



**EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITE EUROPEEN DES DROITS SOCIAUX**

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

ESTONIA

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I. SUMMARY

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

Following this decision, it was agreed that the European Committee of Social Rights examines - in a meeting or by written procedure - the actual legal situation and the situation in practice in the countries concerned from the point of view of the degree of conformity of the situation with non-accepted provisions. This review would be done for the first time five years after the ratification of the revised European Social Charter, and every five years thereafter, to assess the situation on an ongoing basis and to encourage States to accept new provisions. Indeed, experience has shown that States tend to overlook that the selective acceptance of the provisions of the Charter should be only a temporary phenomenon.

As Estonia ratified the Charter on 11 September 2000, the European Committee of Social Rights agreed with the Estonian authorities to hold a first meeting on the non-accepted provisions on 5 April 2005¹ and the second meeting was held on 20 September 2010. The discussions at the 2010 meeting largely confirmed the assessment made by the European Committee of Social Rights delegation after the first meeting in 2005 as to which provisions could be accepted, namely Articles 2§4, 3§4, 7§6, 10§2, 13§4, 18§§ 1, 2 and 4, 26 and 30².

On 27 June 2012, the Republic of Estonia declared that it considered itself bound by the following Articles of Part II of the Charter: Articles 10§2, 13§4, 18§§1, 2 and 4, 26 and 30. The Committee wishes to congratulate the Estonian authorities on this important undertaking and the commitment to the Charter that it shows.

With a view to applying the procedure for the third time, the Committee in January 2015 invited the Estonian authorities to provide written information on any progress achieved towards accepting further provisions. The report, submitted on 29 May 2015, covered the remaining non-accepted provisions: Articles 2§4, 3§4, 4§1, 7§§5 and 6, 10§5, 18§3, 23 and 31§§1-3.

Having examined the written information, the Committee is of the opinion that there are no legal obstacles for acceptance by Estonia of the following provisions: Articles 2§4, 3§4, 7§6, 10§5, 18§3, 23 and 31§2.

¹ See Report on the 1st meeting with the Estonian Government within the framework of the procedure on non-accepted provisions (Article 22 of the 1961 Charter); the Committee's report is available at the following address: http://www.coe.int/t/dghl/monitoring/socialcharter/non-acceptedprov/Estonia2005_en.pdf

² See Report on the 2nd meeting with the Estonian Government within the framework of the procedure on non-accepted provisions (Article 22 of the 1961 Charter); the Committee's report is available at the following address: http://www.coe.int/t/dghl/monitoring/socialcharter/non-acceptedprov/Estonia2010_en.pdf

The Committee is of the view that the current situation in Estonia may not fully comply with the following provisions: Articles 4§1, 31§1 and 31§3.

Finally, the Committee needed more detailed information in order to assess the situation in Estonia as regards Article 7§5 of the Charter.

In view of the conclusions of this report, the Committee wishes to encourage Estonia to consider accepting additional provisions of the Charter as soon as possible so as to consolidate the paramount role of the Charter in guaranteeing and promoting social rights.

The Committee would also like to encourage Estonia to consider collective complaints procedure by making the declaration foreseen by Article D§2 of the Charter.

The Committee finally takes the opportunity to draw the attention of States Parties to the Declaration of the Committee of Ministers on the 50th anniversary of the European Social Charter (Appendix 2).

The next examination of the provisions not accepted by Estonia will take place in 2020.

II. EXAMINATION OF THE NON-ACCEPTED PROVISIONS

The description of the situation in Estonia set out for the different provisions below summarizes the written information provided by the Estonian Government.

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

Situation in Estonia:

According to the report, there have been no significant changes as regards occupational health and safety regulations since the previous report (2010). In particular, the Government is of the opinion that the principal duty of the employer set out in the Occupational Health and Safety Act – to guarantee a safe and healthy working environment for workers – cannot be replaced with shortening the working day or granting additional paid leave, which sort of ‘compensates for’ the health damage. Granting extra leave or shortening the working day may remain an object of the collective agreement made between the employer and the worker, as it can be treated as a bonus offered by the employer to the workers as the extra leave /shorter working day required by workers to maintain or restore their health.

Despite numerous measures taken to implement the legal framework as described in the National Health Plan 2009-2020, the Estonian Labour Inspectorate found violations in the field of health and safety in the visited enterprises. Among the most common in 2013, the report indicates the following:

- risk assessment had not been conducted or had been performed, but insufficiently;
- work environment representative had not been elected;
- initial or in-service training of employees is ignored or insufficient;
- safety of working at heights is not ensured;
- personal protective equipment is not used;
- scaffoldings and ladders are not in line with requirements;

- safety of work equipment is not in line with requirements.

Opinion of the Committee:

Article 2§4 is divided into two parts, the first requiring states to take the necessary measures to eliminate risks which is closely linked to Article 3 of the Charter (right to safe and healthy working conditions), and the second requiring them to provide for compensation in the event of residual risks. The focus of this provision is on prevention and elimination of risks which would seem to be reflected in the Estonian legislation. It should be noted in this context that Estonia has accepted Article 3§§1-3 of the Charter.

