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Addendum

ESTONIA*

[25 May 2002]

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II IMPLEMENTATION OF SPECIFIC ARTICLES OF THE COVENANT

Article 1 Right to self-determination

1. The general legal framework has been described in the amended and revised CORE document that Estonia presented to the United Nations in 2001.

2. Estonia continues to respect the sovereignty, inviolability of frontiers, integrity, non-interference in the internal affairs of other States, the respect of human rights and fundamental freedoms, as well as the right of a nation to decide its own destiny.

3. The following provisions of the Constitution are directly related to the right of peoples to self-determination:

4. Estonia is an independent and sovereign democratic republic wherein the supreme power of the State is vested in the people. Estonian independence and sovereignity are interminable and inalienable (Article 1).

5. Estonia is politically unitary State wherein the division of its territory into administrative units shall be established by law (Article 2).

6. State power shall be exercised solely on the basis of this Constitution and such laws which are in accordance with the Constitution. Universally reckognised principles and norms of international law shall be an inseparable part of the Estonian legal system (Article 3).

7. The work of the Riigikogu (parliament), the President of the Republic, the Government of the Republic and the courts shall be organised on the principle of separate and balanced powers (Article 4).

8. The people shall exercise their supreme power through citizens who have the right to vote by electing the Riigikogu and participating in referenda (Article 56).

9. The procedure and organisation of referenda, parliamentary and local elections are further discussed under Article 25.

10. Estonia is the party to the International Covenant on Economic, Social and Cultural Rights. The instrument of accession to the named covenant was deposited by the Republic of Estonia with the UN Secretary General on October 21, 1991. The Covenant entered into force in respect to the Republic of Estonia pursuant to Article 27 (2) on January 21, 1992. On April 30, 1993 the Covenant was published in the State Gazette. The Republic of Estonia has submitted its Initial Report of the Covenant on Economic, Social and Cultural Rights (E/1990/5/Add.51). In addition, Article 2 of the Constitution stipulates that the land, territorial waters and airspace of the Estonian state are an inseparable and indivisible whole. Pursuant to Article 5, the natural wealth and resources of Estonia are national riches which shall be used economically.

11. With a view of implementing the principles enshrined in the Constitution, a number of legal acts have been adopted to protect nature and natural resources. Also, several national

programmes have been prepared in the field of natural protection. A selection of legislation concerning the natural environment is provided below.

12. According to the *Sustainable Development Act*, the national strategy on sustainable development is based on the resolutions of the UN Environmental and Sustainable Development Convention (Article 1). The *Sustainable Development Act* also includes the principle of the Convention provided in Article 1 (2) that the objective of sustainable use of natural environment and natural resources is to provide a suitable environment for the human being and the necessary resources for economic development without harming the natural environment and presrving natural diversity (Article 2). This legal act is also based on the principle provided in the Constitution by which everyone is obliged to preserve the living and natural environment and to avoid damaging it. The freedom to control property and carry out entrepreneurial activities has been restricted pursuant to the need to protect nature as common resource of mankind and as a national richness.

13. One of the main requirements for economic activities is to minimise pollution of the natural environment and to use natural resources only in quantities that ensure the preservation of natural balance. The planning of activities with a cross-border impact or with a potentially major impact on the natural environment and a joint organisation of environmental protection is carried out in international co-operation. The natural environment and the use of natural resources are regulated by usage and fee rates that are established by taking account of the impact of natural use to the environmental situation (Article 3). Environmental protection obligations arising from international agreement are carried out on the basis of national programmes approved by the Government of the Republic. Respective development plans are prepared for economic sectors and in regions where environmental pollution and the use of natural resources may endanger natural balance or biological diversity the development is being guided by national development plans.

14. *The Protection of Natural Objects Act* lays down the procedure for placing natural objects under protection, explains the essence of protection and establishes the rights and obligations of land owners, land users and other persons towards protected natural objects.

15. The purpose of the *Water Act* is to ensure the purity and ecological balance of inland and border waters and groundwater. The *Water Act* also regulates the use and protection of water.

16. The *Forest Act* regulates the management of forest as a renewable natural resource to ensure a human environment which satisfies the population and the resources necessary for economic activity without unduly damaging the natural environment.

17. The *Right to Use Natural Resources Act* lays down the basis for the usage and rates of usage of natural resources.

18. The *Environmental Supervision Act* lays down the principles for environmental supervision. Environmental supervision involves constant monitoring of the environmental situation and factors affecting it with the objective of forecasting the environmental situation and obtaining data for preparing programmes and development plans. The *Environmental Supervision Act* establishes the rights and obligations of persons who

exercise and manage state environmental supervision, the rights and obligations of persons who are subject to state supervision, and the procedure for supervisory operations.

Article 2 Human Rights and their protection, non-discrimination

19. Article 9 of the Constitution of Estonia sets out that the rights, freedoms and duties of each and every person, as set out in the Constitution, shall be equal for Estonian citizens and for citizens of foreign states and stateless persons in Estonia. The rights, freedoms and duties set out in the Constitution shall extend to legal persons in so far as this is in accordance with the general aims of legal persons and with the nature of such rights, freedoms and duties.

20. The rights, freedoms and duties set out in this Chapter shall not preclude other rights, freedoms and duties which arise from the spirit of the Constitution or are in accordance therewith, and conform to the principles of human dignity and of a state based on social justice, democracy, and the rule of law (Article 10 of the Constitution).

21. Rights and freedoms may be restricted only in accordance with the Constitution. Such restrictions must be necessary in a democratic society and shall not distort the nature of the rights and freedoms restricted (Article 11).

22. Everyone is equal before the law. No one shall be discriminated against on the basis of nationality, race, colour, sex, language, origin, religion, political or other opinion, property or social status, or on other grounds. The incitement of national, racial, religious or political hatred, violence or discrimination shall, by law, be prohibited and punishable. The incitement of hatred, violence or discrimination between social strata shall, by law, also be prohibited and punishable (Article 12).

23. The Constitution sets out that everyone has the right to the protection of the state and of the law. The law shall protect everyone from the arbitrary exercise of state authority. The guarantee of rights and freedoms is the duty of the legislative, executive and judicial powers, and of local governments (Articles 13 and 14).

24. Every person shall have the right to bring a case before the courts if his or her rights or liberties have been violated (Article 15 of the Constitution). Aliens and stateless persons in Estonia have the right to protection by the courts, equal to the right for Estonian citizens, if not otherwise established in international treaties entered into by the Republic of Estonia (Article 4(2) of the Courts Act).

25. Equality before the courts is further discussed under Article 14.

26. The Constitution states that in a court proceeding, the court will leave unapplied any law or other legislation that is in conflict with the Constitution. The Supreme Court will declare invalid any law or other legislation that is in conflict with the provisions and spirit of the Constitution (Article 152 of the Constitution). Provisions of the ICCPR may be directly invoked before the courts or other institutions.

27. According to Article 3 of the Constitution of Estonia, generally recognised principles and rules of international law are an inseparable part of Estonian legal system. If laws or other legislation of Estonia are in conflict with international treaties ratified by the Riigikogu (including international human rights conventions), the provisions of the international treaty shall apply (Article 123).

28. In accordance with the Foreign Relations Act, the Government of the Republic is responsible for the fulfilment of international treaties. If an Estonian legal act contradicts an international treaty, the Government either submits a bill to the Riigikogu for amendments to the act or the Government amends other legal acts within its competence to comply with the treaty.

29. Article 9 of the Code of Civil Court Procedure establishes that the courts must make decisions based on norms of international law ratified by the Republic of Estonia and Estonian law. If a treaty or a convention to which Estonia is a party provides rules of procedure, which differ from the rules established by laws regulating civil court procedure in the Republic of Estonia, the rules of procedure established by the treaty or convention shall be applied.

Oath of conscience

30. Under article 14 of its concluding observations (CCPR/C/79/Add.59), the Human Rights Committee expressed its concern that the conditions for appointment to or employment in any position in a State or local government agency, in particular the automatic exclusion of persons unable to satisfy the requirements of written oath of conscience regarding their previous activities (under the former regime), may give rise to an unreasonable restriction on the right of access to public service without discrimination.

31. In this respect, Estonia would like to draw the Committee's attention to the fact that according to Article 6 of the Constitution of the Republic of Estonia Implementation Act until 31 December 2000, a candidate for the position of President of the Republic, to the Riigikogu or to a local government council, or a person who seeks the position of Prime Minister, minister, Chief Justice of the Supreme Court, justice of the Supreme Court, judge, Legal Chancellor, Auditor General, President of the Bank of Estonia, Commander or Commander-in-Chief of the Defence Forces, or any other elected or appointed position in a state or local government body, was obliged to take a written oath that he or she has not been in the service or an agent of a security organisation, or of an intelligence or counterintelligence service of the armed forces of a state which has occupied Estonia, nor participated in the persecution or repression of persons because of political beliefs, disloyalty, social class or service in the civil or defence service of the Republic of Estonia. Therefore, the conditions for appointment to certain position are not applicable anymore.

32. Estonia has adopted several legislative acts to protect human rights and to prohibit all forms of racial discrimination. Acts motivated by racism or racial discrimination are punishable under the provisions of the Criminal Code.

33. Under Article 72^1 of the Criminal Code, it is also possible to hold a person criminally liable and to punish by a fine or detention for the violations of the principle of equality, that is for direct or indirect restriction of individual's rights or for establishing direct or indirect

preferences for an individual on the basis of his or her ethnicity, race, colour, sex, language, origin, religion, political or other opinion, property or social status, or on other grounds.

34. The penal law reform started in 1995 on the initiative of the Ministry of Justice to develop a flexible system of sanctions and to introduce effective alternatives to imprisonment. The Penal Code is one of the most important laws in the package of legislation for the implementation of the penal law reform (Draft Code of Criminal Procedure, Draft Code of Misdemeanour Procedure). Several important draft laws foreseen in the concept of the penal law reform have already been passed: including the Probation Supervision Act, the State Compensation of Victims of Crime Act and the Imprisonment Act.

