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EUROPEAN SOCIAL CHARTER

19th National Report on the implementation of
the European Social Charter

submitted by

THE GOVERNMENT OF ESTONIA

Articles 2, 4, 5, 6, 21, 22, 26, 28 and 29

for the period 01/01/2017 – 31/12/2020

Report registered by the Secretariat on

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CYCLE 2022

EUROPEAN SOCIAL CHARTER

(REVISED)

19th Report of the Republic of Estonia

On the accepted provisions

For the reference period 01/01/2017 – 31/12/2020

Articles 2, 4, 5, 6, 21, 22, 26, 28, 29

For the period 2017–2020 made by the Government of Estonia in accordance with Article C of the Revised European Social Charter, on the measures taken to give effect to the accepted provisions of the Revised European Social Charter, the instrument of ratification or approval of which was submitted on September 11th, 2000.

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

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RESC Part I – 2. All workers have the right to just conditions of work

Article 2 – The right to just conditions of work
With a view to ensuring the effective exercise of the right to just conditions of work, the Parties undertake:
1. to provide for reasonable daily and weekly working hours, the working week to be progressively reduced to the extent that the increase of productivity and other relevant factors permit;

a) Please provide updated information on the legal framework to ensure reasonable working hours (weekly, daily, rest periods, …) and exceptions (including legal basis and justification). Please provide detailed information on enforcement measures and monitoring arrangements, in particular as regards the activities of labour inspectorates (statistics on inspections and their prevalence by sector of economic activity, sanctions imposed, etc.).

Employment Contracts Act[1] (hereinafter referred to as ECA), which section 3 of chapter 3 governs the work and rest periods for employees. Relevant information on working time and rest period was submitted to the Committee in previous report. No changes were made in working time and rest period during the reporting period (2017-2020).

State and administrative supervision over the fulfilment of the requirements provided for working and rest time is exercised by the Labour Inspectorate. The Labour Inspectorate also carries out joint inspections with other state authorities, e.g. the Police and Guard Board, the Tax and Customs Board.

As mentioned, one of the functions of the Labour Inspectorate is to perform state supervisions of employers' compliance with obligations arising from legislation on occupational health, occupational safety, and employment relationships. The purpose of the supervision is to facilitate and proactively ensure the creation of a safe, secure, and healthy working environment.

In the course of supervision visit, the labour inspector investigates the general condition of the company's working environment, the activities of the employer in the performance of obligations relating to the working environment and the activities of the employer in the management of employment relationships (including working and rest time).

The Labour Inspectorate also carries out targeted inspections. During a targeted inspection visit, checks are carried out to verify compliance with requirements arising from legislation on employment relationships, occupational health, and occupational safety in pre-defined areas of the working environment or fields of activity. The aim is to increase the awareness of both employees and employers about the hazards present in the working environment and the options to prevent them, as well as to assist and advise employers in creating a healthy working environment (including reasonable working hours).

Statistics below show inspections and sanctions imposed during the reporting period. In the course of a general inspection visit, the labour inspector investigates the activities of the employer in the management of employment relationships and the working and rest time regime.

Table 1. Overview of employment supervisions and violations, 2017-2020:

	2017	2018	2019	2020

[1] Employment Contracts Act available in English: https://www.riigiteataja.ee/en/eli/502112021003/consolide.

Total number of enterprises	127 622	131 650	133 784	137 980
Total number of employed	658 600	664 700	671 300	656 600
Registered workplaces that could be selected for labour inspection (Workplaces)	54 652	56 683	59 803	60 690
Number of labour inspectors	51	50	48	41
Total number of enterprises visited	3775	3643	3398	3163
Number of labour inspection visits to workplaces during the year (Cases)	5177	5128	4650	4511
Labour inspection visits per inspector (Rate)	101	102	96	110
Number of OSH improvement notices issued	1668	1684	1671	803
Number of suspended work	165	174	198	112
The use of work equipment was forbidden	228	307	116	71
Number of violations	17 686	18 181	15 472	11 530
Fines issued / Total fines issued (€)	197 / 78 680	98 / 43 754	36 / 18 250	32 / 7 520
Misdemeanour proceedings conducted	203	105	57	32

Source: The Labour Inspectorate

Table 2. Employment supervision and violations on work and rest time, 2017-2020:

	2017	2018	2019	2020
Number of Employment Contracts Act violations	960	1320	1135	1004
… incl. Informing of work conditions	646	822	725	732
…incl. Work and rest time	206	292	230	148
Seafarers	15	15	15	21

Source: The Labour Inspectorate

Table 3. Work and rest time violations, 2017-2020:

	2017	2018	2019	2020
§ 43 (1), (2): work time exceeds allowed norm	0	2	1	1
§ 43 § (4): minor's work time exceeds allowed norm	4	10	4	4
§ 46 (1): average work time exceeds 48 hours per 7 days	6	18	25	12
§ 46 (2): extending the accounting period without a collective agreement or more than 12 months	0	3	1	0
§ 46 (3): average work time exceeds 52 hours per 7 days	2	1	3	1
§ 46 (5): failure to maintain records on employees	4	0	1	0
§ 47 (2): break less than 30 minutes over 6 hours of work	76	78	58	36

§ 47 (3): minor's break is less than 30 minutes over 4.5 hours of work	1	10	1	0
§ 48 (2): on-call agreement does not guarantee rest time	0	2	1	4
§ 49: violation of restriction on requiring minor to work	1	2	5	1
§ 51 (1): violation of daily rest time requirements	47	78	56	44
§ 51 (2): violation of daily rest time requirements of a minor	1	3	1	0
§ 52 (1): less than 48 hours of consecutive rest time	12	20	22	9
§ 52 (2): less than 36 hours of consecutive rest time	36	56	38	32

Source: The Labour Inspectorate

Table 4. Work and rest time violations by sector of economic activity, 2017-2020:

Sector of economic activity	2017	2018	2019	2020
A - Agriculture, hunting, forestry, fishing	10	10	42	13
B - Mining industry	1		3	
C - Manufacturing industry	22	43	45	30
D - Electricity			1	
E - Water supply	1	4	2	8
F - Building	1	35	9	19
G - Commerce	22	39	25	14
H - Transportation, storage	294	239	273	316
I - Accommodation, catering	74	45	66	23
J - Information ang communication	22	9		7
K - Finance and insurance	9			
L - Property	13	19	6	
M - Professional, scientific and technical activities	2	10		5
Sector of economic activity undefined	9	16	2	4
N - Administration and support service activities	21	33	16	18
P - Education	12	8	3	2
Q - Health care	7	10	19	4
R - Arts and entertainment	3	9	1	3
S - Other service activities	3	5	2	7
In total	**526**	**534**	**515**	**473**

Source: The Labour Inspectorate

Table 5. Violation on work and rest time of Employment Contracts Act (referred to as *ECA*), violation of Seafarers Employment Act (referred to as *SEA*) and violation on drivers work and rest time (referred to as *drivers*):

Sector of economic activity	Violations	2017	2018	2019	2020
A - Agriculture, hunting, forestry, fishing	ECA	5	10	34	13
	drivers			8	
	SEA	5			
B - Mining industry	ECA	1		3	
C - Manufacturing industry	ECA	19	43	41	30
	drivers	2		3	
	SEA	1		1	
D - Electricity	ECA			1	

E - Water supply	ECA		4	1	6
	drivers	1			
	SEA			1	2
F - Building	ECA	1	35	9	19
G - Commerce	ECA	15	30	24	14
	drivers	5	6		
	SEA	2	3	1	
H - Transportation, storage	ECA	11	13	8	8
	drivers	280	221	258	304
	SEA	3	5	7	4
I - Accommodation, catering	ECA	67	43	65	23
	drivers	6			
	SEA	1	2	1	
J - Information ang communication	ECA	22	9		5
	SEA				2
K - Finance and insurance	ECA	9			
L - Property	ECA	11	18	6	
	SEA	2	1		
M - Professional, scientific, and technical activities	ECA	2	10		5
Undefined	ECA	9	16	2	4
N - Administration and support service activities	ECA	9	31	12	5
	drivers	11			
	SEA	1	2	4	13
P - Education	ECA	12	7	3	2
	SEA		1		
Q - Health care	ECA	7	10	19	4
R - Arts and entertainment	ECA	3	8	1	3
	SEA		1		
S - Other service activities	ECA	3	5	1	7
	drivers			1	
In total		**526**	**534**	**515**	**473**

Source: The Labour Inspectorate

b) The Committee would welcome specific information on proactive action taken by the authorities (whether national, regional, local and sectoral, including national human rights institutions and equality bodies, as well as labour inspectorate activity, and on the outcomes of cases brought before the courts) to ensure the respect of reasonable working hours; please provide information on findings (e.g. results of labour inspection activities or determination of complaints by domestic tribunals and courts) and remedial action taken in respect of specific sectors of activity, such as the health sector, the catering industry, the hospitality industry, agriculture, domestic and care work.

To ensure the respect of reasonable working hours the Labour Inspectorate conducts inspections, campaigns, trainings and disseminates information about employment legislation. Information on

legislation concerning working hours is available in the Work Life Portal[2] maintained by the Labour Inspectorate. Information in the portal is always kept up to date. Supervisions can be regular, targeted or based on a complaint.

The Labour Inspectorate also provides free counselling. The legal advisors of the Labour Inspectorate provide counselling services related to the Labour Inspectorate. The legal advisors give answers to questions concerning employment contracts, working and rest time, holidays, wages, and other matters related to labour relations as well as collective labour relations. The goal of the counselling service is to help all parties of a working relationship to know and fulfil all their contractual and agreed rights and obligations, to promote lawful actions and to reduce and prevent conflicts and violations.

Furthermore, when performing supervision, a labour inspector has the right to issue a precept and demand that the identified violations be remedied, issue a penalty payment imposition warning to ensure compliance with a precept, impose a penalty payment, appeal to a bailiff for collection of a penalty payment. In 2020, in order to ensure compliance with regulations, the sanctions were increased (the rate of fine).

No specific remedial actions were taken in respect of specific sectors of activity, such as the health sector, the catering industry, the hospitality industry, agriculture, domestic or care work. The statistical data regarding results of Labour Inspection activities or determination of complaints by Labour Inspection was given under previous question.

c) Please provide information on law and practice as regards on-call time and service (including as regards zero-hours contracts), and how are inactive on-call periods treated in terms of work and rest time as well as remuneration.

ECA § 48 sets out the concept and limitations of on-call time. The legal framework has not changed since the last report. Zero-hours contracts are not used in Estonia.

On-call time is a separate type of time (outside of working time) which is neither part of the working or rest period. On-call time is defined as a time when the employee is not performing duties but is available to the employer for performance of duties on the basis of an order of the employer under the agreed conditions. On-call time can be applied only by agreement between the employee and the employer. The part of the on-call time during which the employee is in subordination to the management and control of the employer is considered working time and the employer must pay the employee the agreed salary. Remuneration which is not less than one-tenth of the agreed wages shall be paid to the employee for the on-call time.

Inactive on-call periods cannot be treated as rest time, as during on-call time the employee cannot fully focus on rest. An agreement on the application of on-call time which does not guarantee the employee the possibility of using daily and weekly rest time is void. It means that an agreement according to which there is a period of 24 hours with less than 11 hours of consecutive rest time is void, unless otherwise provided by law. If employee works 8 hours a day and has a 30-minute break during the working day, then the on-call time may be 4 hours and 30 minutes on the same day (24 hour period – 8,5 hour working day – 11 hours of rest = 4,5 hours of on-call period).

[2] Available in English: https://www.tooelu.ee/en/24/working-time.

d) Please provide information on the impact of the COVID-19 crisis on the right to just conditions of work and on general measures taken to mitigate adverse impact. As regards more specifically working time during the pandemic, please provide information on the enjoyment of the right to reasonable working time in the following sectors: health care and social work (nurses, doctors and other health workers, workers in residential care facilities and social workers, as well as support workers, such as laundry and cleaning staff); law enforcement, defence and other essential public services; education; transport (including long-haul, public transport and delivery services).

There were no changes in legal frameworks on the impact of the COVID-19 crisis on the right to just conditions of work, however some sectors took measures to mitigate adverse impact and the examples are given below.

Measures taken to mitigate impact of the COVID-19 crisis and support care sector workers:

- In the spring of 2020, the Ministry of Social Affairs launched a pastoral care service in nursing homes and a 24/7 pastoral care phone. There are now 40 care homes in Estonia, where residents and employees are supported by professional caregivers and chaplains. In May 2021, a pilot project of the Ministry of Social Affairs was launched to provide pastoral care services to people in home care. The aim is to pay more attention to supporting people's mental health in a pandemic.
- The Social Insurance Board is in contact with welfare institutions on a weekly basis to support them and map out problems.
- In co-operation with the Unemployment Insurance Fund and vocational schools, online in-service training courses were developed to train care workers who help nursing homes. The county consultants of the Unemployment Insurance Fund offer assistance to welfare institutions in finding temporary labour.
- The Government supports, on the basis of individual cases, those providers of general care and special care services (regardless of the form of ownership) whose place of service has been diagnosed with COVID-19. The additional staff costs incurred are covered on the basis of actual costs.
- During the crisis, solutions were developed so that every nursing home could be covered by a nursing service (on a voluntary basis, nurses contributed to helping, for example, if a nurse affiliated with the institution fell ill or had to work full-time in a hospital). There has been close co-operation with the Health Board, the Estonian Health Insurance Fund and the VAAB database of volunteers, which brings together specialists with medical training or education. So-called on-call clinics have also been set up, through which it is possible to provide general medical care to care institutions in a situation where the family doctor's centre, which is a partner of the care institution, has temporarily reduced its work or suspended its work.
- In addition, the Social Insurance Board mediated the so-called infection commissioners in welfare institutions, who advise the employees of the institution on the spot regarding the use of personal protective equipment, application of isolation requirements, disinfection, etc.
- One so-called crisis home was also established, where local governments can refer people in need of general care services and where all necessary insulation requirements are ensured.