As regards compensation for workers exposed to risks that cannot be or have not yet been eliminated or sufficiently reduced, Article 2§4 mentions two forms of compensation: reduced working hours and additional paid holidays. In view of the emphasis in this provision on health and safety objectives, however, other approaches to reducing exposure to risks may also ensure conformity with the Charter.³ They need to be assessed on a case by case basis.⁴

States Parties enjoy a certain margin of discretion to determine the activities and risks concerned.⁵ ⁶ They must at least consider sectors and occupations that are manifestly dangerous or unhealthy, such as mining, quarrying, steel making and shipbuilding and occupations exposing employees to ionising radiation,⁷ extreme temperatures and noise.⁸

The Committee notes that Estonia has enacted legislation to regulate conditions of work, as required by Article 2§4 of the Charter and therefore maintains its view that there are no significant obstacles to acceptance by Estonia of this provision of the Charter.

Article 3§4 Right to safe and healthy working conditions - Occupational health services

Situation in Estonia:

According to the report, there have been no significant changes as regards occupational health services since the previous report (2010). Under the Occupational Health and Safety Act, the employer is required to organise the provision of occupational health services and bear the costs related thereto.

The Government is of the opinion that the provision of occupational health services still poses a number of problems in Estonia which do not allow to accept Article 3§4 of the Charter yet, such as the lack of occupational health specialists, the lack of an effective supervision system over the service providers and uneven quality of occupational health services. In fact, according to „Situation analysis of existing occupational health service systems in NDPHS countries 2010“ there are 0,14 occupational health (medicine) physicians per 1,000 employees in Estonia; the correct number of occupational hygienists, occupational ergonomics specialists and occupational psychologists is not known as notice of economic activities is based on the services that legal persons wish to provide

³ Conclusions 2005, Statement of Interpretation on Article 2§4

⁴ *Marangopoulos Foundation for Human Rights (MFHR) v. Greece*, Complaint No. 30/2005, decision on the merits of 6 December 2006, §236

⁵ Conclusions II (1971), Statement of Interpretation on Article 2§4

⁶ *STTK ry and Tehy ry v. Finland*, Complaint No. 10/2000, Decision on the merits of 17 October 2001, §20

⁷ *STTK ry and Tehy ry v. Finland*, Complaint No. 10/2000, Decision on the merits of 17 October 2001, §27

⁸ Conclusions XIV-2 (1998), Norway

and they do not have to provide all the services that one type of specialist is allowed to provide. Specialists do not have to be registered in a national registry like occupational physicians and nurses do.

Opinion of the Committee:

Article 3§4 requires to promote, in consultation with employers' and workers' organisations, the progressive development of occupational health services that are accessible to all workers, in all branches of economic activity and for all enterprises. The number of occupational physicians in the total workforce,⁹ the number of enterprises providing occupational health services or who share those services,¹⁰ as well as any increase in the number of workers supervised by those services in comparison to the previous reference period, is relevant on the assessment of the conformity to this provision, as is the ratification of ILO Occupational Health Services Convention No. 161 (1985), or the transposition of Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work.¹¹

Taking into account in particular the information provided by the Government concerning the existing situation of the occupational health services, the Committee reaffirms its view that there are no major obstacles for acceptance by Estonia of Article 3§4 of the Charter.

Article 4§1 Right to a fair remuneration – Decent remuneration

Situation in Estonia:

As regards the general legal framework, the Estonian Trade Union Confederation and the Estonian Employers' Confederation as the central organisations of the social partners conclude a collective agreement on minimum wage. According to the subsection 4 of section 4 of Collective Agreements Act, these organisations have the right to extend this collective agreement. According to subsection 5 of section § 29 of the Employment Contracts Act, the Government of the Republic shall establish by a regulation the minimum wage corresponding to a specific unit of time. The custom is that established minimum wage regulation is based on the social partners' agreement.

The Labour Inspectorate exercises the state supervision over the fulfilment of the requirement provided in law.

In 2014, the minimum wage in Estonia amounted to 44.6% of the net average wage.

Opinion of the Committee:

Article 4§1 guarantees the right to a fair remuneration such as to ensure a decent standard of living. The concept of "decent standard of living" goes beyond merely material basic necessities such as food, clothing and housing, and includes resources necessary to participate in cultural, educational and social activities.¹² To be considered fair within the meaning of Article 4§1, the minimum or lowest net remuneration or wage paid in the labour

⁹ Conclusions 2009, Slovenia

¹⁰ Conclusions 2009, Albania

¹¹ Conclusions 2009, France

¹² Conclusions 2010, Statement of Interpretation on Article 4§1.

market must not fall below 60% of the net average wage. The assessment is based on net amounts, i.e. after deduction of taxes and social security contributions.

Taking into account in particular the information provided by the Government concerning the minimum wage, the Committee reaffirms that the situation in Estonia does not seem to be compatible with Article 4§1 of the Charter for the time being.

Article 7§5 Right of children and young persons to protection – Fair pay

Situation in Estonia:

Estonian legislation does not provide special regulation for the young workers' remuneration. According to the Equal Treatment Act, the wage discrimination of persons on grounds of age is prohibited. Therefore, the Government does not encourage paying young workers less because of their age. Estonia is aiming to raise the general minimum wage level – if the level of minimum wage is raised, this higher level must be guaranteed to all employees and students concerned.

In 2014, the average gross monthly wage for young employees between 15-24 years was 686 €, which corresponded to 70% of the average gross wage for 25-49-year-olds.

For young persons who were both working and studying the average monthly gross wage was 573 €, but it should be noted that 53% of these young persons were working part-time in their main occupation. Young people aged 15-24 working full time had an average gross monthly wage of 760 € and those between 25-49 years - 1025 €. Young people working full time and studying were earning 787 € on average per month (gross wage).

Opinion of the Committee:

In application of Article 7§5 of the Charter, domestic law must provide for the right of young workers to a fair wage and of apprentices appropriate allowances. This right may result from statutory law, collective agreements or other means.