35. On 6 June 2001, the Parliament passed the new Penal Code which will replace the current Criminal Code. The Penal Code will enter into force in the coming years. At present moment, a special act is prepared to introduce the new code.

36. The Draft Code of Criminal Procedure is currently in proceedings of the Parliament and is part of the draft legislation that is drawn up within the penal law reform. By replacing the current Code of Criminal Procedure, the new law will have to provide a basis for proceeding of the offences stipulated in the Penal Code.

37. Pursuant to Article 13 of the Code of Criminal Procedure, justice in criminal matters is administered according to the principle of equality of persons before the courts regardless of the person's origin, social status, financial situation, race, nationality, gender, education and other circumstances.

38. In the new Penal Code in Chapter 10 "Offences against political and civil rights" under Division 1 "offences against equality" there are 3 articles:

39. Article 151 on incitement of social hatred, according to which activities which publicly incite to hatred or violence on the basis of nationality, race, colour, sex, language, origin, religion, political opinion, financial or social status are punishable by a pecuniary punishment or up to three years' imprisonment.

40. Article 152 stipulates violation of equality, according to which unlawful restriction of the rights of a person or granting of unlawful preferences to a person on the basis of his or her nationality, race, colour, sex, language, origin, religion, political opinion, financial or social status is punishable by a pecuniary punishment or up to one year of imprisonment.

41. Article 153 stipulates punishment for discrimination on the basis of genetic risks.

System for the compensation of damage

42. In its Concluding Observations (CCPR/C/79/Add.59), the Human Rights Committee noted with concern that no legislation regarding the right to compensation for citizens whose rights have been violated by the State or by unlawful behaviour of officials has yet been adopted.

43. Pursuant to Article 13 of the Constitution, everyone has the right to the protection of the state and of the law. The law shall protect everyone from the arbitrary exercise of state authority. Pursuant to Article 25 of the Constitution, everyone has the right to compensation for moral and material damage caused by the unlawful action of any person.

44. In recent years, there has been significant progress in Estonian legislation concerning the compensation of damage to persons. Compensation of damage is regulated by the Constitution, the General Principles of the Civil Code Act and other Acts.

45. The protection of private life is regulated by the General Principles of the Civil Code Act which stipulates that everyone has the right to demand termination of a violation of the inviolability of his/her private life and to demand compensation for moral and proprietary damage caused thereby (Article 24). Also a person whose interests are damaged by use of his/her name or publicly used pseudonym may demand compensation of damage (Article 25). A person has the right to demand termination of defamation, refutation of defamatory information concerning the person and compensation for moral and proprietary damage caused by the defamation by a court proceeding, unless the defamer proves the accuracy of the information. If inaccurate information is disseminated through a mass medium, it shall be refuted in the same mass medium. A document which contains inaccurate information shall be replaced (Article 23).

46. Another important legal act is the State Liability Act which establishes the protection and restoration of rights that have been violated in the course of implementation of powers by public authority and in the exercise of other public functions, and provides the basis and procedure for the compensation of damage caused (state liability).

47. According to this Act, a person whose rights have been violated through unlawful activity of a public authority in a public-legal relationship may demand that both material and non-material damage caused to him or her be compensated. A natural person may demand monetary compensation of non-material damage in the case of culpable degradation of his or her dignity, damaging of health, deprivation of liberty, infringement of inviolability of home or private life or confidentiality of information, and defamation of honour and good name. An application for the compensation of damage may be filed with the administrative agency that caused the damage or a complaint may be filed with an administrative court. The State Liability Act entered into force on 1 January 2002.

48. The Surveillance Act stipulates that everyone whose rights and freedoms are violated by the activities of a surveillance agency or an official of a surveillance agency has the right of recourse to the courts (Article 18(2)).

49. The Constitution establishes that only laws which have been published shall have obligatory force. All legal acts of Estonia are regularly published in the Riigi Teataja (State Gazette) which is readily available in public. The most significant legal acts are also often published in the press. Estonian legal acts are also issued in Russian and regularly published in Estonian Legislation in Translation, containing translation into English of Estonian legal acts.

50. Most libraries, educational institutions, state agencies, private companies and organisations are connected to the internet, enabling easy access to international documents and Estonian legislative acts.

Position of aliens

51. The Aliens Act regulates the entry of aliens into Estonia, their stay, residence and employment in Estonia and the bases for legal liability of aliens (Article 1). For the purposes of the Act, an alien is a person who is not an Estonian citizen (Article 3(1)).

52. According to Article 5 aliens staying in Estonia are guaranteed rights and freedoms equal to those of Estonian citizens unless the Constitution, Aliens Act, other Acts or international agreements of Estonia provide otherwise. Aliens are guaranteed the rights and freedoms arising from the generally reckognised rules of international law and international custom. Aliens staying in Estonia are required to observe the constitutional order and legislation of Estonia.

53. The Aliens Act also sets the immigration quota. The annual immigration quota is the quota for aliens immigrating to Estonia which shall not exceed 0.05 per cent of the permanent populationof Estonia annually.

54. Third chapter of the Aliens Act sets passport requirements for the aliens. An alien who does not have a passport or equivalent document may be issued an aliens passport. An aliens passport may be issued to an alien staying in Estonia with regard to whom a decision to issue a residence permit has been made. Aliens who are unable to obtain a passport or equivalent document of their country of origin or any other state have the right to obtain alien's passport. (Article 8).

55. Chapter four of the Aliens Act deals with visas, residence permits and work permits. Residence permits are 1) temporary, which are issued for a term of up to five years; 2) permanent (Article 11). A permanent residence permit may be issued to an alien who has resided in Estonia on the basis of a temporary residence permit for at least three years within the last five years and who has a valid residence permit, a residence in Estonia and legal income for subsistence in Estonia, unless otherwise provided by the Act (Article 12 (3))

Article 3 Equality between men and women

56. As mentioned in Estonia's initial report (CCPR/81/Add.5. para. 34), men and women are equal before the law.

57. In connection with the issue of equality, Estonia would like to refer that it presented its initial, second and third report under the Convention on the Elimination of All Forms of Discrimination against Women on 14 June 2001.

58. The following are examples of the current laws that prohibit discrimination:

1) Article 5 of the *Advertising Act* prohibits all offensive and discriminating advertising. An advertisement is offensive if it is contrary to good morals and customs, calls on people to act unlawfully or to violate prevailing standards of decency, or if it contains

such activities. An advertisement is considered offensive in particular if the advertisement presents, incites or endorses discrimination on the grounds of nationality, race, colour, sex, age, language, origin, religion, political or other opinion, and financial or social status or other circumstances.

2) Article 5 of the *Wages Act* provides the principle of equal pay for the same work or for work of equal value and prohibits discrimination on grounds of sex with regard to all aspects and conditions of remuneration.

3) Article 10 of the *Employment Contracts Act* prohibits illegal preferences and restriction of rights as follows: "It is illegal to allow or give preferences, or to restrict rights on the grounds of the sex, ethnicity, colour, race, native language, social origin, social status, previous activities, religion, political or other opinion, or attitude towards the duty to serve in the armed forces of employees or employers." Under the preparation is the *Draft Employment Contracts Act* that prohibits direct and indirect discrimination.

59. The *Employment Services Act* establishes the principles of the rendering of employment services. According to the principles, upon provision of employment services, preferences shall not be given, and the rights of persons who seek employment shall not be restricted on the grounds of their nationality, sex, age, type of disability, sexual orientation, colour, race, social origin, social status, religion, political or other beliefs, or representation of the interests of employees or employers, unless it is prescribed by other Acts (Article 6).

60. Estonian laws so far did not distinguish between the terms "direct discrimination" and "indirect discrimination". The laws also do not define prohibition of discrimination on the basis of sex or the notion of equality between men and women.

61. The Draft Gender Equality Act has been prepared and the Government has approved it and it is under discussion in the Parliament. The aim of the Draft Act is to ensure the implementation of the principle of equality of sexes in social and political life.

62. According to the information from the Legal Chancellor, he has not received any requests or petitions concerning discrimination on the basis of sex although women's position, first and foremost at the labour market, in the family and in decision-making is lower than the position of men in Estonia. People do not yet identify unequal social hierarchies in society as discriminating structures.

63. An important improvement in the Estonian legislation is the new Administrative Procedure Act which took effect on 1 January 2000. Under the old law everyone had the possibility to dispute the acts and procedures of administrative bodies and officials and the court had the powers to declare the disputed acts or procedures illegal and the court proposed the pertinent body or official to review the matter and to make a new decision or to perform a new procedure.

64. According to the new law the administrative court has more powers and the court has also powers to quash (annul) the legal act in its entirety or partially. The administrative court may also decide that the administrative body or official should pay satisfaction to compensate the damage caused by the illegal legislative act or illegal procedures.

International co-operation

65. In 1998-2000, two PHARE projects were launched to harmonise Estonian laws with the European Union normative documents regulating equality between the sexes:
1) PHARE support for harmonising laws regarding equal treatment and employment conditions. As a result of the project, the range of topics to be regulated with a law on equality of men and women was specified.
2) Laws regulating state social insurance and EU legislation regarding equal treatment of men and women.

66. In the framework of the project "Promoting equality between sexes" financed by the United Nations Development Program (UNDP), the conformity of Estonian legislation with the UN Convention on the Elimination of All Forms of Discrimination against Women as well as with the European Community directives was analysed. Within the PHARE project F 167, legislative proposals from foreign experts have been gathered to guarantee conformity of Estonian legislation with EU directives on equal treatment of men and women and proposals concerning the structure and implementation of the law on the equality of the sexes. In the framework of the PHARE project 99/S/87/2, background material needed for drafting the law was collected.

67. With regard to the issues aimed at eliminating discrimination of women, Estonia has started close cooperation with specialists of other countries (first of all Finland, Sweden and Lithuania).

68. At the cooperation meeting of Baltic and Nordic ministers in 1997, an agreement was reached on common goals for the protection of the rights of women. At the same time, a Baltic-Nordic working group to address problems of equality was created, comprising equality specialists from each country's executive power structures.

