare the instructions for managing problem behaviour and isolation of restless and violent persons.

### *Other services and assistance*

§ 26 of the Social Welfare Act provides that in order to provide disabled persons with equal opportunities with other persons, their active participation in community life and independent ability to cope, rural municipality governments and city governments shall:

- 1) establish opportunities to reduce or remove restrictions caused by the disability by treatment, education and translation services;
- 2) establish, in cooperation with competent state authorities, opportunities for vocational training that would raise the ability of disabled persons to compete in the job market;
- 3) adapt employment positions and establish occupational centres in cooperation with competent state authorities;
- 4) organise transportation for the disabled;
- 5) guarantee access to public buildings for disabled persons;
- 6) appoint a support person or personal assistant, if necessary;
- 7) as of 1 July 2010, determine persons suitable to serve as guardians, exercise supervision over their activities and notify a court of a violation of obligations by a guardian and the situation of the ward; and
- 8) organise the coping of a disabled person in need of assistance by the provision of social services, payment of social benefits, provision of emergency social assistance and other assistance.

The service of sign language interpreter provided in clause 26 (1) 1) of the Social Welfare act and the service of a support person or personal assistance provided in clause 26 (1) 6) of the Social Welfare Act shall be provided by educational institutions in order to ensure inclusive education in addition to local governments.

### *Care for adults*

The amendment to the Social Welfare Act regarding organisation of care for adult persons entered into force on 1 July 2010. Pursuant to § 28 of the Social Welfare Act, a rural municipality or city government shall establish care for an adult person who needs assistance in exercising his or her rights and performance of obligations due to a mental or physical disability in case placing the person under guardianship is not necessary. Upon establishing care, the tasks of the person conducting care shall be determined. Care shall be conducted by a caregiver appointed by the rural municipality or city government. Care shall be established and the caregiver shall be appointed upon the agreement of the person

receiving care. The person conducting care may represent the person receiving care only on the basis of a respective authorisation received from the person receiving care. The rural municipality or city government shall terminate the care in the event that it is requested by the person receiving care or the basis for establishing care has ceased to exist. The procedure for establishing care and appointing the person conducting care shall be determined by the local government council.

#### *Welfare services provided to disabled persons by local governments*

Welfare services provided by local governments to disabled persons are the day centre service, home maintenance service, care service, social counselling, personal assistant service, support person service, adaption of residence service, social transport service and debt counselling. Local governments also have the right to offer additional social services according to the needs and options of the local governments. Organisation of the aforesaid services (except debt counselling) is the task of local governments pursuant to the Social Welfare Act. The Social Welfare Act provides the objectives or general principles of the said services, but the specific conditions and procedure for providing the services are established by the local governments with their own legislation.

Pursuant to subsection 45 (1) of the Social Welfare Act, a fee may be collected from a person for social services provided to the person or his or her family. The fee collected depends on the extent and cost of the service and the financial situation of the person and family receiving the service. The collection of a fee from a person for social services shall be decided by the institution that provides or pays for the service. No fee shall be collected for the debt counselling service.

Instructions for welfare services are being elaborated in the Ministry of Social Affairs in order to harmonise the practice of providing the organised services and to describe the recommended requirements that shall be taken into account upon provision of the services. The instructions for services describe the content of the services (including the objective, target groups, description of content, volume of provision and accessibility of a service), the process of applying for services and making decisions (including the person responsible for the service, processes for referring to services, the necessary initial documents, length of proceedings for application, location of provision of service and principles for financing and cost), requirements for service providers (including the staff, premises and equipment) and client feedback and supervision (including the process for assessing the quality of services, assessing client satisfaction, procedure for the submission, procedure and supervision of

complaints and wider principles for exercising supervision over the services). Instructions for social services provided by local governments shall be finished by the end of 2011.

### *Caregiver's allowance*

Payment of caregiver's allowance on the basis of the Social Welfare Act was established on 1 April 2005. The amendment provided that the payment of caregiver's allowance to caregivers or guardians of persons over 18 years of age with severe or profound disability by the Social Insurance Board on the basis of the Social Benefits for Disabled Persons Act stopped and the right of payment of caregiver's allowance was given to local governments. The purpose of transferring the organisation of welfare for adult disabled persons to local governments was to achieve better accessibility of assistance for disabled persons and increase the possibilities of local governments in organising the welfare for disabled persons in need of assistance. Local governments are closer to the people and are therefore able to assess the coping of a person and provide assistance better, more efficiently and faster. Upon transferring the caregiver's allowance to local governments, the purpose was to provide disabled persons with just the kind of assistance they need – either financial support or a suitable welfare service. Upon transfer of the caregiver's allowance to local governments, it was especially observed that the situation of persons receiving care would not deteriorate. The Social Welfare Act provides that local governments are obliged to organise welfare for disabled persons in the most suitable manner for the person.

The purpose of paying the caregiver's allowance is to partially compensate for the additional expenses arising from the disability and thereby facilitate the coping of persons. The caregiver's allowance is not remuneration paid for the caregiver as the caregivers and guardians are appointed on the basis of the Family Law Act. Upon payment of the caregiver's allowance, the local government shall also pay social tax for the caregivers or guardians, thereby ensuring the caregivers with pension and health insurance. No qualification requirements are provided for caregivers.

### *Counselling activities*

Pursuant to the Social Welfare Act, local governments are obliged to offer counselling for persons. Instructions for social services provided by local governments (including instructions for the counselling service) are currently being elaborated in the Ministry of Social Affairs. The purpose of the instructions is to describe recommended requirements that can be used as basis for provision of services. In addition to the counselling service provided by local governments, counselling services for disabled persons (including psychological counselling,

legal counselling, debt counselling, etc.) are offered in the framework of various projects (please refer to question 2).

### *Measures for eliminating obstacles*

#### *Mobility and transport, public transport, air transport, rail transport*

Ensuring access for persons with mobility disability is a constant process and the situation is improving year by year. The Transport development plan for 2006-2013 affirms that upon development and maintenance of the infrastructure, access to transport services and the infrastructure shall also be provided for persons with reduced mobility. Requirements are established for roads with Regulation no. 14 "Requirements for ensuring mobility of persons with mobility disability, visual impairment or hearing impairment in public structures" of the Minister of Economic Affairs and Communications of 28 November 2002. In addition, the Traffic Act that entered into force on 1 July 2011 establishes special requirements for persons with visual impairment and hearing impairment, including for movement with wheelchairs and for persons with visual impairment on sidewalks and special rights for drivers with mobility disability and drivers of vehicles that service persons with mobility disability or blind persons (parking, parking spaces, stopping in the area of effect of a prohibitory sign).

Pursuant to the Public Transport Act, a subsidy may be prescribed in the state budget for the acquisition of public transport vehicles or the adjustment thereof for acquisition of public transport vehicles for the carriage of disabled persons or for the reconstruction of public transport vehicles for the carriage of disabled persons.

In order to facilitate the freedom of movement of disabled persons, § 27 of the Public Transport Act provides for the right of free passage on domestic lines in railway, road and waterway traffic (including commercial lines) for disabled children, persons of 16 years of age and older with profound disability or the person accompanying a person with severe visual impairment or guide dogs who accompany persons with visual impairment. In public regular services provided in road and waterway traffic and on urban or other domestic train routes where points of departure and destination of passengers are located within the limits of one city, persons who accompany persons with a profound disability and persons who accompany disabled children shall be granted travel fare concessions in the amount of up to 50 percent of the full price of a ticket. In addition, rural municipality and city councils may establish travel fare concessions in public regular services out of their budgets to particular categories of passengers and increase the amount of travel fare concessions.

The obligation of each public transport vehicle used on rural municipality, urban and county lines having at least two seats for pre-school children and disabled persons with corresponding markings specified in subsection 3 (11) of Regulation no. 141 “General Rules for Regular Carriage of Passengers by Bus, Occasional Carriage of Passengers by Bus, Taxi Service and Carriage of Baggage” of the Minister of Economic Affairs and Communications of 26 May 2004 serves as one of the nationally established requirements for improving the usability of public transport by disabled persons. Other passengers are obliged to vacate such seats if necessary.

In order to improve the accessibility of taxi service, disabled persons are able to order a taxi corresponding to their needs. Subsection 26 (1) of the Social Welfare Act specifies separately that local governments shall organise transportation for the disabled in order to ensure mobility for disabled persons. As a result of the provision, social transport services are provided for disabled persons and a taxi service system for the disabled has been implemented. A taxi for the disabled only differs from a regular taxi by the technical solutions of the means of transport and the price of the service shall be compensated by local governments.

If it is not possible to satisfy the freedom of movement of a person with mobility disability with public or special transport and the only possibility is using a personal motor car, it is possible to apply for subsidy for acquisition and adjustment of a motor car according to specific needs pursuant to Regulation of the Minister of Social Affairs issued on the basis of subsection 12 (2) of the Social Welfare Act.

### *Housing*

§ 34 of the Constitution provides the right of everyone to choice of residence. Accessibility is the main obstacle for disabled persons when choosing a place of residence on equal grounds with other persons. In order to facilitate access to places of residence, subsection 14 (2) of the Social Welfare Act provides the obligation of local governments to assist persons who have difficulties moving about, caring for themselves or communicating in a residence in adapting their residence or in obtaining a more suitable residence.

Requirements for construction works and other internal and external civil engineering works are established on the basis of the Building Act. Subsection 3 (9) of the Building Act provides that if the purpose for which a construction work is to be used presumes it, the construction work and its common parts, rooms or areas must be accessible to and usable by persons with reduced mobility and by visually impaired and hearing impaired persons. Pursuant to

§ 54 of the Child Protection Act, public buildings, roads and means of transport used by disabled children shall be adapted to accommodate movement by wheelchair, crutches or other aids in order to satisfy their needs. Buildings intended for use by children shall include special facilities to satisfy the sanitary needs of disabled children.

Regulation no. 14 “Requirements for ensuring mobility of persons with mobility disability, visual impairment or hearing impairment in public structures” of the Minister of Economic Affairs and Communications of 28 November 2002 also regulates the provisions arising from the Building Act in more detail. A public structure is *inter alia* a building where arts or other cultural services or sports, movement, hobby, leisure or other services of equal measure are provided. The Regulation provides requirements for roads, parking lots, footpaths and sidewalks, stairs, handrails, toilets, doors, gates, lifts, etc. The above requirements apply to public buildings and buildings constructed before the entry into force of the Regulation do not have to conform to the requirements, but the building shall be brought into conformity if it is reconstructed or expanded. Similar requirements are the objective of one of the measures of the “Estonian housing development plan 2008-2013<sup>15</sup>”. In the “Strategy of Ministry of Economic Affairs and Communications for 2008-2011”, a national priority in the construction sector is improving the efficiency of construction supervision and implementing the respective measures therefor.

#### *Culture and possibilities for spending spare time*

Disabled persons have a right to their cultural or linguistic identity on equal grounds with other persons, including the recognition and promotion of sign language and culture of deaf persons. This is ensured by § 1 of the Language Act. The Estonian sign language and signed Estonian are provided in the Language Act as a part of the Estonian language in order to recognise and promote the use of Estonian sign language.

Several projects have been implemented in order to ensure the access of disabled persons to culture and possibilities to spend their spare time (please refer to question 2).

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

#### *Development plans and state programmes*

In addition to improving the legislation, the policy for disabled persons in Estonia is developed through various development plans. Development plans that include activities for improving the situation of disabled persons that have been prepared and implemented during the reporting period are, for example, the Estonian National Reform Programme “Estonia 2020”, “Development plan of Ministry of Social Affairs for 2012-2015”, “National report on social protection and inclusion 2008-2010” and the “Development plan for children and families for 2012-2020”. In addition to the aforesaid, measures for increasing the social inclusion of disabled persons are provided in the “Public health development plan 2009-2020” and the “General education system development plan for 2007-2013” in addition to the already mentioned “Estonian housing development plan 2008-2013”, “Transport development plan for 2006-2013” and the “Development plan of Estonian information society up to 2013”.

In 2007, the Minister of Social Affairs approved the implementation programme “Social welfare measures that support gaining employment 2007-2009” of the priority axis “Long and high-quality working life” of the Human Resources Development Plan of the European Social Fund. The general purpose of the welfare programme is to increase the employment rate of persons with special needs and their family members. The sub-objectives and measures of the programme were:

- supporting the transformation of the national rehabilitation system to be more supportive – e.g. elaboration of training materials for rehabilitation teams and training of rehabilitation teams;
- reinforcing the national counselling system in order to support the increase in the employment rate of persons with special needs and their family members and thereby support their coping – creation of a centre for disability-related information and assistive technology, creation of counselling centres for persons with special needs and their families;
- supporting local governments in elaborating welfare services that support working and introduction of services – e.g. training related to services that decrease care burden and case organisation based training for social workers, training for childcarers of children with severe and profound disability, training for support

persons of disabled children and their families. The most important activities and results of the programme are described above at the respective services.

The general objective of sub-programme “Social welfare measures that support gaining employment 2012-2013” (currently a draft) of the framework programme “Social Welfare Measures Supporting Employment 2010-2013” of the European Social Fund is to increase the employment of persons with social or economic difficulties with coping, persons with special needs and the members of their families. A more individual approach will be implemented when providing welfare services in order to prevent unemployment and inactivity. Supportive welfare services will be provided and developed in order to reduce hindrance for persons entering the labour market. The accessibility and quality of welfare services will be improved in order to enable employment for unemployed and inactive persons. In order to support the risk groups of the labour market, welfare services that specifically meet their needs and support entering the labour market and employment will be developed and implemented on a trial basis, giving heed to developing partnership, network engagement and international cooperation. The following has been planned for the welfare programme:

- offering counselling services in the Astangu Centre for Disability-related Information and Assistive Technology;
- offering need-based services for persons with multiple issues by testing case-based networking in four regions, offering debt counselling services for persons and families with socio-economic issues;
- offering employment or rehabilitation services that support maintaining a job for persons with special needs and persons close to them (including e.g. testing the service for assessment of need for rehabilitation, elaborating the criteria for approval of rehabilitation programmes, strengthening relationships with partners and exchanging valuable experiences);
- assessing capability for work and developing capacity for work; testing the possibilities for implementing the Hamet methodology used in Germany in Estonia;
- ensuring a high-quality care service in order to reduce the care burden of family members, including training for activity instructors for persons with special psychological needs and training for activity instructors for persons with special psychological needs with regard to special modules;
- introducing a quality management system for rehabilitation and special care services, including implementation of the quality system EQUASS in at least 20 rehabilitation

institutions and 5 institutions offering special care services and respectively train the necessary experts and auditors;

- In the framework of the open application round of the European Social Fund, projects for provision of childcare services have *inter alia* been supported.

In 2008, the new “National Report on Social Protection and Inclusion 2008-2010” was submitted to the European Commission in the framework of the open coordination method. Unlike previous reports on social protection and social inclusion, the report submitted in 2008 also *inter alia* included measures for supporting active participation of disabled persons in social and working life (e.g. development of the rehabilitation system for disabled persons and services that support independent coping, supporting the income of disabled persons and promoting their employment possibilities, improving the education of disabled persons, conducting surveys and analyses with regard to disabled persons).

The Estonian National Reform Programme “Estonia 2020” is based on the Europe 2020 strategy, which in turn focuses on three main fields: knowledge and innovation, a more sustainable economy and a high rate of employment and social inclusion. The objectives of the Estonia 2020 strategy *inter alia* include increasing the employment rate, increasing the proportion of persons with the third level of education and reducing the rate of relative poverty. The “Estonia 2020” strategy and the activity plan thereof provide numerous measures in order to meet the above objectives, including implementation of programmes for increasing the employment rate of disabled persons.