Officials and staff of agencies in the area of government of the Ministry of the Interior, including police officers, rescue servants and rescue coordinators, are responsible, for example, for organising the activities related to national internal security, public order, border control, rescue operations, emergency alerts, assistance and information requests, and citizenship and migration, ensure public order, prevent or resolve mass civil unrest, perform rescues and remove explosive ordnances, respond

to emergency calls received via the emergency number 112, process calls for assistance and information (including providing crisis information services), provide ICT services necessary for ensuring internal security, gather and process information on activities aimed at the violation of the constitutional order and territorial integrity of the state, and prepare internal security specialists.

Since the beginning of the pandemic in 2020, ordinary working hours have been applied to civil servants in the area of government of the Ministry of the Interior within the specifications permitted by law**.** This means that, if necessary, police officers have worked overtime to supervise the established restrictions, but only within the limits established by the law. Pursuant to the Police and Border Guard Act, the duration of a shift of a police officer must not exceed 13 hours, including overtime work, except in cases where the police officer is engaged in ensuring the internal security of the state or where it has been agreed in a collective agreement. The limit of overtime per one police officer is 300 hours in a calendar year. In accordance with the law, officers are paid 1.5 times their base salary rate for overtime, or additional time off is provided to the same extent as the overtime worked.

The option of applying extraordinary working hours during an emergency situation was established in the Emergency Act, which entered into force from 7 May 2020. Pursuant to this, extraordinary working hours may be established for an official or employee of an institution (including the application of aggregated working hours for an employee or official and the alteration of the established working schedule without the agreement of the employee or official) if this is necessary for resolving an emergency situation. At the same time, the norms provided for in the Public Service Act, the ECA and the laws regulating special types of public service must be taken into account when implementing this distinction. Estonia declared an emergency situation on 12 March 2020, and it lasted until 17 May 2021. As far as it is known, changes in the specification of working hours detailed in the Emergency Act were not implemented in the area of government of the Ministry of the Interior during the emergency.

As the provision of just working conditions is the responsibility of the school leadership, the Ministry of Education and Research has not taken the lead in the in this field, especially in the education sector in the COVID-19 context. However, several initiatives have been taken in the frame of the crisis exit strategy to support teachers in the COVID-19 crisis, such as the substitute teacher programme to cover for absent teachers and the involvement of university students to support school personnel.

Unrelated to the COVID-19 crisis, exhaustive guidelines on work and wage conditions[3] have been developed in cooperation with the Ministry of Education and Research and the Association of Estonian Cities and Municipalities to support schools and school owners in the organisation of their work.

e) The Committee would welcome additional general information on measures put in place in response to the COVID-19 pandemic intended to facilitate the enjoyment of the right to reasonable working time (e.g. flexible working hours, teleworking, other measures for working parents when schools and nurseries are closed, etc.). Please include information on the legal instruments used to establish them and the duration of such measures.

There were no changes in legal frameworks in response to the COVID-19 pandemic intended to facilitate the enjoyment of the right to reasonable working time.

[3] Available in Estonian: https://www.elvl.ee/documents/21189341/25125942/JUHENDMATERJAL_UUS.pdf/a57bd9be-d80a-416a-a120-4546b8a25385.

However, COVID-19 pandemic increased teleworking. Due to that, Ministry of Social Affairs prepared a telework guide[4] in 2019, which described when telework can be performed, how to assess the risks of teleworking, what are the employer's responsibilities in the case of telework, etc and pointed out, that in case of teleworking the work and rest hour regulations shall be respected and followed. The information about teleworking and working time regulations is available in Work Life Portal maintained by the Labour Inspectorate at www.tooelu.ee[5].

f) If the previous conclusion was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.

In 2018 conclusions the Committee concluded that the situation in Estonia is not in conformity with Article 2§1 of the Charter on the ground that the law does not guarantee the right to reasonable weekly hours for seafarers. Below are replies to the questions of the Committee to explain the situation.

The Committee asks over what reference period average working hours are calculated for crew members. It asks what rules apply to on-call duty for crew members. It also asks whether it is possible to work 72 hours non-stop for crew members. The Committee also asks for information in the next report on any infringements of the working hour regulations applying to crew members on short sea shipping vessels reported by an appropriate authority.

- Reference period

Seafarers work and rest time is regulated by Seafarers Employment Act[6] (hereinafter referred to as SEA). General conditions on work and rest time for seafarers are regulated by ECA unless it arises otherwise from SEA, a collective agreement or law.

ECA § 46 (1) sets that the summarised working time shall not exceed on average 48 hours per a period of seven days over a calculation period of up to four months, unless a different calculation period has been provided by law. ECA § 46 (3) sets, that an employer and employee may agree upon a longer working time than that provided for in subsection (1) if the summarised working time does not exceed on average 52 hours per a period of seven days over a calculation period of four months and the agreement is not unreasonably detrimental to the employee. The employee may cancel the agreement at any time, notifying thereof two weeks in advance. From SEA § 40 (specification of limit on time for performing work) arises that the calculation period specified in § 46 (1) and (3) of the ECA may be extended for a crew member up to six months and by a collective agreement up to 12 months.

- On-call duty

SEA § 44 sets, that on-call time is outside of working time when the crew member shall be available to the operator for performance of duties on agreed conditions. As mentioned previously, the on-call time is neither part of the working or rest period, it is part of time, when the crew member shall be available (is being ready) to perform work duties if needed. The part of the on-call time during which the crew member is in subordination to the management and control of the operator is considered to be working time and shall be remunerated based on the agreement in seafarer's employment contract.

[4] Available in Estonian: https://admin.tooelu.ee/sites/default/files/2021-04/Kaugtootaja%20tootervishoiu%20ja%20-ohutuse%20juhis.pdf.
[5] Available in English: https://www.tooelu.ee/en/64/occupational-health-during-teleworking.
[6] Available in English: https://www.riigiteataja.ee/en/eli/ee/505092017001/consolide/current.

If a crew member has worked during on-call time, the master of the ship shall grant the crew member additional rest time to the extent equal to the time spent working during on-call time.

According to SEA § 44, the § 48 (2) of the ECA is not applied to crew members. Meaning, that the duration of the on-call time and the amount of the surcharge to be paid for that period and the procedure for implementation would be agreed in a maritime labour or collective agreement. If a crew member has worked during on-call time, the master of the ship shall grant the crew member additional rest time to the extent equal to the time spent working during on-call time. In the case of an agreement concerning on-call time, the master of the ship or another competent person is required to grant a crew member permission to go ashore outside his or her working time at least once during a one-month work cycle on the same conditions as set for other crew members. If the work cycle is shorter than one month, such permission shall be granted at least once during the work cycle.

- Work hours limitation

It is not possible to work 72 hours non-stop for crew members since they are not allowed to work more than 14 consecutive hours.

SEA sets daily and weekly rest time regulation for seafarers. SEA § 48 sets, that an agreement by which a crew member is left with less than ten hours of rest time over a period of 24 hours is void. Therefore, crew member can work maximum 14 hours consecutively (24 h period – 10h rest time = 14h working time). Over a period of 24 hours the rest time may be divided into two periods, provided the duration of one period is at least six consecutive hours. The time between two consecutive rest times may not exceed 14 hours.

SEA sets the weekly minimum rest time. The weekly rest time includes the daily rest time specified in SEA § 48 and described above. SEA § 49 (1) stipulates that an agreement by which a crew member is left with less than 84 hours of rest time over a period of seven days is void. According to subsection 2 of section 49 of the SEA, an agreement by which a watchkeeper is left with less than 77 hours of rest time over a period of seven days is void. Subsection 3 of section 49 of the SEA states that exceptions to the restriction specified in subsection 1 of this section may be made by a collective agreement, provided working will not harm the health or safety of the employee and the crew member is left with at least 77 hours of rest time over a period of seven days.

SEA § 43 (1) also sets, that the working time of crew members who are not watchkeepers or engaged in ensuring safety, the prevention of environmental pollution, and security shall remain within the period of time from 06:00 to 20:00 the ship's time if it is possible considering the nature of the work. Subsection 2 foresees, that within the period of time from 20:00 to 06:00 and on national and public holidays, the crew members specified in subsection (1) may only be required to work in order to perform urgent duties, except when the nature of the crew member's work requires working at that time.

ECA regulations on work time and SEA regulation on rest time shall be interpreted jointly to ensure just conditions of work.

- Infringements of working hour regulations regarding short sea shipping vessels

Application of working time regulations is supervised by Labour Inspectorate. There is not specific information about the working time infringements on short sea shipping vessels since there are very few of those in Estonia (for example, in 2015 there were only 4 enterprises carrying out passenger transportation in inland waters and there were no enterprises carrying out freight transport).

However, below we provide information about infringements of the working time regulation provided in the SEA.

Table 6. SEA work and rest time violations, 2017-2020:

	2017	2018	2019	2020
Total number of violations (crew members)	15	15	15	21
2-15.21 -- § 48 Daily rest time is not ensured to crew members	2	2	0	7
2-15.22 -- § 49 (1) Weekly rest time (at least 84 hours of rest time over a period of seven days) is not ensured to crew members	0	0	2	0
2-15.24 -- § 50 (1) The master of a ship or another competent person has not kept record of the crew members' working and rest time	6	0	0	0
2-15.26 -- § 50 (2) The procedure and the form for keeping record of crew members' working and rest time established by a regulation of the Government of the Republic has not been followed for calculating the crew members' working and rest time.	7	13	13	13
2-15.27 -- § 50 (3) The master of a ship or another competent person has not kept the documents concerning the record of working and rest time prepared for a crew member in an accessible place or has not ensured the preservation of the documents concerning the record of working and rest time for at least one year	0	0	0	1

Source: The Labour Inspectorate

In its previous conclusion, the Committee asked whether, in the situations described in Article 51(3) and (4) of the ECA (on working days of more than 13 hours), there was an absolute limit on daily working time, which could only be exceeded in exceptional circumstances, and whether there was also such a limit on weekly working time. In reply, the report states that the ECA does not set an absolute limit on daily working time in these situations, and this must be interpreted jointly with Article 51 (5), which provides that employers must grant a rest period to an employee working more than 13 hours over a 24-hour period. Compensatory time-off must be granted immediately after the end of the working day and be equal to the number of hours by which the 13 working hours were exceeded. Any agreement under which work exceeding 13 hours is compensated for in wages is void. The Committee considers that the situation is not in conformity with the Charter on this point.

ECA Article 51 establishes the opportunity to work more than 13 hours a day in certain limited cases. The exception from daily rest time can be made by a collective agreement in the cases of activities requiring a permanent presence or involving the need for continuity of service or production specified in EU working time directive (Council Directive 2003/88/EC) and provided working does not harm the employee's health and safety (subsection 3 and 6). The ECA also provides that the restriction on daily rest time shall not be applied to health care professionals and welfare workers, provided working does not harm their health and safety (subsection 4).

In these situations, employee can work maximum of 24 hours. To point out, there must be breaks during the working day. According to ECA Article 46 (2) employee must have a break of no less than 30 minutes during the working day for work longer than 6 hours. Breaks are considered working time if due to the characteristics of the work it is impossible to give a break and the employer gives an employee the opportunity to rest and dine during working time. Furthermore, the employer must grant a rest period to an employee working more than 13 hours over a 24-hour period. Compensatory

time-off must be granted immediately after the end of the working day and must be equal to the number of hours by which the 13 working hours were exceeded. Therefore, if an employee works for 24 hours, then he/she must have 22 hours (11 hours of daily rest time and 11 hours exceeding allowed 13 working hours) of consecutive rest time before he/she can continue working.

Taking account the maximum weekly limit of 48/52 hours, the employee can work two 24-hour shifts per week and not more. The maximum weekly working time of 48 or 52 hours per a period of seven days over a calculation period of four months (ECA Article 46) cannot be exceeded in any case. Therefore, the possibility of using 24-hour shifts is very limited.

We would like to stress that the possibility to make exceptions to the restriction of daily working time is crucial for the activities mentioned above, which is why this possibility to derogate is included in the directive. Allowing employees to work in shifts up to 24 hours in case of these activities is reasonable since in order to provide those services, employees must be present at all times. Discontinuity of service might i.e. compromise the health and safety of the citizens. At the same time, it is also important to emphasize that if an exception is made from the daily rest time requirements, employer must make sure that working does not harm the employee's health and safety. It is necessary to assess, on the basis of a risk analysis of the working environment, whether non-compliance with the daily rest limit may endanger the health and safety of the worker. The hazards in the work environment and the nature of the work must be assessed in combination with the effects and risks of longer working hours.

In addition, it is important to note that exceptions can only be made by collective agreement and collective agreement can only be concluded when both parties agree on terms and conditions of the agreement.

The part of the on-call period during which employees are inactive and do not perform duties, cannot be considered to be rest periods. The Committee asks for clarification of the situation, notably which is a legal nature of this period and how it is remunerated. In the meantime, the Committee reserves its position on this point.

ECA § 48 sets out the concept and limitations of on-call time. The legal framework has not changed since the last report. As described previously, on-call time is a separate type of time (outside of working time) which is neither part of the working or rest period. On-call time is defined as a time when the employee is not performing duties but shall be available to the employer for performance of duties on the basis of an order of the employer under the agreed conditions. On-call time can be applied only by agreement between the employee and the employer. The part of the on-call time during which the employee is in subordination to the management and control of the employer is considered working time and the employer must pay the employee the agreed salary. Remuneration which is not less than one-tenth of the agreed wages shall be paid to the employee for the on-call time.

Inactive on-call periods cannot be treated as rest time, as during on-call time the employee cannot fully focus on rest. An agreement on the application of on-call time which does not guarantee the employee the possibility of using daily and weekly rest time is void.