69. On the initiative of the Ministry of Social Affairs, a PHARE project "Support to occupational safety and health care system" was launched and as one element it includes guaranteeing the equality of women and men in a working collective. This part of the project is aimed at training labour inspectors in the issues of equality of women and men, and creating a network between them in order to develop necessary competence centres. The first seminar was held on 24 March 2000 where more than 40 civil servants were briefed about the organisational climate, management style and indicators of the equality of sexes in a working collective.

70. In the Estonian report presented to the Beijing Conference in 1995, ten strategic directions were pointed out, among which the first was implementation of the Convention on the Elimination of All Forms of Discrimination against Women. Realisation of this and other strategic aims has received much attention both at the level of government, ministries and civil society.

71. There has been cooperation with international organisations – support has been provided by the UNDP and there has been cooperation with the Nordic Council of Ministers. There has also been participation in the events organised by the Council of

Europe – in cooperation with the latter institution four conferences have been organised in Estonia.

72. The national report "Estonian women in the changing society" (published with assistance from the UNDP) presented to the UN fourth women's world conference contained strategic aims for improving the situation of women in Estonia. They served as starting points for state agencies, non-governmental associations and individuals in planning their activities.

73. For solving the problems of the equality of the sexes, the report considered as a strategic priority to implement the Convention on the Elimination of All Forms of Discrimination against Women to which Estonia had acceded in 1991.

74. The final document of the UN IV women's world conference – the Platform for Action is an international document serving as a basis for determining Estonia's national priorities now and in the near future, both at the level of the government and non-governmental organisations. A report on the implementation in 1995-2000 of the tasks set out in the conference action platform by Estonia as a UN member state has been submitted to the Secretary-General of the UN.

75. Subsequent to the UN IV women's conference an inter-ministerial committee was created to review the decisions adopted at the UN conferences on social issues. The committee has examined documents adopted at four UN summits and Estonia's promises concerning the following sub-topics: education, health, housing, regional development, problems related to children, equality of women and men.

76. The committee decided that priority areas of development in Estonia with regard to the aspect of equality of the sexes are as follows:
1. To create and strengthen national structures that would fulfil the function of integrating the principle of equality.
2. To analyse conformity of Estonian legislation with international standards of equality.
3. To guarantee availability of official gender-sensitive statistics.
4. To improve the situation of women at the labour market and to increase their participation in decision-making.

77. During the preparatory period for the UN General Assembly's extraordinary session "Beijing+5" dedicated to the UN fourth women's world conference in January 2000, the Estonian delegation participated in the regional meeting organised by the Economic Commission for Europe of the UN Economic and Social Council where agreement was reached to focus on the following directions as national priorities: women's role in politics and in decision-making, combating violence against women and trafficking in women, strengthening of women's economic position and of the national institutions dealing with issues of equality.

Internal developments

78. At the national level, issues of equality of the sexes fall under the competence of the Ministry of Social Affairs. Since 1996, the Ministry has implemented measures to guarantee the rights of women, various activities have been aimed at raising the awareness

of the public, supporting political activity of women, training of civil servants, social partners and women's organisations, analysing data from social surveys, analysing of laws and launching of relevant projects.

79. Since December 1996, there is an equality bureau in the department of European Integration of the Ministry of Social Affairs. The main functions of the bureau include monitoring the observance of the principle of equality of women and men in legislation and in action plans, coordinating the creation of an institutional network dealing with the issue of sexes, organising preparation of action plans and programmes to guarantee equality in accordance with the requirements of the UN, Council of Europe and European Union, organising implementation of equality action plans in the area of government of the Ministry of Social Affairs, coordinating and organising ordering of interdisciplinary research to gather and analyse data on equality issues, participating in international cooperation regarding promotion of equality.

80. In 1997, training of civil servants, workers of different ministries, boards, inspectorates, city and county governments was started with the aim to create a network and establish contact persons who would be able to recognise and analyse cases of discrimination. A network of civil servants has been created involving representatives of the Ministry of Social Affairs, Ministry of Agriculture, Ministry of Justice and Ministry of Education.

81. Officials in other ministries and various government agencies have been offered several seminars and training courses with the aim to raise their awareness of the equality of the sexes. On the basis of the Government action plan, in 2000 training of civil servants in the issues of equality was organised in cooperation with the Baltic and Nordic countries.

Draft Gender Equality Act

82. According to the Government decision of 18 April 200, draft law on the equality of men and women was drawn up in the Ministry of Social Affairs. The draft law defines the central terms in connection with discrimination, prohibits discrimination on the basis of sex and requires authorities and employers to promote systematically and purposefully equality between men and women. The aim of the new law is to hinder discrimination between the sexes, to promote equality of women and men in society in general and for that purpose to improve the situation of women in all spheres of social life, first of all in employment. The law will also set a basis for the creation of a supervisory body (gender equality committee) and establish its tasks in the promotion of equality and its procedure for legal remedies; and it will stipulate the creation of an advisory body (gender equality council). Thus, for the first time in Estonia there will soon be a special law to regulate the area of equality of the sexes.

83. A more distant aim of the law is to bring along more tolerance in the mentality and attitudes. Enactment of the draft law will ensure the promotion of gender equality as a general interest in all areas of activity. The law should ensure that everyone has the possibility for development and self-realisation according to personal abilities, regardless of the sex. According to the provisions of the Draft Gender Equality Act, it should enter into force in 2002. On 6 November 2001, the Government approved the draft Act and it is currently under discussion in the Parliament.

Equality of men and women in labour market

84. First and foremost, inequality between men and women can be encountered in the labour market. Women are traditionally employed in service, commerce, education, health care and social welfare, making up over 70% of workforce in these fields. Among legislators, senior officials and top executives, women make up one third or even less. Men are in the majority in positions that make decisions for society. Mostly only well-known people get elected to the Estonian Parliament, but well-known are usually top executives or top specialists among whom the number of women is small.

85. In the 1990s, the Riigikogu was elected three times – in 1992, 1995, 1999. The proportion of women in elections has grown but not significantly: the percentage of women on candidates' lists was respectively 14%, 17.4%, 26.9%. Elected were respectively 13%, 11.9%, 17.8%. In 1999, more women (27% of the candidates) run for the Riigikogu than previously and also more women were elected – out of 508 women candidates 18 were elected to the Riigikogu. In local elections, usually more women run for office and as the competition is less intense also more women are elected.

86. In order to support the increased participation of women at the decision-making level and their entry into politics, female members of the Riigikogu formed the Riigikogu Women's Association in 1998 which included all female members of the then Parliament. In autumn 1998, the above association initiated the Roundtable of Women's Associations of Political Parties. The roundtable meets regularly every month. Its aim is to shape human-friendly environment in Estonia, improve domestic political climate, raise general political culture and promote entry of women into politics. Wishing to draw voters' attention to the low level of representation of women in the Parliament, the roundtable has addressed all political parties with a proposal to make lists of candidates in elections in the way that there would be at least three women among the top ten candidates on the national list of each political party.

87. By 2000, roundtables of female politicians were functioning in eight regions in Estonia.

The level of education

88. According to the data of the Estonian labour survey in 1995, women outperformed men with regard to the majority of educational indicators: 19% of working age women had higher education, 30% had specialised secondary education, while among working age men 16% had higher education and 21% specialised secondary education. At the same time, one fifth of working age men and only a little over a tenth of women had elementary or basic education.

Table 1. The proportion of women at different levels of education 1993-1999 at the beginning of academic year (%)[1]

	1993/1994	1995/1996	1997/1998	1999/2000
General education Full time study:	-	50,3	50,1	49,9
Years 10-12	60	59	60	60
General education Evening and correspondence study:	-	50,8	52,4	52,8
Years 10-12	50	51	52	53
Vocational and vocational secondary study	42	44	43	45
Professional secondary study	53	54	55	53
Vocational higher education				86
Higher education:				
Diploma courses	47	53	58	58
Bachelor courses	53	52	53	55
Master courses	42	52	56	58
Doctor courses	33	46	52	55

Sources: Education 1993/94. Tallinn: ESA, 1994; Education 1995/96. Tallinn: ESA, 1996; Education 1997/98. Tallinn: ESA, 1998; Education 1999/2000. Tallinn: ESA, 2000.

Article 4 Derogation of rights

89. The Committee in its observations has raised the question that *although there are provisions in the Constitution relating to the imposition of state of emergency, no legislation has yet been adopted in conformity with the requirements in the Covenant* (pp 16). By today, two separate Acts have been passed – the Emergency Situation Act and the State of Emergency Act that regulate in more detail the restriction of rights and freedoms during the state of war and during the state of emergency.

90. The Estonian Constitution provides a wider protection of the rights that may not be restricted and the protection is wider than the restrictions set out in Article 4 of the Covenant.

91. Article 129 of the Constitution stipulates that in the case of a threat to the Estonian constitutional order, the Riigikogu may, on the proposal of the President of the Republic or the Government of Estonia, by a majority of its membership, declare a state of emergency throughout the state, but for not longer than three months. The same article also states that the organisation of a state of emergency shall be provided by law. The law, namely the State of Emergency Act was passed by the Riigikogu on 10 January 1996 and entered into force on 16 February 1996. The aim of the Act is to establish the conditions and procedure for declaring a state of emergency to eliminate a threat to the constitutional order of

[1] In order to allow international comparison, the classification of Estonian curricula has been brought to conformity with the International Standard Classification of Education (ISCED).

Estonia, and the competence of the bodies organising the state of emergency, the measures implemented during the state of emergency, and the rights, duties and liability of persons during the state of emergency (Article 1).

92. Pursuant to Article 3 of the Act, a threat to the constitutional order of Estonia may originate from: an attempt to violently overthrow the constitutional order of Estonia; terrorist activity; violent collective attempt to exert pressure; large-scale violent conflict between groups of persons; or violent isolation of an area in the Republic of Estonia.