The objective of the “Development plan of Ministry of Social Affairs for 2012-2015” is to increase the income, quality of life and social security of persons. For developing welfare services, the following have been set as goals for the year 2015:

- increasing the rate of persons receiving open care services that support independent coping at home, i.e. non-institutional services and the recipients of 24-hour institutional care service from 1.6 (2009) to 2.0;
- increasing the rate of disabled persons of working age receiving open care services that support independent coping and receiving 24-hour institutional care services from 3.1 (2009) to 3.8;
- increasing the rate of persons in special care receiving open care services that support independent coping and receiving 24-hour institutional care service from 1.6 (2009) to 2.0;
- increasing the employment rate of disabled persons in the age group 20-64 from 20.3% (2009) to 23%;

- ensuring that the variance of the rate of relative poverty of disabled persons compared to the rate of relative poverty of the population is no more than 18.7 percentage points.

In order to meet the raised objectives, activities are continued to ensure the accessibility of need-based welfare services. For example, the organisation of the system for establishing disabilities shall be improved, services that support independent coping (including support person and counselling services and social, vocational and professional rehabilitation programmes) shall be developed as first-priority services and queues for special care services, technical special aids service and rehabilitation service shall be shortened. Upon provision of rehabilitation services, the bureaucracy related to rehabilitation shall be reduced and steps shall be made to reach a complex approach, i.e. programme-based provision of services. Rehabilitation services that support employment of disabled persons or help prevent development of profound disability or need for care shall be developed as first-priority services. In order to ensure the efficiency, creativity and long-term financial sustainability of welfare services, priority shall be given to making the rehabilitation service and the organisation of technical special aids and financing system cost-effective. The requirements for rehabilitation services and organising technical special aids shall be regulated in the Social Welfare Act to ensure that technical special aids and the rehabilitation service better meet the needs of persons, and to ensure that the service is provided more efficiently, increase the transparency and efficiency of financing as well as improve the independent coping, employment and participation in society. The price formation and procedure for applications for technical special aids and the medical devices compensated for by the Health Insurance Fund shall also be harmonised. In the following years, in-depth work shall be performed concerning the improvement of the quality of the rehabilitation service and 24-hour welfare services. In order to ensure that rehabilitation institutions are better oriented, a quality assessment and management system shall be introduced for rehabilitation services (e.g. the EQUASS quality assurance network). Many of the planned activities shall be implemented with the support of the European Social Fund.

Independent coping at home shall be supported by developing the service of adaption of living quarters of disabled persons, extending the offer of the respective counselling service at the Astangu Centre for Disability-related Information and Assistive Technology and by ensuring the accessibility of technical special aids that facilitate independent coping.

The UN Convention on the Rights of Persons with Disabilities shall be ratified in order to ensure social inclusion and assurance of rights for disabled persons, a strategy shall be

elaborated to ensure the implementation thereof, the Astangu Centre for Disability-related Information and Assistive Technology shall be designed as the competence centre for adjustment of services and premises for disabled persons and a memorandum on cooperation principles shall be signed with organisations of disabled persons.

The “Strategy for ensuring rights of children” approved by the Government of the Republic on 16 October 2003 as well as the “Child protection conception” prepared in 2005 have helped ensure the rights of disabled children. The “Strategy for ensuring rights of children” proposed continuing the development of the field of rights of children systematically along with development of family policy measures. The “Development plan for children and families 2011-2020” was therefore prepared by the Ministry of Social Affairs in 2011. The strategic objectives of the development plan are knowledge-based and sustainable child and family policy, positive support for parenthood, improvement of the child protection system, development of the system of benefits and services and facilitation of linking working and family life. Numerous activities with the purpose of increasing the quality of life of disabled children and their families are included in the development plan. For example organisation of the early detection and counselling services system, raising the awareness and improving the skills of parents, training specialists, etc. Activities aimed at disabled children that help satisfy the special needs of disabled children and their families, e.g. assurance of better accessibility of services aimed at everyone for disabled children in the fields of education, health and social affairs are specified in detail in the development plan. Protection of the rights of disabled children is *inter alia* handled within the framework of the development plan. For example, all children regardless of their special needs, disability, gender, race, nationality, religious affiliation, etc., shall have a right to voice their opinions in issues related to them.

### *Rehabilitation*

In 2009, provision of the programme-based rehabilitation service was initiated in Estonia. Firstly, the forms for describing rehabilitation programmes and preparing cost models were elaborated within the framework of the programme “Social Welfare Measures Supporting Employment 2007-2009” of the European Social Fund. In addition to the aforesaid forms, 7 different rehabilitation programmes were elaborated with the participation of 37 clients. 16 more rehabilitation programmes were elaborated within the framework of the programme “Social Welfare Measures Supporting Employment 2010-2011” and the service was provided to approximately 250 persons.

Training events have been held for specialists working in the field of rehabilitation within the framework of the ESF programme “Social Welfare Measures Supporting Employment 2007-2009” for the purpose of developing the rehabilitation service. 400 specialists in the field of rehabilitation, including network members from the Unemployment Insurance Fund and local government level participated in training in 2009. An additional 125 specialists working in the social field, including 30 specialists in the field of rehabilitation passed training for case-based networking in 2009. The Estonian Chamber of Disabled People trained 100 specialists in 2008-2010. Training events for specialists working in the health sector take place regularly, either internally or in cooperation with professional associations and institutions of higher education. The Ministry of Social Affairs organises regular information days for providers of rehabilitation services and specialists working in the field of rehabilitation.

#### *Technical special aids and equipment*

As of 2008, the national counselling centre, Astangu Centre for Disability-related Information and Assistive Technology created at the Astangu Vocational Rehabilitation Centre with the support of the European Social Fund engages in raising awareness with regard to technical special aids and improving cooperation between suppliers. The task of the Centre is to promote independent coping and employment of persons with special needs by means of counselling and training, to have an extensive overview of various technical special aids and services and to raise the awareness of the clients regarding the technical special aids by providing them with impartial information and counsel (e.g. providing an overview of the products available on the technical special aids market, prices of technical special aids and subsidies of the state and local governments for purchasing technical special aids). The Centre prepares expert assessments for adjustment of the environment, provides counsel for the choice of technical special aids and organises training events related to universal design, adjustment of the environment and technical special aids. Training for technicians of technical special aids has *inter alia* been conducted.

#### *Counselling activities*

Regional notification and counselling centres for Ida-Viru County and Pärnu County were opened in Jõhvi and Pärnu at the end of November 2008 as a pilot project of programmes “Social Welfare Measures Supporting Employment 2007-2009” and “Social Welfare Measures Supporting Employment 2010-2011” financed by the European Social Fund. The Pärnu counselling centre financed within the framework of the ESF was closed in 2010 and new counselling centres were opened in Southern Estonia (Võru County, Valga County and

Jõgeva County) where the need for a complex counselling service that supports employment was bigger. The activities of the counselling centre in Ida-Viru County continued.

Counselling centres are meant for persons with physical, mental or social special needs and their family members (including persons of working age with few coping skills, persons with social problems, disabled persons and unemployed persons). Special attention is paid for disabled persons, including disabled children and their families. The purpose of the services offered in the counselling centres (social counselling, psychological counselling, family counselling, debt counselling) is to improve employment and coping with daily life of persons with special needs and their family members.

A general counselling service for coping includes various activities for coping and integration with the society of persons with special needs. The general objective is to increase the employment of persons with special needs and the members of their families by counselling, motivating and providing thorough notification for the target group. Cooperation has been carried out with various institutions, e.g. the Unemployment Insurance Fund, to help persons gain employment as a result of counselling or for their competitiveness on the labour market to improve. The social services provided by the counselling centres support and motivate gaining employment.

Information regarding the counselling centres is distributed in newspapers, local radio, outdoor advertising, information days, information leaflets and the website [www.sm.ee/noustamiskeskused](http://www.sm.ee/noustamiskeskused).

The debt counselling service is accessible in all counties of Estonia. The Financial Supervision Authority has composed an information folder in cooperation with the Estonian Lawyers Association and Tallinn debt advisers for helping social workers with debt counselling. Materials regarding debt counselling, planning the family budget, etc., can also be accessed on the internet at the address <http://volanoustamine.minuraha.ee/>.

### *Measures for eliminating obstacles*

#### *Mobility and transport*

Low-floor public transport vehicles have been put into service in some regions in order to allow for better use of public transport services for persons with mobility disability. For example, low-floor buses are operating in Tallinn on the basis of a fixed timetable. Information about the buses is available at bus stops and on the internet; it is possible to order servicing personnel in bus stations, railway stations or the airport to help persons with

mobility disability board or disembark from the desired means of transportation, etc. Tallinna Autobussikoondise AS where low-floor buses have been procured and Tallinna Trammi- ja Trollibussikoondise AS who has added a low-floor middle link to trams can be pointed out as good examples of improving the mobility possibilities for disabled persons. AS SEBE has acquired 3 buses with wheelchair lifts that perform regular passenger services on the routes required by persons with mobility disability. The bus drivers have also passed training for assisting persons with mobility disability and operating the wheelchair lift and practiced fixing the wheelchair in place and smooth driving style.

In 2005, development of the portal <http://www.liikumisvabadus.invainfo.ee> commenced with the support of the Gambling Tax Council. The portal initially provided information regarding the sites in the City of Tallinn by showing visitors of the website the accessibility of various institutions, cultural monuments, places for spending free time, transport, medical institutions, etc. and the possibilities and conditions at the sites for mobility of disabled persons (having regard to the needs of persons with mobility disability above all). In the period 2007-2008, the number of the sites and the scope of the project were extended and an information channel for mapped institutions, organisations and undertakings all over Estonia financed by the various regions was created. It is a comprehensive resource for persons with mobility disability who wish to quickly obtain information about whether there are any obstacles in their movement path or possibilities have been created for access of people in a wheelchair. As the administrators of the portal say, the existence thereof serves as a good tool for influencing the institutions and organisations who have so far failed to create possibilities for comprehensive access.

The Centre for Disability-related Information and Assistive Technology is elaborating a handbook on the principles of universal design and planning and constructing the manners of implementation thereof in the environment in cooperation with the Ministry of Economic Affairs and Communications. The handbook focuses on creating an accessible and usable environment, including construction works. The necessity to compose the instructive materials "Planning and creating living environment inclusive for everyone" has arisen in relation to the necessity related to the principle of equal treatment to take into account the rights of all groups of persons as well as the wish to harmonise requirements in the process of planning and constructing the living environment. The purpose of the instructive materials is to notify and serve as supportive material for designers, builders and clients for explaining the various norms arising from the Estonian legal environment and practical implementation thereof for creating an inclusive environment. The handbook shall be finished in spring 2012.

Various institutions of higher education, the Estonian Chamber of Disabled People, Estonian Association of Designers and the Disability Policy Secretariat of the Nordic Council of Ministers organise training events related to accessibility. The aforesaid obligation is not directly established in national legislation, but steps have already been made to adhere to the established requirements. For example, lifts have indicators for floors in Braille. The respective clause includes the measure of the necessity of raising awareness concerning which the Estonian Chamber of Disabled People has planned activities within the framework of the PROGRESS programme.

### *Housing*

Knowledge is required for adaptation of a residence and installing the technical aids for supporting independent coping as well. In 2008, the Centre for Disability-related Information and Assistive Technology commenced operations at the Astangu Vocational Rehabilitation Centre thanks to support by the European Social Fond. The Centre prepares expert assessments for adapting the environment (including a residence) based on the principles of accessibility and usability, counsel is provided for the choice and procurement of special aids and equipment, instructions for the use of the latter is provided and counsel regarding issues of how and from where support can be received for adapting the environment is provided. The Centre provides counsel for both clients and specialists. Thanks to the activities of the Centre, awareness regarding home adaptation possibilities and the quality thereof has substantially improved.

### *Communication, increasing awareness*

Assurance of accessibility for using information technology equipment has also been reflected in the respective development documents (e.g. the Information society development plan 2013). One of the objectives of the information society development plan is for everyone to be able to access internet services at a level of quality necessary for the offered services and at a similar price on the entire territory of Estonia, all the websites of the public sector are also accessible for persons with special needs, all persons have at least the elementary skills for using a computer and the internet and awareness regarding the possibilities and hazards of the information society has increased, including awareness regarding security and intellectual property. The objective is an information society that includes all the members of society.

Throughout the years, raising the awareness of society concerning disabled persons as natural and valuable members of society has been conducted at various levels. Raising the

awareness of employers is handled systematically by the Unemployment Insurance Fund, the Ministry of Social Affairs as well as the Estonian Chamber of Disabled People – publishing informative materials, training for various specialists, elaboration and implementation of the “Good Company Reward”, notification campaigns, cooperation networks at ministry levels, private levels and third sector levels. In addition to disabled persons, the Estonian Chamber of Disabled Persons has undertaken the task of training the social workers of local governments and other members of the network with the aim of increasing the awareness of specialists dealing with social work regarding various types of disability and the special needs arising therefrom. Initiatives for notification of teaching staff and students have been initiated, e.g. information technology issues, ideology of universal design, planning, etc.

The Estonian Chamber of Disabled People has played a key role in increasing the awareness of society and shaping attitudes. The representatives of the Chamber engage in the work of supervisory boards, management boards and committees of various organisations with the aim of representing and protecting the interests of disabled persons. The state provides financing for activities related to increasing awareness (training for specialists, informative materials, informative events, etc.) to a large extent by means of the gambling tax. Increasing awareness is of key importance for meeting the objectives of the Convention; therefore a process has been initiated to raise the awareness of society within the framework of the programme PROGRESS in cooperation with the Estonian Chamber of Disabled People in 2010-2011. The activities are focused on changing the attitude of society as a whole and increasing awareness regarding differences, more specifically among school students.

All significant amendments to legislation as well as strategies and activity plans are discussed in lead committees that draw together various offices. NGOs are involved in the elaboration of draft legislation in addition to the offices. For example, the Estonian Chamber of Disabled People, Estonian Union for Child Welfare, Estonian Association of Patients, Estonian Association of Mediators, local government associations and many other representatives of the third sector are involved in elaborating the draft legislation of the new Social Welfare Act.

### *Rescue services*

At the end of 2010, an expert working group for disabled persons was formed at the Rescue Board. The group develops the services provided for disabled persons in the field of rescue work and organises training days for rescue workers on the topic of disabled persons. The

working group elaborates instructive materials for possessors of buildings in which disabled persons move or stay. Respective notes have been made in the evacuation instructive materials for schools with regard to evacuation of disabled children. Information days have been held in every region regarding the aforesaid instructive materials. As of this academic year, training for the target group for disabled persons commenced in the Estonian Academy of Security Sciences in the framework of preventive work in order for future rescue workers to know how to help disabled persons if needed. Respective single training days and evacuation exercises have been repeatedly organised (in Tallinn, Põlva County, etc.). The training is coordinated by the Prevention Office of the Northern Estonian Regional Rescue Centre.

Activities related to water and fire safety are promoted every year by means of a project contest of the Rescue Board; the target group of the aforesaid includes disabled persons. For example, an information day was held in 2010 to introduce a smoke detector for persons with hearing impairment. Special smoke detectors that have been made accessible in the cooperation of the Rescue Board and the state are provided for persons with hearing impairment in order to prevent emergencies. Technical aids for notification of emergencies shall be ensured for disabled persons through the national system of allocation of technical special aids at a discount. A communications solution based on modern technology has been elaborated in order to forward emergency calls and receive the calls in the alarm centre from hearing impaired persons at the single emergency call number 112. The objective of the project SMS-112 financed from the European Regional Development Fund is to allow above all persons with hearing and speech impairment to forward emergency notices to the alarm centre free of charge, immediately and independently (without a mediator) by sending a text message to the single emergency call number 112.