2. to provide for public holidays with pay;
3. to provide for a minimum of four weeks' annual holiday with pay;
5. to ensure a weekly rest period which shall, as far as possible, coincide with the day recognised by tradition or custom in the country or region concerned as a day of rest;

6. to ensure that workers are informed in written form, as soon as possible, and in any event not later than two months after the date of commencing their employment, of the essential aspects of the contract or employment relationship;
7. to ensure that workers performing night work benefit from measures which take account of the special nature of the work.

a) No information is requested on these provisions, except insofar as they concern special arrangements related to the pandemic or changes to work arrangements following the pandemic: public holidays (Article 2§2), annual holiday (2§3), reduced working time in inherently dangerous or unhealthy occupations, in particular health assessments, including mental health impact (2§4), weekly rest period (2§5), written information or worktime arrangements (2§6), measures relating to night work and in particular health assessments, including mental health impact (2§7).

There were no changes or special arrangements made due to the pandemic.

b) However, if the previous conclusion concerning provisions in Article 2, paragraphs 2 through to 7, was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.

In 2018 conclusions the Committee requested additional information on Article 2§2, 2§3, 2§5, and 2§6. **For Article 2§7, the Committee concluded that the situation in Estonia is not in conformity** with the Charter on the ground that laws and regulations do not provide for continuous consultation with workers' representatives on night work conditions and on measures taken to reconcile the needs of workers with the special nature of night work. Below are replies to the questions of the Committee and the non-conformity to explain the situation.

The Committee asks if the right to paid public holidays applies to all workers including crew members on sea shipping vessels.

§ 6 of SEA sets, that ECA and other legislations regulating employment relationships apply to the employment relationships of crew members, considering the specifications provided for in SEA. The SEA does not provide for a difference in remuneration regarding public holidays. In this case ECA shall be applied. ECA § 45 (2) sets, that if the working time falls on a public holiday, the employer shall pay 2 times the wages for the work. The regulation of ECA concerning paid public holidays applies to crew members on sea shipping vessels, as SEA does not set any exceptions on this case.

The Committee asks for information in the next report on any change in the legal framework covering annual paid leave. It also asks whether the right to annual paid leave also applies to crew members on sea shipping vessels (Conclusions 2018, Article 2§1, Estonia). If not, it asks for detailed information in the next report on the limits which apply to the carrying over of annual leave for this category of workers, and more specifically if all annual leave may be carried over to the following year or whether a minimum number of days must be taken during the reference year without exception.

There are no changes made in legal framework covering annual paid leave. The right to annual paid leave applies to crew members on sea shipping vessels. SEA § 51 sets, that annual holiday of crew members is 35 calendar days. ECA applies to crew members unless otherwise provided by SEA. There are no regulations is SEA on the carrying over of annual leave. In this case ECA is applied. ECA § 68 (5) sets that annual holiday shall be used within the calendar year. Annual holiday is granted in parts only

by agreement of the parties. At least 14 calendar days of holiday shall be used by an employee successively. The employer has the right to refuse to divide annual holiday into parts shorter than seven days. An unused part of holiday shall be transferred to the next calendar year. ECA § 68 (6) foresees that the claim for annual holiday expires within one year as of the end of the calendar year for which the holiday is calculated. Parties can agree on the application and carrying over, but the agreement derogating the rights and obligations and liability of the contracting parties is void.

The Committee asks for updated information in the next report on any changes to the legal framework concerning weekly rest period.

There have been no changes made to the legal framework concerning weekly rest period.

The Committee asks for confirmation that the employment contract for crew members on sea shipping vessels or another written document also contains information on the identity of the parties, place of work, the start date of the contract or employment relationship, the length of paid leave, notice given in the event of termination of the contract or employment relationship, the employee's standard daily or weekly working hours and the references of any collective agreements governing the employee's working conditions.

ECA Article 5 sets, that a written document of an employment contract shall contain at least the following data:

1) the name, personal identification code or registry code, place of residence or seat of the employer and the employee;
2) the date of entry into the employment contract and commencement of work by the employee;
3) a description of duties;
4) the official title if this brings about a legal consequence;
5) the agreed remuneration payable for the work (wages), including remuneration payable based on the economic performance and transactions, and the manner of calculation, the procedure for payment and the time of falling due of wages (pay day), also taxes and payments payable and withheld by the employer;
6) other benefits if agreed upon;
7) the time when the employee performs the agreed duties (working time);
8) the place of performance of work;
9) the duration of holiday;
10) a reference to the terms for advance notice of cancellation of the employment contract or the terms for advance notice of cancellation of the employment contract;
11) a reference to the rules of work organisation established by the employer;
12) a reference to a collective agreement if a collective agreement is applicable with regard to the employee.

ECA Article 6 also sets notification of employee of working conditions in special cases (like temporary agency work, teleworking etc.). SEA Article 9 sets, that in addition to that provided for in Article 5 of the ECA, a written document of a seafarer's employment contract shall include at least the following information:

1) the place of birth of the crew member;
2) the place where the crew member shall commence work;

3) the ship or ships where work shall be commenced and the ship's registration number;
4) a reference to the health and social security guarantees offered by the operator, including to the benefits in connection with work-related illnesses or injuries or death caused by an occupational accident;
5) a reference to the organisation of repatriation of the crew member;
6) a reference to the conditions of and the procedure for the cancellation of the seafarer's employment contract, including to the terms of advance notice of cancellation of the seafarer's employment contract.

The Committee concludes that the situation in Estonia is not in conformity with Article 2§7 of the Charter on the ground that laws and regulations do not provide for continuous consultation with workers' representatives on night work conditions and on measures taken to reconcile the needs of workers with the special nature of night work.

Generally, according to the § 12 (3) of the Occupational Health and Safety Act (OHSA), an employer and employees are required to co-operate in the name of a safe working environment. An employer shall consult with employees or a representative of employees in issues concerning the planning for measures to improve the working environment, the organisation of provision of instructions and training as well as organisation of medical examinations, the organisation of rescue operations and first aid, and the selection and application of new technology and work equipment. An employer shall, where possible, take into account submitted proposals and involve the employees in the implementation of such plans.

If employee's working time falls on night-time, the employer shall prepare a risk assessment of the working environment to ascertain working environment hazards, measure their parameters as necessary and assess the risks to the health and safety of an employee (OHSA § 13^4 (1)). The risk assessment shall include an action plan designating the measures applied in all fields of activity and at all management levels of the enterprise to prevent or reduce employees' health risks, and a schedule for applying such measures and executors thereof. The employer shall allocate the necessary resources for carrying out the action plan (subsection 2).

OHSA § 13 also sets, that employer is required to conduct regular internal control of the working environment in the process of which the employer plans, organises, and monitors the occupational health and safety situation in the enterprise in accordance with the requirements provided for in Occupational Health and Safety Act or in legislation established on the basis thereof. Internal control of the working environment forms an integral part of the operation of an enterprise, and all employees shall be involved in the control which shall be based on the results of a risk assessment of the working environment.

OHSA § 12 sets, that employer shall inform employees or working environment representatives of any hazards present at workplace and of measures for avoiding such hazards. § 14 (5)2) provides that employee has the right to receive information on working environment hazards, the results of risk assessments of the working environment, the measures implemented to prevent damage to health, the results of medical examinations, and precepts of the Labour Inspectorate addressed to the employer. Subsection 5 clause 5^1 foresees that employee has also a right to request his or her transfer to suitable daytime work if, by a decision of a doctor, the person's working during night-time is inadvisable for reasons of health and the employer has the possibility to transfer the employee to such position. Employee has also right to contact a working environment representative, members of the

working environment council, other representatives of employees and the Labour Inspectorate if, in his or her opinion, the measures implemented and the equipment provided by the employer do not ensure the safety of the working environment (clause 7).

OHSA provides in § 17 the obligations and rights of working environment representative. It is set that in an enterprise which comprises several structural units on separate territories or in which work is done in shifts and in which more than ten employees work at a structural unit or in a shift at the same time, the employees shall elect one working environment representative for every structural unit or shift. One of several obligations of the working environment representative is monitoring that occupational health and safety measures are implemented at the workplace and consult workers about occupational health and safety issues (also night work conditions).

Therefore, there is no specific consultation process for the night workers in Estonian legislation. However, employers are required to assess and monitor the working environment and working conditions of the employees on regular basis and therefore, the employers are required to regularly consult employees (night workers included) on the issues concerning working conditions and working environment.

RESC Part I – 4. All workers have the right to a fair remuneration sufficient for a decent standard of living for themselves and their families

Article 4 – The right to a fair remuneration
With a view to ensuring the effective exercise of the right to a fair remuneration, the Parties undertake:
2. to recognise the right of workers to an increased rate of remuneration for overtime work, subject to exceptions in particular cases;

a) Please provide up to date information on the rules applied to on-call service, zero-hour contracts, including on whether inactive periods of on-call duty are considered as time worked or as a period of rest and how these periods are remunerated.

On-call time was described previously in more detail (see information provided above under Article 2 § 1 c) and answer to Committee's question under d)). It is a separate type of time which is neither part of the working time or rest period. On-call time is defined as a time when the employee is not performing duties but shall be available to the employer for performance of duties on the basis of an order of the employer under the agreed conditions. On-call time can be applied only by agreement between the employee and the employer. The part of the on-call time during which the employee is in subordination to the management and control of the employer is considered working time and the employer must pay the employee the agreed salary. Remuneration which is not less than one-tenth of the agreed wages shall be paid to the employee for the on-call time.

There are no zero-hour contracts in Estonia.

b) Please explain the impact of the COVID-19 crisis on the right to a fair remuneration as regards overtime and provide information on measures taken to protect and fulfil this right. Please include specific information on the enjoyment of the right to a fair remuneration/compensation for overtime

for medical staff during the pandemic and explain how the matter of overtime and working hours was addressed in respect of teleworking (regulation, monitoring, remuneration, increased compensation).

No specific measures were taken on the impact of COVID-19 regarding the right to a fair remuneration. Increased rate of remuneration for overtime work and compensational time off are regulated by ECA § 44 and described below as a reply to the Committee's question under d). A financial allocation was made from the state budget to the Health Insurance Fund, to support hospitals in COVID-19 crises. The Health Insurance Fund organizes state health insurance and allocates resources (funds) to hospitals. The compensations were divided at the discretion of hospitals. Hospitals could have worked out compensational coefficients on which regards medical staff could have been remunerated, considering participation in promoting and performing vaccinations, performance while crisis of COVID-19 etc. However, there is no statistical data on exact distribution of money.

c) The Committee would welcome information on any other measures put in place intended to have effects after the pandemic which affect overtime regulation and its remuneration/compensation. Provide information on their intended duration and the time frame for them to be lifted.

There have been no measures taken intended to have effects after the pandemic which affect overtime regulation and its remuneration.

d) If the previous conclusion was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.

In 2018 conclusions the Committee concluded that the situation in Estonia is not in conformity with Article 4§2 of the Charter on the ground that not enough time off is granted in lieu of increased wages for overtime. Below are replies to the questions of the Committee to explain the situation.

The Committee notes that Article 44 of the Employment Contracts Act does not provide for a mixed system of compensation for overtime. In this connection, it asks whether the right to increased compensatory time off exists and is ensured by law and in practice. In the meantime the Committee reiterates its finding of non-conformity.

§ 44 of the ECA provides mixed system of compensation for overtime. Overtime may be compensated in two ways - with money or with free time. Subsection 6 of ECA § 44 sets, that the employer shall compensate for overtime work by time off equal to the overtime, unless it has been agreed that overtime is compensated for in money.

Subsection 7 of ECA § 44 sets that upon compensation for overtime work in money, it costs for employer 50% more than normal working hour. It means that employer must pay the regular wage for the overtime worked plus 50% extra (1.5 rate).

When a rest period is granted in compensation for overtime (instead of increased pay), this rest time may not be deducted from standard rest periods and must be paid as working hours. It means that employer shall pay the regular wage for the overtime worked plus give free time in the same amount as overtime worked and pay the regular wage also for that free time. Thus, in this case for employer the overtime costs 100% more than normal working hour. Therefore, if the overtime is rewarded in time off, the compensatory element is even higher compared to the compensatory element in case

the overtime is rewarded in increased wages. Estonian system offers employee compensatory time, which employee is paid for.

The Committee has pointed out that the compensatory time off must be longer than the overtime worked. We would like to point out that employers have repeatedly expressed their opinion that the compensation of overtime with the rest time is too expensive. If the compensation in rest time is even more expensive than it is now, the use of that method of compensation will probably decrease even more. It could lead to the situation, where in case of overtime employer would prefer compensation in money, as otherwise it would be too expensive and additional time off can lead to interruption of work process. Therefore, currently our system provides employee with compensatory time off (equal to overtime worked) which the employee is also paid for, which is a better option than providing employee with compensatory time off which is longer than overtime worked but unpaid.

3. to recognise the right of men and women workers to equal pay for work of equal value;

a) Please provide information on the impact of COVID-19 and the pandemic on the right of men and women workers to equal pay for work of equal value, with particular reference and data related to the extent and modalities of application of furlough schemes to women workers.

There are no furlough schemes in Estonia.

A study on the socio-economic impact of COVID-19 pandemic on gender equality was carried out by the Praxis Centre for Policy Studies.[7] The knowledge was primarily gathered through focus group and expert interviews conducted in March and April 2021, both of which gave an indication for it to be likely that, like in many other countries, the pandemic has increased gender inequality in Estonia, primarily due to the difficulty of reconciling work and family life, which hit women harder than men. Expert interviews also indicated that although the importance of the gender perspective in the development of "pandemic policies" might be recognized in principle, it rarely influenced the actual policymaking. One area where gender equality brought about a policy change during the pandemic was victim support in cases of intimate partner violence.

b) If the previous conclusion was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.