93. Article 4 of the Act provides that during the state of emergency the following rights and freedoms of persons may be restricted in the interests of national security and public order and pursuant to the cases and procedure set out in Article 130 of the Estonian Constitution:
- right to free self-realisation;
- right to freedom and security of person;
- right to freely choose a profession, occupation or place of work;
- right to freely engage in political parties or particular kinds of non-profit associations;
- right to freely possess, use and dispose of one's property;
- right to the inviolability of home;
- right to move freely about and choose one's residence;
- right to leave Estonia or settle in Estonia;
- right to the confidentiality of messages transmitted by post, telegraph, telephone or other public channels of communication;
- right to freely obtain information for public use;
- right of access pursuant to procedure provided by law to information maintained in state agencies and local government bodies and state or local government archives;
- right to freely impart ideas, opinions, convictions and other information by word, print, picture or other means;
- right to freely and peacefully assemble and hold meetings without prior permission;

94. The same article establishes that the restriction of a person's rights and freedoms may not involve torture, cruel or degrading treatment or illegal punishment; prohibition of the freedom of thought, conscience and religion; or arbitrary deprivation of a person's life. In addition paragraph 3 of that article stipulates that no one can be treated as guilty in criminal offence until such judgement has entered into force. According to paragraph 4 everone whose rights and freedoms are violated has the right to recourse to the courts.

95. Chapter 2 of the Act regulates the declaration of a state of emergency. Various articles of this chapter regulate the activities and tasks of the Government of the Republic, President of the Republic, Commander of the Armed Forces, National Defence Council and the Government crisis committee in declaring a state of emergency.

96. Chapter 3 of the Act regulates the competence of the bodies organising the state of emergency, measures taken during the state of emergency and the duties of persons. Article 17 under this Chapter establishes the competence of the Government of the Republic during the state of emergency.

97. Article 17. Competence of the Government of the Republic during the state of emergency

(1) During the state of emergency, the Government of the Republic, in order to eliminate the danger to the constitutional order of Estonia, may:

1) suspend the implementation of a legal act of a state agency and an act of general application of a local government, informing the Legal Chancellor immediately about it;
2) establish restrictions for entering and leaving Estonia;
3) establish a curfew – a prohibition to stay in the streets and other public places during the established period without a special permit and identity document;
4) establish types of documents which are required for staying in the streets and other public places at the time when staying in these places is prohibited without such documents, and if necessary establish the forms of these documents;
5) prohibit holding of strikes and lock-outs;
6) prohibit holding of meetings, demonstrations and pickets and other gatherings of people in public places;
7) prohibit publication of certain type of material in the mass media;
8) suspend radio and television broadcasting and publication of printed media;
9) require that holders of means of mass media preserve the recordings of broadcasted radio and television programmes until the end of the state of emergency;
10) submit to the Riigikogu a bill for additional budget for the state of emergency;
11) restrict or prohibit sale of weapons, poisonous substances and alcoholic beverages;
12) establish a special regime for the sale of foodstuffs;
13) establish a special regime for the sale of motor vehicle fuel;
14) establish restrictions on the use of means of communication;
15) establish restrictions on the movement of transport;
16) prohibit government agencies and local government bodies to disclose certain type of information;
17) submit to holders of means of mass media notices relating to the state of emergency for compulsory publication in the mass media.

(2) The Government of the Republic may annul the orders of the head of state of emergency and chief of public defence.

(3) The following persons will participate and have the right to vote in the meetings of the Government of the Republic for the discussions of the use of the Defence Forces and other issues relating to the state of emergency:
1) Chairman of the Riigikogu, in his or her absence the Deputy-Chairman;
2) authorised representative of the President of the Republic;
3) Commander of the Defence Forces or his or her authorised representative.

(4) An act of the Government of the Republic organising the state of emergency shall enter into force from the moment of its publication in the mass media with national coverage. The said act of the Government shall be published by the holders of the mass media immediately and in an unchanged form, unless a different time or procedure has been established by the act.

(5) An act of the Government of the Republic organising the state of emergency shall be published in the official gazette *Riigi Teataja* on the first working day following the adoption of the act, unless a different time or procedure has been established in the act.

98. Article 18 regulates the activities of the head of the state of emergency (state of emergency situation response coordinator), who is the Prime Minister or in prime minister's absence the substituting minister. Pursuant to Article 19(1), the head of the state or emergency may submit an application to the Supreme Court to suspend the activities of non-profit associations and their unions, including political parties and associations of employees and employers, until the end of the state of emergency, justifying it by anti-constitutional activities of the particular association or its union or a political party. The

Supreme Court, pursuant to Article 19(2) of the Act, is required to review the application in three days from the date of its receipt.

99. Article 20 of the Act regulates the activities of the chief of public defence, who is the Minister of Internal Affairs or in his or her absence the substituting minister. The chief of public defence is accountable to the head of the state of emergency and is directly administering the activities to eliminate the threat to the constitutional order of Estonia (Article 20(2)). Article 25 establishes the obligation for a mayor or rural municipality mayor to comply with the orders of the head of state of emergency and chief of public defence. Article 26 establishes that possessors of means of mass media with national coverage are required to publish the legislation issued by the Riigikogu, President of the Republic, Government of the Republic, head of state of emergency and chief of public defence to regulate the state of emergency, and to publish it immediately and unchanged, unless other term or procedure is established in the legislation itself.

100. Chapter 4 of the Act regulates the derogations of proceeding of criminal and administrative offences during the state of emergency. Pursuant to Article 27, proceeding of criminal and administrative offences during the state of emergency takes place pursuant to the procedure that was in effect at the time of declaring the state of emergency, considering the derogations established in the Act. In conformity with Article 28, participation of the defence counsel in the proceeding of offences committed during the state of emergency is allowed from the moment of bringing of charges. Pursuant to Article 37(2) of the Code of Criminal Procedure, criminal defence counsel has the right to participate in a criminal proceeding after the detention of a person as a suspect. The participation of the defence counsel is restricted until the end of the state of emergency.

101. Detention of a person as suspect of crime is regulated by Article 29, paragraph 1 of which says that during the state of emergency a suspect of crime may be kept in custody until the bringing of charges and application of a preventive measure, but not longer than fifteen 24-hour periods (pursuant to Article 108^1 (1) of the Code of Criminal Procedure, the detention of a suspect is a procedural act whereby a person is deprived of liberty for up to forty-eight hours, and concerning which minutes of detention shall be prepared). The investigator or preliminary investigator makes an order concerning the detention of a suspect during the state of emergency and the investigator will notify the prosecutor of it within 48 hours. The content of the ruling is communicated to the suspect and his signature is obtained. During the state of emergency, the suspect is interrogated within three days from the moment of detention.

102. Pursuant to Article 30, during the state of emergency the Chief Justice of the Supreme Court has the right to change the territorial jurisdiction of courts for reviewing criminal and administrative offences. Pursuant to Article 31, during the state of emergency a criminal case is assigned for hearing in 10 days from the moment of its receipt by the court, and the judgement is proclaimed not later than the following day after the judgement was made.

103. Chapter 5 of the Act regulates liability during the state of emergency. Article 32 provides types of liability, according to which, depending on the circumstances, either criminal, administrative, civil or disciplinary liability is applied to persons whose activities pose a threat to the constitutional order of Estonia as determined in Article 3 of the Act. Paragraph 2 of the same article establishes that in addition to administrative liability provided in the Code of Administrative Offences, during the state of emergency the

administrative liability of a natural person is established pursuant to Articles 33 (infringement of legislation regulating the state of emergency), 34 (obstructing the activities of an official during the state of emergency) and 35 (staying in the street or other public place without required documents during curfew hours) of the Act.

104. Chapter 6 of the Act contains final provisions that deal with supervision over the legality of legislation regulating the state of emergency (pursuant to Article 40, supervision is exercised by the Legal Chancellor); end of validity of the legislation (Article 41) and period of validity of the administrative punishments (Article 42).

105. Services required from the defence forces in case of emergency or calamity are regulated with the Emergency Situation Act that came into force on 16 February 1996. Article 16 of the Act stipulates that on the proposal of the Government of the Republic, the President of the Republic orders, by a resolution, the Commander of the Armed Forces to use the Defence Forces during an emergency situation in order to eliminate the danger arising from the event due to which the emergency situation is declared and to assist the victims.

106. The Defence Forces are engaged during an emergency situation without military action in the cases and pursuant to the procedure provided by law. The use of the Defence Forces to eliminate the danger arising from the event due to which an emergency situation is declared consists of:

1) the use of the Defence Forces in rescue work,
2) the use of the Defence Forces together with the police and other armed units of the Ministry of Internal Affairs in regulating traffic and ensuring security in the emergency area or crisis area.

107. During an emergency situation which is declared regarding a natural disaster or catastrophe, it is permitted to restrict the following rights and freedoms:

1) restrict the rights of natural persons to move freely in the emergency area;
2) prohibit natural persons from assembling and conducting meetings in the emergency area, in order to maintain public order and ensure traffic safety;
3) require natural persons to participate in rescue work.

108. During an emergency situation which is declared in order to prevent the spread of an infectious disease, it is permitted to:

1) restrict the rights of natural persons to move freely and to enter Estonia;
2) prohibit natural persons from assembling and conducting meetings in the emergency area;
3) require natural persons to participate in rescue work (Article 8 of the Emergency Situation Act).

109. The right of a natural person to the inviolability of his or her residential or other space or territory may be restricted to maintain health and public order during rescue work in an emergency area.

110. Everyone whose rights and freedoms are violated has the right of recourse to the courts.

Article 5 Restriction of rights

111. According to the Constitution of Estonia, rights and freedoms may be restricted only in accordance with the Constitution. Such restrictions must be necessary in a democratic society and may not distort the nature of the rights and freedoms restricted.

112. Universally recognised principles and norms of international law are an inseparable part of the Estonian legal system (Art. 3, Constitution). If Estonian laws or other acts contradict foreign treaties ratified by the Riigikogu, the provisions of the foreign treaty will be applied (Art.123, Constitution).