In 2010-2011, the Rescue Board supported the project "Increasing fire safety of the deaf community" of the Estonian Association of the Deaf in the course of which DVDs related to fire safety in sign language were prepared and sign language support was added for the website <http://www.kodutuleohutuks.ee>. A project where a panic button was installed for single elderly persons and disabled persons living in low density areas whereas support persons in the vicinity would react upon pushing the button ended recently.

#### *Culture and possibilities for spending spare time*

The state takes measures for the participation of disabled persons in the cultural and sporting life in order to ensure accessibility of cultural materials for disabled persons in accessible formats, accessibility to television programmes, films and theatre performances,

facilitate and promote the participation of disabled persons in sporting life and ensure an equal access to disabled children for participation in games, recreation activities, sports and leisure activities.

The Estonian Library for the Blind operates as a branch of the Repository Library of Estonia with the aim of preparing, collecting, preserving and lending audiovisual materials and materials in Braille to persons with visual impairment. The Public Libraries Act obligates public libraries to organise home services free of charge for inhabitants who are not able to visit the library due to health reasons, at their request. The Estonian Blind Association and MTÜ Kakora have taken steps to increase the awareness of institutions providing cultural services and initiated a project in cooperation with the KUMU to improve the accessibility of culture. A respective checklist has also been prepared; by observing the checklist, it is possible to make the cultural institution accessible and usable for disabled persons. Text strips are used in theatres, projects for literary translation of Estonian films and theatre performances have been initiated, etc.

Pursuant to the joint development plan of the Estonian Television and the Estonian Radio, production of educative programmes shall continue, including airing and possibly expanding programmes that advise coping of disabled persons in television. News in sign language is accessible on ETV2 and subtitles are added to repeat broadcasts.

Activities for supporting the participation of disabled persons in sporting life (above all financing and elaboration of legislation) are divided between the ministries whereas the Ministry of Culture is the main coordinator. The Ministry of Social Affairs is responsible for promoting sports for disabled persons and provides medical support for persons who engage in sports. Pursuant to the Statutes of the Ministry of Social Affairs, one of the tasks of the Ministry is supporting and promoting sporting activities of disabled persons. The two large sports organisations (the Estonian Paralympic Committee and the Estonian Union of Sports for the Disabled) that represent the disabled persons are annually supported with allocations intended for a specific purpose and additionally by projects financed by the Gambling Tax Council if necessary. The Estonian Union of Sports for the Disabled has aimed its activities at promoting and organising sports for the disabled. The sub-organisations of the Estonian Chamber of Disabled People regularly organise sports and recreation activities arising from the needs of their members.

3) Please provide pertinent figures, statistics or any other relevant information on persons with disabilities' access to housing, transport, telecommunications and cultural and leisure activities.

**Table 42.** Types of financial support for disabled persons for improving their independence, benefits paid

Benefits for disabled persons financed from state budget  Type of benefit	Recipients of benefits as of end of reporting period (number in increasing fashion as of start of year for single benefits)				
	2006	2007	2008	2009	2010
Disabled child allowance	5,295	5,538	5,745	6,416	7,262
allowance for child with moderate disability	1,782	1,747	1,742	2,055	2,596
allowance for child with severe or profound disability	3,513	3,791	4,003	4,361	4,666
Disabled adult allowance	107,431	110,495	110,665	115,532	120,241
allowance for person with moderate disability	35,058	36,073	35,945	38,798	41,576
allowance for person with severe disability	58,427	60,306	60,991	62,781	64,552
allowance for person with profound disability	13,946	14,116	13,729	13,953	14,113
Work allowance			50	68	50
Disabled child caregiver's allowance, persons cared for	1,837	1,602	1,594	1,122	-
Recipients of disabled parent's allowance	1,212	1,187	1,049	1,057	1,081
Education allowance	19	19	22	23	22
Rehabilitation allowance	2,274	2,082	2,160	2,903	2,806
In-service training allowance	51	52	71	73	84

Source: Social Insurance Board

**Table 43.** Expenses on benefits for disabled persons, in thousands (kroons)

Type of benefit	2006	2007	2008	2009	2010
Social benefits for disabled persons TOTAL	580,339.6	598,533.9	662,244.6	716,139.4	786,990.4
Disabled child allowance	81,595.1	84,194.3	87,190.3	93,846.2	104,244.5
allowance for child with moderate disability	25,187.7	24,330.5	24,283.7	26,115.8	32,398.1
allowance for child with severe or profound disability	56,407.4	59,863.8	62,906.6	67,730.4	71,846.4
Disabled adult allowance	484,874	501,281.1	561,664.7	612,962.6	674,355.5
allowance for person with moderate disability	83,588.5	86,979.5	100,542.9	137,901.3	182,238.4
allowance for person with severe disability	292,669.7	304,108.7	341,718.6	357,330.8	375,413.9
allowance for person with profound disability	108,615.8	110,192.9	119,403.2	117,730.5	116,703.2
Work allowance			135.2	168.8	116.8
Disabled child caregiver's allowance	6,701	6,091.4	5,630.4	978.1	
Disabled parent's allowance	5,067.8	4,990.8	5,468.1	5,343.5	5,570.7
Education allowance	72.4	73.9	81.5	88.1	85.3
Rehabilitation allowance	1,793.8	1,652	1,711.4	2,426.9	2,224.1
In-service training allowance	235.5	250.4	363	325.2	393.5

Source: Social Insurance Board

**Table 44.** Housing service in social and municipal residences<sup>1</sup>

	2007	2008	2009	2010
Number of spots TOTAL <sup>2</sup>	6,393	6,392	7,045	7,058
number of spots adjusted for persons with special needs	302	293	340	343
Users of service TOTAL, as of end of year	8,957	8,780	9,458	9,409
with special needs	1,364	1,160	1,156	1,185
of pensionable age	2,501	2,072	2,290	2,296

<sup>1</sup> Service that is provided for persons who need social services in municipal or social residences for the purposes of § 14 of the Social Welfare Act

<sup>2</sup> Number of social or municipal apartments and single rooms

Source: Ministry of Social Affairs

**Table 45.** Recipients of prosthetic, orthopaedic and other appliances allocated at a discount, throughout the year

	2007		2008		2009		2010	
	Sold	Rented	Sold	Rented	Sold	Rented	Sold	Rented
Recipients of appliances TOTAL	31,294	11,590	38,122	12,698	35,539	13,413	36,745	14,051
children of up to 18 years of age	6,664	620	7,508	658	6,827	645	7,046	615
disabled children	2,091	484	2,314	508	2,230	500	2,374	502
persons of working age	4,893	1,704	5,827	1,774	5,728	1,927	5,732	1,899
employed	1,841	95	2,229	117	2,230	143	2,190	72
unemployed	3,052	1,609	3,598	1,657	3,498	1,784	3,542	1,827
persons of pensionable age	19,737	9,266	24,787	10,266	22,984	10,841	23,967	11,537

Source: Ministry of Social Affairs

**Table 46.** Disabled adults with appointed caregiver, as of end of year

	2005	2006	2007	2008	2009	2010 <sup>1</sup>
<b>TOTAL</b>	22,831	22,600	22,289	21,079	18,324	14,611

<sup>1</sup> Only persons in case of whom a benefit was paid for the caregiver

Source: Ministry of Social Affairs

**Table 47.** Expenses on care for disabled persons throughout year, in thousands (kroons)

	2007	2008	2009	2010
Benefit for care for a disabled person	85,301.6	84,845.1	74,744.0	89,855.3
Social tax paid on account of caregivers	30,593.0	33,525.7	38,853.9	32,153.8
Total expenses for care for a disabled person	115,894.6	118,370.8	113,598.0	122,009.2

Source: Ministry of Social Affairs

*The Parliament "Riigikogu" is currently examining a bill on equal treatment, whose aim is to ensure that people with disabilities are protected against discrimination. The Committee asks for the next report to contain information on this bill and asks whether it applies to the areas covered by Article 15§3. Pending this information, it considers that the situation in Estonia is not in conformity with the Revised Charter because there is no anti-discrimination legislation to protect persons with disabilities which explicitly covered the fields of housing, transport, telecommunications and cultural and leisure activities.*

The Equal Treatment Act entered into force 1 January 2009. According to § 1 (1), the purpose of this Act is to ensure the protection of persons against discrimination on the grounds of nationality (ethnic origin), race, colour, religion or other beliefs, age, disability or sexual orientation.

Pursuant § 2 (2), discrimination of persons on the grounds of disability is prohibited in relation to:

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

As we noted in our last report, § 12 of the Constitution of the Republic of Estonia provides the principle of equal treatment. Discrimination on grounds of disability is not explicitly prohibited, but the list of grounds of discrimination is not limited either. Discrimination on other grounds is prohibited. Discrimination on grounds of disability is considered to belong among the aforesaid. In addition, § 28 of the Constitution provides the obligation to ensure special protection for disabled persons; therefore only positive discrimination of disabled persons is permitted.

The provisions of the Constitution are not merely declarative in their nature but contain specific subjective rights and inter alia the right to equal treatment on the basis of disability as confirmed by judicial practice. We present an example that reached the Supreme Court and is hereat relevant. The example is from 2003 (no. 3-3-1-47-03) and concerned fulfilling the requirements for receiving Estonian citizenship. One of the mandatory requirements is passing the language examination. In the given case, the Supreme Court found that the requirement for passing the language examination for a person with hearing impairment who was unable to learn Estonian due to their state of health was in violation of the fundamental right to equality provided in § 12 of the Constitution. The Supreme Court therefore found in the given case that the provision that allowed unequal treatment with regard to disabled persons was unconstitutional and certified that the provision of the Constitution that prohibits discrimination includes the rights of disabled persons.

*Under the transport development plan for 2006 to 2013 access to rail transport is to be improved by purchasing new coaches and renovating access ramps. The Committee asks for the next report to describe the progress made as a result of these measures.*

As of 2010, the Ministry of Economic Affairs and Communications started gathering data regarding low-floor transport at the proposal of the Ministry of Social Affairs. According to data of the Ministry of Economic Affairs and Communications: regarding the proportion of mileage of low-floor transport in line mileage – low-floor public transport vehicles were used for urban lines in 2010 (buses, trams and trolleybuses). The proportion of low-floor transport in total line mileage (local regular services, long-distance regular services and international regular services) was 8.8% in 2010. The proportion ranged from 7.7-10.4% in different quarters. In 2010, the mileage of low-floor vehicles in urban lines was 27.2% of the total urban line mileage. The proportion ranged from 23.8-32.3% in different quarters. The proportion of the mileage of low-floor public transport was slightly bigger in the first two quarters of 2011. It formed 11.4% of the total line mileage of the public transport system and 34.5% of the total urban line mileage.

As of now, an agreement has been entered into with a manufacturer of trains for purchase of new trains and the first train is currently being produced. The entire rolling stock shall be replaced by 2014. Reconstruction work of the platforms has commenced and the first platforms have been reconstructed. Agreements have been entered into for reconstruction of most of the platforms and all of the platforms shall be reconstructed by the time the trains are received.

## **Article 20 - The right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex**

*1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.*

During the period concerned several changes have been made to the relevant legal regulations:

- entering into force of the Equal Treatment Act and related changes to other acts on 1<sup>st</sup> of January 2009;
- entering into force of the new Employment Contracts Act on 1<sup>st</sup> of July 2009 and
- entering into force of the amendments to the Gender Equality Act and the Equal Treatment Act on 23<sup>rd</sup> of October 2009.

Also the Government of the Republic Regulation no 71 from 10<sup>th</sup> of June 2010 “Statutes of the Gender Equality and Equal Treatment Commissioner and Office” was adopted.

The main reason behind adoption of the Equal Treatment Act was transposition of EU directives concerning equal treatment on other grounds than sex (directives 2000/43/EC and 2000/78/EC). In the framework of gender equality, this change concerned mainly the institution of the Gender Equality Commissioner. Therefore, from the beginning of 2009 the institution of the Gender Equality Commissioner was re-organised into the institution of the Gender Equality and Equal Treatment Commissioner. In principle, the institution was not changed much, the main change being adding tasks concerning equal treatment on grounds listed in the Equal Treatment Act to the Commissioner. Some additional amendments, the purpose of which was to specify some aspects of the regulation, were made to the regulation of the Commissioner in October 2009.

As previously the Gender Equality Commissioner, also the Gender Equality and Equal Treatment Commissioner is an independent and impartial expert (§ 15 of the Equal Treatment Act). The Commissioner acts independently, monitors compliance with the requirements of the Equal Treatment Act and the Gender Equality Act and performs other

functions imposed by law. The Commissioner is appointed to office by the Minister of Social Affairs for five years and its activities are financed from the state budget. The Commissioner is serviced by the Office. Advisers and other officials appointed by the Commissioner assist the Commissioner with his or her work. Upon the temporary absence of the Commissioner, an official appointed by him or her shall substitute for the Commissioner. According to § 16, the Commissioner:

- 1) monitors compliance with the requirements of the Equal Treatment Act and the Gender Equality Act;
- 2) advises and assists persons upon submission of complaints regarding discrimination;
- 3) provides opinions concerning possible cases of discrimination on the basis of the applications submitted by persons or on his or her own initiative on the basis of the obtained information. The Commissioner provides opinions to persons who have submitted applications concerning possible cases of discrimination and, if necessary, to persons who have a legitimate interest in monitoring compliance with the requirements for equal treatment. Also, in order to give more effect to the opinions of the Commissioner, s/he now has the obligation in the case of an opinion provided on the Commissioner's own initiative or with the consent of the person who submitted an application, to communicate the opinion to the person responsible for compliance with the principle of equal treatment in a situation on which the opinion is based for information or as a recommendation;
- 4) analyses the effect of Acts on persons divided on the basis of the attributes specified in the Equal Treatment Act and on the situation of men and women in society;
- 5) makes proposals to the Government of the Republic, government agencies, local governments and their agencies for amendments to legislation;
- 6) advises and informs the Government of the Republic, government agencies and local government agencies on issues relating to the implementation of the Equal Treatment Act and the Gender Equality Act;
- 7) publish reports on implementation of the principle of gender equality and equal treatment;
- 8) cooperates with other persons and agencies to promote gender equality and equal treatment and
- 9) takes measures to promote equal treatment and gender equality.

From June 2010 also the new Statutes of the Gender Equality and Equal Treatment Commissioner and Office entered into force, where, among others, rules of procedure have been established on implementation of these tasks.

The Equal Treatment Act also amended the Government of the Republic Act concerning area of government of the Ministry of Social Affairs adding promotion and co-ordination of equal treatment and preparation of relevant legal acts to its tasks.

From 2009, after entering into force of the changes foreseen in the Equal Treatment Act, the remaining regulation concerning equal treatment in the Public Service Act (§36<sup>1</sup>) states that state and local government agencies have to guarantee protection of persons from discrimination and implement the principle of equal treatment according to the Equal Treatment Act and the Gender Equality Act. According to subsection 2 it is prohibited to discriminate a public servant or a person wishing to enter into public service based on gender, nationality (ethnic origin), race, colour, religious or other beliefs, age, disability, sexual orientation, level of language proficiency, duty to serve in defence forces, marital or family status, family-related duties, social status, representation of the interests of employees or membership in workers' associations. In case of discrimination based on any of these grounds the Equal Treatment Act or the Gender Equality Act will be applied. The changes of the Individual Labour Dispute Resolution Act concerned application of shared burden of proof in discrimination cases and a permission that in discrimination dispute cases also persons who have a legitimate interest to monitor implementation of requirements of equal treatment can act as representatives (§ 14 subsection 2<sup>1</sup> and § 30 subsection 3<sup>1</sup>).

After coming into force of the new Employment Contracts Act on 1st of July 2009, the only specific regulation concerning equal treatment of men and women (including pay equality etc.) in employment contracts remains in the Gender Equality Act. There is though a general provision in the Employment Contracts Act obliging employers to ensure the protection of employees against discrimination, to follow the principle of equal treatment and to promote equality in accordance with the Equal Treatment Act and the Gender Equality Act. It is also important to mention that together with coming into force of the new Employment Contracts Act, the list of physically strenuous jobs and of jobs posing a health hazard where the employment of women is prohibited no longer exists.