In 2018 conclusions the Committee concluded that the situation in Estonia is not in conformity with Article 4§3 of the Charter on the ground that the enforcement of the right to equal pay is not effective, as demonstrated by the persistently high gender pay gap. Below are replies to the questions of the Committee to explain the situation.

The Committee takes note of measures implemented to promote equal pay between men and women and to tackle the gender pay gap. It notes in particular the Welfare Development Plan 2016-2023 which has gender equality as one its top priority and sets out activities for gender pay gap audits to help implement obligations foreseen in the Gender Equality Act. Furthermore, there are different projects implemented under the programme for mainstreaming gender equality and work-life balance, including one aimed at developing a new concept for gathering and analysing gender pay gap statistics.

[7] Available in Estonian: https://www.praxis.ee/wp-content/uploads/2021/01/Pandeemia_ja_sooline_vordoiguslikkus_poliitikaanaluus-2.pdf.

It asks the next report to provide comprehensive information about the progress in the adoption of positive measures to narrow the pay gap and on their noted or expected impact in practice.

Estonia has taken and continues to take a range of measures to tackle gender pay gap from different angles. First and foremost, (applied) research and project-based development and awareness-raising activities have been implemented. Most of these activities are a part of a longer-term process, laying a foundation for future strategies and activities to tackle the gender pay gap and its reasons.

Due to there being a wide range of reasons behind the gender pay gap, including those needing a change in wider societal attitudes, no individual measure, either legislative, administrative or awareness-raising, can be expected to bring about considerable changes in a short time-range. Still, a constant progress can be seen in the decrease of the gender pay gap in Estonia – for example, compared to 2017, when the gender pay gap was 20,9%, it had decreased to 15,6% by 2020. One of the reasons behind it has also been steps taken by sequent Governments to ensure adequate wages in female-dominated sectors, such as education.

Also, current Government (in office from 26th of January 2021) clearly recognises the need to decrease gender pay gap in Estonia. It is confirmed both in the Coalition Agreement and in the Government`s Action Plan for 2021-2023.

Different activities have been and are planned to be implemented to support and promote pay transparency through non-legislative measures. In 2020, the Statistics Estonia made available wages and salaries application which provides in a user-friendly and visualised format median wage by Estonian regions and counties for the 110 most common occupations. The application uses administrative data from the employment registry and tax declarations. In co-operation with the Estonian Gender Equality and Equal Treatment Commissioner and the researchers at the University of Tartu and Tallinn University of Technology TalTech a component of sex was added to the application in the framework of a two-year research project "InWeGe – Income, Wealth and Gender". This development will facilitate comparing wage data by sex, and it is expected to add transparency and awareness regarding the wages of men and women working in the same occupation and region. While not providing organisation-specific information, the application still has a potential to also provide necessary background information for employees for pay negotiations with their employer. The application also features the function of comparing the user´s average gross wages with the women and men working in the same occupation.

In the framework of another three-year (2019-2021) research project "Reducing Gender Wage Gap" (REGE) aimed at clearing up further reasons behind the unexplained part of the gender pay gap and providing proposals for further action, also a prototype of a digital tool for employers to support analysing and tackling organisational gender pay gap has been developed. The key rationale of the tool is to raise awareness on the gender pay gap among and in organisations, by offering employers in a systematic way easily accessible information about pay levels and pay gap in their organisation without a remarkable additional administrative burden for them. Based on the prototype, in the coming years, the aim is to further develop the tool to make it available to employers on a voluntary basis to increase the number of organisations analysing data relevant from the perspective of gender pay gap and the principle of equal pay, and making informed decisions based on this.

In order to learn from experiences of other EU countries and to facilitate further national measures, on 15-16 of April 2021, the Estonian Ministry of Social Affairs hosted an online peer review seminar on "Reducing the gender pay gap through pay transparency - legislative measures and digital tools targeted at employers" in the framework of the European Commissions` Mutual Learning Programme.

The seminar enabled gaining further knowledge of the relevant practices and experiences in the peer countries (Czechia, Greece, Germany, Latvia, Portugal, Lithuania, Spain, Finland) and exchanging views with them and the representatives of the European Commission and social partners to find efficient and well-balanced measures and tools to increase pay transparency.

Activities are also implemented and planned to tackle other causes of the gender pay gap in Estonia, among which are gender segregation in education and the labour market and challenges of work-life balance and more equal sharing of care burden between women and men.

According to Statistics Estonia, in order to eradicate gender segregation in the labour market, more than a third of employees of one sex would have to change occupation and economic activity. Two applied research projects - "Glass Walls and Ceiling in the Estonian ICT Sector" in 2019-2021 and "Nudging to Support Stereotype-free Career Choices and Working Conditions" in 2020-2022 have been carried out to find new (nudging) methods for decreasing gender segregation in education and labour market, both co-funded by the Estonian Research Council from the European Regional Development Fund, and the Ministry of Social Affairs. The first project specifically aimed at developing and piloting nudges to increase the share of women among ICT sector students and employees. Nudges were developed and tested for three target groups – high school students, employers, and general public/parents. Policy recommendations to help to ensure women's better access to education and career in the ICT sector were formulated and will be followed up together with tested nudges in co-operation by the Ministry of Social Affairs and the Ministry of Education and Science**.** The second project is focussing on developing and testing more wide-scale nudges to help teachers and career advisers in supporting and promoting career choices that are free of gender stereotypes, and to support employers in ensuring equal and fair working conditions and stereotype free recruitment and promotion. Taking also into account the results of these projects, in the framework of tackling structural problems in the Estonian labour market during the Structural Funds 2021+ period, measures are planned to be implemented to address gender segregation of educational choices and the labour market in STEM and EHW sectors, including by decreasing gender-stereotyping and by increasing co-operation between schools, vocational training institutions, recruitment agencies and employers.

In spring 2021, the Ministry of Social Affairs published a series of 10 short (approx. 2-3 minutes) video-lectures with an aim to raise awareness on gender equality, violence against women, including digital violence, equal treatment of minorities and on promoting diversity. From the gender equality perspective, the lectures touched upon topics such as gender segregation of education and labour market, men`s role in promoting gender equality, gender (in)balance in politics, controlling behaviour in intimate relations, gender-based cyberviolence and children as witnesses of (domestic) violence. These so-called micro-lectures were released approximately once a week and were accompanied by a press release and/or blog entry or an entry in social media.

Among measures implemented to tackle the reasons behind the gender pay gap are also legislative changes aimed at increasing flexibility of parental leave system and more equal sharing of care responsibilities by mothers and fathers, taken in recent years and gradually coming into force in 2018-2022, with a special attention in 2020 on paternity leave due to coming into force of amendments increasing its length and widening the circle of entitled fathers from July 2020. To emphasise the importance of men`s participation in carrying the care burden and to increase the take-up of the 30-calendar-day paternity leave, an applied research project has been carried out to test and thereby identify suitable nudges to achieve these aims. The project is carried out from June 2021 to March 2022 in co-operation of researchers, the Ministry of Social Affairs, and the Social Insurance Board.

Additionally, the Gender Equality and Equal Treatment Commissioner`s Office has been involved in two EU co-funded projects aimed at supporting parents in achieving work-life balance. The main aim of the project "Engaging employers and improving gender discrimination detection to ensure adequate protection for parents at work" was to raise awareness of and inform employers on pregnant/parent workers' rights and work-life balance measures, improve equality bodies` investigative techniques in pregnancy/parenthood discrimination cases, and raise awareness of labour inspectorates on discrimination of pregnant/parent workers. In the framework of a project "Towards gender equality through increased capabilities for work-life balance" a series of innovative and interactive tools are developed and tested through a behavioural science lens for their potential to increase equality by improving practical everyday skills, changing attitudes and reducing gender stereotypes, especially those related to sharing of care.

With the help on the European Social Fund, the Ministry of Social Affairs has supported creating new childcare places. In 2015-2018, altogether 1193 childcare places were created all over the country to alleviate the shortage of childcare facilities. Also, during 2014-2020, the Ministry of Finance coordinated a 34 million euros funding scheme from the European Regional Fund for the construction of nearly 2200 new places in childcare facilities and kindergartens in the three major urban areas of Estonia.

The Government is also working towards easing the care burden of caregivers and facilitate their participation in employment. In autumn 2017, the Government made a decision to finance the most urgent long-term care measures. Among these were, for example, a state financed daily and weekly special care service for people at working age with multiple disability, providing new service places in care homes to elderly with dementia, piloting of care coordination for people with care needs from health and welfare sectors and introduction of care leave for family members caring for an adult with profound disability. At the end of 2018, the Government discussed an additional action plan for changes in the long-term care system with the main aim to increase the availability of long-term care services to reduce the care burden on informal carers and through that, support the reconciliation of work and care. The long-term care concept together with financing scheme and proposals how to support informal carers were approved by the Cabinet of Ministers respectively in 2020 and 2021. With the changes in Social Welfare Act (currently in the Parliamentary reading and expected to enter into force in the 2022) the definition of long-term care shall be established, as well as requirement for local governments (who are responsible for organising care services) to prefer home services to institutional care. In addition, local governments shall be obliged to assess the need for support for a person with care burden, and second degree relatives (i.e. grandchildren) shall be released from the maintenance obligation towards their grandparents. Measures in financing (including component-based remuneration of general care, sustainability of long-term care financing schemes) have also been discussed in the Cabinet of Ministers and the Ministry of Social Affairs has been tasked to develop legislative changes of support package for carers (i.e. link the right to care leave to care recipient's actual need for care instead of a profound disability and increase compensation rate, also encourage caregivers part-time working through tax incentives for employers etc.), create a component-based financing scheme for general care service provided outside home and a standardized assessment tool by the end of 2022.

According to Statistics Estonia 2 800 men and 11 900 women did not work due to care burden in 2020, while approximately 53 500 people (21 600 men and 31 900 women) assisted or cared for their relatives. About 19 400 people (5 400 men and 14 000 women) assisted or cared for their members of the family 20 hours a week or more. Approximately 3 300 persons with care burden would have liked

to be in employment. According to 2020 survey of population activity restrictions and need for care[8], 22 % of people living in Estonia have a care burden, and 10 % of them take care of and help their household member (around 99 100 – 125 100 persons) and approximately 8 % of the population take care of their adult household member. Also, more general awareness raising activities, targeting among others also policymakers, employers and educationalists, are necessary to support decreasing gender inequality in the society, including reducing the gender pay gap.

At the beginning of December 2021, a virtual gender equality competence centre[9], developed by the Ministry of Social Affairs in the framework of the Norway Grants project, was made public. The aim of the centre is to make information about gender equality, including principles, legislation, notions, indicators, studies, relevance in different policy fields, etc., easily available to both the public but also more specifically to policymakers, educationalists and employers. In 2022, training module enabling self-learning will be made available to at least one main target group of the centre.

In December 2021, an electronic collection of articles[10] "Towards a Balance Society. Women and Men in Estonia" was published. The aim of this third such compilation is to analyse gender equality situation and developments in different fields during the last 10 years. Articles focus on topics such as women and men in the labour market, work-life balance, women among founders of start-ups, gender dimension of a migration, gender and health, gender aspects of ageing, women in politics, civil society and activism, gender and environment, gender-based violence, sexual harassment, education and gender equality, women in science, equal opportunities for women and men in performing and audio-visual arts, gender in music, social media and traditional media.

In its previous conclusion (Conclusion 2014), the Committee asked for more precise information regarding the legislation that explicitly guarantees the right to equal pay of men and women for equal work or work of equal value. In reply, the report states that the Gender Equality Act prohibits establishing conditions for remuneration or receipt of benefits related to the 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 of equal value. The Committee asks the next report to provide a more detailed information on the legal regulation. Meanwhile it reserves its position on this issue.

According to § 6(2)3 of the Gender Equality Act, the activities of an employer shall also be deemed to be discriminatory if the employer „establishes conditions for remuneration or conditions for the provision and receipt of benefits related to the 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 of equal value". According to § 6(2)1 employers` activities are also discriminatory if the employer, upon making those decisions, treats a person less favourably due to pregnancy, child-birth, parenting, performance of family obligations or other circumstances related to gender. Such activities are prohibited according to § 5(1) of the GEA which states that direct and indirect discrimination based on sex, including giving orders therefor, is prohibited. In order for the

[8] Available in Estonian: https://www.sm.ee/sites/default/files/content-editors/Ministeerium_kontaktid/Uuringu_ja_analuusid/Sotsiaalvaldkond/hooldusvajaduse_uuring_som.pdf.
[9] Available in Estonian: https://vordsuskeskus.ee/et.
[10] The compilation of articles „Towards a Balanced Society. Women and Men in Estonia III" is available in Estonian at: https://vordsuskeskus.ee/sites/default/files/2021-11/TEEL%20TASAKAALUSTATUD%20%C3%9CHISKONDA%20III.pdf. Short summaries of the articles will be translated into English in 2022.

employee to receive necessary information § 7(3) of the GEA provides an employee with a right to demand that the employer explain the bases for calculation of salaries and obtain other necessary information on the basis of which it is possible to decide whether discrimination specified in § 6(2)3 has occurred. Also, a shared burden of proof applies. According to § 4 of the GEA, 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 shall be for the respondent to prove that there has been no breach of the principle of equal treatment. If the person refuses to provide proof, such refusal shall be deemed to be equal to acknowledgement of discrimination by the person. Additionally, specific right to receive information has been given to the Gender Equality and Equal Treatment Commissioner. According to § 17(4) of the Equal Treatment Act, in order to provide an opinion, a Commissioner has the right to obtain information from all persons who may possess information which is necessary to ascertain the facts relating to a case of discrimination, and demand written explanations concerning facts relating to an alleged case of discrimination, and filing of documents or copies thereof within the term set by the Commissioner. It is specified that this right to obtain information includes also information concerning the remuneration calculated, paid or payable to an employee, the conditions for remuneration and other benefits. The purpose of an opinion of the Commissioner is to provide an assessment which, in conjunction with Equal Treatment Act, the Gender Equality Act, international agreements binding on the Republic of Estonia and other legislation, allows evaluating whether the principle of equal treatment has been violated in a particular legal relationship.