113. After the consideration of the initial report of Estonia by the Human Rights Committee at its 1455th and 1459th meetings, on 23 and 25 October 1995, and after the Committee issued the Concluding Observations on 9 November 1995 (CCPR/C/79/Add.59) Estonia has become a State Party to the following relevant international instruments:

Convention relating to the Status of Refugees and Protocol Relating to the Status of Refugees (Convention entered into force on 9 July 1997, Protocol entered into force on 10 April 1997 (RT II 1997, 6, 26));

Convention for the Protection of Human Rights and Fundamental Freedoms as amended by Protocols Nos. 3, 5, 8 and as completed by Protocol No 2 (ETS 5, 9, 44, 45, 55, 118, 146, 155) (entered into force on 16 April 1996 (Convention and its Protocols (except Protocol No. 6) are published in RT II 1996/11-12/34);

Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS 9) (entered into force with the Convention);

Protocol No 4 to the Convention for the Protection of Human Rights and Fundamental Freedoms other than those included in the Convention and in Protocol No 1 (ETS 46) (entered into force with the Convention);

Protocol No 6 to the Convention for the Protection of Human Rights and Fundamental Freedoms concerning the Abolition of the Death Penalty (ETS 114) (entered into force on 1 May 1998 (RT II 98, 14,22));

Protocol No 7 to the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS 117) (entered into force on 1 July 1996);

Protocol No 9 to the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS140) (entered into force on 1 August 1998);

Protocol No 10 to the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS 146) (ratified with the Convention);

Protocol No 11 to the Convention for the Protection of Human Rights and Fundamental Freedoms, restructuring the control machinery established thereby (ETS 155) (entered into force on 11 November 1998);

European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (ETS 126) (entered into force on 1 March 1997 (RT II 1996/36-37/132));

Protocol No 1 to the European Convention of Torture (ETS 151) (ratified with the Convention);

Protocol No 2 to the European Convention of Torture (ETS 152) (ratified with the Convention);

Framework Convention for the Protection of National Minorities (ETS 157) (entered into force on 1 February 1998 (RT II 96 40/154));

European Social Charter (revised) (ETS 163) (signed on 4 May 1998).

Article 6 The right to life

114. Under Article 17 of its concluding observations (CCPR/C/79/Add.59), the Human Rights Committee expressed its concern that the death penalty could still be imposed in Estonia for crimes which cannot be qualified as the most serious crimes under Article 6 of the Covenant.

115. After the submission of the first report, Estonia has taken significant steps in the sphere of human rights. As a member state of the Council of Europe, Estonia acceded to Protocol No. 6 of the Convention on the Protection of Human Rights and Fundamental Freedoms (ETS 114), which means that death penalty was replaced by life imprisonment in Estonia. The Riigikogu ratified the Protocol on 18 March 1998 and it entered into force on 1 May 1998.

116. Relevant amendments have also been made in the Criminal Code which formerly established death penalty as the most severe sanction for certain crimes – at the moment the most severe punishment is life imprisonment. Also, the President did not allow to execute any death penalties before the accession to the Protocol, i.e. in essence the death penalty was eliminated before the accession to the Protocol. Since 1991, no death penalties have been executed in Estonia – the punishment of all persons on the death row has been replaced by life imprisonment.

117. The Constitution stipulates that everyone has the right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his or her life (Article 16).

118. Chapter 4 of the Criminal Code (Offences Against Persons) contains several articles that punish deprivation of life by criminal acts.

119. Murder is punishable by five to twelve years' imprisonment (Article 100, Criminal Code). Murder is punishable by eight to fifteen years' imprisonment or by life imprisonment in the following cases:
1) murder for the purpose of personal gain, or
2) murder driven to by hooliganism, or

3) murder to conceal another criminal offence or facilitate commission thereof, or murder connected with rape, or
4) if murder is committed in connection with the performance of official or public duties by the victim, or
5) murder of two or more persons, or
6) murder of a woman whom the offender knows to be pregnant, or murder of an aged person or a child, or
7) murder committed in an especially torturous or cruel manner or in a manner which threatens the life of more than one person, or
8) murder committed by a person who has previously committed a murder, except for homicide committed in a provoked state of in excess of the limits of self-defence, or
9) murder committed by using an explosive device or explosive substance (Article 101, Criminal Code).

120. Murder of a new-born child by the mother during delivery or immediately after delivery is punishable by up to four years' imprisonment (Article 102, Infanticide, Criminal Code). Homicide committed in a provoked state which is inflicted suddenly as a result of violence or grave insult by the victim is punishable by up to four years' imprisonment (Article 103, Criminal Code). Homicide committed in excess of the limits of self-defence is punishable by detention or up to two years' imprisonment (Article 104, Criminal Code). Causing death through negligence is punishable by detention or up to three years' imprisonment (Article 105, Criminal Code). Cruel treatment or insult which results in the suicide of or an attempt to commit suicide by a person is punishable by three to eight years' imprisonment (Article 106, Criminal Code).

121. Excessive use of power when it constitutes illegal use of a weapon, use of violence or an act torturing or insulting a victim by a person acting in his or her official capacity is punishable by up to six years imprisonment (Article 161^1, Criminal Code).

122. The new Penal Code establishes criminal punishments for the following offences against person:

Article 113. Manslaughter
Manslaughter is punishable by six to fifteen years' imprisonment.

Article 114. Murder
Manslaughter, if committed:
1) in a torturous or cruel manner;
2) in a manner which is dangerous to the public;
3) against two or more persons;
4) at least twice;
5) in connection with robbery or for the purpose of personal gain;
6) in order to conceal another offence or facilitate the commission thereof;
7) by using an explosive device or explosive substance,
is punishable by eight to twenty years' imprisonment or life imprisonment.

Article 115. Manslaughter in provoked state
Manslaughter, if committed in a state of sudden extreme emotional disturbance caused by violence or insult inflicted on the killer or a person close to him or her by the victim, is punishable by one to five years' imprisonment.

Article 116. Infanticide
A mother who kills her newborn child during delivery or immediately after delivery shall be punished by up to five years' imprisonment.

Article 117. Negligent homicide
Killing of another person through negligence is punishable by up to three years' imprisonment.

123. The Criminal Code under chapter I of the Special Part "Crimes against humanity and war-crimes" contains also crimes relating to nuclear weapons. Article 61^4 states that giving a command for the use of prohibited means or methods of warfare, also violating the rules of warfare in force, is punishable by up to ten years' imprisonment.

124. The new Penal Code in Article 89 "Crimes against humanity" defines it in a following manner: "Systematic or large scale deprivation or delimitation of human rights and freedoms, also the killing, torture, rape, causing bodily harm, forced transfer, deportation, forcing to prostitution, unfounded deprivation of liberty or other wrongful treatment of civilian population, instigated or directed by a state, organization or group". Crime against humanity is punishable by eight to twenty years' imprisonment or by life imprisonment.

125. According to Article 93 of the Penal Code, elaboration, production, preservation, acquirement, transmission, sale or giving into use or other ways offering for use chemical, biological or bacteriological weapon or other internationally prohibited weapon of mass destruction or other weapon, or their important components, is punished by three to twelve years' imprisonment. Under Article 2, the same act, if committed by a legal entity, is punishable by pecuniary punishment or compulsory liquidation.

126. Article 103 of the Penal Code deals with the use of prohibited weapons. Under that article, the use of biological, bacteriological or chemical weapons or other weapons of mass destruction, toxic weapons, toxic or asphyxiating gases, booby traps, i.e. explosives disguised as small harmless objects, expanding bullets, weapons injuring by fragments which escape X-rays, or other internationally prohibited weapons, or large-scale use of incendiary weapons under conditions where the military objective cannot be clearly separated from civilian population, civilian objects or the surrounding environment, is punishable by three to twelve years' imprisonment.

127. Under the new Penal Code, damaging of the environment as method of warfare is also prohibited (Article 104).

Disappearance of individuals

128. According to the National Police Board, 1602 persons have been reported missing during the period from 1995 until 1 September 2001. At the end of September 2001:
251 are wanted by the police;
934 location has been ascertained;
342 corpses have been identified;
5 declared dead (by court);
70 dead.

129. The statistics of the Police Board do not distinguish between the dead who have died through crime of violence and those who died in an accident or due to natural causes. Information has been obtained later about persons who have been declared missing on the basis of an application filed by relatives, but who during the first years of independence migrated from Estonia to Russia or to other former Soviet republics. The police have received reliable information from the relatives about the missing persons who have died in those countries.

Children

130. Article 8 of the Child Protection Act stipulates that every child has an inherent right to life, health, development, work and well-being.

131. For failure to fulfil the duty to raise and teach a child by parents or persons who have legally taken over their obligations (guardian, caretaker in the family, foster-parent, children's welfare institution, guardianship authority) the Code of Administrative Offences prescribes a penalty in the form of a fine up to 50 daily wages (Article 153).

Infant mortality

Table 2. Infant mortality (Deaths under 1 year of age per 1000 live births)

Year	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000
IMR	12,4	13,4	15,8	15,8	14,5	14,8	10,4	10,1	9,3	9,5	8,4

Source: Statistical Office of Estonia, 1999-2001

132. Although infant mortality (mortality of children 0-1 years old) has declined in Estonia, it is still high compared to developed countries. A sharp increase in infant mortality in 1992-1993 was partly due to the fact that since 1992 new definition of birth applied, according to which births beginning from 22nd week of pregnancy (instead of previous 28 weeks) and of children with birth weight 500 grams (instead of previous 1000 grams) were registered.

133. The decline in infant mortality is a result of a decrease of early neo-natal deaths, which, in turn, is due to improvement of pre-birth diagnostics. If in early 1995 there were 7.9 deaths of infants 0-6 days old per 1000 live births, in 1998 the rate was 3.0. Mortality of infants under one year old due to pathologies of perinatal period dropped within the same time from 8.2 to 7.3 per 1000 children of same age. The main causes of infant deaths are pathologies of perinatal period and congenital malformations. For more detailed information about infant mortality see the initial and second report of the Republic of Estonia, consolidated in one document, to the Committee on the Rights of the Child, under Article 44 of the International Convention on the Rights of the Child (submitted 6 June 2001).