In addition to amendments to the regulation of the Gender Equality and Equal Treatment Commissioner in the Equal Treatment Act, in October 2009 several amendments to the Gender Equality Act entered into force.

First, changes were made into the definitions of direct and indirect discrimination. According to new definition, the direct discrimination occurs where one person is treated less favourably on grounds of sex than another is, has been or would be treated in a comparable situation. Direct discrimination based on sex also means less favourable treatment of a person in

connection with pregnancy and child-birth, parenting, performance of family obligations or other circumstances related to gender, as well as harassment related to the sex of a person and sexual harassment and less favourable treatment of a person caused by rejection or submission to harassment. Indirect discrimination occurs where an apparently neutral provision, criterion, practice or activity would put persons of one sex at a particular disadvantage compared with persons of the other sex, unless that provision, criterion, practice or activity is objectively justified by a legitimate aim, and the means of achieving that aim are appropriate and necessary.

Sexual harassment and harassment related to the sex of a person are, by definition in the Gender Equality Act, considered to be a direct discrimination. According to the amended definition, sexual harassment takes place where any form of unwanted verbal, non-verbal or physical conduct or activity of a sexual nature occurs, with the purpose or effect of violating the dignity of a person, in particular when creating a disturbing, intimidating, hostile, degrading, humiliating or offensive environment. Harassment related to the sex of a person occurs where unwanted conduct or activity related to the sex of a person occurs with the purpose or effect of violating the dignity of a person and of creating a disturbing, intimidating, hostile, degrading, humiliating or offensive environment.

Amendments from 2009 also concerned shared burden of proof which was concretized. In October 2009 an amendment entered into force which specifically states that the principle of shared burden of proof is also applied in the cases where a person asks an opinion from the Gender Equality and Equal Treatment Commissioner. Such regulation should influence the respondents to be active in the process which in turn will enable the Commissioner to prepare more adequate opinions. According to § 4 of the Gender Equality Act, an application of a person addressing a court, a labour dispute committee or the Gender Equality and Equal Treatment Commissioner has to set out the facts on the basis of which it can be presumed that discrimination based on sex has occurred. In the course of proceedings, it is the respondent who has to prove that there has been no breach of the principle of equal treatment. If the person refuses to provide proof, such refusal is deemed to be equal to acknowledgement of discrimination by the person. The shared burden of proof does not apply in administrative or criminal proceedings.

After the amendment from 2009 not only direct and indirect discrimination but also giving orders of discrimination is specifically forbidden (§ 5 subsection 1). Also, in order to prevent victimisation, according to § 5 subsection 1<sup>1</sup> an adverse treatment of a person, as well as causing negative consequences for the person due to the fact that the person has relied on the rights and obligations provided for in the Gender Equality Act or has supported another

person upon the protection of his or her rights provided for in that act is deemed to be discrimination.

Also, the regulation concerning special measures (§ 5 subsection 2 clause 5) now clearly state their temporary nature.

Several important amendments were also made to the specific regulation of discrimination in working life. According to present regulation (§ 6), in professional life, cases in which an employer selects for employment or a position, hires or admits to practical training, promotes, selects for training or performance of a task or sends for training a person of one sex and overlooks a person with higher qualifications and of the opposite sex are deemed to be discriminating, unless there are strong reasons for the decision of the employer or such decision arises from circumstances not related to gender. Additionally, the activities of an employer are also deemed to be discriminating if the employer:

- 1) upon making a decision listed in § 6, overlooks a person or treats the person less favourably in any other way due to pregnancy, child-birth, parenting, performance of family obligations or other circumstances related to gender. In order to support this regulation, another additional subsection (§ 6 subsection 4) was added prohibiting employers and legal persons in private law or sole proprietors entered in the register of economic activities as labour market service providers to request information concerning these circumstances from the persons wishing to find employment;
- 2) upon hiring, establishes conditions which put persons of one sex at a particular disadvantage compared with persons of the other sex. Also an obligation of an employer concerning promoting equality of men and women (§ 11) was specified concerning the aspect of recruitment. § 11 subsection 1 clause 1 now states that an employer should act in such a way that his or her activity would support the application of both, men and women for vacant positions and that persons of both sexes are employed to fill vacant positions;
- 3) establishes conditions for remuneration or conditions for the provision and receipt of benefits related to employment relationship which are less favourable regarding an employee or employees of one sex compared with an employee or employees of the other sex doing the same work or work to which equal value is attributed. In addition, in order to rise the efficiency of the Gender Equality and Equal Treatment Commissioner in equal pay cases, the Equal Treatment Act now provides (§ 17 subsection 4) specifically that the Commissioners' right to obtain information includes also information concerning the remuneration calculated, paid or payable to an employee, the conditions for remuneration and other benefits;

- 4) directs work, distributes work assignments or establishes working conditions in such a way that persons of one sex are put at a particular disadvantage compared with persons of the other sex;
- 5) harasses a person sexually or in relation to the sex of a person or fails to perform the obligation (specified in § 11 subsection 1 clause 4) to ensure that employees are protected from harassment related to the sex of a person and sexual harassment in the working environment. An employer is responsible for failure to perform the duty of care if the employer is aware or should reasonably be aware that harassment related to the sex of a person or sexual harassment has occurred and fails to apply the necessary measures to terminate such harassment;
- 6) punishes an employee under disciplinary procedure, transfers an employee to another position, terminates an employment relationship or promotes the termination thereof due to reasons connected with gender.

As a new regulation, also less favourable treatment of a person on grounds of sex in connection with his or her membership of an organisation of employees or employers, or any organisation whose members carry on a particular profession, including in connection with the person's participation in their work and the benefits provided for by such organisations is deemed to be discrimination (§ 6 subsection 3).

A few additions also concerned discrimination of persons due to their sex upon supplying goods and services.

Amendments related to the Equal Treatment Act also clarified that discrimination disputes are resolved by a court or a labour dispute committee and that by the Legal Chancellor discrimination disputes are resolved by way of conciliation proceedings.

Also the regulation of compensation for damage has been amended. According to present § 13 of the Gender Equality Act, if the rights of a person are violated due to discrimination, he or she may demand from the person who violates the rights termination of the harmful activity and compensation for the damage on the bases of and pursuant to the procedure provided by law. An injured party may demand that, in addition a reasonable amount of money be paid to him or her as compensation for non-patrimonial damage caused by the violation. The right to these claims expires within one year as of the date when the injured party becomes aware or should have become aware of the damage caused. Upon determination of the amount of compensation, a court or a labour dispute committee will take into account, inter alia, the scope, duration and nature of the discrimination. At the same time it should be noted that persons applying for employment or service with whom the employer

refused to enter into an employment contract or a contract for the provision of services or who were not appointed or elected to office on grounds of sex do not have the right to demand entry into an employment contract or a contract for the provision of services or appointment or election to office.

Already from 2004 the state and local government agencies have been required to promote gender equality systematically and purposefully, to change the conditions and circumstances which hinder achievement of gender equality and upon planning, implementation and assessment of national, regional and institutional strategies, policies and action plans to take into account the different needs and social status of men and women and consider how the measures applied and to be applied will affect the situation of men and women in society. According to the amendments of the Gender Equality Act from 2009, upon planning the performance of these obligations and upon performance of such obligations, the state and local government agencies are expected, if necessary, to consult the relevant interested groups and non-profit organisations who have legitimate interest to help to combat discrimination based on sex in order to support compliance with the principle of equal treatment. The necessity should be evaluated based on objective aspects.

#### *Case Law*

As to the implementation of the Gender Equality Act and disputes related to equal treatment of women and men, the following can be pointed out.

In 2008 82 applications were made to the Gender Equality Commissioner (Gender Equality and Equal Treatment Commissioner starting from 1st of January 2009). Of these 15 were related to employment sphere, among them 4 concerning equal pay. 3 of these applications required more general background information on equal pay issues (e.g. study indicating gender wage gap among medical workers in Estonia). 1 of the applications was a specific complaint on wage discrimination by a female public servant whose basic salary was lower than that of her male colleagues in the same position.

In 2009 the overall number of addresses to the Gender Equality and Equal Treatment Commissioner was 161. Out of 161 there were 51 complaints of discrimination. 30 of these concerned sex discrimination (applicants: 15 men, 14 women, 1 institution).

In 2010 the Gender Equality and Equal Treatment Commissioner received 47 complaints of discrimination out of 288 addresses (total number, incl. addresses made by other institutions, press etc.), 24 out of which concerning sex discrimination (complaints were made by 16

women, 8 men), 1 case based on age and sex discrimination and 2 cases based on sex and disability discrimination. Out of 47 complaints 23 related to employment, 12 concerned access to goods and services. Rest were other fields of life (e.g. media, education etc.). In 15 cases the Commissioner was of the opinion that there could have been a discrimination, in 8 cases the Commissioner did not establish unequal treatment, in 20 cases it was not possible to give an opinion because of lack of information or competence. The rest of the cases were not decided yet in 2010.

Regarding conciliation procedure of the Chancellor of Justice<sup>16</sup>, the following can be pointed out. In 2007, no conciliation proceedings ending in an agreement took place in the Office of the Chancellor of Justice, although five petitions asking to initiate conciliation proceedings were received. Two of these petitions concerned possible discrimination based on sex, one of them regarding different entrance fees for women and men to nightclubs and the second possible discrimination against a woman with small children. In the last case the processing of the petition was subject to limitation under the Chancellor of Justice Act, which lays down a deadline of four months for recourse to the Chancellor as of the date when the person became aware or should have become aware of the alleged discrimination. According to the petition, the alleged discrimination took place eleven months prior to petitioning the Chancellor of Justice. By this time, the Chancellor was no longer competent to deal with the petition. The petition was forwarded for review and opinion to the Gender Equality Commissioner. In 2008 three and in 2009 two petitions were made to initiate conciliation proceedings, but none of these concerned the issues concerning equal treatment of women and men. In 2010 again, two petitions were made for starting a conciliation proceeding. On first occasion, when the petition concerned possible discrimination based on sex regarding pregnancy, the respondent refused to participate in the proceeding and therefore the Chancellor of Justice terminated it, on the second occasion, where the petition concerned unequal treatment based on sex regarding the usage of work-related amenities concerning up-bringing of small children, the petitioner withdrew the petition.

There is no exhaustive overview of the cases concerning equal treatment of men and women considered by Estonian courts. But some relevant cases can still be pointed out.

One of the cases discussed in the court of first instance (judgement No 2-09-63411 from 2011) considered the issue of discrimination based on the sex of a person regarding disciplinary punishment. The court found that imposing a more severe penalty on a male

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<sup>16</sup> Information concerning the activities of the Chancellor of Justice is based on annual reports of the Chancellor of Justice from 2007 to 2010.

employee for the same deed that was committed by a female employee for the reason that unlike she, he did not admit his guilt, is not justified and therefore the decision of the employer was considered to be a discrimination under the Gender Equality Act. It is interesting to note that in this case the court also referred to the opinion of the Gender Equality and Equal Treatment Commissioner in this matter and referred to it as to an expert opinion. The case had also been discussed by the labour dispute committee who also was of the opinion that discrimination based on sex had occurred.

In the case considered by the Supreme Court in 2009 (judgement No 3-3-1-41-09<sup>17</sup>), the issue of equality of men and women was considered from the point of view of obligatory retirement and different pensionable ages of women and men. The court decided that a sections of the Police Service Act according to which a police officer may stay employed in the police service until he or she attains the pensionable age provided for in the State Pension Insurance Act with the permission of the head of the Police Board or head of the Security Police Board and shall be released from the police service when he or she attains the pensionable age, were unconstitutional and invalid in the part that foresees releasing from the police service a woman born in 1948 in the younger age than a man born in the same year. The Supreme Court also declared unlawful the directive of the South Prefecture with which the female police inspector was released from the service because of reaching the pensionable age and obliged the prefecture to pay her, according to the Public Service Act a compensation in the amount of her six months` salary as she had not requested a reinstatement during previous court proceedings.

There are at least some other cases of equal treatment of men and women that are being discussed in different court levels at the moment, but because of continuing proceedings it is not possible to give more information about them for the moment.

It is not possible to give an exhaustive overview of the number of cases or issues considered regarding cases concerning (un)equal treatment of women and men that have been discussed in the labour dispute committees as the available information is not specific enough.

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<sup>17</sup> The translation of this decision can be found at: <http://www.nc.ee/?id=1103>

*2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.*

During preparation of previous report concerning Article 20 Estonia was implementing the Estonian-French Twinning project „Equality between Men and Women - Principle and Goal for Effective and Sustainable Enterprises“ that was carried out from August 2007 to August 2008 with co-financing from the European Union’s Transition Facility 2006 programme. The aim of the project was to improve gender equality awareness concerning legal provisions, policies, measures and good practices in private companies. It is now possible to report about the results of this project.

The final project activities included:

- 1) Carrying out a survey to measure the gender equality knowledge, attitudes and practices of private sector employers. The survey involved 300 private companies operating in Estonia. The survey questionnaire consisted of the following sections: (1) general management, (2) personnel management, (3) opportunities of reconciliation of work and family life, and (4) gender-related aspects. According to the survey job descriptions were used in Estonia by 60% of companies, with a maximum of 88% in case of large and minimum of 56% in case of micro-sized enterprises. Workplace assessment had been used by 31 % of companies. The number of companies using workplace assessment declined in proportion with reduction of the size of enterprise, this method being used by 70% of large companies and only by 26 % of micro-sized enterprises participating in the survey. In 51 % of companies wages were individual and determined as a result of negotiations. Wage scale had been established in 29 % of companies. Performance pay was paid in 48 % of companies; the proportion of companies applying performance pay is higher among large enterprises. Participating employers were not much interested in the average hourly wages of men and women. Only 8 % of companies had analysed or discussed that issue, while 73 % of companies considered it unnecessary.
- 2) Preparing a systematic compilation of European good practices<sup>18</sup> to implement the principle of equal treatment of men and women and promote gender equality in the private sector. 50 best practices from 15 countries and 2 international organizations

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<sup>18</sup> The English version can be found online here:  
[http://www.sm.ee/fileadmin/meedia/Dokumendid/Sotsiaalvaldkond/sooline\\_v6/Heade\\_praktikate\\_kogumik\\_INGLISE\\_keeles.pdf](http://www.sm.ee/fileadmin/meedia/Dokumendid/Sotsiaalvaldkond/sooline_v6/Heade_praktikate_kogumik_INGLISE_keeles.pdf)

are represented in the report. Some of the examples included in the collection concern specifically pay gap between women and men.

- 3) Preparing guidelines for employers for promoting gender equality in the companies regarding recruitment, training and career, pay and work-life balance. In order to better adjust the content of the guidelines to the needs and expectations of the target-group, the draft guidelines were discussed with relevant stakeholders at a round-table meeting. The guidelines have been made electronically available also in English and Russian<sup>19</sup>. Estonian version of the guidebook was updated in 2010 in the framework of the ESF programme (see below).
- 4) Organising one-day seminars for representatives of large companies, SMEs` and employees to increase their awareness and improve knowledge and skills on promoting gender equality in an organisation. A two-day seminar was also organised for gender experts to introduce to them specific aspects of gender equality in organisations.
- 5) Creating a network of employers, representatives of employees, gender experts and other relevant actors for the exchange of information, experience and good practice in promoting gender equality. By the end of the project there were 25 members in the network.

In order to support the future work of network, a study trip to France was organised during which several organisations were visited, where some aspect of promoting gender equality could be shown as good practice.