In its previous conclusion, the Committee also wished to be kept informed of the new developments in the regard of pay comparisons in equal pay litigations. The report provides extensive statistics in this respect. However, the report does not provide information on whether the existence of a comparator is required in equal pay cases. The Committee asks to provide relevant information on this issue in the next report, in particular, if the law prohibits discriminatory pay in the legislation or in collective agreements, as well as, if the pay comparison is possible outside one company, for example, if such company is a part of a holding company and the remuneration is set centrally by such holding company.

According to § 6(2)3 of the Gender Equality Act, the activities of an employer shall also be deemed to be discriminatory if the employer „establishes conditions for remuneration or conditions for the provision and receipt of benefits related to the 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 of equal value“. According to § 6(2)1 employers` activities are also discriminatory if the employer, upon making those decisions, treats a person less favourably due to pregnancy, child-birth, parenting, performance of family obligations or other circumstances related to gender. Such activities are prohibited according to § 5(1) of the GEA which states that direct and indirect discrimination based on sex, including giving orders therefor, is prohibited.

According to § 3(1)3 of the GEA, direct discrimination based on sex 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. Thereby also a hypothetical comparator can be used. Specific pay comparisons outside one company but within a holding is possible, especially if the remuneration is set centrally by such holding company as it can then be considered “employer” referred to in the regulation of § 6(2)3 of the GEA.

The Committee asks the next report to provide extensive information on the reasons for the high gender pay gap, and specifically statistics on the adjusted and unadjusted gender pay gap.

According to Statistics Estonia[11] the gross hourly earnings of female employees in Estonia were 15.6 percent smaller than the earnings of male employees in 2020. The gender pay gap has decreased by 5.3 percentage points compared to 2017.

Table 7. Gross hourly wages and salaries of males and females and gender pay gap, 2017-2020:

	2017	2018	2019	2020
Gross hourly wages and salaries of males, euros	7,9	7,9	8,6	9,1
Gross hourly wages and salaries of females, euros	6,3	6,5	7,1	7,7
Wages and salaries gap, %	20,9	18,0	17,1	15,6

Source: Statistics Estonia

The gap was biggest in financial and insurance activities, 29.4 percent, followed by mining and quarrying, 26.1 percent, and information and communication, 24.1 percent. As in 2019, transportation and storage were the only economic activity where women earned more than men. In 2020, compared to 2019, the wage gap decreased the most in construction and increased the most in accommodation and food service activities.

Table 8. Gender pay gap (%) by economic activity, 2017-2020:

	2017	2018	2019	2020
Economic activities total	20,9	18	17,1	15,6
Agriculture, forestry and fishing	13,2	18,5	15,8	7,2
Mining and quarrying	31,1	28,9	26,5	26,1
Manufacturing	28	26,9	24,3	21,6
Electricity, gas, steam and air conditioning supply	14,7	12,3	16	11
Water supply; sewerage, waste management and remediation activities	5,9	5	8,9	5,4
Construction	16	11,1	15,7	3
Wholesale and retail trade	28,1	28,6	28,7	23
Transportation and storage	5,1	1,3	-4,7	-6,2
Accommodation and food service activities	15,9	15,8	11,5	15,9
Information and communication	25,2	23,4	23,9	24,1
Financial and insurance activities	38,2	33,2	27,1	29,4
Real estate activities	13,5	15	20,8	17,5
Professional, scientific and technical activities	22,8	15,7	8,1	12,1
Administrative and support service activities	12,2	11,3	15,5	18,2
Public administration and defence; compulsory social security	10,9	7,5	8,2	5,2
Education	16,2	16,7	17	16,7

[11] Statistics Estonia and Eurostat use different methodologies to calculate the gender pay gap. The gender pay gap published by Eurostat does not take into account the indicators of enterprises and institutions with fewer than 10 employees; it also excludes the earnings of employees in agriculture, forestry and fishing and in public administration and defence. Statistics Estonia takes into account all economically active enterprises, institutions and organizations with at least one employee.

Human health and social work activities	27,9	28,7	23,1	24
Arts, entertainment and recreation	17,9	21	15,2	12,6
Other service activities	1,1	13	18,8	17,1

Source: Statistics Estonia

There are several research projects in the recent years undertaken in Estonia to adjust gender wage gap to various factors such as type of occupation, education and other factors that might influence the pay gap and explain the causes of existing gender pay gap. In 2019, the Estonian Research Agency and Ministry of Social Affairs commissioned a research project "Reducing the gender pay gap"[12] that was carried out by Tallinn University, Tallinn University of Technology and Statistics Estonia. The analyse outlining the causes of the gender pay gap is more detailed than previous studies due to its larger sample size and the opportunity to combine Structure of Earnings study data about companies and pay with individual data from national registry (e.g., number of children). Due to this, it was possible to explain about 40% of the pay gap, which is more than twice than in previous studies. The results of a three-year study reveal that wages among both men and women are affected by factors such as occupation, their company's area of activity, education level, county as well as age. Differences in hourly wages for both men and women were due first and foremost, to the occupation people where in, second, the company's field of economic activity, third, their level of education, fourth, their place of residence (county) and fifth, their age. However, these factors explain the variability of women's hourly wages much better than they do men's hourly wages.

The latter suggests that the large wage gap in Estonia is driven by highly paid men whose wage levels cannot be explained by (standard) factors included in the analysis. In addition, men's hourly wages tend to be higher when they have more children, whereas this is the exact opposite for women. The gender segregation of the workforce is a key determining factor. Men tend to dominate in jobs with higher hourly wages; whilst the reverse is true for women. The higher the salaries offered by a company, the greater the gender pay gap is likely to be. When looking at ownership, the largest wage gap can be found in foreign-owned companies: ranging between 40-50% larger than in private companies of Estonian origin. The smallest pay gap can be observed in local government (14%), which is significantly lower than the rest of the public sector. The gender pay gap is wider in companies where the proportion of women in the workforce is higher.

Masso, Vahter and Meriküll linked under the The InWeGe (Income, Wealth, Gender) project[13] employer-employee data for the whole population of firms and employees from Estonia for 2006-2017. Their publication[14] results suggest that firm-level factors are important determinants of the gender wage gap, explaining as much as 35% of the gap. They find that within-firm bargaining plays a larger role in the gender wage gap than similar prior papers and relate this to lenient labour market institutions, as reflected in low minimum wages and union power, and lower bargaining skills of women.

[12] A brief summary of the study „The Analyzes of the gender pay gap in Estonia", available in English https://rege.tlu.ee/wp-content/uploads/Reducing-the-gender-pay-gap-kvant-1-page-summary-quantitative-study-ENG-TP3-1-1.pdf. The full report (in Estonian) is available on the project homepage at https://rege.tlu.ee/.

[13] The two-year InWeGe project included numerous activities. During the project nine studies were completed. More information can be found in the website of Commissioner for Equal Opportunities: https://volinik.ee/en/inwege/.

[14] Jaan, Masso; Priit Vahter and Jaanika Meriküll (2020) „The role of firms in the gender wage gap"; Tartu University. Available in English: https://volinik.ee/wp-content/uploads/2020/12/Ettevotluse-komponentide-palgalohe-uuring.pdf.

4. to recognise the right of all workers to a reasonable period of notice for termination of employment;

a) Please provide information on the right of all workers to a reasonable period of notice for termination of employment (legal framework and practice), including any specific arrangements made in response to the COVID-19 crisis and the pandemic.

There were no specific arrangements made in response to the COVID-19 crisis. An employment contract may be terminated at the initiative of the employer only in extraordinary cases, arising from economic reasons or reason arising from employee. ECA provides which cases can be counted as economic reasons and sets list of reasons arising from the employee as a result of which, upon respecting mutual interests, the continuance of the employment relationship may not be expected.

ECA § 97 (2) provides that employer shall give an employee advance notice of extraordinary cancellation if the employee's employment relationship with the employer has lasted:

1) less than one year of employment – no less than 15 calendar days;
2) one to five years of employment – no less than 30 calendar days;
3) five to ten years of employment – no less than 60 calendar days;
4) ten and more years of employment – no less than 90 calendar days.

b) If the previous conclusion was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.

In 2018 conclusions the Committee concluded that the situation in Estonia is not in conformity with Article 4§4 of the Charter on the grounds that general notice periods are not reasonable for employees and civil servants with more than three and less than five years of service, and no notice period is provided for in case of dismissal due to reduced working capacity caused by the state of health of the employee and due to an inability to perform work duties. Below are replies to the conclusions and questions of the Committee to explain the situation.

The Committee refers to its previous conclusion (Conclusions 2014) for a detailed description of the situation as regards notice periods. It reiterates its conclusion of non-conformity as regards notice periods for employees with more than three and less than five years of service.

ECA § 97 (2) sets notice periods depending on years of employment. For employees with more than three and less than five years of service the advance notice of extraordinary cancellation shall be given no less than 30 calendar days. According to ECA § 97 (4), terms for advance notice different from those provided for in ECA § 97 (2) may be prescribed by a collective agreement. In practice collective agreements may only prescribe longer notice periods.

According to Digest of the Case Law of the European Committee of Social Rights[15] after one year of service not less than one month's notice period should be granted and not less than eight weeks' notice after at least ten years of service. Both terms were taken into account while setting notice periods in ECA. We consider the situation is in conformity as regards notice periods for employees with more than three and less than five years of service. In the case of one to five years of employment, the notice

[15] Digest of the Case Law of the European Committee of Social Rights: https://rm.coe.int/digest-2018-parts-i-ii-iii-iv-en/1680939f80.

period is 30 calendar days and starting from five years of employment (till ten years), the notice period is 60 calendar days.

ECA also sets, if an employer cancels an employment contract extraordinarily, the employer shall grant the employee within the period of advance notice time off to a reasonable extent to find new employment. The "reasonable period" is not set by law. It means that period of time must be assessed with in the particular circumstances of the case. For example, a situation where an interview takes place in another city, the given time might be one day etc. It is also important to emphasize that this free time is given at the expense of the working time and must be paid on the average wages of an employee.

The Committee considers that the situation is not in conformity with Article 4§4 of the Charter, on the ground that no notice period is provided for in case of dismissal due to reduced working capacity caused by the state of health and due to inability to perform work duties.

The notice period is provided for in case of dismissal due to reduced working capacity caused by the state of health and due to inability to perform work duties. If employee is unable to perform work duties due to reduced working capacity caused by the state of health, the notice period in case of termination of employment contract depends on the years of employment set in ECA § 97 (2). It is general regulation and shall be applied in all cases of extraordinary cancellations by employer.

As an exception, ECA § 97 (3) sets, that on the basis specified in ECA § 88 (1), an employer may cancel an employment contract without adhering to the term for advance notice if, considering all circumstances and mutual interests, it cannot be reasonably demanded that the performance of the contract be continued until the expiry of the agreed term or term for advance notice.

ECA § 88 (1) 1) foresees, that employer may extraordinarily cancel an employment contract with good reason arising from the employee as a result of which, upon respecting mutual interests, the continuance of the employment relationship cannot be expected, especially if the employee has: for a long time been unable to perform his or her duties due to his or her 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 capacity for work due to state of health is presumed if the employee's state of health does not allow for the performance of duties over four months. Therefore, the employee and the employer both understand already before the cancellation of the employment contract that the employee is most likely not able to continue working on the same position. This time period of four months allows the employee to discuss his/her future in the organisation with the employer and when necessary, seek for new suitable job opportunities.

It is also important to keep in mind that if extraordinary cancellation of employment contract by employer happens for reason arising from employee set in ECA § 88 (1) and (2), before cancellation of an employment contract, the employer shall offer other work to the employee, where possible. The employer shall offer other work to the employee, including organise, if necessary, the employee's in-service training, adapt the workplace or change the employee's working conditions if the changes do not cause disproportionately high costs for the employer and the offering of other work may, considering the circumstances, be reasonably expected.

ECA § 88 (3) also sets, that employer may cancel an employment contract due to a breach of an employee's obligation or decrease in his or her capacity for work, if the cancellation is preceded by a warning given by the employer.

The Committee asks whether collective agreements may provide for less favorable notice periods and/or severance pay than those established by the Employment Contracts Act.

ECA § 2 foresees, that agreement derogating to the detriment of the employee from the provisions of ECA concerning the rights and obligations and liability of the contracting parties is void, unless the possibility of an agreement derogating to the detriment of the employee has been prescribed by ECA. ECA § 97 (4) prescribes, that terms for advance notice different from those provided for in ECA § 97 (2) may be prescribed by a collective agreement. On compensations for cancellation ECA § 100 sets regulation and less favourable compensations may not be provided by collective agreements.

The Committee concludes that as regards employees subject to the Civil Service Act, the situation is not in conformity with Article 4§4 of the Charter, on the ground that notice periods applicable are not reasonable for civil servants with more than three and less than five years of service.

The Civil Service Act is applied to the officials of state and local government authorities and in the cases provided for by this Act to the employees of a state and local government authority. The ECA shall not apply to officials, except in the cases provided for by Civil Service Act. The employment relationships of the employees in an authority shall be governed by the ECA and other acts regarding the governing of employment relationships. This means that notification periods set in ECA apply for employees working under an employment contract. Regulation and the notice periods set for officials are the same as in the ECA § 97.