Malnutrition

134. There are no official statistical data on starvation or malnutrition. According to national health statistics, approximately 200 children and 200 adults are diagnosed as malnourished every year, based on persons hospitalised in recent years. No territorial region is highlighted. In many cases obesity is actually a more significant problem than malnutrition.

135. For improving the availability of food, the following measures have been implemented:

- the cost of school meals of children coming from poorer families are partly or fully covered by local governments: in individual rural school all children are served free meals;
- soup kitchens operate for poor and homeless people;
- elderly and disabled persons who cannot move without assistance are assisted by social workers who buy them food for money of the elderly or disabled persons or provide them with free meals.

136. Diabetics and other persons who need special diets are provided with the necessary foodstuffs produced in Estonia or imported.

137. Nutritional and health educational training has been provided in the framework of health promotion projects that have been funded by the health insurance budget sivce 1995. The national health programme of children and young people that was begun in 1996 will be completed in 2005. School Meal, a sub-project of the national project deals with the quality of food and nutritional training in school.

Life expectancy

138. Estonian women live an average of ten years longer than men (75.5 and 64.4 years, respectively, by 1998 data). The mortality rate for men is higher because of such causes of death as poisoning by alcohol, suicide, homicide and traffic accidents. In 1998, the mortality ratio of external causes of death of women and men was 0.25.

Table 3. Average life expectancy by Estonian tables of life

Year	Age of males				
	0	1	15	45	60
1988	66.6	66.5	53.2	26.1	15.3
1989	65.7	65.8	52.6	26.1	15.3
1990	64.6	64.5	51.2	25.2	14.8
1991	64.4	64.4	51.0	25.1	15.0
1992	63.5	63.6	50.3	24.7	14.6
1993	62.5	62.6	49.1	23.7	14.2
1994	61.1	61.1	47.5	23.0	14.1
1995	61.7	61.8	48.4	23.5	14.5
1996	64.5	64.3	50.7	24.5	14.8
1997	64.7	64.3	50.9	25.0	15.2
1998	64.6	64.0	50.5	24.4	14.8

Year	Age of females				
	0	1	15	45	60
1988	75.0	74.9	61.5	32.7	19.6
1989	74.7	74.6	61.1	32.6	19.7
1990	74.6	74.5	61.0	32.4	19.4
1991	74.8	74.6	61.0	32.4	19.6
1992	74.7	74.7	61.2	32.6	19.8
1993	73.8	73.9	60.4	32.0	19.3
1994	73.1	73.0	59.4	31.6	19.3
1995	74.3	74.3	60.7	32.5	19.9
1996	75.5	75.1	61.5	32.8	20.1
1997	76.0	75.8	62.0	33.3	20.6
1998	75.5	75.1	61.5	32.9	20.3

Source: Estonian Statistical Yearbook , 1998

Abortions and sterilisation

139. Abortions are regulated in Estonia by the Termination of Pregnancy and Sterilisation Act, which was passed by the Parliament in 1998. Pregnancy can be terminated only in a health care institution having the respective state licence and the termination can be performed only by a gynaecologist (Articles 7, 9). Termination of pregnancy is allowed only upon the woman's own wish until the 11th week of pregnancy. With medical reasons or when the woman is under the age of 15 or over 45 years the termination of pregnancy is allowed until the 21st week of pregnancy. There is also a register of abortions (Article 17).

140. Abortion is legal in Estonia and therefore also the risk that women use illegal methods for termination of pregnancy is minimal. The number of abortions exceeds the number of births – for example, in 1997 the there were 12 626 live births and 19 157 abortions, the number of abortions per 100 live births was 151.7.

Table 4. Fertility rates

Year	Live births per 1000 females at age specified							
	15-19	20-24	25-29	30-34	35-39	40-44	45-49	15-49
1990	53.6	164.4	106.2	55.7	23.3	5	0.2	58.5
1991	51.8	148.4	88.6	44.8	19.5	4	0.2	51
1992	50.1	139.3	83.3	43	18	4	0.1	48.2
1993	43	116	77.6	35	15	3.1	0.2	41.2
1994	38.6	109.4	73.6	35	14.1	2.8	0.1	38.6
1995	36	100.9	74.5	35.4	14	3	0.1	36.9
1996	33.4	95.1	76.2	37.1	15.1	3.2	0.1	36.3
1997	29.4	85.3	75.8	38.1	15.4	3.9	0.1	34.6
1998	26.1	83.2	72.7	40	15.9	3.3	0.2	33.7
1999	25.2	84.4	72.9	42.8	17.1	3.8	0.2	34.5

Source: Statistical Office of Estonia

141. Illegal termination of pregnancy and sterilisation is punishable in accordance with the Criminal Code. A gynaecologist who, at the request of a pregnant woman, terminates the

pregnancy of the woman later than it is permitted by law will be punished by a fine or deprivation of the right of operation in a particular area of activity. Termination of pregnancy against the will of the pregnant woman is punishable by two to six years' imprisonment. Sterilisation of a person against his or her will is punishable by two to six years' imprisonment. (Criminal Code Article 120).

142. There is no data about illegal terminations of pregnancy outside pertinent medical institutions, however, there is a criminal case concerning performing of illegal abortion by a gynaecologist. The Supreme Court reviewed a case (3-1-1-63-00) on 30 May 2000 where the pregnancy of a woman was terminated illegally and against her will, whereby serious consequences were caused. It was ascertained in the criminal case that with the abortion the patient's pregnancy was not terminated and the foetus developed further. Later a new abortion was performed but the patient was not informed that the first abortion had failed and that new abortion was going to be performed.

143. Sterilisation is also voluntary and according to the law it can be performed if the person has at least three children, if the person is older than 35 years of age, if pregnancy may endanger the health of the pregnant woman, if use of other contraceptives is contraindicated, if a person is in danger of giving birth to a child with severe mental or physical abnormality, if a person's disease of health problem is an impediment to raising of a child (Termination of Pregnancy and Sterilisation Act Article 20). Sterilisation may be performed only in a relevant health care institution (Article 22). There is no data about illegal sterilisations.

Use of firearms by police

144. The Weapons Act that enters into force March 31, 2002 establishes the legal bases and procedure for the handling of weapons and ammunition, the grant of permission for weapons and ammunition to be used for civilian purposes, the use of weapons and ammunition for civilian purposes and the removal of weapons and ammunition from civilian use, the requirements for firing ranges and field firing ranges, and the bases and procedure for the exercise of state supervision in such areas. Military and service weapons and ammunition therefore are excluded from the scope of the Act. The types of and procedure for the handling of service weapons shall be established by a regulation of the Minister of Internal Affairs (Article 3 (4)). The relevant regulation is being drafted by the Ministry of Internal Affairs and probably shall enter into force together with the new Act.

145. At the moment the Weapons Act in force (since 01.01.1996) does not also regulate the use of firearms and ammunition by police, borderguards, defence forces etc.

146. The Police Act provides the general principles for the work of the police. Chapter 5 of the Act lays down the use of special means and firearms. In accordance with Article 15, police officers have the right to carry and use a firearm. A firearm may be used by police officers in a concrete situation as a last resort, in case no other means are available to carry out assigned official duties without risking life and health.

147. A firearm may be used:
1) for the prevention of a criminal attack, if the lives of other people or the police officer are at risk;

2) for the disarmament and detention of an armed criminal, as well as for the detention of a person who has committed a first degree crime;
3) for rescuing hostages;
4) for the prevention of a mob attack or armed attack on a police officer or another person protecting public order or on a person carrying out duties in the fight against crime;
5) for the prevention of an attack aimed at a convoy or a convoyed person;
6) for the detention of an armed person who has committed a crime or a criminal who has escaped his guards;
7) for forcing the halt of a fleeing vehicle ignoring repeated signs to stop or fleeing a chasing police vehicle, firing only into the tires;
8) for rendering harmless an animal attacking or threatening a person or for putting a wounded animal to death.

148. Article 15^1 of the Police Act provides banning the use of special means and firearms, according to which their use is prohibited against children, the elderly and obviously pregnant women, except in case of repelling or hindering armed attacks initiated by them or mob attacks or for their disarmament.

149. For the implementation of the Weapons Act, Government of the Republic in 10 June 1996 adopted Regulation No.158, with which it approved the "Regulation for the procurement, storage, conveyance and carrying of firearmes and ammunition of the border guard, the police, the public prosecutor, the internal defense unit, military rescue squads, the customs and the prisons, pre-trial custody and extradition camps". Chapter 3 of the Act provides that firearms and ammunition shall be kept in firearm depots, either in the depot for firearms and/or ammunition or in the weapon room of the duty guard. The firearms shall be registered number-wise by decree of the chief of institution to those employees of the institution who are entitled by law or by regulation of the Government of the Republic to carry arms for the fulfilment of their official duties or for self-defense.

150. Chapter 5 regulates the carrying of firearms and ammuniton. Accordingly, the right to carry firearms will be granted to employees of the institution by decree of the chief of institution upon successful passing of the examination in handling the weapon and the material portionof the ammunition, the knowledge of its carrying and use and the target practice foreseen in the training program. The document entitling the carrying of weapon is for the police officers the professional license, for other employees a professional license with a remark on the right to carry a weapon.

151. A person entitled to carry a weapon is prohibited from:
1) carrying the weapon off duty, except under special circumstances with the permission of the chief of institute;
2) passing the weapon on to a third person;
3) carrying the weapon while under the influence of alcohol, as well as narcotic, psychotropic or toxic substances;
4) carrying the weapon during a meeting, demonstration, festivities or other public gartherings, except in cases when its carrying is connected with the fulfilling of official duties.

152. Weapons and ammunition shall be handed out by the duty guard to employees to whom a weapon is registered or who is entitled to use it by decree of the chief of institution for the period of service or training against his/her signature in the "Book of handing out

weapons and ammunition", where the serial number and the type and amount of ammunition shall be indicated.