Also a photo exhibition devoted to the topic of „Women and men at work” was organized for the participants of network launch meeting with pictures from 8 private companies depicting women and men performing tasks usually performed by the representatives of the opposite sex in Estonia (e.g. female taxi driver and steersman or male bank teller).

In order to promote gender equality in working life, the following activities have been carried out under the European Social Fund programme “Promotion of Gender Equality in 2008 – 2010”:

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<sup>19</sup> The English version of the guidelines can be found online here: [http://www.sm.ee/fileadmin/meedia/Dokumendid/Sotsiaalvaldkond/sooline\\_v6/Retseptiraamat\\_INGLIS\\_E\\_keeles.pdf](http://www.sm.ee/fileadmin/meedia/Dokumendid/Sotsiaalvaldkond/sooline_v6/Retseptiraamat_INGLIS_E_keeles.pdf) Please note though that for the Estonian version, in addition to the translation, some additional modifications were made in order to better suit it for Estonian user. The Estonian version was also translated into Russian: [http://www.sm.ee/fileadmin/meedia/Dokumendid/Sotsiaalvaldkond/sooline\\_v6/Kasu\\_ja\\_tasakaal\\_vene\\_keeles.pdf](http://www.sm.ee/fileadmin/meedia/Dokumendid/Sotsiaalvaldkond/sooline_v6/Kasu_ja_tasakaal_vene_keeles.pdf)

- Publication of a commentary on the Gender Equality Act, authored by four gender equality experts.
- Publication of a brochure summarising and introducing the content of the Gender Equality Act, in Estonian and Russian<sup>20</sup>.
- An extensive study was carried out by two Estonian research centres – Policy Analysis Center PRAXIS and Estonian Center for Applied Research CentAR - to determine the extent, nature and reasons behind the gender pay gap in Estonia, which is the highest in the European Union (30.9% in 2007). Study consisted of four stages: (1) literature overview, (2) empirical analysis, (3) case studies and (4) policy recommendations. The findings of the study were published and a conference was held in 2011.<sup>21</sup> An overview of the main results of the study is presented under next point (3).
- The Gender Equality Monitoring survey was conducted in 2009 with a report published in 2010. A shorter analytical overview of some of the results was published in 2010 and translated into Russian<sup>22</sup> and English<sup>23</sup>.
- A media campaign was launched to promote equal opportunities for men and women on the labour market. In addition to a promotional campaign website, this included outdoor ads, radio and television ads, 3 interactive games and a brochure for job-seekers encouraging them to follow their calling. A short-film competition was held and information seminars on equal opportunities were conducted in 17 schools throughout Estonia. The campaign was held both in Estonian and Russian with its main products translated into Russian<sup>24</sup>.
- Support to the Gender Equality in Employment Network. In July 2008, the inaugural meeting of the Gender Equality in Employment Network was held within the

<sup>20</sup>

See at

[http://www.sm.ee/fileadmin/meedia/Dokumendid/V2ljaanded/Publikatsioonid/2010/naised\\_mehed\\_seadus\\_rus.pdf](http://www.sm.ee/fileadmin/meedia/Dokumendid/V2ljaanded/Publikatsioonid/2010/naised_mehed_seadus_rus.pdf)

<sup>21</sup>

Articles about empirical analysis and policy recommendations parts of this survey are available in English at

[http://www.sm.ee/fileadmin/meedia/Dokumendid/V2ljaanded/Publikatsioonid/2011/Gender\\_pay\\_gap\\_Estonia\\_analysis.pdf](http://www.sm.ee/fileadmin/meedia/Dokumendid/V2ljaanded/Publikatsioonid/2011/Gender_pay_gap_Estonia_analysis.pdf) and

[http://www.sm.ee/fileadmin/meedia/Dokumendid/V2ljaanded/Publikatsioonid/2011/Gender\\_pay\\_gap\\_Estonia\\_recommendations.pdf](http://www.sm.ee/fileadmin/meedia/Dokumendid/V2ljaanded/Publikatsioonid/2011/Gender_pay_gap_Estonia_recommendations.pdf)

<sup>22</sup>

See at

[http://www.sm.ee/fileadmin/meedia/Dokumendid/V2ljaanded/Toimetised/2010/toimetised\\_20103rus.pdf](http://www.sm.ee/fileadmin/meedia/Dokumendid/V2ljaanded/Toimetised/2010/toimetised_20103rus.pdf)

<sup>23</sup>

Please see at

[http://www.sm.ee/fileadmin/meedia/Dokumendid/V2ljaanded/Toimetised/2010/series\\_20103eng.pdf](http://www.sm.ee/fileadmin/meedia/Dokumendid/V2ljaanded/Toimetised/2010/series_20103eng.pdf)

<sup>24</sup>

See the campaign page in Russian at <http://www.sm.ee/rus/dejatelnost/sooline-vordoiguslikkus/prizvanie.html>

framework of the “Equality between Men and Women – Principle and Goal for Effective and Sustainable Enterprises“, a Twinning project between France and Estonia. Membership in the network is open to all employers from the public and private sectors, NGO-s, social partners, trade union representatives, gender equality experts and individuals who are interested in promoting gender equality in their organisation. The network serves as a forum for sharing information on gender equality.

- In 2009, four Gender Equality Consultants were selected and trained to provide know-how and consultations to private and public sector employers on how to promote gender equality in an organisation.
- In 2009, a conference “Caring Fatherhood” was held and a calendar targeting fathers was prepared and distributed in order to promote active fatherhood.
- In October 2010, seminars on gender equality were held for employers and representatives of employees from the private and public sectors. Participants in the seminars received a copy of the handbook “Gender Equality in Your Company: the Recipe for Success” prepared within the framework of the before mentioned Twinning project, authored by gender equality experts Vicky Donlevy and Rachel Silvera and republished in an amended version in Estonian in 2010.
- In 2010, a collection of analytical articles “Towards a Balanced Society II” was published as a follow-up to the first collection published in 2000. The articles addressed a wide range of issues including gender equality in working life, reconciliation of work and family life, women in politics, multiple discrimination etc. The collection is also available in Russian<sup>25</sup>.

Policy recommendations prepared by the researchers based on the results of the pay gap survey concerned the following topics: a general change in attitudes, a more precise determination of rights and obligations, reconciliation of work and family life, reducing gender segregation in the labour market and education, organizational practices and monitoring the changes in the pay gap. It is recommended to increase the awareness of the population of the rights and obligations deriving from the Gender Equality Act and the Equal Treatment Act. The participation of men in parental leave should be increased by setting an individual part for the leave, the parental leave system should be made more flexible. Another suggestion is to provide more gender-aware career counselling. Researchers also consider

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Please see at

[http://www.sm.ee/fileadmin/meedia/Dokumendid/V2ljaanded/Publikatsioonid/2010/Teel\\_tasak\\_yhiskon\\_da\\_vene.pdf](http://www.sm.ee/fileadmin/meedia/Dokumendid/V2ljaanded/Publikatsioonid/2010/Teel_tasak_yhiskon_da_vene.pdf).

that gender equality topic should be integrated into study programs and study materials. Focus should be placed on measures to increase the supply of a female labour force with management qualifications as well as entrepreneurship-themed measures. Employers should be obligated to analyze whether there is actually equal pay for equal work. The state should increase employee awareness of the average wages for jobs and to improve the level of detail and timeliness of the national wages statistics that would make this possible. Confidentiality clauses in employment contracts should be made illegal or employers should be obligated to make wages data public. Organizations should be encouraged to analyse their job design from the gender aspect, and if necessary to redesign the jobs.

Gender specific statistics is gathered and analyzed by the Statistics Estonia. In 2008 the Statistics Estonia released several analytical publications where also the gender pay gap was discussed<sup>26</sup>. Moreover, the yearly publications of the Ministry of Social Affairs covering the statistics concerning health, work and social affairs include gender specific information under the topics and one of them also has a separate chapter on gender equality, where also the gender pay gap is briefly mentioned.

A Gender Budgeting project is being carried out within the framework of the EU PROGRESS programme to train employees of ministries and government agencies in gender budgeting and to compile a gender budgeting manual for the public sector. Also representatives of the Ministry of Social Affairs, responsible for both labour issues and gender equality, take part of the training. The project is being conducted primarily by the Gender Equality and Equal Treatment Commissioner.

Of the valid collective agreements registered in the database of collective agreements of the Ministry of Social Affairs, 14 out of 158 collective agreements include the topic of equal treatment. 2 of the agreements separately handle equal treatment of men and women, 8 handle equal treatment in more general terms (equal treatment on grounds of gender, religion, nationality, etc.) and 4 are focused on membership/activity in the trade union.

Within the framework of the measure “Improving the Quality of Working Life” of the European Social Fund, the project “Improving the quality of working life by publishing a practical handbook on collective bargaining and introducing possibilities for use thereof” was

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<sup>26</sup> In English please see e.g. „Pilk tööellu. A Glimpse into the Working Life”, Marin Randoja, „Gender Wage Gap”, Statistics Estonia 2008, p 126-133, available online: [http://www.stat.ee/publication-download-pdf?publication\\_id=15621&publication\\_title=Pilk+t%C3%B6ellu.+A+Glimpse+into+the+Working+Life&id=32392](http://www.stat.ee/publication-download-pdf?publication_id=15621&publication_title=Pilk+t%C3%B6ellu.+A+Glimpse+into+the+Working+Life&id=32392).

implemented in 2010-2011 as initiated by the Federation of Estonian Healthcare Professionals Unions and in cooperation with the Estonian Transport and Road Workers Trade Union and the Estonian Women's Studies and Resource Centre. The "Practical Handbook on Collective Bargaining" that was prepared within the framework of the project *inter alia* handles the aspects of equal treatment and gender equality in partnership, in preparing for bargaining, in draft collective agreements, in the process of bargaining and upon performance of the agreement, and also gives a short overview of the relevant regulation in Estonian legislation.

In 2010, an open call for proposals for receiving financing from the ESF resources for promotion of work-related gender equality was conducted. 11 projects have received financing so far, including 2 projects for consulting an organisation regarding gender equality, 5 awareness raising projects related to work and education, 2 surveys and 2 projects with the purpose of providing services for access of vulnerable groups to the labour market or maintaining their position on the labour market. It is still possible to submit project applications for consulting organisations regarding gender equality.

*3) Please provide pertinent figures, statistics or any other relevant information, in particular on employment and unemployment rates by sex and percentage differences in earnings.*

In 2009 and 2010, noteworthy changes took place in the Estonian labour market because of the financial and economic crisis. Employment, which had been increasing continuously since 2001, decreased rapidly and dropped in 2009 to the level of 2004 and in 2010 to the level of 2000 when the previous economic crises took place. Employment increased by 1-2% a year in 2001-2007 (and boosted even 6.4% in 2006), but in 2008, the economic growth slowed down and employment started to decrease rapidly. The employment of men decreased remarkably more than women's as the decrease was bigger in the sectors and occupations where relatively more men are employed than women. The employment gap between males' and females' employment rate which was 9.1 percentage points (age group 15-74) in 2007, had decreased to 3.0 percentage points in 2010.

**Table 48.** Employment rate (%) by gender and employment gap (percentage points)

	<b>Males' employment rate, %</b>	<b>Females' employment rate, %</b>	<b>Employment gap (percentage points)</b>
<b>2007</b>			
<b>15-74</b>	<b>67.5</b>	<b>58.4</b>	<b>9.1</b>
15-24	38.2	30.0	8.2
25-49	90.4	79.2	11.2
50-64	68.8	68.9	-0.1
65-74	21.7	16.6	5.1
<b>2008</b>			
<b>15-74</b>	<b>67.8</b>	<b>58.7</b>	<b>9.1</b>
15-24	38.5	33.2	5.3
25-49	89.9	78.8	11.1
50-64	70.2	68.6	1.6
65-74	21.8	15.0	6.8
<b>2009</b>			
<b>15-74</b>	<b>59.2</b>	<b>55.7</b>	<b>3.5</b>
15-24	30.0	27.0	3.0
25-49	78.0	74.9	3.1
50-64	64.0	67.4	-3.4
65-74	19.9	13.1	6.8
<b>2010</b>			
<b>15-74</b>	<b>56.8</b>	<b>53.8</b>	<b>3.0</b>
15-24	26.7	23.9	2.8
25-49	76.3	73.3	3.0
50-64	59.0	62.8	-3.8
65-74	17.3	13.8	3.5

Source: Statistics Estonia

Bigger changes in the economic activity of the population took place in 2006-2008, when the participation rate in labour force increased remarkably (62-63% in 2000-2005, rose to 66.6% in 2008 in age group 25-74). In 2010, 687 000 persons aged 15-74 were economically active, of them 571 000 were employed and 116 000 unemployed.

**Table 49.** Employed persons (thousands), aged 15-74 by gender and duration of main jobs

	2007			2008			2009			2010		
	Total	Males	Females									
TOTAL	<b>655.3</b>	330.0	325.4	<b>656.5</b>	330.9	325.6	<b>595.8</b>	288.1	307.7	<b>570.9</b>	275.1	295.8
Permanent job	640.4	320.4	320.0	639.9	319.5	320.4	580.1	278.5	301.6	550.5	262.5	287.9
Temporary job, incl:	15.0	9.6	5.4	16.6	11.4	5.2	15.7	9.6	6.1	20.4	12.6	7.8
seasonal job	3.8	2.4	1.3	4.6	3.3	1.4	6.4	3.8	2.6	7.4	4.3	3.1
occasional job	6.4	5.1		7.3	6.1		4.7	4.4		4.4	3.9	
other temporary job	4.9	2.1	2.8	4.7	2.1	2.7	4.6	1.5	3.1	8.6	4.4	4.2

Source: Statistics Estonia, Labour Force Survey

The unemployment in Estonia grew more than the average of the EU. In 2008, the unemployment rate in Estonia was 1.5 percentage points lower compared to the average of the EU, but in 2009 by 4.9 percentage points and in 2010 by 7.3 percentage points higher. Unemployment has decreased among persons with a lower educational as well as among persons with higher educational levels. Unemployment rates for men have been higher in every educational level in 2007-2010, but the smallest unemployment gap in 2010 was among people with tertiary education.

**Table 50.** Male and female unemployment rate and unemployment gap by educational level

	2007	2008	2009	2010
Below upper secondary education				
Males' employment rate, %	35.9	36.0	28.3	26.5
Females' employment rate, %	19.9	22.5	18.7	18.6
Employment gap, percentage points	16.0	13.5	9.6	7.9
Upper secondary education				
Males' employment rate, %	75.1	75.8	64.1	62.3
Females' employment rate, %	61.4	62.5	57.1	53.0
Employment gap, percentage points	13.7	13.3	7.0	9.3
Tertiary education				
Males' employment rate, %	83.5	84.0	80.9	74.4
Females' employment rate, %	77.7	74.7	72.9	71.3
Employment gap, percentage points	5.8	9.3	8.0	3.1

Source: Statistics Estonia, Labour Force Survey

Part-time employment is not very common in Estonia, but is more characteristic of female workers, among whom 14.5% in the 15-74 age group were working part-time in 2010 compared to 7.1% of male workers. Due to economic crises and restructuring of workplaces, there is an increase for part-time employment for both sexes during 2007-2010, but this is more a forced situation to rather work part-time or be laid off than persons free will to work part-time.

**Table 51.** Part-time employed persons by sex, %

	2007	2008	2009	2010
Males	4.3	4.1	7.0	7.1
Females	12.1	10.4	13.8	14.5

Source: Statistics Estonia, Labour Force Survey

There are several reasons for part-time work being unpopular in Estonia. For example, mothers of infants have difficulties to find suitable day care options. Another reason that is highlighted is the impact of the income related parental benefit system, which means that the higher the income subject to social tax earned during the benefit period, the smaller the benefit paid to the person for the same period. The reason that can be highlighted for the unpopularity of part-time work in all employee groups is that the full-time work culture is dominant in Estonia. Another circumstance that can be pointed out is that it is easier and

cheaper for employers to deal with a smaller number of full-time employees than a larger number of part-time employees, and part-time work is therefore rarely offered or encouraged. In Estonia, the employer has to pay a standard minimal social tax for every employee which makes labour expenditure more expensive for two half-time employees than for one full-time employee. The last reason why people do not wish to work part-time is that the income earned from such work is not sufficient to cope as the salaries are quite low even for full time jobs (especially after budget cuts during the recession).