The “fair” or “appropriate” character of the wage is assessed by comparing young workers' remuneration with the starting wage or minimum wage paid to adults (aged eighteen or above).¹³

The young worker's wage may be less than the adult starting wage, but any difference must be reasonable and the gap must close quickly.¹⁴ For fifteen/sixteen year-olds, a wage of 30% lower than the adult starting wage is acceptable. For sixteen/eighteen year-olds, the difference may not exceed 20%.¹⁵

The adult reference wage must in all cases be sufficient to comply with Article 4§1 of the Charter. If the reference wage is too low, even a young worker's wage which respects these percentage differentials is not considered fair.¹⁶

Given that the level of the minimum wage in Estonia appears to be inadequate as noted under Article 4§1 and since the statistical information provided on youth wages in practice

¹³ Conclusions XI-1 (1991), United-Kingdom

¹⁴ Conclusions II (1971), Statement of Interpretation on Article 7§5

¹⁵ Conclusions 2006, Albania

¹⁶ Conclusions XII-2 (1992), Malta

is not sufficiently clear, more detailed information is needed to enable the Committee to properly assess the situation in Estonia in respect of Article 7§5 of the Charter.

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

Situation in Estonia:

According to the report, vocational training is regulated in two Acts: the Employment Contracts Act and the Adult Education Act. In conformity with this legislation, an employee may participate in two types of training:

- for the purposes of development of professional knowledge and skills of an employee, the employer has to provide the employee with training based on the interests of the employer's enterprise, and cover training costs and pay average wages during training;

- a formal vocational education in the form of non-stationary studies. Professional education and training offer the possibility to acquire and develop professional, occupational and/or vocational knowledge, skills and experience, and the opportunity for retraining in the workplace or in an educational institution. Students should be given the free time to study up to 30 calendar days per calendar year and be paid for that time up to 20 calendar days per calendar year at the average wages. The extra study leave of 15 calendar days shall be granted for the completion of formal education acquired within the adult education system and for which the employee or the public servant shall be paid at the minimum wage.

The Government is of the opinion that, in the light of the above information, the system of vocational training is costly for the employer whose employee is studying – the employer must pay the wage and rearrange the employee's work during his or her absence. Therefore, the implementation of the requirement of counting the hours of vocational training of the employee as working time can worsen the situation of youth on the labour market because of the additional labour costs that this would induce.

Opinion of the Committee:

In application of Article 7§6 of the Charter, time spent on vocational training by young people during normal working hours must be treated as part of the working day.¹⁷ It may be understood from the applicable Estonian legislation that on the basis of an employment contract, training related to the job and requested by the employer is effectively regarded as working time and paid accordingly.

The Committee therefore reiterates its view that there are no major obstacles for Estonia to accept Article 7§6 of the Charter.

Article 10§5 Right to vocational training – Full use of facilities available

Situation in Estonia:

According to the report, vocational education is free of charge for students who have obtained a student place commissioned and financed by the State. In the academic year

¹⁷ Conclusions XV-2 (2001), Netherlands

2014/2015, there were a total of 25,237 students in vocational education of which 98% (24,660 students) were enrolled in state-commissioned education and a further 148 students were enrolled in student training places financed otherwise from the state budget or from the European Social Fund. 429 students (1.7% of all students) were in self-funded student training places, i.e. not financed from the state budget. The number and share of fee-paying students has decreased year by year.

The legal framework of vocational training is extensive and up to date:

- financial allocations for students are regulated in particular by the Vocational Educational Institutions Act (12 June 2013) and the Study Allowances and Study Loans Act (adopted on 7 August 2003 and amended in 2013);

- participation in in-service training is regulated by the Employment Contracts Act (17 December 2008) and the Adult Education Act (18 February 2015);

- vocational training curricula are drawn up according to the Vocational Education Standard adopted by Regulation No. 130 of 26 August 2013 and the relevant professional standard;

- Regulation No. 32 of 12 September 2013 of the Minister of Education and Research on "Conditions and procedure for organising and implementing practical training" provides detailed guidelines on the various aspects of preparing, supervising and implementing practical training to ensure the high quality of such training. Each vocational training institution must appoint a staff member responsible for the management of practical training in that institution.

- the organisation of apprenticeship training is governed by Regulation No. 39 of 20 December 2013 of the Minister of Education and Research

- on 13 February 2014, the Government adopted the first Lifelong Learning Strategy 2020 across all educational levels. The strategy sets out the most important education objectives for the forthcoming years which require long-term systematic efforts in order to be attained. The overall objective of the strategy is to create study opportunities for all Estonian residents in accordance with their needs and abilities throughout their life cycle to provide the possibility of dignified self-actualisation in the community and working and family life.

In fact, a student has the right to apply for a basic allowance if he or she is an Estonian citizen or is staying in Estonia on the basis of a long-term or temporary residence permit or on the basis of a permanent or temporary right of residence.

Opinion of the Committee:

Article 10§5 provides for complementary measures which are fundamental to make access to vocational training effective in practice:

- reducing or abolishing any fees or charges;
- granting financial assistance in appropriate cases;
- including in the normal working hours time spent on supplementary training taken by the worker, at the request of his employer, during employment;

- ensuring, through adequate supervision, in consultation with the employers' and workers' organisations, the efficiency of apprenticeship and other training arrangements for young workers, and the adequate protection of young workers generally.