153. There is no special statistics compiled about breach of regulations concerning use and storage of firearms because there has not been need for that.

Article 7 Prohibition of torture and other cruel, inhuman or degrading treatment and punishment

154. Article 18 of the Constitution states that no one shall be subjected to torture or to cruel or degrading treatment or punishment. No one shall be subjected to medical or scientific experiments against his or her free will.

155. Estonia acceded to the UN Convention against Torture and Other Inhuman or Degrading Treatment or Punishment on 21 October 1991 and the Convention entered into force with respect to Estonia on 20 November 1991

156. Estonia acceded in 1996 to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and its Protocols no. 1 and 2. The Convention entered into force with respect to Estonia on 1 March 1997. The provisions of the Convention are directly applicable in domestic courts. Case law of the application of the Conventions is also part of domestic law.

157. The Code of Criminal Procedure states that it is prohibited to attempt to obtain testimony from a suspect, accused, accused at trial or other persons participating in a criminal matter by violence, threats or other illegal means (Article 19 (3)).
Although the Criminal Code contains a narrower definition of torture than the Convention, in the case of conflict the provisions of the Convention will be applied. Pursuant to Article 113 of the Criminal Code, intentional causing of a minor bodily injury and intentional striking, battery or other acts of violence which cause physical pain, are punishable by a fine or detention. The above acts, if they are committed in a torturous manner, are punishable by up to four years' imprisonment pursuant to Article 114 of the Criminal Code.

158. In addition to the abovementioned articles, there are several other articles in the Criminal Code imposing criminal liability for offences against administration of justice which are connected to the protection of persons from torture and maltreatment, first of all by officials.

159. Article 170. Unlawful detention, arrest, custody or compelled attendance:
Knowingly unlawfully detaining, arresting holding in custody or compelling attendance of a person is punishable by up to three years of imprisonment.

160. Article 171. Forcing a person to provide testimony:
(1) Forcing a person to provide testimony either though threat or other illegal activity by a person carrying out pre-trial investigation is punishable by up to three years of imprisonment.
(2) Same activity, if it involves violence or taunting of person under interrogation is punishable by three to eight years imprisonment.

161. Article 176[4]. Torture of a person in a penal institution or use of illegal sanctions with respect to him:
Torture of a person under imprisonment, in custody or in preliminary detention, or inflicting physical suffering or imposition of other illegal sanctions with regard to him or her by a person who is a member of the administration of the penal institution or a person exercising supervision or guaranteeing safety in the institution is punishable by up to five years imprisonment with deprivation of the right of employment in a particular position or operation in particular area of activity.

162. The following offence related to office may be mentioned: Article 161[1]. Abuse of authority, meaning illegal use of a weapon, use of violence or an act torturing or insulting a victim by a person acting in his or her official capacity is punishable by up to six years imprisonment.

163.The following offences against persons can be mentioned:

Article 124[2]. Illegal hospitalisation in psychiatric hospital
Hospitalisation, knowingly, of a healthy person in a psychiatric hospital is punishable by up to three years' imprisonment and deprivation of the right of employment in a particular position or operation in a particular area of activity.

Article 124[5]. Performing illegal studies with humans
Performing medical or scientific research on a person without the person's valid consent is punishable by a fine, detention or up to one year imprisonment.

164. In 1998, 168 criminal cases were brought on the basis of Article 113 of the Criminal Code, 40 cases on the basis of Article 114. In 1998, no criminal cases were brought on the basis of Article 171 and 1 case on the basis of Article 176[4]. In 1998 no persons were convicted on the basis of Articles 171 and 176[4].

Table 5. Number of convicts

	1996	**1997**	**1998**	**1999**
Article 113 of the Criminal Code Intentional causing of a minor bodily injury and intentional striking, battery or other acts of violence which cause physical pain	114	115	84	37
Article 114 of the Criminal Code Acts prescribed in Article 113, if they are committed in a torturous manner	15	12	41	8

Source: Ministry of Justice

165. In the new Penal Code, there are two articles dealing with torture (Article 122, Penal Code) and physical maltreatment (Article 121, Penal Code). Under Article 121, physical maltreatment constitutes harming of the health, striking, battery or other physical maltreatment of other person causing pain, and it is punishable by a fine or up to three years' imprisonment. Torture under the new Penal Code constitutes continuous physical maltreatment or if it causes great pain and is punishable by a fine or up to five years' imprisonment.

166. Division 6 of Chapter 9 (offences against person) of the new Penal Code also contains articles dealing with inhuman or degrading treatment.

167. Pursuant to Article 138, conduct of medical or scientific research on a person who has not granted consent thereto pursuant to the procedure prescribed by law or who before granting such consent was not notified of the essential potential dangers arising from the research is punishable by a pecuniary punishment or up to 3 years' imprisonment. The same act, if committed by a legal person, is punishable by a pecuniary punishment.

168. Pursuant to Article 139, removal of human organs or tissue for transplantation purposes by a person with the corresponding right arising from law, if the person from whom the organs or tissue are removed has not been notified of the essential potential dangers arising from the removal of organs or tissue before he or she grants consent thereto, or if the person removing the organs or tissue was aware that the person from whom the organs or tissue are removed will receive remuneration for it, is punishable by a pecuniary punishment or up to one year of imprisonment.

169. Article 140 establishes that inducing a person to consent to the removal of his or her organs or tissue for the purposes of transplantation or genetic research by offering material remuneration or causing damage to the person or by threatening to cause damage to the person is punishable by a pecuniary punishment or up to one year of imprisonment.

170. Chapter 18 of the Penal Code "Offences Against Administration of Justice" contains Article 323 on the use of violence against suspect, accused, accused at trial, acquitted person, convicted offender, witness, expert, translator, interpreter or victim, according to which use of violence against the above persons in order to prevent him or her from performing his or her duties or exercising his or her rights in criminal procedure, or to take revenge for his or her lawful activities in criminal procedure, is punishable by a pecuniary punishment or up to 5 years' imprisonment.

Rights of detainees

171. Article 35^1 of the Code of Criminal Procedure stipulates the rights and obligations of a suspect, accused and accused at trial in the following manner:
(1) A suspect has the right to know what he or she is suspected of, to have a criminal defence counsel and to confer with the counsel without the presence of other persons for unlimited number of times with unlimited duration, except in certain cases. A suspect has the right to know that his or her testimony may be used to bring charges against him or her. A suspect has the right to give testimony concerning the content of the suspicion against him or her, or to refuse to give such testimony. A suspect has also the right to submit petitions for removal, submit applications, file appeals and participate in the court sessions in which the taking of the suspect into custody or the extension of the term during which the suspect may be held in custody is discussed. If a person being held in custody is undergoing treatment in an in-patient medical institution, the court may, without the presence of the person, extend the term during which the person may be held in custody. A suspect may participate in procedural acts with the permission of the preliminary investigator.

(2) An accused has the right to know what he or she is accused of, and he or she shall have all the procedural rights of a suspect. If simplified proceedings are proposed to the accused, he or she has the right to accept or reject such proposal, and during the negotiations for simplified proceeding, he or she has the right to make proposals concerning the type and term of punishment, and to enter or not enter into a settlement for simplified proceedings, or to withdraw such settlement. After the end of pre-trial proceedings or during the negotiations for simplified proceedings, the accused has the right to examine the materials of the criminal matter and make excerpts therefrom.
(3) An accused at trial has the right to know the charges which are the basis for the hearing of his or her criminal matter in court, and he or she shall have all the procedural rights of an accused. An accused at trial has the right to participate in the court hearing of the criminal matter, and the right of final rebuttal. An accused at trial may, pursuant to the procedure prescribed in this Code, file appeals against the acts of court, against court rulings and judgments, to examine the minutes of court sessions and to submit petitions or make comments for the amendment thereof.
(3^1) A person with regard to whom the simplified proceedings apply shall have all the procedural rights of an accused. In the application of simplified proceedings, the accused at trial has the right to know the charges which are the basis for the hearing of his or her criminal matter in court, to participate in the court hearing of the criminal matter, to give explanations concerning the circumstances of entry into a settlement for simplified proceedings, to withdraw a settlement until the withdrawal of the court to chambers for deliberations, to appeal against the court judgment in connection with alleged violation of the principles of simplified proceedings, to examine the minutes of court sessions and to submit petitions or make comments for the amendment thereof.
(4) Other rights of the suspect, accused and accused at trial are also provided for in the Code of Criminal Procedure.

172. The Imprisonment Act that entered into force on 1 December 2000 provides the procedure for and organisation of execution of imprisonment, detention and administrative detention and custody pending trial, and the definition and conditions of prison service (Article 1). For the purposes of the Imprisonment Act, a person in custody means a person who is taken into custody, as a preventive measure, and who is serving custody pending trial in a ward prescribed for custody pending trial in a maximum-security prison or in a house of detention (Article 4). The rights of prisoners, that is of convicted offenders and conditions of execution of imprisonment are at length dealt with under Article 10. Hereunder the conditions of imposition of custody pending trial are discussed. Imposition of custody pending trial is regulated under chapter 5 of the Imprisonment Act.

173. Custody pending trial shall be served in wards prescribed for custody pending trial in maximum-security prisons or in houses of detention. Persons in custody shall be lodged in locked cells on a twenty-four-hour basis. Persons in custody who are accused in the same criminal matter and other persons in custody on the order of a preliminary investigator, prosecutor or court, shall be segregated. The prison administration is required to take all measures to prevent any communication between persons in custody who are lodged in different cells (Article 90).

174. Upon arrival in a prison, a person in custody and his or her personal effects shall be subject to a thorough search. The search shall be performed by a prison officer of the same sex as the person in custody. The personal effects of persons in custody shall be deposited. Upon reception into custody pending trial, a person in custody is required to undergo

medical examination performed by the medical officer of the prison. A person in custody shall be photographed and fingerprinted pursuant to the procedure provided for in this Act. The director of a prison or a prison officer appointed by the director shall immediately inform a person in custody of his or her rights and obligations. Upon reception into prison of a person in custody, the person in custody shall be counselled with regard to the ensuring of social security to persons closest to him or her and the retention of his or her property and legal assistance shall be provided to the person in custody (Article 91).