**Table 52.** Proportion of the employed people working part-time by reasons, %

Proportion of the employed working part-time (reason of part-time job total=100), %	2007		2008		2009		2010	
	Males	Females	Males	Females	Males	Females	Males	Females
Studies	20.7	15.2	23.2	17.6	15.1	13.2	20.4	15.7
Personal or family reasons	17.2	23.5	13.8	28.5	10.0	20.4	11.5	17.3
Reasons of employer	21.4	19.2	24.1	15.1	39.7	23.5	40.0	27.4
Did not find full-time job	15.1	15.4	15.1	12.2	22.4	20.8	17.3	21.7
Did not want to work full-time	25.6	26.7	23.9	26.6	12.8	22.0	10.9	17.9

Source: Statistics Estonia, Labour Force Survey

According to the Statistics Estonia, in October 2007 (the latest data analysed by sex) the gross monthly earnings for men working full-time was 898.88 euros and for women 640.97 euros. The average gross hourly earnings of full-time and part-time employees was at the same time 4.75 euros for men and 3.44 euros for women. The difference between the average gross hourly earnings of women and men was the biggest among the group of professionals (1.57 euros). The difference was the smallest in the group of skilled agricultural and fishery workers (0.45 euros).

**Table 53.** Average gross hourly earnings according to occupational level (euros) 2007

	<b>Men</b>	<b>Women</b>	<b>Difference</b>
Legislators, senior officials and managers	6,85	5,59	1,26
Professionals	6,32	4,75	1,57
Technicians and associated professionals	5,09	3,79	1,3
Clerks	4,19	3,1	1,09
Service workers and shop and market sales workers	3,09	2,41	0,68
Skilled agricultural and fishery workers	3,21	2,76	0,45
Craft and related trade workers	4,38	2,96	1,42
Plant and machinery operators	3,98	2,9	1,08
Elementary occupations	2,68	1,94	0,74

Statistics Estonia, Structure of earnings survey 2007

When comparing the hourly earnings of women and men taking into account the sectors of economic activity, the biggest difference can be found in the fields of financial intermediation (4.12 euros) and fishery (2.88 euros). The difference was the smallest in the field of agriculture and hunting (0.48 euros).

**Table 54.** Average gross hourly earnings in sectors of activity (euros) 2007

	<b>Men</b>	<b>Women</b>	<b>Difference</b>
Agriculture	3,48	3	0,48
Forestry	4	2,87	1,13
Fishery	5,33	2,45	2,88
Mining and quarrying	5,51	3,26	2,25
Manufacturing	4,69	3,28	1,41
Electricity and gas supply	4,57	3,7	0,87
Construction	4,98	3,55	1,43
Wholesale and retail trade, repair of motor vehicles	4,88	3,27	1,61
Accommodation and food service	3,26	2,64	0,62
Transportation and storage	4,53	3,82	0,71
Financial and insurance activity	9,6	5,48	4,12
Real estate activity	5,09	3,49	1,6
Public administration, defence, social insurance	4,86	4,3	0,56
Education	4,34	3,19	1,15
Health and social work	5,39	3,78	1,61
Other	3,76	2,96	0,8

Statistics Estonia, Structure of earnings survey 2007

Major study on gender pay gap in Estonia was carried out by two Estonian research centers – Policy Analysis Center PRAXIS and Estonian Center for Applied Research CentAR - during 2009-2010<sup>27</sup>. Study consisted of four stages: (1) literature overview, (2) empirical analysis, (3) case studies and (4) policy recommendations.

Empirical analysis is based on individual-level statistical data (use of Statistics Estonia's Estonian Labour Force Survey data, 2000–2008). During the period 2000–2008 the general gender pay gap in Estonia, taking real wages as the basis, was an average of 28.6%. Regression analysis showed that the unexplained wage difference forms approximately 85% of the general gender pay gap. In the period 2000–2008 both the general and the unexplained pay gap increased. Without taking into account other characteristics, the gender

<sup>27</sup> Empirical analysis and the policy recommendations are available in English <http://www.sm.ee/eng/ministry/publications.html>

pay gap is smaller for people with higher education, for ethnic Estonians rather than people of other ethnicities, single people rather than those married or cohabiting, childless persons rather than parents, and for those in the public sector rather than in the private sector. As for age groups, the pay gap is largest for people aged 25–45, when starting a family and raising children is most likely. In foreign-owned enterprises the female-male wage difference is greater than in domestic-owned organizations. Amongst low-paid employees, both the unexplained and explained gender pay gap is the smallest, and amongst the highly-paid employees it is the largest. A relatively regular increase in inequality in moving towards the higher income quartiles can be seen in Estonia across the extent of the wage differential.

Part of the gender pay gap is explained by the horizontal and vertical segregation of Estonian labour market. Men and women are engaged in different areas of activities, which indicate that the traditional patterns of men's and women's jobs still prevail. The economic activities that involve the largest proportion of women in 2010 were education (15.9%), wholesale and retail trade (16.8%) and manufacturing (15.7%). For men, in 2010 the most popular economic activities were manufacturing (22.5%), construction (16.2%) and transportation (11.3%).

**Table 55.** Employment by economic activity (annual average, proportion of those employed aged 15-74, %)

	2007	2008	2009	2010
Agriculture, forestry and fishing				
Males	6.3	5.3	5.5	5.8
Females	3.0	2.4	2.6	2.8
Mining and quarrying				
Males	1.5	1.6	1.9	2.0
Females				
Manufacturing				
Males	21.6	22.1	22.2	22.5
Females	18.4	19.0	16.2	15.7
Electricity, gas, steam and air conditioning supply				
Males	2.3	1.9	1.8	2.4
Females	0.4	0.5	0.9	0.8
Water supply; sewerage, waste management and remediation activities				
Males	0.5	0.4	0.5	0.6
Females		0.3		
Construction				
Males	22.5	22.2	18.1	16.2
Females	2.4	2.3	2.0	1.1
Wholesale and retail trade; repair of motor vehicles and motorcycles				
Males	10.6	11.4	11.0	11.0
Females	16.0	16.8	16.7	16.8
Transportation and storage				
Males	11.4	11.0	12.5	11.3
Females	4.7	4.1	4.4	4.2
Accommodation and food service activities				
Males	1.2	1.5	1.8	1.8
Females	5.7	5.7	4.8	4.9
Information and communication				
Males	2.5	2.5	2.9	3.0
Females	1.7	2.2	1.9	1.4

Financial and insurance activities				
Males	0.8	1.0	1.0	1.1
Females	2.1	2.2	2.8	2.2
Real estate activities				
Males	1.2	1.4	1.3	1.4
Females	1.7	1.7	1.8	2.1
Professional, scientific and technical activities				
Males	2.5	2.7	3.0	3.2
Females	2.9	3.5	3.9	4.2
Administrative and support service activities				
Males	2.4	2.6	3.3	3.9
Females	3.2	2.6	2.4	2.7
Public administration and defence, compulsory social security				
Males	5.5	5.2	5.0	6.0
Females	6.5	6.5	7.2	8.1
Education				
Males	2.8	3.7	4.3	3.3
Females	14.1	14.7	16.3	15.9
Human health and social work activities				
Males	1.3	0.8	0.9	1.7
Females	9.8	8.7	9.9	10.1
Arts, entertainment and recreation				
Males	2.1	1.4	1.7	1.8
Females	3.3	3.1	3.0	3.3
Other activities				
Males	1.3	1.2	1.3	1.1
Females	3.8	3.4	2.6	3.0

Source: Statistics Estonia, Labour Force Survey

In terms of occupations, while women are mostly professionals, technicians and associate professionals and service workers and shop and market sales assistants, men are mostly craft and related trades workers, plant and machine operators and assemblers and legislators, senior officials and managers.

**Table 56.** Employment by occupation, aged 15-74, (annual average, proportion of the employed, %)

	2007	2008	2009	2010
Legislators, senior officials and managers				
Males	16.6	15.3	16.0	15.1
Females	8.7	8.9	8.4	8.2
Professionals				
Males	8.7	8.7	10.4	11.8
Females	20.4	18.9	21.3	25.9
Technicians and associate professionals				
Males	8.3	8.1	8.1	8.8
Females	17.2	17.9	19.5	15.5
Clerks				
Males	2.2	2.7	2.6	2.9
Females	7.5	8.0	8.1	8.9
Service workers and shop and market sales workers				
Males	4.3	5.5	5.4	6.1
Females	19.6	19.9	19.3	18.2
Skilled agricultural and fishery workers				
Males	2.3	2.2	1.7	2.0
Females	1.5	1.5	1.2	1.3
Craft and related trade workers				
Males	29.7	30.5	26.6	23.7
Females	3.8	3.0	2.5	2.3
Plant and machine operators and assemblers				
Males	19.0	18.6	20.9	20.7
Females	8.6	9.8	8.0	8.1
Elementary occupations				
Males	8.0	7.5	7.3	7.9
Females	12.7	12.1	11.6	11.6

Source: Statistics Estonia, Labour Force Survey

Being a parent affects the participation of Estonian men and women in employment to a considerable extent. Although in Estonia, the employment rate of women is relatively high, there is large difference in the employment rates of women with and without young children

(aged 0-6) which indicates that mothers with young children often withdraw from any form of employment. At the same time, in case of men, young children are rather a factor contributing to employment. Until 2009 the employment indicators of women and men without young children were relatively similar. Due to economic crises and higher unemployment rate for men, in 2009 and 2010 there was also higher employment rate for women without young children than men in the age group 20-50.

**Table 57.** Male and female employment rate (%) in the age group 20-50, with and without young children (aged 0-6 years of age) and employment gap (percentage points)

	2007	2008	2009	2010
With young children				
Males' employment rate, %	96.3	93.7	82.9	82.6
Females' employment rate, %	54.1	55.1	51.0	52.3
Employment gap, percentage points	42.2	38.6	31.9	30.3
Without young children				
Males' employment rate, %	82.3	82.3	69.5	66.6
Females' employment rate, %	81.2	82.2	78.0	74.0
Employment gap, percentage points	1.1	0.1	-8.5	-7.4

Source: Statistics Estonia

**Table 58.** Number of parental benefit recipients and average benefit amounts by sex

	2007	2008	2009	2010
TOTAL persons who have been granted parental benefit	15096	15868	17174	16 514
Male, %	3.9	6.5	8.5	6.9
Female, %	96.1	93.5	91.5	93.1
Amount of parental benefit average per year, EEK	7461	9421	11614	11 546
Male	12658	14284	18007	18 272
Female	7249	9084	7235	11 046

Source: Social Insurance Board

Proportion of women in education has not changed considerably during 2007-2010. Women are in majority at the higher education level (59.7% in 2010) while most of the students in vocational education are men (56.6% in 2010).

**Table 59.** Female pupils and students (%), enrolment at the beginning of the academic year

	2007	2008	2009	2010
General education, including:	<b>50.6</b>	<b>50.5</b>	<b>50.2</b>	<b>50.2</b>
basic school level	48.0	48.0	48.2	48.3
gymnasium level	58.9	58.3	57.0	56.7
Vocational education, including:	<b>44.6</b>	<b>44.3</b>	<b>43.4</b>	<b>43.4</b>
vocational courses with non-defined basic education	9.8	13.0	16.2	9.9
vocational courses after basic education	34.5	34.7	34.7	34.2
vocational courses after secondary education	67.5	65.7	60.9	60.4
Higher education, including:	<b>61.7</b>	<b>61.9</b>	<b>60.9</b>	<b>59.7</b>
professional higher education	62.0	61.5	59.5	58.2
vocational higher education	55.0	100.0	100.0	.
Bachelor study	60.7	61.2	60.4	58.6
integrated Bachelor's/Master's study	57.2	55.5	55.5	55.8
Master's study	66.5	67.8	67.4	66.4
Doctoral study	55.6	56.7	57.7	58.2

Source: Statistics Estonia

Education is important resource that is accessed differently by gender. Although, the number of those who drop out from general education has decreased during 2007-2010, there are still more boys, who drop out and may or may not continue their education and whose future in the labour market and coping in further life are therefore problematic. As seen previously in the chapter of employment, the recent recession hit men more as their unemployment rate increased more compared to women.

**Table 60.** Discontinuers in general education, diurnal studies, discontinuers during academic year

	Boys	Girls
2007	615	334
2008	424	250
2009	258	179
2010	187	124

Source: Statistics Estonia

The educational system reflects the gender stereotypes in society also in the choices of study subjects of young men and women. By broad groups of study, in academic year 2008/2009, for instance, most students who studied in the field of education and health and welfare were women (respectively 92.2% and 88.8%), while the proportion of female students was lowest in the field of technology, production and construction (25.3%).

In lifelong learning and individual development women are more active than men. Participation in lifelong learning (professional and hobby related courses and seminars) has increased among men and women during 2007-2010, but is still more common among women.

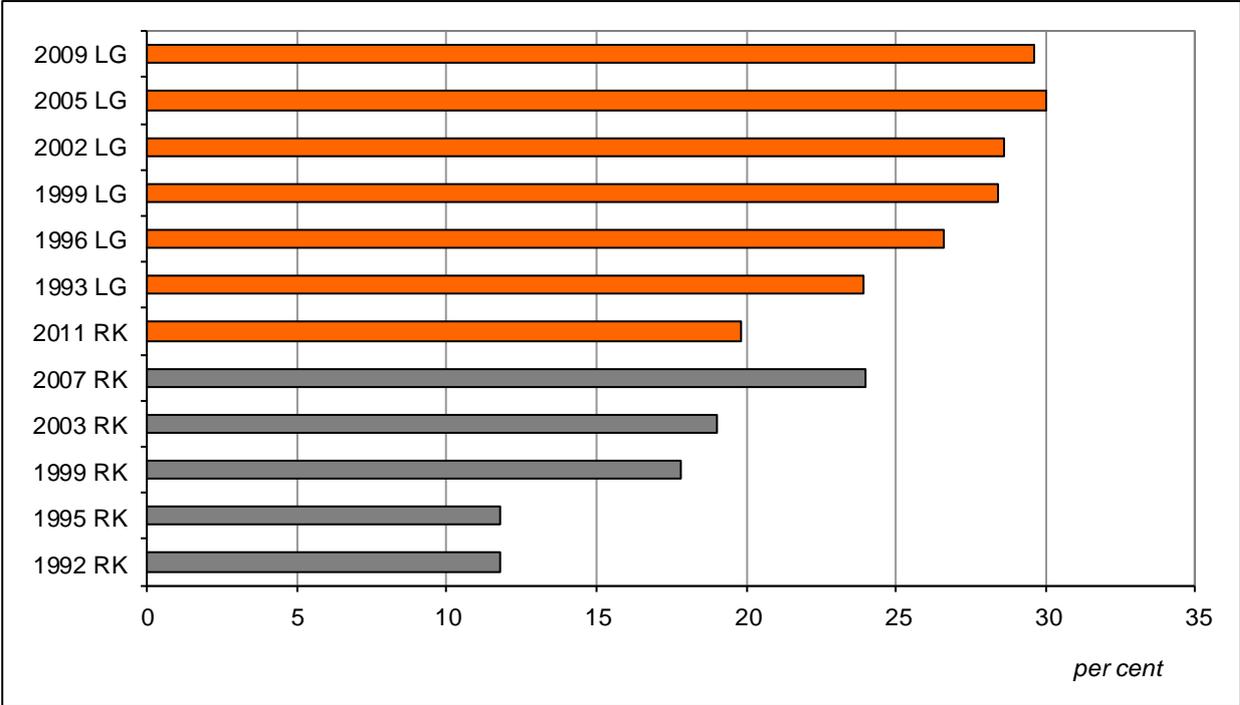
**Table 61.** Participation in lifelong learning during the last four weeks prior the interview in age group 25-64, %

	2007	2008	2009	2010
Males	4.5	6.7	7.6	8.5
Females	9.2	12.6	13.3	13.0

Source: Statistics Estonia, Labour Force Survey

The number of women in the parliament *Riigikogu* as well as local government elections has increased slowly during the time after Estonia regained its independence (Figure 1). The number of women is the highest in local authorities – a little less than one-third (30%) of the people who got elected in the last local government elections were women.