Equal treatment with respect to financial assistance must be guaranteed to non-nationals on the basis of the conditions mentioned under paragraph 1¹⁸ : the equality of treatment shall be provided to nationals of other Parties lawfully resident or regularly working on the territory of the Party concerned.

Since Estonia has put in place a series of measures to promote and facilitate access to vocational training, including for those lawfully resident in Estonia on the basis of a temporary residence permit, and bearing in mind that Estonia has accepted Article 10§1 of the Charter, the Committee is of the view that there are no major obstacles to acceptance by Estonia of Article 10§5 of the Charter.

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

Situation in Estonia:

Applications for residence permits and short-term employments are processed by the Police and Border Guard Board. The right for foreigners to work in Estonia is regulated by the Aliens Act which, starting from 2010, has been amended three times, mainly to facilitate conditions for highly qualified specialists, students, scientists, lecturers and their family members (legally married husband/wife, children).

Starting from 1 December 2014 amendments to the Identity Documents Act concerning issuing E-residency, entered into force. E-residency is a state-issued secure digital identity for non-residents that allow digital authentication and the digital signing of documents. The primary target group for e-residency is people who have relations to Estonia through business, work, study or heritage as these people need digital credentials to interact with Estonia's public-legal or private-legal e-transactions if they are not Estonian citizens or foreigners living in Estonia on the basis of right of residence or a residence permit.

The Government Action Plan for 2011-2015 sets out the objective of immigration, which implies simplifications in residence permit process for highly skilled specialists, students, lecturers and scientists.

Opinion of the Committee:

Under Article 18§3 of the Charter, States are required to liberalise periodically the regulations governing the employment of foreign workers in the following areas:

- Access to the national labour market;
- Right to engage in an occupation;
- Rights in the event of loss of employment.

The Committee notes that regulations governing the employment of foreigners in Estonia have been liberalised since the last assessment. However, further information is required concerning rights in the event of loss of employment. Subject to further clarifications on

¹⁸ Conclusions 2003, Slovenia

this issue, the Committee is of the view that there are no major obstacles to acceptance by Estonia of Article 10§5 of the Charter.

Article 23 Right of elderly persons to social protection

Situation in Estonia:

Rights of elderly persons to social protection are regulated by the Constitution of the Republic of Estonia, Equal Treatment Act, the Labour Market Services and Benefits Act, the Employment Contracts Act, the State Pension Insurance Act, the Social Welfare Act, the Health Insurance Act, the Health Services Organisation Act and the Social Benefits for Disabled Persons Act.

According to the Equal Treatment Act, discrimination of persons on grounds of age is prohibited in recruitment, promotion and vocational education. Based on a consideration that the scope of application of the Equal Treatment Act is narrow, amendments to this Act have been initiated; the draft Act aims to widen the principles of equal treatment to social welfare, health services, social security benefits, public goods and services (including housing). According to the draft Act, discrimination is prohibited and measures shall be taken regarding accessibility of goods, services and physical environment. The amendments are planned to enter into force in 2016.

The report provides detailed information on various measures already taken to meet the needs of the elderly, and those planned under the Active Ageing Development Plan 2013 - 2020 which is a part of Social Protection, Inclusion and Equal Opportunities Development Plan 2016-2023 that will be submitted to the Government by the end of 2015. The basic objective of these measures was to ensure that elderly persons could remain active members of society for as long as possible.

The main source of income for older people is their pension. However, the report indicates that the old age pension often does not guarantee sufficient income to elderly for living on their own. The average old age pension has increased from 304.5€ in 2010 to 345.1€ in 2014 (i.e. 8.2%). The national pension rate has also increased but is substantially below relative and absolute poverty lines. Although the share of people over 65 years of age living at-risk of poverty is high and has substantially increased since 2010, the at risk of poverty gap has not increased. This means, that older people incomes are low, but close to relative poverty line and above absolute poverty line and thus their poverty is not severe. Social transfers have the greatest impact on elderly people – 62% of the population aged 65 and older was brought out of relative poverty in 2012 due to these benefits.

The opportunities of elderly people living in their own homes and receiving social welfare services through open care have improved. People are supported with a number of services provided by local governments. Elderly persons who cannot cope with living at home with the support of open care services may move to social housing or care homes. However, places in institutional care (especially in those, where there is more privacy) are expensive and elderly persons themselves or their family members cannot always afford to pay for the service. Care home services, like other local government social services are financed by persons themselves and their family members, state and local government.

Opinion of the Committee:

Article 23 of the Charter is the first human rights treaty provision to specifically protect the rights of the elderly. The measures envisaged by this provision, by their objectives as much as by the means of implementing them, point towards a new and progressive notion of what life should be for elderly persons, obliging the Parties to devise and carry out coherent actions in the different areas covered.¹⁹

According to this Article, Parties undertake to adopt or encourage appropriate measures designed in particular enable elderly persons to remain full members of society for as long as possible, among others by means of adequate resources enabling them to lead a decent life and play an active part in public, social and cultural life. The primary focus of the right to adequate resources is on pensions. Pensions and other state benefits must be sufficient in order to allow elderly persons to lead a 'decent life' and play an active part in public, social and cultural life.

When assessing adequacy of resources of elderly persons under Article 23, all social protection measures guaranteed to elderly persons and aimed at maintaining an income level allowing them to lead a decent life and participate actively in public, social and cultural life are taken into account. In particular, pensions, contributory or non-contributory, and other complementary cash benefits available to elderly persons are examined.