According to the Civil Service Act[16] article 101 (1) an official shall be given an advance notice in writing of the release from service due to redundancy if his or her length of service has lasted:

1) less than one year for at least 15 calendar days in advance;
2) one to five years for at least 30 calendar days in advance;
3) five to ten years for at least 60 calendar days in advance;
4) ten and more years for at least 90 calendar days in advance.

If there will be changes in ECA, then there will be changes also in Civil Service Act. These regulations shall be the same.

5. to permit deductions from wages only under conditions and to the extent prescribed by national laws or regulations or fixed by collective agreements or arbitration awards. The exercise of these rights shall be achieved by freely concluded collective agreements, by statutory wage-fixing machinery, or by other means appropriate to national conditions.

No information requested, except where there was a conclusion of non-conformity or a deferral in the previous conclusion for your country. For conclusions of non-conformity, please explain whether and how the problem has been remedied and for deferrals, please reply to the questions raised.

In 2018 conclusions the Committee concluded that the situation in Estonia is not in conformity with Article 4§5 of the Charter on the ground that, after maintenance payments and other authorised deductions, the wages of workers with the lowest pay do not allow them to provide for themselves or their dependants. Below is a reply to the questions of the Committee to explain the situation.

[16] Available in English: https://www.riigiteataja.ee/en/eli/512112021001/consolide.

The Committee considers that the situation is still not in conformity with Article 4§5 of the Charter, on the ground that after maintenance payments and other authorised deductions, the wages of workers with the lowest pay do not allow them to provide for themselves or their dependants.

In its previous conclusion (Conclusions 2014), the Committee asked the next report to complete the list of circumstances (such as tax debts, civil claims, maintenance claims, fines, union dues) and the operations (assignments) liable to result in deductions from wages. It asked in particular for information on the limits to deductions from wages applied pursuant to agreements on the protection of working tools. The report indicates that deductions from wages are not left to the discretion of the parties of the employment contract. The law may allow parties to agree on proprietary liability, yet, in order for the employer to set off his/her claims against the employee's wage claims, the written consent of the employee is required. As no exhaustive information was provided on all points, the Committee reiterates its question.

In some cases, deductions from wages are left to the discretion of the parties of the employment contract. ECA § 78 sets specifications for set-off. Extrajudicially, an employer may set off its claims against an employee's wage claim by the employee's consent given in a format which can be reproduced in writing, unless otherwise provided by law. Consent given before emergence of the right to a set-off is void, unless the employee has consented to the set-off of the amount exceeding the agreed limit of the costs incurred on behalf of the employer. For example, if parties have agreed, that there is a fuel compensation and in certain month employee exceeds costs of the agreed limit, then these costs may be set-off without employee's consent given. However, if consent is given before emergence of the right to a set-off then this agreement is void. An example of this situation is when employment contract includes clause of setting of any expenses that employee may have in future.

Without the consent specified in ECA § 78 (1) an employer may withhold from an employee's wages any advance payment, made to the employee which the employee shall return to the employer and, upon expiry of employment contract, wages for unearned annual holiday. The employer shall, upon set-off, take into account the provisions concerning making a claim for payment provided for in § 132 of the Code of Enforcement Procedure[17].

ECA § 75 sets, that by an agreement on proprietary liability an employee assumes, regardless of guilt, liability for preservation of the property given to him or her for performance of duties. If employment contract sets agreement on proprietary liability, the employer pays the employee reasonable compensation, considering the upper limit of liability. If the situation of proprietary liability occurs, the set-off from employee's wages shall not be made unless there is employee's consent given after emergence of the right to a set-off.

There is no employee's consent needed in case of deductions from wages by bailiff under the valid enforcement procedure. In this case bailiff sends act of arrest to the employer and employer shall transfer sum from employee's wage to the bailiff according to following limitations.

The § 132 (1) of the Code of Enforcement Procedure sets that, earnings are not attached if they do not exceed the minimum monthly salary or a corresponding proportion of earnings for a week or day. But there can be some exceptions.

§ 132 (1^1) of the Code of Enforcement Procedure sets that if making a claim for payment on other assets of a debtor has not led to or presumably does not lead to complete satisfaction of a claim for child support, up to fifty percent of the income specified in § 132 (1) may be seized. If the amount

[17] Available in English: https://www.riigiteataja.ee/en/eli/515042021001/consolide.

seized out of the income of the debtor for the fulfilment of a claim for support of child is less than a half of the amount specified in § 132 (1), up to one-third of the income of the debtor may be seized.

§ 132 (1^2) of the Code of Enforcement Procedure sets that if making of a claim for payment on other assets of a debtor has not led or presumably does not lead to complete satisfaction of the claim, up to 20 percent may be seized of the income which is not higher than the income specified in § 132 (1), and from which the estimated subsistence minimum published by the Statistics Estonia has been deducted, regardless of the number of enforcement proceedings conducted concerning the debtor. Income shall not be seized if it is less than the estimated subsistence minimum published by the Statistics Estonia. The provisions of this section do not apply to claims for child support.

We would like to explain that in Estonia, all the claims concerning a child, including a claim for maintenance of a child, are considered priority claims and these claims should be proceeded in an accelerated procedure. This means that child's maintenance claims are satisfied before any other monetary claim. Other monetary claims can only be enforced if the debtor does not owe monthly child's maintenance and the claims would then be enforced taking into the account the changes made in § 132 (1^2).

§ 132 (1^3) of the Code of Enforcement Procedure sets that if a debtor has dependants, the 20 percent specified in § 132 (1^2) shall be calculated of the income of the debtor from which the amount not subject to seizure pursuant to § 132 (2) per each dependant and the estimated subsistence minimum published by the Statistics Estonia has been deducted.

§ 132 (2) and (3) of the Code of Enforcement Procedure are important as well, as they set additional regulations on deductions in order to protect debtor's wage. It is set that if, pursuant to law, a debtor maintains another person or pays alimony to him or her, the amount not subject to seizure increases by one-third of the minimum monthly wages per each dependant unless a claim for child support is subject to compulsory execution (§ 132 (2)). And up to two-thirds of an amount equivalent to five times the minimum wages may be seized, and all the income which exceeds an amount equivalent to five times the minimum wages may be seized out of the proportion of income exceeding the amount not subject to seizure, provided that the amount subject to seizure does not exceed two-thirds of the total income. This provision does not apply if a claim for support is subject to compulsory execution (§ 132 (3)).

All named regulations should be assessed in conjunction with the whole legal framework, and not just independently. The calculator of seizing wages can be found on the bailiff's homepage[18].

Here are some examples, in 2019 the minimum wage was 540 euros. The official estimated subsistence minimum (set by the Statistics Estonia) for 2018 was 215,44 euros. Therefore, the deduction could be made only on (540 - 215,44 = 324,56) 324,56 euros and after deduction (324,56 * 0,2 = 64,9) a debtor would be left with estimated subsistence minimum plus 259,66 euros (altogether 475,1 euros), which is already over twice as much as the estimated subsistence minimum published by the Statistics Estonia.

If the wage is 1000 euros and a debtor has 1 minor child, the absolutely not seizable share is minimum wage + 1/3 of minimum wage. In 2019 the minimum wage was 540 euros, one third of the minimum wage was 180, meaning that debtor shall have 720 euros and 280 euros could be seized.

[18] Scheme of seizing wages, available in English: http://kuchmei.tartutaitur.ee/index.php?page=content&tag=scheme&lang=en.

It is important to take into account, that in case if debtor and claimer agree on payment schedule, then only agreed monthly payment is usually seized from the wage. It helps debtor to maintain his or her economic situation, as by agreement of payment schedule debtor can usually name the sum how much he or she is willing to pay and how much he or she would like to keep on the bank account for monthly basic needs.

RESC Part I – 5. All workers and employers have the right to freedom of association in national or international organisations for the protection of their economic and social interests

Article 5 – The right to organise
With a view to ensuring or promoting the freedom of workers and employers to form local, national or international organisations for the protection of their economic and social interests and to join those organisations, the Parties undertake that national law shall not be such as to impair, nor shall it be so applied as to impair, this freedom. The extent to which the guarantees provided for in this article shall apply to the police shall be determined by national laws or regulations. The principle governing the application to the members of the armed forces of these guarantees and the extent to which they shall apply to persons in this category shall equally be determined by national laws or regulations.

a) Please provide data on trade union membership prevalence across the country and across sectors of activity, as well as information on public or private sector activities in which workers are excluded from forming organisations for the protection of their economic and social interests or from joining such organisations. Also provide information on recent legal developments in these respects and measures taken to promote unionisation and membership (with specific reference to areas of activity with low level of unionisation, such as knowledge workers, agricultural and seasonal workers, domestic workers, catering industry and workers employed through service outsourcing, including cross border service contracts).

There are no legal developments and specific measures taken to promote unionisation and membership. Statistical data is provided below. Also, there are no activities where workers are excluded from forming or joining organisations for the protection of their economic and social interests.

Table 9. Trade union membership by regions and sectors of activity, 2017–2020:

		2017	2018	2019	2020
Trade union membership (% of employees)		4.7%	5.9%	6.0%	5.4%
Regions	North Estonia	3.5%	4.5%	4.4%	4.2%
	Central Estonia	3.9%	4.3%	3.6%	5.0%
	East Estonia	7.4%	9.3%	11.4%	9.9%
	West Estonia	5.8%	7.3%	6.3%	4.8%
	South Estonia	5.8%	7.3%	8.0%	6.9%
Sectors of activity	Primary	0.7%	1.8%	0.9%	2.3%
	Secondary	3.2%	3.4%	3.8%	3.7%

	Tertiary	5.5%	7.2%	7.1%	6.3%

Source: Estonian Labour Force Survey

b) Also provide information on measures taken or considered to proactively promote or ensure social dialogue, with participation of trade unions and workers organisations, in order to take stock of the COVID-19 crisis and pandemic and their fallout, and with a view to preserving or, as the case may be, restoring the rights protected under the Charter after the crisis is over.

The social partners have been involved in consultations regarding COVID-19 crisis response measures. However, there are no specific measures taken regarding promotion of social dialogue.

c) If the previous conclusion was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.

In 2018 conclusions the Committee concluded that the situation in Estonia is in conformity with Article 5 of the Charter.

RESC Part I – 6. All workers and employers have the right to bargain collectively

Article 6 – The right to bargain collectively
With a view to ensuring the effective exercise of the right to bargain collectively, the Parties undertake: 1. to promote joint consultation between workers and employers;

No information requested. If the previous conclusion concerning the provision was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.

In 2018 conclusions the Committee concluded that the situation in Estonia is in conformity with Article 6§1 of the Charter.

2. to promote, where necessary and appropriate, machinery for voluntary negotiations between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements;

Please provide information on specific measures taken during the pandemic to ensure the respect of the right to bargain collectively. Please make specific reference to the situation and arrangements in the sectors of activity hit worst by the crisis whether as a result of the impossibility to continue their activity or the need for a broad shift to distance or telework, or as a result of their frontline nature, such as health care, law enforcement, transport, food sector, essential retail and other essential services.

There were no changes in legal frameworks or specific measures taken in response to the COVID-19 pandemic intended to ensure the respect of the right to bargain collectively.

3. to promote the establishment and use of appropriate machinery for conciliation and voluntary arbitration for the settlement of labour disputes;

No information requested. If the previous conclusion concerning the provision was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.

In 2018 conclusions the Committee concluded that the situation in Estonia is in conformity with Article 6§3 of the Charter.

and recognise: 4. the right of workers and employers to collective action in cases of conflicts of interest, including the right to strike, subject to obligations that might arise out of collective agreements previously entered into.

a) Please provide information on specific measures taken during the pandemic to ensure the right to strike (Article 6§4). As regards minimum or essential services, please provide information on any measures introduced in connection with the COVID-19 crisis or during the pandemic to restrict the right of workers and employers to take industrial action.

There were no changes in legal frameworks regarding right to strike. In order to strike the general COVID-19 crisis prevention measures set by Estonian Government had to be followed (limit on the number of participants, keeping distance etc).

b) If the previous conclusion concerning the provision was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.

In 2018 conclusions the Committee concluded that the situation in Estonia is not in conformity with Article 6§4 of the Charter on the ground that all public servants exercising authority in the name of the state are denied the right to strike and this blanket prohibition goes beyond the limits permitted by Article G of the Charter. Below is a reply to the conclusion of the Committee to explain the situation.

The Committee recalls that the right to strike of certain categories of public servants may be restricted, in particular members of the police and armed forces, judges and senior civil servants. However, the denial of the right to strike to public servants as a whole cannot be regarded as compatible with the Charter (cf. Conclusions I (1969)). Under Article G of the Charter, restrictions on the right to strike are acceptable only if they are prescribed by law, pursue a legitimate aim and are necessary in a democratic society for the protection of the rights and freedoms of others or for the protection of public interest, national security, public health, or morals (Conclusions X-1 (1987), Norway (under Article 31 of the Charter)). The Committee considers that such a blanket prohibition on all public officials exercising public authority cannot be in conformity with the Charter.

In 2013 the new Civil Service Act came into force and the scope of officials was significantly narrowed. According to § 6 of the Civil Service Act the civil service is a public-law service and trust relationship between the state or local government and an official to perform the functions of the authority, which is the exercise of official authority. § 7 of the Civil Service Act sets that official is a person who is in the public-law service and trust relationship with the state or local government.

According to the Civil Service Act all persons who are officials execute public power and that is the reason why their right to strike is banned. There were 28 371[19] persons in the civil service in 2020 and approximately 8000 of them are working with employment contract which means that they are not officials and the ban to strike does not apply to them.