**Figure 2.** Share of Women among the Elected in Riigikogu (RK) and Local Government (LG) Elections, 1992–2011



The share of women among members of the Estonian parliament has been less than a quarter during the entire period after Estonia regained its independence. The biggest ratio of women among parliament members was in 2007, when 24% of members were women (i.e. 24 of the 101 members were women)<sup>28</sup>. In 2011 the ration of women in *Riigikogu* was 19.8% (i.e 20 of the 101 members were women). However, attention should be given to the fact that in 2011 President and First Vice-President of the *Riigikogu* are women. The other positive development in the *Riigikogu* is the resumption of the cross-party Women’s Committee in 2011 which is formed by all the female members of the parliament regardless of their political views. At the same time, the number of women at the highest level of executive power – the government – has been rather modest. As of February 2011 there is just one female minister (Minister of the Environment).

<sup>28</sup> National Electoral Committee, [www.vvk.ee](http://www.vvk.ee).

The position of women in the private sector in Estonia is influenced by vertical gender segregation. According to Eurostat Labour Force Survey, in 2008 34% of the leaders of businesses in Estonia were women. In the largest publicly quoted companies 7% of the presidents were women in 2010.

*The Committee recalls that Article 20 requires that appropriate methods of pay comparison must be devised enabling employees to compare the respective values of different jobs, and that pay comparisons to determine work of equal value beyond a single employer must be possible. It therefore asks the next report to provide more information on the above-mentioned methodology, and whether it covers the question of pay comparison.*

It should be pointed out that consideration of equal pay issues in the before mentioned guidebook for employers for promoting gender equality in the companies also touches upon the topics of pay reviews and introducing new job evaluation systems.

It can be added that e.g. the Gender Equality and Equal Treatment Commissioner interprets the expression „work of equal value“ in line with international treaty obligations of Estonia. Since the domestic regulation has been adopted with the view to transpose EU gender equality directives the Commissioner has also relied in her opinion(s) on the decisions of the European Court of Justice and the consequent jurisprudential material. As of 15 Aug 2011 the Commissioner has given one opinion where the principle of equal pay for equal work was applied. The application was a specific complaint on wage discrimination by a female public servant whose basic salary was lower than that of her male colleagues in the same position. The employer argued that in their system only the total wage is taken into consideration and that the total wage of the complainant was higher than that of her male colleagues (as she was the only one entitled to bonus pay for length of service, which is foreseen by the law). However European Court of Justice has ruled that principle of equal pay has to be guaranteed also for each wage component separately (C-381/99). Therefore the Commissioner found that the employer had no lawful arguments to justify the lower basic salary and thus sex discrimination had taken place. The Commissioner took into account among other things following criteria in order to determine whether the alleged victim of discrimination and her colleagues were performing the work of equal value and could be thus compared: official title of the public servant, short description of the work performed on the post, working tasks, salary grade according the state public servants salary scale. It must be noted though, that the opinions of the Gender Equality and Equal Treatment Commissioner are not legally binding.

## Article 24 – Right to protection in cases of termination of employment

*1) Please describe the general legal framework, including decisions by courts and other judicial bodies, if possible. Please specify the nature of, reasons for and extent of any reforms.*

The new Employment Contracts Act entered into force in Estonia on 1 July 2009, replacing the former Employment Contracts Act, Wages Act, Holidays Act, the Work and Rest Time Act and several other legislation of lesser significance. The Act also brought about some amendments of mainly technical nature in several other Acts (e.g. the Collective Agreements Act, Public Service Act, Employees Representative Act, etc.).

The amendment was deemed necessary as the former Employment Contracts Act was adopted as a transitional Act in 1992 (entered into force on 1 July 1992) and the Wages Act was adopted in 1994. The Work and Rest Time Act and Holidays Act that were in force up to 1 July 2009 were adopted somewhat later (in 2001), but by their nature, the Acts were in accordance with the general principles of the Employment Contracts Act and did not introduce any new principles to labour legislation. Thereby, before 1 July 2009, we were in a situation where the labour legislation in force was essentially a mere improvement of the Soviet labour legislation. The economic, legal and social environment had meanwhile substantially changed and thus the legislation needed modernisation in its entirety. The objective was to bring labour legislation into conformity with the principles of private law and to make the judicial area clearer by omitting provisions that only acted as formalities and decrease the administrative load. Another objective was to increase the flexibility of employment relationships, guide the parties to employment relationships to enter into agreements between themselves more often in order to meet their specific needs and to increase actual protection of the groups that are at a disadvantage on the labour market.

The new Employment Contracts Act also brought about amendments for protection concerning termination of employment relationships. The principles provided in Article 24 of the Social Charter have been taken into account. The right of all employees to not having their employment relationship terminated without legal basis based on their competence or behaviour or the needs of the undertaking, institution or division has been ensured. The right to receive sufficient compensation or other benefits in the event that the employment

relationship of the employee has been terminated without legal basis has also been ensured. Employees who find that their employment relationship has been terminated without legal basis have the right to address an impartial entity.

#### *Bases for termination of employment contract*

The bases for termination of an employment contract are specified in the Act, thereby ensuring the stability of employment relationships. This means that an employment relationship may only be terminated on grounds that both parties are aware of in advance instead of a decision by one of the parties.

An employment contract shall be terminated upon:

- agreement on termination of employment relationship;
- expiry of the term;
- the death of the employee;
- the death of an employer who was a natural person, if the employment contract was entered into having significant regard to the person of the employer; and
- cancellation.

The bases for termination of an employment contract may be divided in two:

- bases that automatically bring about termination of the employment contract; and
- bases for which the activities of both parties are necessary in order to terminate the employment contract.

Expiry of the term, death of the employee and death of the employer if the contract was entered into based on the person of the employer bring about automatic termination of the employment contract.

Termination of the employment contract upon agreement of the parties and cancellation of the employment contract presume active involvement by the parties.

Pursuant to subsection 85 (1) of the Employment Contracts Act, an employee may ordinarily cancel an employment contract entered into for an unspecified period at any time. Pursuant to subsection (5) of the same section, an employer may not cancel an employment contract ordinarily.

The employer may terminate an employment contract on an extraordinary basis arising from the employee and for economic reasons concerning the employer.

Subsection 88 (1) of the Employment Contracts Act provides the basis for extraordinary cancellation of an employment contract for reasons dependant on the employee. The employer may extraordinarily terminate an employment contract with good reason dependent on the employee as a result of which, upon respecting mutual interests, the continuance of the employment relationship cannot be expected, if the employee has:

- 1) been unable to perform their duties for a long time due to their state of health, which does not allow for the continuance of the employment relationship (decrease in capacity for work due to state of health). A decrease in the capacity for work due to state of health is presumed if the state of health of the employee does not allow for the performance of duties for over four months;
- 2) been unable to perform their duties for a long time due to insufficient work skills, unsuitability for the job or inadaptability that does not allow for the continuance of the employment relationship (decrease in capacity for work);
- 3) disregarded reasonable instructions of the employer or breached duties notwithstanding relevant warnings;
- 4) appeared at work in a state of intoxication notwithstanding the warnings by the employer;
- 5) committed theft, fraud or another action that has brought about the loss of trust of the employer in the employee;
- 6) brought about distrust of a third party in the employer;
- 7) caused damage to the property of the employer wrongfully and to a significant extent or caused the threat of such damage; or
- 8) violated the obligation of maintaining confidentiality or restraint of trade clause.

Pursuant to subsection 88 (2) of the Employment Contracts Act, before cancellation of an employment contract, in particular on the basis specified in clauses 88 (1) 1) and 2), the employer shall offer another job to the employee if possible. The employer shall offer another job to the employee, including organising the in-service training of the employee if necessary, adapting the workplace or changing the working conditions of the employee, unless the changes cause disproportionately high expenses for the employer and offering another job may be reasonable expected considering the circumstances.

Pursuant to subsection 88 (3) of the Employment Contracts Act, the employer may cancel an employment contract in the event of violation of the obligations by the employee or decrease

in their capacity for work if the employer gave warning prior to the cancellation. Prior warning is not a prerequisite for cancellation if the employee cannot expect it from the employer due to particular severity of the violation or for another reason pursuant to the principle of good faith.

Subsection 88 (4) of the Employment Contracts Act provides that the employer may cancel the employment contract only within a reasonable period of time as of becoming aware or the time when it should have become aware of the circumstances serving as the basis for the cancellation.

§ 89 of the Employment Contracts Act provides the bases for extraordinary cancellation of an employment contract by the employer for economic reasons. Pursuant to subsection 89 (1), an employer may extraordinarily terminate an employment contract if the continuance of the employment relationship on the agreed terms and conditions becomes impossible due to a decrease in the work volume, reorganisation of work or other cessation of work (lay-off).

Pursuant to subsection 89 (2), lay-off is also extraordinary cancellation of the employment contract upon:

- 1) cessation of the activities of the employer; or
- 2) declaration of bankruptcy of the employer or termination of the bankruptcy proceedings without declaring bankruptcy due to abatement of the bankruptcy proceedings.

Pursuant to subsection 89 (3), an employer shall offer another job to an employee if possible before cancellation of an employment contract due to a lay-off, except in events specified in subsection 89 (2). If necessary, the employer shall organise the in-service training or change the working conditions of the employee unless the changes cause disproportionately high expenses for the employer.

Pursuant to subsection 89 (4), the employer shall take into account the principle of equal treatment upon cancellation of an employment contract.

Pursuant to subsection 89 (5), upon cancellation of an employment contract due to a lay-off, except in cases specified in subsection 89 (2), the representative of employees and employees raising children under three years of age have the preferential of keeping their job.

Pursuant to subsection 100 (3) of the Employment Contracts Act, the employer shall pay an employee compensation to an extent that corresponds to the remuneration of the employee that the employee would have been entitled to until the expiry of the term of contract upon cancelling a fixed-term employment contract for economic reasons, except for bankruptcy. Compensation shall not be paid if the employment contract is cancelled due to *Force majeure*.

#### *Restrictions on cancellation*

Subsection 92 (1) of the Employment Contracts Act provides the reasons arising from the employee that are not considered as good reasons upon extraordinary cancellation. The reasons are: pregnancy of an employee, the right to pregnancy and maternity leave, performance of important family duties (raising children, including children of under 3 years of age, caring for parents, etc.), temporary incapacity to perform work duties arising from the state of health (above all not being able to appear at work on the basis of a certificate for sick leave), representation of other employees, compulsory military service or alternative service and the refusal of a full-time employee to continue working part-time or the refusal of a part-time employee to continue working full-time.

Subsections 92 (2) and (3) provide the prerequisites for unlawful cancellation. In the event that an employer cancels an employment contract with an employee who is pregnant or raising a child under 3 years of age or with the representative of employees during their term of office or within one year of the expiry of their term of office, it shall be presumed pursuant to the Act that the employment contract has been cancelled in violation of the prohibition of cancellation of the employment contract. In such case, the employer must prove that the cancellation was legal. The representative of employees, pregnant employees and employees raising children of under 3 years of age are deemed to belong to the group of employees who need additional protection. Therefore, the burden of proof lies with the employer upon cancellation of an employment contract with the aforesaid persons pursuant to subsections 92 (2) and (3). The employer must prove that the employment contract was not cancelled on the referred basis but on another basis permitted in the Act.

§§ 93 and 94 of the Employment Contracts Act ensure additional protection for pregnant employees, employees raising a child of under 3 years of age and the representative of employees in addition to § 92 of the Employment Contracts Act.

Pursuant to subsection 93 (1) of the Employment Contracts Act, an employer may not cancel an employment contract with a pregnant woman or a woman who has the right to pregnancy

and maternity leave or a person who is on parental leave or adoptive parent leave due to a lay-off, except upon cessation of the activities of the employer or declaration of bankruptcy of the employer.

Pursuant to subsection 93 (2), an employer may not cancel an employment contract with a pregnant woman or a woman who has the right to pregnancy and maternity leave due to a decrease of the employee's capacity for work. The purpose of such manner of regulation is to accept the additional burden arising from pregnancy and raising a child during the first months that may become apparent in deterioration in the state of health of the mother and thereby affect the capacity for work of the employee.

As the employer may not be aware of the pregnancy of the employee, the employee may only refer to the provisions of § 93 if the employee has notified the employer of her pregnancy before the receipt of a cancellation notice or within 14 calendar days thereafter. The employee is obliged to submit a certificate confirming the pregnancy at the request of the employer pursuant to subsection 93 (3).

§ 94 of the Employment Contracts Act provides a principle pursuant to which the employer shall, before cancellation of an employment contract with the representative of the employees, seek the opinions of the employees who elected the person to represent them or the respective trade union. The opinion shall be given to the employer within ten working days of being asked for the opinion. The opinion is not binding for the employer, but the employer must justify disregarding the opinion.

#### *Notification of cancellation of employment contract*

An employee shall generally be notified in advance of termination of an employment contract.

The employer shall notify the employer of cancellation of an employment contract in advance, observing the terms provided in the Act. The terms of advance notice are related to the length of employment of the employee and are provided in § 97 of the Employment Contracts Act. The employer shall give advance notice of extraordinary cancellation to the employee if the employment relationship of the employee with the employer has lasted:

- 1) less than one year of employment – at least 15 calendar days;
- 2) one to five years of employment – at least 30 calendar days;
- 3) five to ten years of employment – at least 60 calendar days; and
- 4) ten and more years of employment – at least 90 calendar days.

Pursuant to subsection 97 (3) of the Employment Contracts Act, the employer may choose not to adhere to the term of advance notice if it cannot be reasonably demanded that the performance of the contract be continued until the expiry of the agreed term or term of advance notice considering any and all circumstances and mutual interests.

Such possibility is above all provided for circumstances of significant violation of work duties whereas the nature (or consequence/possible consequence for the employer, co-workers or third parties) of the violation precludes continuation of the employment relationship even by the term of advance notice. The provision does not oblige the employer to not adhere to the term of advance notice. Upon considering non-adherence to the term of advance notice, the employer shall assess the circumstances in their entirety and take into account the fact that termination of the employment relationship without advance notice means that the employee has no time to adjust to the new situation and find another job.

Pursuant to subsection 97 (4) of the Employment Contracts Act, a collective agreement may establish terms of advance notice different from those provided in the Act.

In order to ensure that the employee finds a new job as fast as possible after the receipt of the notice of cancellation, the employer shall grant the employee time off to find a new job to a reasonable extent within the period of advance notice pursuant to § 99 of the Employment Contracts Act.

In the event of non-adherence to the term of advance notice, the employer shall compensate for the period of not adhering to the term of advance notice in money pursuant to subsection 100 (5) of the Employment Contracts Act.