Since the Government has taken steps in order to strengthen the antidiscrimination framework and improve the financial situation of elderly persons, the Committee is of the view that, subject to the smooth implementation of the Active Ageing Development Plan in its part regarding pension policy, there are no major obstacles to acceptance by Estonia of Article 23 of the Charter.

Article 31§1 Right to housing – Adequate housing

Situation in Estonia:

The legal framework applicable in Estonia in the field of housing has not changed since the last report in 2010.

The National Housing Development Plan for 2008 – 2013 aimed at improving access to housing through different measures (tax reductions for property owners, housing loans at preferential rates, state guarantees of housing loans awarded to young people etc.). As a result, the number of dwellings in Estonia has increased and also the average dwelling space per one person has gradually increased. By January 2012, almost half of the Estonian households had more than one room per person.

In addition to the measures above, local governments also contribute to the improvement of the living conditions of permanent residents of their administrative territories. They allocate housing on the basis of the need: social housing usually consists of dwellings rented to the individuals with a need of social services (e.g. dwellings adjusted for wheelchair access to accommodate handicapped people, dwellings appointed to the supported residing of mentally challenged individuals and the houses of the elderly persons). The rest of the dwellings are municipal houses.

¹⁹ Conclusions XIII-3, Statement of Interpretation on Article 4 of the Additional Protocol (Article 23)

The term “adequate housing” has not been defined in Estonian legislation. According to the regulation in force, the socially justified standard for dwellings is 18 m² per each family member and in addition 15 m² per family.

Opinion of the Committee:

States Parties must guarantee to everyone the right to adequate housing.²⁰ They should promote access to housing in particular to the different groups of vulnerable persons, such as low-income persons, unemployed persons, single parent households, young persons, persons with disabilities including those with mental health problems.²¹

The notion of adequate housing must be defined in law.

Although the Government has adopted and implemented several measures in order to improve access to housing and its quality, the notion of adequate housing does still not seem to be defined in Estonian Law. Consequently, the Committee reiterates its view that the current situation may not fully comply with Article 31§1 of the Charter.

Article 31§2 Right to housing – Reduction of homelessness

Situation in Estonia:

In Estonian legislation there is no definition of homelessness. The definition of homeless person which is used for collecting statistics by national statistics agency is the following: a person who does not have any legal connection (ownership, tenancy, permanent accommodation agreement) with living area which is qualified as dwelling, room or a part of them. That is a person who spends nights in incidental basements, staircases, heating rooms, abandoned buildings, huts, shelters for the homeless, etc.

Statistics are not collected in Estonia about people who are sleeping rough and do not use night shelters. Only the users of night shelters or other institutions are counted. However, according to a 2012 study carried out by the Tallinn Centre of Welfare Services about homeless people in the capital, there were 146 people sleeping rough in Tallinn.

According to this study, homeless persons themselves most frequently indicate eviction for non-payment and rental contract termination as a main cause for losing the home. This is often combined with family-related problems (home violence, death of a spouse, break-up etc.) and insufficient income, and such factors as joblessness together with alcohol abuse and drug addiction.

Taking into account the low number of asylum seekers and beneficiaries of international protection and also the very small Roma community, migration does not have relevant impact on homelessness. According to the 2012 survey, 99% of the homeless do benefit or have benefitted in the past from different social schemes or services. 94% of the homeless have IDs or passports (mostly valid), which allow them to exercise their civil rights.

The legal framework for applying for subsistence benefit, which is an important means of preventing homelessness, is generally still valid in Estonia as presented in the last report in 2010.

²⁰ Conclusions 2003, France

²¹ Conclusions 2003, Italy

Single persons or families whose monthly net incomes, after the deduction of fixed housing expenses are below the subsistence level, have the right to receive subsistence benefit, financed centrally by the state. The subsistence level is established by the Parliament annually for a single person or the first member of the household. It regularly increases and in 2014-2015 amounted to 90€. The limits for fixed housing expenses established by the local government councils must maintain the decent subsistence of persons. The subsistence benefit is meant for people whose income is low and who are in payment difficulties in order to guarantee that the person or household can cope on the minimum level and to help prevent the threat of eviction and increase in homelessness.

In addition to the subsistence benefit which is financed centrally by the state, the rural municipalities and city governments may grant and pay supplementary social benefits from a local government budget under the conditions and pursuant to the procedure established by the local government council.

Although debt counselling is not among the compulsory social services regulated by the Social Services Act, many local governments provide it, if necessary.

The eviction is regulated by Article 180 of the Code of Enforcement Procedure (CEP). It is governed by protective rules of procedure including:

- the obligation to provide a debtor with sufficient time before eviction;
- the obligation to take into account the climate conditions in Estonia;
- the right to file a petition with the court to suspend the enforcement proceedings or to extend or defer enforcement if continuation of the proceeding is unfair in respect of the debtor;
- the right to file a complaint about the activities of a bailiff;
- the right to file a petition to postpone an enforcement action;
- the right to file a damage compensation claim against the claimant in case of causing damage to the debtor with an unfounded enforcement proceeding or in case of the claimant's unlawful enrichment on account of the debtor even after the enforcement proceeding.

There are no special rules about providing legal aid in enforcement proceedings on eviction; the State Legal Aid Act applies in these cases.

Unlawful eviction is an offence which is punishable by a pecuniary punishment.

Once the eviction order has been issued, there is no obligation to provide alternative lodging before carrying out the eviction. It is the obligation of local governments to organise shelters which offer temporary assistance, support and protection.

The City of Tallinn has created a four-step re-socialisation (rehabilitation) system for homeless people, which is supported by accommodation possibilities of different comfort levels:

- night shelters and shelters for emergency assistance;
- shelters for people in difficulties;
- social housing units;
- social and municipal housing.