RESC Part I – 21. Workers have the right to be informed and to be consulted within the undertaking

Article 21 – The right to information and consultation

With a view to ensuring the effective exercise of the right of workers to be informed and consulted within the undertaking, the Parties undertake to adopt or encourage measures enabling workers or their representatives, in accordance with national legislation and practice:

a. to be informed regularly or at the appropriate time and in a comprehensible way about the economic and financial situation of the undertaking employing them, on the understanding that the disclosure of certain information which could be prejudicial to the undertaking may be refused or subject to confidentiality; and
b. to be consulted in good time on proposed decisions which could substantially affect the interests of workers, particularly on those decisions which could have an important impact on the employment situation in the undertaking.

a) Please provide information on specific measures taken during the pandemic to ensure the respect of the right to information and consultation. Please make specific reference to the situation and arrangements in the sectors of activity hit worst by the crisis whether as a result of the impossibility to continue their activity or the need for a broad shift to distance or telework, or as a result of their frontline nature, such as health care, law enforcement, transport, food sector, essential retail and other essential services.

No specific measures on the level of legal framework were taken during the pandemic regards the right to information and consultation.

The right to information and consultation arises from the Employees' Trustee Act[20] §-s 19 to 21. Informing means provision of information to a trustee or, in his or her absence, to the employees on an appropriate level which allows the employees to receive in due course a clear and sufficiently detailed overview of the structure and economic and employment situation of the employer and the possible development thereof and of other circumstances affecting the interests of employees, and also to understand the effects of the situation and other circumstances on the employees. Consulting means exchange of views and the establishment of a dialogue between the trustee or, in his or her absence, the employees and the employer on an appropriate level which allows the trustee or the employees to express opinions and obtain from the employer reasoned responses to the expressed opinions for the purposes of reaching an agreement on the provisions of § 20 (1) 2) and 3) of the Employees' Trustee Act.

An employer shall inform and consult at least of the following circumstances pertaining to employees:

1) the structure of the employer, the staff, including the employees performing duties by way of temporary agency work, changes therein and planned decisions which significantly affect the structure of the employer and the staff;
2) planned decisions which are likely to bring about substantial changes in the work organisation;

[19] Civil service yearbooks, available in Estonian: https://www.rahandusministeerium.ee/et/riigi-personalipoliitika/personali-ja-palgastatistika.

[20] Available in English: https://www.riigiteataja.ee/en/eli/518112021004/consolide.

3) planned decisions which are likely to bring about substantial changes in the employment contract relationships of employees, including termination of employment relationships.

It is also set, that employer shall provide information in a manner which enables to thoroughly examine the information and, if necessary, prepare for consultations with the employer. The employer shall provide information in writing or in a format which can be reproduced in writing, unless the parties have agreed otherwise.

According to the Employees' Trustee Act § 24 (1), a failure to perform the obligation to inform or consult or provision of false information by the employer is punishable by a fine. In order to ensure the obligation of providing information, the fine rates were increased in December 2020 (entry into force January 8th, 2021).

b) If the previous conclusion concerning the provision was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.

In 2018 conclusions the Committee concluded that the situation in Estonia is in conformity with Article 21 of the Charter.

RESC Part I - Article 22 – Workers have the right to take part in the determination and improvement of the working conditions and working environment in the undertaking

Article 22 – The right to take part in the determination and improvement of the working conditions and working environment

With a view to ensuring the effective exercise of the right of workers to take part in the determination and improvement of the working conditions and working environment in the undertaking, the Parties undertake to adopt or encourage measures enabling workers or their representatives, in accordance with national legislation and practice, to contribute:

a. to the determination and the improvement of the working conditions, work organisation and working environment;
b. to the protection of health and safety within the undertaking;
c. to the organisation of social and socio-cultural services and facilities within the undertaking;
d. to the supervision of the observance of regulations on these matters.

a) Please provide information on specific measures taken during the pandemic to ensure the respect of the right to take part in the determination and improvement of the working conditions and working environment. Please make specific reference to the situation and arrangements in the sectors of activity hit worst by the crisis whether as a result of the impossibility to continue their activity or the need for a broad shift to distance or telework, or as a result of their frontline nature, such as health care, law enforcement, transport, food sector, essential retail and other essential services.

Right to take part in the determination and improvement of the working conditions arises from Occupational Health and Safety Act, Collective Agreements Act, Trade Unions Act and Employees' Trustee Act. More detailed answer was given in previous report. There were no specific measures taken during the pandemic to ensure the respect of the right to take part in the determination and improvement of the working conditions and working environment.

b) If the previous conclusion concerning the provision, was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.

In 2018 conclusions the Committee concluded that the situation in Estonia is in conformity with Article 22 of the Charter.

RESC Part I - 26. All workers have the right to dignity at work

Article 26 – The right to dignity at work

With a view to ensuring the effective exercise of the right of all workers to protection of their dignity at work, the Parties undertake, in consultation with employers' and workers' organisations:

1. to promote awareness, information and prevention of sexual harassment in the workplace or in relation to work and to take all appropriate measures to protect workers from such conduct;
2. to promote awareness, information and prevention of recurrent reprehensible or distinctly negative and offensive actions directed against individual workers in the workplace or in relation to work and to take all appropriate measures to protect workers from such conduct.

a) Please provide information on the regulatory framework and any recent changes in order to combat harassment and sexual abuse in the framework of work or employment relations. The Committee would welcome information on awareness raising and prevention campaigns as well as on action to ensure that the right to dignity at work is fully respected in practice.

Harassment and sexual abuse are prohibited by Penal Code[21]. In addition to the provisions described in previous report, in 2019 § 141^1 was added to the Penal Code that prohibits act of sexual nature against will. It sets, that commission of an act of sexual nature with a person against his or her will by using force or taking advantage of a situation in which, the person is not capable of initiating resistance or comprehending the situation and if it does not contain the necessary elements of an offence provided for in § 141 (rape) of the Penal Code is punishable by one to five years' imprisonment.

Equal Treatment Act and Gender Equality Act (GEA)[22] regulations were described in previous report and remained the same.

The Occupational Health and Safety Act was amended as well. OHSA § 3 (2) sets, that (among other factors) psychosocial factor present in the working environment shall not endanger the life or health of an employee or that of another person in the working environment.

The § 9^1 was added to OHSA, setting that psychosocial hazards are work involving a risk of an accident or violence, unequal treatment, bullying and harassment at work, work not corresponding to the abilities of an employee, working alone for an extended period of time and monotonous work and other factors related to management, organisation of work and working environment that may affect the mental or physical health of an employee, including cause work stress. In order to prevent damage to health arising from a psychosocial hazard, the employer shall take measures, including adapt the organisation of work and workplace to suit the employee, optimise the employee's workload, enable breaks to be included in the working time for the employee during the working day or shift and improve the enterprise's psychosocial working environment.

[21] Available in English: https://www.riigiteataja.ee/en/eli/502062021003/consolide.
[22] Available in English: https://www.riigiteataja.ee/en/eli/516012019002/consolide.

OHSA § 27[3] also sets, that violation of requirements established for working environment affected by physical, chemical, biological, physiological or psychosocial hazards if it involved a threat to the health or life of an employee, committed by an employer or an employer's management board member or another representative to whom the obligation to ensure compliance with these requirements was delegated is punishable by a fine of up to 300 fine units (1 unit is 4 euros). The same act, if committed by a legal person, is punishable by a fine of up to 32,000 euros.

In addition, strategic policy documents have been developed for prevention purposes. One of them is the Green book of Mental Health[23]. The Green book of Mental Health handles harassment and violence issues, including sexual violence, at home, at work, at school and elsewhere. The changes envisaged in the book contribute directly or indirectly to the prevention of violence and harassment in the workplace. For example, to assist and support employers and occupational health care providers in identifying, assessing and taking further action on psychosocial risk factors (including violence and harassment) through various measures. Welfare Development Plan 2016-2023[24] also brings out some measures and activities of prevention and combating of gender-based violence and harassment.

There are also other strategies that include violence and harassment in the workplace. For example, Violence Prevention Agreement for 2021-2025[25] deals with violence at home, digital world, in the workplace and elsewhere. The activities set out in the agreement (raising awareness of violence among the general public, increasing the competence of health professionals in detecting violence, training and information materials for the prevention of sexual violence) also contribute to the prevention of violence in the workplace. Also, Estonia 2035 strategy[26] includes prevention of harassment and violence, highlighting violence in the work environment.

There is also a dedicated web page about mental health on the Work Life Portal[27] that gathers all necessary information about psychosocial hazards that employers and employees need to know.

b) Please provide information on specific measures taken during the pandemic to protect the right to dignity in the workplace and notably as regards sexual, and moral harassment. The Committee would welcome specific information about categories of workers in a situation of enhanced risk, such as night workers, home and domestic workers, store workers, medical staff, and other frontline workers.

There were no specific measures taken during the pandemic.

c) Please explain whether any limits apply to the compensation that might be awarded to the victim of sexual and moral (or psychological) harassment for moral and material damages.

State compensation is available for victims of crime. Victim Support Act[28] provided the basis and rules for compensation. A crime of violence is an act committed against the life or health of a person which

[23] Available in Estonian: https://www.sm.ee/sites/default/files/news-related-files/vaimse_tervise_roheline_raamat_0.pdf.
[24] Available in English: https://www.sm.ee/sites/default/files/content-editors/eesmargid_ja_tegevused/welfare_development_plan_2016-2023.pdf.
[25] Available in Estonian: https://www.just.ee/sites/www.just.ee/files/vagivallaennetuse_kokkulepe_2021-2025_0.pdf.
[26] Available in English: https://valitsus.ee/strateegia-eesti-2035-arengukavad-ja-planeering/strateegia/materjalid.
[27] Available in English: https://tooelu.ee/en/67/mental-health.
[28] Available in English: https://www.riigiteataja.ee/en/eli/513052020004/consolide.

is punishable pursuant to criminal procedure and as a result of which the injured person dies, sustains serious damage to his or her health, or sustains a health disorder lasting for at least four months. The amount of compensation payable per one victim on the basis of this Act shall not exceed 9590 euros. Damage arising from incapacity for work or work decrement, expenses incurred due to damage caused to victim's health, damage arising from the death of the victim, damage caused to spectacles, dentures, contact lenses and other appliances substituting for bodily functions and to clothes, and the victim's funeral expenses can be covered.

Both gender-based and sexual harassment are prohibited as discriminatory under the Gender Equality Act. According to § 13 of the GEA, if the rights of a person have been violated due to discrimination, he or she may demand from the person who has violated the rights that the harmful activity be terminated and that the damage be compensated for on the bases of and pursuant to the procedure provided by law. In addition, an injured party may demand that a reasonable amount of money be paid to the party as compensation for non-patrimonial damage caused by the violation. Upon determination of the amount of compensation, a court or a labour dispute committee shall take into account, *inter alia*, the scope, duration and nature of the discrimination. No specific limitations are fixed in the GEA for either material or moral damages.

d) If the previous conclusion was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.

In 2018 conclusions the Committee concluded that pending receipt of information the situation in Estonia is in conformity with Article 26§1 of the Charter. With Article 26§2 the Committee deferred its conclusion pending receipt of information.

The Committee refers to its previous conclusion (Conclusions 2014) as regards the remedies available before the Gender Equality and Equal Treatment Commissioner, the Chancellor of Justice, the Labour Dispute Committees and the courts and reiterates its request for further information on the procedures available to victims of harassment.

As described in previous report and the question above, harassment is prohibited in OHSA, the Penal Code and the Gender Equality Act and the Equal Treatment Act.

Before taking any actions, victim can receive consultation or an opinion from the Gender Equality and Equal Treatment Commissioner, who is an independent and impartial expert, who acts independently, monitors compliance with the requirements of GEA and the Equal Treatment Act and performs other functions imposed by law. Victim can get information on possible procedures also from counselling lawyer of Labour Inspectorate, website of the Ministry of Social Affairs at www.sm.ee and in Work Life Portal maintained by the Labour Inspectorate at www.tooelu.ee.

GEA § 12 foresees that discrimination (including gender-based and sexual harassment) disputes shall be resolved by a court or a labour dispute committee. Chancellor of Justice shall resolve discrimination disputes by the way of conciliation proceedings. In cases of sexual harassment or sexual act against will, the cases are solved by misdemeanour proceeding or in criminal proceeding, on the procedure bases set by Penal Code.

Labour Dispute Committees also conduct conciliation proceedings. Conciliation proceedings are a simplified process for the settlement of a labour dispute by the chairman of the labour dispute committee. Victims of harassment may access the restorative justice service offered by the Social

Insurance Board. The restorative justice process differs from the conciliation proceedings of labour dispute committees in that, instead of dealing with legal aspects, it focuses on interpersonal relations.

If the rights of a person have been violated due to discrimination, he or she may demand from the person who has violated the rights that the harmful activity be terminated and that the damage be compensated on the bases of and pursuant to the procedure provided by law. Victim can demand material or non-material damage, depending on the case and caused damage also on the basis of law of civil proceedings.

The Committee asks whether the cooperation between the state, non-governmental organisations and employees' and employers' associations, noted in respect of prevention of sexual harassment, also applies in respect of moral (psychological) harassment. On a more general level, it asks what other measures have been adopted in order to promote awareness specifically against moral harassment and to inform workers and employers about their rights and obligations in this respect.

As already previously described, there have been changes made to the Occupational Health and Safety Act. The § 9^1 was added to the OHSA, pointing out that psychosocial hazards are also bullying and harassment at work. In order to prevent damage to health arising from a psychosocial hazard, the employer shall take measures, including adapting the organisation of work and workplace to suit the employee and improve the enterprise's psychosocial working environment. Employer shall inform workers about possible risks at workplace, prevent or minimalize risks, also risks of harassment (GEA § 11, OHSA §-s 12 and 12^1). In case the employer does not provide safe work environment, the employee may terminate employment contract on the bases of ECA § 91 (2) 1).