The Employment Contracts Act provides the obligation of notification and consultation of employees for the employer upon collective cancellation of employment contracts. Subsection 90 (1) of the Employment Contracts Act provides the definition of collective cancellation. Pursuant to the aforesaid, collective cancellation of employment contracts means cancellation of employment contracts due to a lay-off within 30 calendar days of no less than:

- 1) 5 employees in an undertaking where the average number of employees is up to 19;
- 2) 10 employees in an undertaking where the average number of employees is 20-99;
- 3) 10 percent of employees in an undertaking where the average number of employees is 100-299; and

- 4) 30 employees in an undertaking where the average number of employees is at least 300.

Pursuant to subsection 101 (1) of the Employment Contracts Act, the employer shall timely consult the representative of employees or, in their absence, the employees before deciding on collective cancellation with the objective of reaching an agreement on prevention of the planned cancellations or reduction in the number of cancellations and mitigation of the consequences of the cancellations, including contribution to the job-seeking or retraining of the employees to be laid off.

The main idea and basis of consulting is reaching an agreement with regard to the measures to be implemented. Failure to reach an agreement does not limit the right of the employer to decide on collective cancellation of employment contracts. The employees and/or the representative of the employees do not have veto rights concerning the activities of the employer. However, the employer must take into account the obligation to justify their decisions.

Right to sufficient compensation or other benefits if the employment contract of the employee has been terminated without legal basis

Pursuant to subsection 107 (1) of the Employment Contracts Act, if a court or labour dispute committee establishes that the cancellation of an employment contract is void due to the absence of a legal basis or the non-conformity to legislation or nullified due to conflict with the principle of good faith, it shall be deemed that the employment contract has not been terminated upon cancellation.

In the said case, the court or labour dispute committee shall, at the request of the employer or the employee, terminate the employment contract as of the time when it would have been terminated in the event of validity of the cancellation. As an exception to the general rule, the labour dispute resolution body shall not satisfy the application of an employer to terminate the employment relationship in case of a pregnant employee or an employee who has the right to pregnancy and maternity leave. The same protection is ensured for the representative of employees. The labour dispute resolution body has to satisfy the request of the employer for termination of employment relationships with the aforementioned persons only if continuing the employment relationship would not be possible, i.e. above all if the employer has ceased their activities.

Pursuant to § 108 of the Employment Contracts Act, the employee shall have the right to demand compensation for damage, above all remuneration not received, upon unlawful cancellation of the employment contract if the employment relationship continues. The part obtained by way of different use of the labour force of the employee may be deducted from the compensation.

If the court or labour dispute committee terminates an employment contract upon the request of the employer or the employee, the employer shall pay the employee compensation to the extent of three months' average remuneration of the employee. The court or labour dispute committee may change the amount of the compensation, taking into account the circumstances of cancellation of the employment contract and the interests of both parties. The respective obligation is provided in subsection 109 (1) of the Employment Contracts Act. Subsection 109 (2) provides an exception for pregnant employees, employees who are entitled to pregnancy and maternity leave or employees who have been elected to be the representative of employees. The employer shall pay compensation to the extent of six months' average remuneration of the employee for the said employees. The court or labour dispute committee may change the amount of the compensation, taking into account the circumstances of cancellation of the employment contract and the interests of both parties.

#### *Resolution of labour disputes*

Labour disputes, including disputes related to cancellation of employment relationships, are resolved in Estonia by labour dispute committees and courts.

Pursuant to subsection 10 (1) of the Individual Labour Dispute Resolution Act, labour dispute committees are extra-judicial independent individual labour dispute resolution bodies that operate pursuant to international agreements binding for Estonia, Acts, administrative legislation and other rules regulating employment relations as well as collective agreements and employment contracts. Pursuant to subsection 10 (2), a labour dispute committee is competent to resolve a labour dispute if the chairman of the committee and at least one representative of the employees and one representative of the employers participate in the work of the committee. The chairman of a labour dispute committee shall invite an equal number of representatives of employees and representatives of employers to participate in the work of the committee.

The Estonian judicial system has three levels – county courts and administrative courts serve as courts of first instance, circuit courts serve as courts of appeal and the Supreme Court serves as the court of cassation.

Pursuant to subsection 105 (1) of the Employment Contracts Act, the action or petition for the establishment of nullity of cancellation shall be filed with a court or labour dispute committee within 30 calendar days of the receipt of the declaration of cancellation.

Pursuant to subsection 9 (1) of the Individual Labour Dispute Resolution Act, recourse to labour dispute committees is exempt from state fees.

Pursuant to clause 22 (1) 1) of the State Fees Act, a state fee is not charged for hearing of an action or appeal concerning remuneration or wages, identification of nullity of cancellation of an employment contract, reinstatement in service, or amendment of the written legal basis for termination of an employment contract or for release of a person from service.

In addition to the aforesaid, the Supreme Court has resolved in Judgment no. 3-2-1-27-11 (11.05.2011) that the exemption from state fees also extends to claims for compensation related to termination of a contract. This arises from the fact that the respective claims are related to identification of the nullity of cancellation of an employment contract. Therefore, the claim for compensation related to termination of a contract is also exempt from state fees in labour disputes, even though the State Fees Act does not directly provide it.

Pursuant to subsection 24 (1) of the Individual Labour Dispute Resolution Act, the parties to a dispute have recourse to county courts for hearing of the same labour dispute within one month after the date following the date of receipt of a copy of the decision of the labour dispute committee if the parties do not agree with a decision of a labour dispute committee. Therefore employees have a right of appeal regardless of the addressed labour dispute resolution body.

*2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.*

The Employment Contracts Act currently in force was adopted on 17 of December 2008. The Act entered into force on 01 of July 2009, thereby giving the parties more than half a year to examine the new Act and prepare for the amendments.

The state, by means of the Ministry of Social Affairs, contributed to mitigating the transition by introducing the new Act and increasing the awareness of the relevant state authorities and partners.

Easily understandable booklets introducing seven main sub-spheres of employment relationships were elaborated. The booklets were distributed on paper, and they are also

accessible electronically at the website of the Ministry of Social Affairs at <http://www.sm.ee/eng/activity/working-and-managing/employment-contracts-act.html>.

The Act was introduced in various seminars and the materials prepared therefor can be examined on the internet at the address <http://www.sm.ee/tegevus/too-ja-toimetulek/toolepingu-seadus.html>.

The Ministry of Social Affairs prepared a manual for the Employment Contracts Act, explaining in detail the purpose of every section and instructions for the implementation thereof. The manual is constantly updated. It is currently available on the website of the Ministry of Social Affairs at the address <http://www.sm.ee/tegevus/too-ja-toimetulek/toolepingu-seadus.html>, but there are plans to publish the manual on paper in the near future.

The Ministry of Social Affairs engages in constant cooperation with the Labour Inspectorate, which exercises supervision over employment relationships. The labour dispute committees belong to the area of administration of the Labour Inspectorate. Questions and issues that have arisen in the course of implementation of the Act are discussed and training events are organised for labour inspectors and chairmen of labour dispute committees.

In order to ensure a higher degree of awareness of employees and employers regarding the content and extent of the amendments, the Government of the Republic allowed the representative organisations of employers and employees to receive financing for performing notification work concerning the respective topic within the framework of the measure “Long and high-quality working life” of the European Social Fund. Some examples are provided below.

The Estonian Trade Union Confederation has prepared an e-handbook for the Employment Contracts Act that is accessible for all persons and helps interested parties become more aware of issues related to individual employment relationships. The volume of the e-course is equivalent to the volume of a one-day auditory training (8 academic hours). The e-handbook is first and foremost meant for employees, but can also serve as training for employers. It can be accessed at [http://www.tööõiguskoolitus.eu/front/et\\_EE/](http://www.tööõiguskoolitus.eu/front/et_EE/).

The Estonian Association of Small and Medium Enterprises has prepared the project “Web mentor for employment contracts”. A web-based consultation environment has been created for employment relationships as a strategic service of the Estonian Association of Small and

Medium Enterprises. The environment is supplemented by legal direct counselling via e-mail, phone and appointments, if necessary. <https://www.eveamentor.ee/est/>.

The Estonian Trade Union Confederation conducted the project "More awareness, less labour disputes". Seminars and model hearings of labour dispute committees were held all over Estonia in the framework of the project. The purpose was to improve the quality of working life by raising the awareness of labour dispute committees and representatives of employees with regard to legislation related to individual employment relationships.

The Estonian Trade Union of Railwaymen has created an information portal with the purpose of raising the awareness of parties to employment relationships. Collective employment relationships are introduced in the portal in addition to individual employment relationships. <http://www.tavi.ee/home-et/>.

The Ministry of Social Affairs continues cooperation with representative organisations of employers and employees in order to observe and ensure adherence to the objectives of the Act.

*3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.*

In order to assess the impact of the Employment Contracts Act that entered into force on 1 July 2009 and meeting the raised objectives, the Ministry of Social Affairs and the representative organisations employees and employers agreed that an analysis concerning the impact of the Act shall be conducted within three years of entry into force of the Act. The analysis shall be conducted in 2012 and in the course thereof it is planned to collect feedback from employees and employers regarding the implementation of the Act, analyse the decisions and judgments of labour dispute resolution bodies and try to assess the macroeconomic impact of the Act.

Statistics of labour disputes based on petitions filed with labour dispute committees, 2005-2010 (data of the Labour Inspectorate)

The appended Table indicates that the number of petitions filed with labour dispute committees increased rapidly at the peak of the economic crisis. In 2010, the number of petitions filed decreased to a level comparable with that preceding the crisis. It can be concluded that the entry into force of the new Employment Contracts Act has not brought about a significant change in the number of petitions filed regarding cancellation of employment relationships in 2010 compared to the former legislation.

**Table 62.** Petitions for disputing cancellation of employment contract of employee filed with labour dispute committees

	2005	2006	2007	2008	2009	2010
<b>Number of petitions filed</b>	<b>3,022</b>	<b>2,672</b>	<b>2,610</b>	<b>4,102</b>	<b>6,371</b>	<b>3,803</b>
Claims for dispute of cancellation of employment contract	677	522	472	681	1,304	544
§ 93 of the ECA. Specifications of cancellation of employment contract with a pregnant woman or person raising a child below the age of three years	37	21	27	31	53	21
§ 94 of the ECA. Specifications of cancellation of employment contract with a representative of employees	4	3	1	6	0	16
§ 92 of the ECA. Restrictions on cancellation	-	-	-	-	0	7
§ 88 of the ECA. Extraordinary cancellation of employment contract by employer due to reasons arising from employee	-	-	-	-	0	229
§ 89 of the ECA. Extraordinary cancellation of employment contract by employer due to economic reasons	-	-	-	-	0	51

(-) The legislation has substantially changed and there are no comparative materials from the previous period

## **Article 25 – The right of workers to the protection of their claims in the event of the insolvency of their employer**

*1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.*

In the event of insolvency of the employer, the employee has the right to benefits on the basis of the Unemployment Insurance Act and the Law of Obligations Act. The benefits paid on the basis of the Unemployment Insurance Act are limited by the Act with regard to the amount compensated while the Law of Obligations Act does not provide such limitations.

The Unemployment Insurance Act was amended in 2007. The aforesaid amendment specified the definition of insolvency of employer such that the employer is deemed to be insolvent if a court has declared bankruptcy or terminated the bankruptcy proceedings by abatement or if a court or another competent body of another EEA country has declared the employer as insolvent within the meaning of Council Regulation 1346/2000/EC on insolvency proceedings.

The types of claims for compensation upon declaration of insolvency of the employer were also specified and new limits were established for payments of claims. Upon insolvency of an employer, the following shall be compensated to an employee:

- unreceived salary from the period before the declaration of the employer as insolvent. The benefit shall be paid in the amount equal to up to the employee's gross wages for the last three months of work but not exceeding in total, according to the data published by Statistics Estonia, the amount equal to three average gross monthly wages in Estonia during the quarter preceding the declaration of the employer as insolvent;
- unreceived holiday pay from the period before the declaration of the employer as insolvent. The benefit shall be paid in the amount to the extent of the employee's one month's holiday pay but not exceeding in total, according to the data published by Statistics Estonia, the amount equal to one month's average gross wage in Estonia during the quarter preceding the declaration of the employer as insolvent; and

- benefits from the period before or after the declaration of the employer as insolvent that were not received at the time of cancellation of the employment contract but were prescribed by the Employment Contracts Act. The benefit shall be paid in the amount equal to up to the employee's two gross monthly wages but not exceeding in total, according to the data published by Statistics Estonia, the amount equal to one month's average gross wage in Estonia during the quarter preceding the declaration of the employer as insolvent.

The Unemployment Insurance Act was also supplemented by a provision pursuant to which, in the case of insolvency of an employer that operated in Estonia and another EEA country, benefit upon insolvency of employer shall be paid to the employees whose place of work or usual place of work is Estonia.

*2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.*

Regulation no. 66 "Application form for benefit upon insolvency of employer and list of documents to be appended to application" of the Minister of Social Affairs of 7 December 2006 entered into force on 1 January 2007. The Regulation established the application form for applying for benefit upon insolvency of employer (appendix) and the list of documents to be appended to the application.

*3) Please supply any relevant statistics or other information where possible on the amount of such claims, whether there is a ceiling on payments, the time taken between presentation of claims and payment of the amounts due and the overall percentage of employees' claims that are honoured by a guarantee institution and/or because those concerned are privileged creditors.*

*Insolvency benefits paid by Töötukassa (Unemployment Insurance Fund)*

Between 2007 and 2010, 16 330 people received insolvency benefits due to the bankruptcy of 1328 enterprises. The number of bankruptcies was largest in 2010 – 567 and the number of benefit recipients was largest in 2009 – 6660. The number of bankruptcies and benefit recipients was smallest in 2007 – 94 and 1158 respectively.

**Table 63.** Benefit recipients and insolvency cases

	2007	2008	2009	2010	2007-2010, total
Number of benefit recipients	1141	2249	6709	6231	16330
Number of insolvency cases	94	176	491	567	1328

Source: Unemployment Insurance Fund

Between 2007 and 2010, 30 700 127 EUR insolvency benefits due to the bankruptcy have been paid out. The number of payments was largest in 2009 – 13 877 179 EUR and smallest in 2007 – 1 545 729 EUR.

**Table 64.** Total sum applied and remunerated insolvency benefits due to the bankruptcy between 2007 and 2010

	2007	2008	2009	2010	2007-2010, total
Total sum applied (EUR)	2 633 730	7 246 444	23 957 113	18 310 905	52 148 192
Total sum remunerated (EUR)	1 545 729	4 340 826	13 877 179	10 936 393	30 700 127
Average remunerated percentage from the sum applied	59%	60%	58%	60%	59%

Source: Unemployment Insurance Fund

Average remunerated percentage from the sum applied and remunerated insolvency benefits due to the bankruptcy between 2007 and 2010 is 59 %.

**Table 65.** The average proportion of insolvency benefit due to the bankruptcy between 2007 and 2010

	2007	2008	2009	2010	2007-2010, average
Average sum applied (EUR)	2213	3178	3499	2861	2938
Average sum remunerated (EUR)	1299	1904	2027	1709	1735
Average remunerated sum percentage from the sum applied	59%	60%	58%	60%	59%

Source: Unemployment Insurance Fund

**Table 66.** Unsatisfied applications

	2007	2008	2009	2010
Number of persons for whom benefits were denied (unsatisfied applications)	10	26	53	135

Source: Unemployment Insurance Fund

Between 2007 and 2010, the average duration of the period from declaration of insolvency until the worker was paid was 116 days. Most of this period encompasses the time between the declaration of bankruptcy and the submission of the application.

Table 67. Average duration of period from when claim is lodged until worker is paid

	2007	2008	2009	2010	2007-2010, average
Average duration of period from declaration of insolvency until submission of benefit application (number of days)	105	124	70	85	96
Average duration of period from submission of benefit application until payment of benefit (number of days)	20	16	20	24	20
Average duration of period from declaration of insolvency until payment of benefit (number of days)	125	140	90	109	116

Source: Unemployment Insurance Fund