Night shelters and shelters for emergency assistance are free of charge. At the end of 2014, there were 11 institutions providing night shelter service throughout Estonia. Shelters for emergency assistance are meant for the homeless who are unable to stay in night shelters due to their health condition. The persons in other type of shelters have a possibility to apply for the subsistence benefit.

Opinion of the Committee:

States Parties must take action to prevent categories of vulnerable people from becoming homeless. In addition to a housing policy for all disadvantaged groups of people to ensure access to social housing (cf. Article 31§3).^{22 23} They must set up procedures to limit the risk of eviction. The eviction should be governed by rules of procedure sufficiently protective of the rights of the persons concerned and should be carried out according to these rules.²⁴

According to Article 31§2, homeless persons must be offered shelter as an emergency solution. States Parties should foresee sufficient places in emergency shelters²⁵ and the conditions in the shelters should be such as to enable living in keeping with human dignity.²⁶

The temporary supply of shelter, however adequate, cannot be considered satisfactory; Individuals who are homeless should be provided with adequate housing within a reasonable period. In addition, measures should be taken to help such people overcome their difficulties and to prevent them from returning to a situation of homelessness.^{27 28}

Eviction from shelter of persons present within the territory of a State Party in an irregular manner should be prohibited as it would place the persons concerned, particularly children, in a situation of extreme helplessness, which is contrary to the respect for their human dignity.

Given the nature of the information provided, the Committee considers it difficult to take a categorical position but on the whole it takes the view that there are no major obstacles to acceptance by Estonia of Article 31§2 of the Charter.

Article 31§3 Right to housing – Affordable housing

Situation in Estonia:

The report confirms that the state has implemented many support measures to make the price of housing affordable for persons with insufficient income. People with low income can apply for subsistence benefit, which is paid also to cover housing expenses and for

²² Conclusions 2005, Lithuania

²³ Conference of European Churches (CEC) v. the Netherlands Complaint No. 90/2013, decision on the merits of 1 July 2014, §136.

²⁴ European Roma Rights Center (ERRC) v. Greece, Complaint No. 15/2003, Decision on the merits of 8 December 2004, §51

²⁵ European Federation of National Organisations Working with the Homeless (FEANTSA) v. France, Complaint No 39/2006, decision on the merits of 5 December 2007, § 107

²⁶ European Federation of National Organisations Working with the Homeless (FEANTSA) v. France, Complaint No 39/2006, decision on the merits of 5 December 2007, §§ 108-109

²⁷ Conclusions 2003, Italy,

²⁸ Conference of European Churches (CEC) v. the Netherlands Complaint No. 90/2013, decision on the merits of 1 July 2014, §140.

the one-off benefits paid by the local authorities, such as compensation of heating expenses.

Local municipalities also have the obligation to offer housing at subsidised prices to people who are unable or incapable of securing housing for themselves. The rent prices in municipal and social dwellings are substantially lower than the rent prices in the open market.

Local municipalities currently own more than 7 200 social or municipal residential premises. 89% of these residential premises are occupied. Although the number of social or municipal housing places has a bit increased last years, the need for housing services has increased too. So there is a continue need for new social and municipal dwellings.

In the private sector, the cost of renting or purchasing housing is very high. However, according to the data published by Eurostat in 2010-2013, the proportion of people whose housing costs are overburdening is smaller in Estonia than the European Union average.

According to the Estonia Human Development Report 2012/2013, the greatest problem in Estonia is the poor quality of the housing (lack of WC and shower, rotting windows, dampness); 13% of families do not have a WC and shower, elderly people are twice less equipped with basic sanitary facilities than the younger generations (20% of 65+ people in Estonia have only outdoor toilet, and no shower room).

Opinion of the Committee:

Under Article 31§3, an adequate supply of affordable housing must be ensured for persons with limited resources.

Housing is affordable if the household can afford to pay initial costs (deposit, advance rent), current rent and/or other housing-related costs (e.g. utility, maintenance and management charges) on a long-term basis while still being able to maintain a minimum standard of living, according to the standards defined by the society in which the household is located.²⁹

States Parties must adopt appropriate measures to make housing accessible to those without adequate resources.

While noting the general information on the quality of housing in Estonia and on certain measures taken in order to make the price of housing accessible to those without adequate resources, the Committee needs detailed information on how the right to affordable housing is ensured in law and in practice in Estonia. Pending this information, the Committee reaffirms its view that the current situation may not fully comply with Article 31§3 of the Charter.