In order to promote awareness specifically on moral harassment and to inform workers and employers about their rights and obligations, different strategic documents and guidelines for prevention have been developed. As pointed out above, the Green book of Mental Health handles harassment and violence issues, including sexual violence at work. Green book of Mental Health was created in cooperation with social partners. The changes envisaged in the book contribute directly or indirectly to the prevention of violence and harassment in the workplace and promoting awareness. Welfare Development Plan 2016-2023[29] also brings out some measures and activities of prevention and combating of gender-based violence and harassment.

There are also other strategies that include promoting awareness and prevention of harassment in the workplace. For example, Violence Prevention Agreement for 2021-2025[30] deals with violence at workplace. The activities set out in the agreement (raising awareness of violence among the general public, increasing the competence of health professionals in detecting violence, training and information materials for the prevention of sexual violence) also contribute to the prevention and promotion of awareness of violence in the workplace.

As pointed out above, there is also a dedicated web page about mental health on the Work Life Portal[31] that gathers all necessary information about psychosocial hazards that employers and employees need to know.

[29] Available in English: https://www.sm.ee/sites/default/files/content-editors/eesmargid_ja_tegevused/welfare_development_plan_2016-2023.pdf.
[30] Available in Estonian: https://www.just.ee/sites/www.just.ee/files/vagivallaennetuse_kokkulepe_2021-2025_0.pdf.
[31] Available in English: https://tooelu.ee/en/67/mental-health.

The Committee previously (Conclusions 2014) asked, in the light of any relevant case law, whether the employer's liability can be engaged in respect of harassment involving, as a victim or as a perpetrator, a third person, such as independent contractors, self-employed workers, visitors, clients etc. According to the report, there are no examples of relevant case law. Therefore, the Committee requests that the next report provides information on the legal framework concerning the liability of the employer in cases of harassment involving a third person, as explained above, in the light of any relevant case law.

An employer shall ensure working conditions conforming to OHSA requirements (ECA § 28 (2) 6)). In order to prevent damage to employees' health arising from a psychosocial hazard, an employer shall take measures and improve the enterprise's psychosocial working environment (OHSA § 91 (2)). It means, that employer shall take any possible actions to prevent risks of harassment in workplace, including possible harassment risk involving a third person (such as independent contractors, self-employed workers, visitors, clients etc). Taking measures can include adapting the organisation of work and workplace to lower risks of harassment, reduce shifts where only one person is performing duties, install cameras and alarm buttons, provide personal protective equipment, any other way of increasing security.

If employer does not provide safety requirements established for a workplace by OHSA and it causes a threat to the health or life of an employee, it is punishable by a fine and the claim for caused damage may occur.

An employee may also file a claim for compensation for non-patrimonial damage against their employer; according to § 128 (5) of the Law of Obligations Act[32], non-patrimonial damage means, primarily, physical and emotional distress and suffering caused to the aggrieved person (so-called moral damage, which may include discrimination or ill-treatment by one's employer). Any claims must be substantiated and the damage suffered must be proven. The law does not provide for an amount for claims for damages – this needs to be determined by the claimant.

According to the Labour Dispute Committee in 2018[33] and 2019[34] two cases were registered, where harassment was caused by a third person, in one case caused by colleague and in other case by the landlord. Both cases were dismissed due to lack of proof of possible harassment caused by third person.

According to the GEA § 6(2)5, the activities of the employer are deemed to be discriminatory (and therefore also prohibited) when the employer (harasses a person in relation to the sex of the person or sexually, or) fails to perform the obligation provided for in § 11(1)4 of the GEA which obliges an employer to ensure that employees are protected from gender-based harassment and sexual harassment in the working environment. An employer is responsible for failure to perform such duty

[32] Available in English: https://www.riigiteataja.ee/en/eli/508012022001/consolide.

[33] Statistics of Labour Dispute Committee on the proceedings of the year 2018 related to unequal treatment, available in Estonian: https://www.ti.ee/sites/default/files/dokumendid/Meedia_ja_statistika/Toeoevaidlused/TVK_menetluses_olnud_diskrimineerimisvaidlused_2018.pdf.

[34] Statistics of Labour Dispute Committee on the proceedings of the year 2019 related to unequal treatment, available in Estonian: https://www.ti.ee/sites/default/files/dokumendid/Meedia_ja_statistika/Toeoevaidlused/toovaidluskomisjoni_menetluses_olnud_ebavordse_kohtlemisega_seotud_toovaidlusasjad_01012019_kuni_30062020.pdf.

of care if he/she/it was aware or should have been aware that gender-based harassment or sexual harassment occurred and failed to apply the necessary measures to terminate such harassment.

The Committee notes from the European Network of Legal Experts in Gender Equality and Non-Discrimination (Estonia, country report gender equality, 2017) that "claims for compensation related to discrimination have been rare and rather unsuccessful in the courts". It asks the next report to comment on this point and to provide any relevant case law or other evidence of the effectiveness of remedies, whether judicial, administrative or other kind.

According to the Labour Dispute Committee in the period of 2017-2020 there were 84 disputes in total settled, which were related to the discrimination or unequal treatment.

In 2017 the Labour Dispute Committee settled 26 disputes related to discrimination or unequal treatment[35]. In 6 cases the petitioners could not directly state the nature of the unworthy, unequal treatment or discrimination and one case did not belong under jurisdiction of the Labour Dispute Committee. In 10 cases the applicants waived their claims and 2 cases continued in court, but at least one was not successful, as the applicant asked court not to analyse harassment but only wrongful termination of employment contract. In many cases the Labour Dispute Committee could not identify harassment. Nevertheless, in some cases compensations were awarded. Mainly for wrongful termination of employment contract.

In 2018 the Labour Dispute Committee settled 19 labour disputes related to discrimination or bullying at work. The decision of the Labour Dispute Committee has entered into force in 11 of these cases. In 8 cases the Committee was asked to establish that the employee had been bullied at work (3 cases included harassment). Compensation for non-material damages caused amounted up to 3000 euros.

In 2019 there were 22 labour disputes settled. Six cases of discrimination or bullying at work ended with compromise agreement, only in one case the Labour Dispute Committee awarded victim with non-material damage, the compensation was 1200 euros.

In 2020 the Labour Dispute Committee settled 17 disputes related to discrimination or unequal treatment. One case ended with compromise agreement, 3 cases were missed due to lack of information[36]. There were no harassment cases registered by the Labour Dispute Committee in the 2020.

Also, since 2017 the Gender Equality and Equal Treatment Commissioner has published some substantial opinions relevant to Article 26 of the Charter:

- 20.06.2017 the Gender Equality and Equal Treatment Commissioner published an opinion on taking measures regarding persons with disabilities.[37] The opinion emphasised, that employer

[35] Statistics of Labour Dispute Committee on the proceedings of the year 2017 related to unequal treatment, available in Estonian: https://www.ti.ee/sites/default/files/dokumendid/Meedia_ja_statistika/Toeoevaidlused/Ebavordse_kohtlemise_vaidlused_2017__1_.pdf.

[36] Statistics of Labour Dispute Committee on the proceedings of the year 2020 related to unequal treatment, available in Estonian: https://www.ti.ee/sites/default/files/dokumendid/Meedia_ja_statistika/Toeoevaidlused/tvk_ebavordne_kohtlemine_2020.pdf.

[37] Available in Estonian: https://volinik.ee/wp-content/uploads/2020/05/Arvamus-kohandustest-puudega-inimesele_20062017.pdf.

has a duty to implement appropriate measures, where needed in a particular case, to enable a person with a disability to have access to, participate in, or advance in employment, or to undergo training. If appropriate measures are not taken, it will result in serious and sometimes irreversible negative impact to the health of the person with disabilities. Employer is not required to take appropriate measures when such measures would impose a disproportionate burden on the employer. If the employer does not implement appropriate measures and does not show that these measures would pose disproportionate burden, then the employer is discriminating the employee on grounds of disability. The Gender Equality and Equal Treatment Commissioner also pointed out that it is not considered discriminatory grant of preferences to persons with disabilities, including creating a work environment suitable for persons with special needs linked to disabilities, does not constitute discrimination.

- 03.10.2018 the Gender Equality and Equal Treatment Commissioner published an opinion on suspected gender-based discrimination concerning promotion and remuneration.[38] In the opinion, the Gender Equality and Equal Treatment Commissioner reminded that even if no direct discrimination had taken place in a given situation, the process of promotion had been carried out in an unclear manner for participants and the suspicions of the employee were understandable. The Gender Equality and Equal Treatment Commissioner therefore stated to employers that promotion motivates other workers to put more effort into it if the rules of promotion are understandable and known among the workers. The Gender Equality and Equal Treatment Commissioner also emphasised that doubting the worker's motivation due to her pregnancy is completely unacceptable. This opinion has been a reference point for several other consultations that have followed concerning hiring and promotion processes.

However, there is no specific statistical data about how the cases have concluded after the person has received legal aid and opinion of the Gender Equality and Equal Treatment Commissioner.

In addition to providing legal aid and opinions, the Gender Equality and Equal Treatment Commissioner works to raise awareness on equal treatment and non-discrimination by providing comments and opinions in media and publishing thematic leaflets and handbooks. Also, the Gender Equality and Equal Treatment Commissioner directs persons to other institutions if they are better suited to help.

RESC Part I - 28. Workers' representatives in undertakings have the right to protection against acts prejudicial to them and should be afforded appropriate facilities to carry out their functions

Article 28 – The right of workers' representatives to protection in the undertaking and facilities to be accorded to them

With a view to ensuring the effective exercise of the right of workers' representatives to carry out their functions, the Parties undertake to ensure that in the undertaking:

a. they enjoy effective protection against acts prejudicial to them, including dismissal, based on their status or activities as workers' representatives within the undertaking;
b. they are afforded such facilities as may be appropriate in order to enable them to carry out their functions promptly and efficiently, account being taken of the industrial relations system of the country and the needs, size and capabilities of the undertaking concerned.

[38] Available in Estonian („Voliniku arvamus soolise diskrimineerimise kahtluse kohta edutamisel ja töö tasustamisel"): https://volinik.ee/en/kasulikku/arvamused/.

a) With the objective of keeping this reporting exercise focussed, the Committee asks for no specific information in respect of Article 28. Nonetheless, it would welcome information about the situation in practice concerning this right during the pandemic and about measures taken to ensure that the COVID-19 crisis was not used as an excuse to abuse or circumvent the right of workers' representatives to protection, especially protection against dismissal.

Legal basis, which provides the employees' representatives the right to operate in the enterprise, to get necessary protection and stipulated benefits, has not changed in years 2017-2020.

No measures were taken on the impact of COVID-19 crisis regards employees' representative protection.

b) If the previous conclusion was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.

In 2018 conclusions the Committee concluded that the situation in Estonia is in conformity with Article 28 of the Charter.

RESC Part I – 29. All workers have the right to be informed and consulted in collective redundancy procedures

Article 29 – The right to information and consultation in collective redundancy procedures
With a view to ensuring the effective exercise of the right of workers to be informed and consulted in situations of collective redundancies, the Parties undertake to ensure that employers shall inform and consult workers' representatives, in good time prior to such collective redundancies, on ways and means of avoiding collective redundancies or limiting their occurrence and mitigating their consequences, for example by recourse to accompanying social measures aimed, in particular, at aid for the redeployment or retraining of the workers concerned.

a) With the objective of keeping this reporting exercise focussed, the Committee asks for no specific information in respect of Article 29. Nonetheless, it requests information about the situation in practice as regards the right to information and consultation in collective redundancy procedures during the pandemic, and about any changes introduced in law modifying or reducing its scope during the COVID-19 crisis.

No significant changes were made to the regulation since the last report. Information and consultation of employees upon collective cancellation of employment contracts are regulated in ECA § 90 and §-s 101 to 103, that were described in more detail also in previous report.

There were no modifications to the relevant legislation due to the COVID-19 crisis. Information about the right to information and consultation in collective redundancy procedures was available during COVID-19 crisis and has been kept up to date on the website of the Ministry of Social Affairs at www.sm.ee and in Work Life Portal maintained by the Labour Inspectorate at www.tooelu.ee. State and administrative supervision over the fulfilment of the requirements provided for in ECA § 101 (1) through (3), § 102 (1) and (2) is exercised by the Labour Inspectorate.

Table 10. Number of collective cancellations 2017-2020:

	2017		2018		2019		2020		In total 2017-2020	
Sector of economic activity	Persons	Notices	Persons	Notices	Persons	Notices	Persons	Notices	Persons	Notices
Public administration and defense; compulsory social security	13	1			11	1	12	1	36	3
Building	45	3			8	1	134	9	187	13
Electricity, gas, steam and air conditioning supply			5	1					5	1
Finance and insurance			71	1	228	6			299	7
Administration and support service activities	156	2	10	1	127	6	1612	18	1905	27
Education	96	5	28	2	90	4	208	7	422	18
Wholesale and retail trade; repair of motor vehicles and motorcycles	136	7	286	9	228	10	212	9	862	35
Information and communication	5	1	96	5	18	2	224	5	343	13
Real etstate activity	62	3	27	3	74	4	34	2	197	12
Arts, entertainment and free time	23	2	45	3	15	2	19	2	102	9
Professional, scientific and technical activities	60	1	10	1			142	6	212	8
Accomondation, catering	101	5	190	6	80	4	1404	39	1775	54
Other service activities	17	1	78	2			27	3	122	6
Mining industry	15	1			298	2			313	3
Undefined	29	3	27	1			236	4	292	8
Agriculture, hunting, forestry, fishing			50	3	16	1	75	5	141	9
Health and social work	32	2	43	5	13	1	75	4	163	12
Manufacturing industry	369	12	638	24	1237	25	1159	45	3403	106
Transportation, storage	114	2	58	4	301	7	291	11	764	24
In total	1273	51	1662	71	2744	76	5864	170	11543	368

Source: Estonian Unemployment Insurance Fund

b) If the previous conclusion was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.

In 2018 conclusions the Committee concluded that the situation in Estonia is in conformity with Article 29 of the Charter.