²⁹ Conclusions 2003, Sweden

APPENDIX I: Situation of Estonia with respect to the European Social Charter

— Estonia and the European Social Charter —

Ratifications												
Estonia ratified the Revised European Social Charter on 11/09/2000, accepting 79 of the Revised Charter's 98 paragraphs. On 27 June 2012, Estonia accepted 8 additional provisions of the Charter, thus accepting to be bound by 87 of the Revised Charter's 98 paragraphs.												
Estonia has not yet ratified the Additional Protocol providing for a system of collective complaints.												
<i>Table of accepted provisions</i>												
1.1	1.2	1.3	1.4	2.1	2.2	2.3	2.4	2.5	2.6	2.7	3.1	
3.2	3.3	3.4	4.1	4.2	4.3	4.4	4.5	5	6.1	6.2	6.3	
6.4	7.1	7.2	7.3	7.4	7.5	7.6	7.7	7.8	7.9	7.10	8.1	
8.2	8.3	8.4	8.5	9	10.1	10.2	10.3	10.4	10.5	11.1	11.2	
11.3	12.1	12.2	12.3	12.4	13.1	13.2	13.3	13.4	14.1	14.2	15.1	
15.2	15.3	16	17.1	17.2	18.1	18.2	18.3	18.4	19.1	19.2	19.3	
19.4	19.5	19.6	19.7	19.8	19.9	19.10	19.11	19.12	20	21	22	
23	24	25	26.1	26.2	27.1	27.2	27.3	28	29	30	31.1	
31.2	31.3								Grey = Accepted provisions			
The Charter in domestic law												
Under chapter 1§3 of the Constitution: "The powers of state shall be exercised solely pursuant to the Constitution and laws which are in conformity therewith. Generally recognised principles and rules of international law are an inseparable part of the Estonian legal system."												
Reports*												
Between 2003 and 2015 Estonia submitted 12 reports on the application of the Revised Charter.												
The 11th report , submitted on 07 January 2014, concerns the accepted provisions relating to Thematic Group 3 "Labour rights" (Articles 2, 4, 5, 6, 21, 22, 28 and 29). The Conclusions in respect of these provisions were published in January 2015.												
The 12th report , which was submitted on 30 October 2014, concerns the accepted provisions relating to Thematic Group 4 "Children, family, migrants", namely:												
<ul style="list-style-type: none"> • the right of children and young persons to protection (Article 7), • the right of employed women to protection of maternity (Article 8), • the right of the family to social, legal and economic protection (Article 16), • the right of children and young persons to social and economic protection (Article 17), • the right of migrant workers and their families to protection and assistance (Article 19), • the right of workers with family responsibilities to equal opportunities and equal treatment (Article 27), • the right to housing (Article 31). 												
In addition, the report should concern the information required by the European Committee of Social Rights in the framework of Conclusions 2013 (Articles 3, 11, 12, 13, 14, 23 and 30, relating to Thematic group 2 "Health, social security and social protection"), in the event of non-conformity for lack of information.												
Conclusions with respect to these provisions will be adopted in December 2015.												
* Following a decision taken by the Committee of Ministers in 2006 , the provisions of the Charter have been divided into four thematic groups. States present a report on the provisions relating to one of the four thematic groups on an annual basis. Consequently each provision of the Charter is reported on once every four years. As from 2014 State Parties having accepted the complaints procedure have to provide a national report every two years only.												

Situation of Estonia with respect to the application of the Revised Charter

Examples of progress achieved in the implementation of social rights under the Social Charter³⁰

Discrimination (Sex)

► The Gender Equality Act (GEA) entered into force in 2004 and aims at ensuring equal treatment for men and women in all areas of public and private life.

Discrimination (Disability)

► The Equal Treatment Act which entered into force on 1 January 2009 provides for a prohibition of discrimination on the ground of disability in access to all types and to all levels of vocational guidance, vocational training, advanced vocational training and retraining as well in conditions of access to employment, self-employment, including selection criteria, recruitment conditions and promotion; working conditions, remuneration, and termination of employment .

Legal and Social Protection

► Amendment of the Criminal Code in order to criminalise trafficking in persons and enslavement.

Children

► Preparation of a National Strategy against Child Commercial Sexual Exploitation and Protection.
 ► Introduction of a new family benefit which is intended to offset the cost of raising a child and to reconcile work and family life (*Parental Benefits Act of 1 January 2004*).

Right to work - Freely undertaken work (non-discrimination, prohibition of forced labour, other aspects)

► Amendments to the Defense Forces Service Act shortened alternative service from 12-18 months to 8-12 months as of July 2010.
 ► Since the entry into force of the ECA, it is no longer permissible to perform 24 hour shifts, even with the consent of a labour inspector. According to Article 51 (1) of the ECA the maximum shift may not exceed 13 hours.

Cases of non-compliance

Thematic Group 1 "Employment, training and equal opportunities"

► *Article 1§4 – Right to work – Vocational guidance, training and rehabilitation (and Article 9 – Right to vocational guidance)*

In practice access to vocational guidance is restricted to registered unemployed persons and those threatened with unemployment.

[\(Conclusions 2012\)](#)

³⁰ ³⁰ « 1. The [European Committee of Social Rights] ... rules on the conformity of the situation in States with the European Social Charter, the 1988 Additional Protocol and the Revised European Social Charter. 2. It adopts conclusions through the framework of the reporting procedure and decisions under the collective complaints procedure » (Article 2 of the Rules of the Committee).

► *Article 9 – Right to vocational guidance*

Career counselling services in the labour market are accessible only to unemployed persons and workers given notice of redundancy.

[\(Conclusions 2012\)](#)

► *Article 15§3 – Right of persons with disabilities to independence, social integration and participation in the life of the community – Integration and participation of persons with disabilities in the life of the community*

There is no anti-discrimination legislation for persons with disabilities covering issues such as housing, transport, telecommunications and cultural and leisure activities.

[\(Conclusions 2012\)](#)

Thematic Group 2 “Health, social security and social protection”

► *Article 12§1 – Right to social security - Existence of a social security system*

- the minimum levels of unemployment allowance and unemployment insurance benefit are manifestly inadequate;
- the minimum level of national pension is manifestly inadequate.

[\(Conclusions 2013\)](#)

► *Article 12§4 – Right to social security – Social security of persons moving between states*

- equal treatment with regard to social security rights is not guaranteed to nationals of all other States Parties;
- equal treatment with regard to access to family allowances is not guaranteed to nationals of all other States Parties;
- the retention of accrued benefits is not guaranteed to nationals of all other States Parties;
- the right to maintenance of accruing rights is not guaranteed to nationals of all other States Parties.

[\(Conclusions 2013\)](#)

► *Article 13§1 – Right to social and medical assistance – Adequate assistance for every person in need*

The amount of social assistance granted to a single person without resources is inadequate.

[\(Conclusions 2013\)](#)

Thematic Group 3 “Labour rights”

► *Article 2§1 – Right to just conditions of work – Reasonable working time*

The maximum allowed working hours for crew members on short sea shipping vessels is 72 hours per seven day period.

[\(Conclusions 2014\)](#)

► *Article 4§2 – Right to a fair remuneration – Increased remuneration for overtime work*

Time off granted in lieu of increased remuneration for overtime is not sufficient.

[\(Conclusions 2014\)](#)

► *Article 4§3 – Right to a fair remuneration – Non-discrimination between women and men with respect to remuneration*

The unadjusted pay gap is manifestly too high.

([Conclusions 2014](#))

► *Article 4§4 – Right to a fair remuneration – Reasonable notice of termination of employment*

- general notice periods are insufficient beyond three years of service;
- the wages due up to the end of the temporary contract may be withdrawn in the event of early termination on other than on economic grounds.

([Conclusions 2014](#))

► *Article 4§5 – Right to a fair remuneration – Limits to wage deductions*

After maintenance payments for children and other authorised deductions, the wages of workers with the lowest pay do not allow them to provide for themselves or their dependants.

([Conclusions 2014](#))

► *Article 5 – Right to organise*

It has not been established that:

- the right to form trade unions is guaranteed in practice;
- the right to join a trade union is guaranteed in practice.

([Conclusions 2014](#))

► *Article 6§2 – Right to bargain collectively – Negotiation procedures*

The promotion of collective bargaining is not sufficient.

([Conclusions 2014](#))

Thematic Group 4 “Children, families, migrants”

► *Article 7§3 – Right of children and young persons to protection – Prohibition of the employment of children subject to compulsory education*

The daily and weekly working time for children subject to compulsory education is excessive.

([Conclusions 2011](#))

Article 7§9 – Right of children and young persons to protection regular medical examination

Medical examinations are not frequent enough for young workers.

([Conclusions 2011](#))

► *Article 17§1 – Right of children and young persons to social, legal and economic protection – Assistance, education and training*

Corporal punishment is not explicitly prohibited in schools and in the home.

([Conclusions 2011](#))

► *Article 19§6 – Right of migrant workers and their families to protection and assistance – Family reunion and Article 19§10 – Equal treatment for the self-employed*

A two years residence requirement which is imposed on migrant workers who are not citizens of members States of the European Union, nor citizens of the European Economic Area is excessive.

([Conclusions 2011](#))

The European Committee of Social Rights has been unable to assess compliance with the following provisions and has invited the Estonian Government to provide more information in the next report:

Thematic Group 1 "Employment, training and equal opportunities"

(Next report to be submitted by 31/10/2015)

- ▶ Article 1§1 (Conclusions 2012)
- ▶ Article 1§2 (Conclusions 2012)
- ▶ Article 24 (Conclusions 2012)

Thematic Group 2 "Health, social security and social protection"

(Next report to be submitted by 31/10/2016)

- ▶ Article 3§1 (Conclusions 2013)
- ▶ Article 3§2 (Conclusions 2013)
- ▶ Article 3§3 (Conclusions 2013)
- ▶ Article 14§1 (Conclusions 2013)

Thematic Group 3 "Labour rights"

(Next report to be submitted by 31/10/2013)

- ▶ Article 6§4 (Conclusions 2014)
- ▶ Article 22 (Conclusions 2014)

Thematic Group 4 "Children, families, migrants"

(Next report to be submitted by 31/10/2014)

- ▶ Article 7§10 (Conclusions 2011)
- ▶ Article 8§§1 and 2 (Conclusions 2011)
- ▶ Article 19§8 (Conclusions 2011)
- ▶ Article 27§3 (Conclusions 2011)

**APPENDIX II: Declaration of the Committee of Ministers
on the 50th anniversary of the European Social Charter**

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

The Committee of Ministers of the Council of Europe,

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

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

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

Emphasising that human rights must be enjoyed without discrimination;

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

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

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

1. Solemnly reaffirms the paramount role of the Charter in guaranteeing and promoting social rights on our continent;
2. Welcomes the great number of ratifications since the Second Summit of Heads of States and Governments where it was decided to promote and make full use of the Charter, and calls on all those member states that have not yet ratified the Revised European Social Charter to consider doing so;
3. Recognises the contribution of the collective complaints mechanism in furthering the implementation of social rights, and calls on those members states not having done so to consider accepting the system of collective complaints;
4. Expresses its resolve to secure the effectiveness of the Social Charter through an appropriate and efficient reporting system and, where applicable, the collective complaints procedure;
5. Welcomes the numerous examples of measures taken by States Parties to implement and respect the Charter, and calls on governments to take account, in an appropriate manner, of all the various observations made in the conclusions of the European Committee of Social Rights and in the reports of the Governmental Committee;

6. Affirms its determination to support States Parties in bringing their domestic situation into conformity with the Charter and to ensure the expertise and independence of the European Committee of Social Rights;

7. Invites member states and the relevant bodies of the Council of Europe to increase their effort to raise awareness of the Charter at national level amongst legal practitioners, academics and social partners as well as to inform the public at large of their rights.