175. Persons in custody shall wear personal clothing. If a person in custody lacks suitable personal clothing or if he or she is unwilling to wear personal clothing, the prison shall provide the person in custody with clothing without charge. Persons in custody may, by the mediation of the prison, buy foodstuffs, toiletries and other items the holding of which is permitted in prison, pursuant to the procedure provided for in the internal rules of the prison. Persons in custody shall have access to national daily newspapers and books and periodicals stored at the library.

176. A person in custody may possess a personal radio or television set in the cell if the director of the prison grants permission. The director of a prison may permit the cell of a person in custody to be illuminated outside the prescribed time. A person in custody who is a minor who has been in custody for at least one month shall be allowed to continue to acquire basic education or general secondary education on the basis of a corresponding national curriculum A person in custody shall be allowed, at his or her request, to be in the open air for at least one hour daily. If, in the case of illness of a person in custody, required treatment cannot be provided in prison, the medical officer of the prison shall place the person in an appropriate medical institution. The director of a prison shall promptly inform the preliminary investigator or court of the placement in a medical institution of a person in custody if the court is conducting proceedings in the criminal matter. Persons in custody are not required to work (Article 93).

177. A person in custody shall be permitted to receive short-term visits of personal, legal or commercial interest in matters which the person in custody cannot conduct through third persons. The director of a prison may restrict the right of a person in custody to receive short-term visits with the permission of a preliminary investigator, prosecutor or court if this is necessary to ensure the conduct of criminal proceedings. Persons in custody who are citizens of foreign states have the unrestricted right to receive visits from consular officers of their countries of nationality. A person in custody shall receive visits in the presence of a prison officer who has the right to interrupt or immediately terminate the visit if the visit may damage the conduct of criminal proceedings (Article 94).

178. A person in custody has the unrestricted right to receive visits from his or her criminal defence counsel. Visits from criminal defence counsel shall be uninterrupted, within sight but not within hearing distance from prison officers. A legal defence counsel has the right to hand over material necessary for the preparation of defence to a person in custody. Prison officers shall not review the content of such material (Article 95).

179. Persons in custody have the right of correspondence and the use of telephone and other public communication channels if relevant technical conditions exist. Correspondence and the use of telephone and other public communication channels shall be effected pursuant to the procedure provided for in the internal rules of the prison.

180. The director of a prison may restrict this right only on the application of a preliminary investigator, prosecutor or court if this is necessary to ensure the conduct of criminal proceedings. It is prohibited to restrict the right of a person in custody to correspondence, use of telephone or other public communication channels for communication with state agencies, local governments and their officials and legal defence counsel. Correspondence and the use of telephone and other public communication channels shall be effected at the expense of a person in custody (Article 96).

181. A prison officer shall open letters sent by or to a person in custody in the presence of the person in custody and confiscate any items the holding of which in a prison is prohibited by the internal rules of the prison. The content of the correspondence of a person in custody and of messages forwarded by telephone or other public communication channels by or to a person in custody may be examined only with the permission of a court and on the bases and pursuant to the procedure provided for in the Surveillance Act. It is prohibited to review the content of letters sent and telephone messages forwarded by a person in custody to his or her legal defence counsel, the Legal Chancellor, a prosecutor, a court and the Ministry of Justice (Article 97).

182. Persons in custody are permitted to receive packages. A prison officer shall examine the content of a package before it is handed over to a person in custody, in the presence of the person. The director of a prison has the right to seize items contained in a package the holding of which is prohibited in the prison by the internal rules of the prison or which may endanger the conduct of the criminal proceedings, and not hand over such items to the person in custody. Seized items, which may be held only with special permission and such permission does not exist, shall be confiscated and destroyed. The remaining seized items shall be returned to the sender of the package (Article 98).

183. A preliminary investigator or court, if the court is conducting proceedings in the criminal matter, may grant a person in custody permission to take a prison leave under supervision for up to one day under essential and urgent personal, legal or commercial circumstances which require the personal attendance of the person in custody. A person in custody shall bear the costs of his or her prison leave under supervision (Article 99).

184. Disciplinary sanctions may be imposed on persons in custody for the wrongful violation of the requirements of this Act, internal rules of the prison or other legislation: The following disciplinary sanctions may be imposed:
1) reprimand;
2) deprivation for up to two months of the right of supplementary alimentation purchased out of the personal funds of the person in custody;
3) commission to a punishment cell for up to thirty days.
A person in custody who is younger than 18 years of age may be committed to a punishment cell for up to 15 twenty-four hour periods (Article 100).

185. If there is sufficient reason to believe that a person in custody may essentially and adversely affect the conduct of criminal proceedings by his or her behaviour, the director of a prison may apply the following additional measures with regard to the person in custody on application of the preliminary investigator or court. The following disciplinary sanctions may be imposed:
1) complete isolation from other prisoners;
2) prohibition to wear personal clothing or use personal effects.

The duration of imposition of the measures provided above shall be decided by the preliminary investigator or prosecutor or the court if the court is conducting proceedings in the criminal matter.

186. It is prohibited to restrict the right of persons in custody to receive visits from their legal defence counsel; it is also prohibited to restrict the right of persons in custody who are citizens of foreign states to receive visits from the consular officers of their countries of nationality (Article 102).

187. A person in custody shall be released upon the expiry of the term of custody, and on other bases provided by law. The director of a prison shall notify the preliminary investigator or the prosecutor who is conducting proceedings in the criminal matter of the pending release of a person in custody three days before the expiry of the term of custody. A person in custody shall be released not later than at 12 a.m. on the last day of the term of custody unless the term of custody is extended (Article 104).

188. According to the data of Ministry of Justice the following number of criminal proceedings have been initiated concerning torture or cruel or inhuman treatment in Estonian prisons:
1995 – 5
1996 - 0
1977 - 0
1998 – 1
1999 - 0
2000 - 2
2001 - 1

189. There were no complaints about cruel or degrading treatment in houses of detention during the year 2001. The complaints concerned mostly living conditions in houses of detention (lighting, food, etc) and issues relating to the organisation of detention (receiving packages, visits, etc).
After receiving a complaint about cruel or degrading treatment, Police Department shall conduct disciplinary proceeding and if necessary, commence criminal proceeding.

Education and information regarding the prohibition against torture

190. Prison officials in Estonia can be persons who have completed preparatory training for prison officials and have also completed the obligation to serve in the defence forces. Preparatory training of prison officials is composed of professional, theoretical and practical training. The places of preparatory training of an applicant for a position of prison official are a prison where the applicant will undergo practical training and the Estonian Public Defence Academy.

191. Prison officials are subject to certification once every three years. During certification the compliance of an official's professional skills, abilities and personal characteristics with the official rank and his or her professional achievement is assessed.

192. In the Public Defence Academy, future police, customs and correctional officials study constitutional law, criminal law, international law, police techniques and tactics. The

primary curriculum for the training of prison officials contains subjects like prison work, legislation, psychology, correctional social work and health care.

193. In the Joint Training Establishments of the Defence Forces, members of the armed forces study international law, international military law and national defence.

194. There are also courses for criminal probation officials in the field of legislation. They study the constitution, criminal law, criminal procedural law, minimal rules for treatment of prisoners in Europe, the Imprisonment Act.

Interrogation rules

195. Interrogation methods are scientifically based, there are training materials about procedural tactics and separate materials about interrogation tactics. These materials are reviewed as legislation is amended. Information obtained at an interrogation has to be recorded in the minutes of an interrogation.

196. Interrogation as a procedural activity is within the competence of a preliminary investigator. An investigator is obliged to interrogate the accused immediately after the charges have been presented to him or her. The Code of Criminal Procedure establishes separate requirements for the interrogation of an accused or a witness who is a minor. A teacher or psychologist, if necessary also a parent or other legal representatives, will participate in the hearing of a witness who is a minor of less than fifteen years of age. Witnesses who are a minors of less than fifteen years of age will not be warned against the liability for the refusal to give testimony and for giving knowingly false testimony; however, the obligation to give truthful testimony will be explained to such witnesses.

197. There is also a separate interrogation room for interviewing minors, so that they could feel more at ease. A teacher or psychologist will participate in the interrogation of an accused who is a minor of less than fifteen years. The teacher or psychologist who participates in an interrogation has the right to pose questions to the accused through a preliminary investigator, to examine the minutes of the interrogation, and to submit comments concerning the minutes. The teacher or psychologist will also sign the minutes of the interrogation.

198. Pursuant to Article 1(1) of the Prosecutor's Office Act, supervision over the legality of pre-trial procedure and interrogation is within the competence of the prosecutor's office. Pursuant to Article 120(2) of the Code of Criminal Procedure, a prosecutor will, within the limits of his or her competence:

1) require explanations from a preliminary investigator concerning the receipt, registration and settlement of petitions and notices submitted concerning a criminal offence, and concerning the process of pre-trial investigation and the termination of criminal proceedings;
2) require criminal files, documents, materials and other information concerning committed criminal offences or criminal offences being planned, the process of pre-trial investigation and the persons who committed a criminal offence;
3) monitor the compliance with the requirements of law in police institutions concerning the receipt, registration and settlement of submitted petitions and notices concerning criminal offences;

4) annul or alter unlawful or unjustified orders of preliminary investigators;
5) give written instructions to preliminary investigators concerning the investigation of criminal offences, the performance of procedural acts, the choice, alteration or annulment of preventive measures, the legal assessment of criminal offences, the search of the persons who have committed a criminal offence, the commencement or termination of surveillance, and concerning the ascertainment of the possibility to apply simplified proceedings;
6) notify the persons who have the right to impose disciplinary punishments of the elements of a disciplinary offence which have become evident in the activities of a preliminary investigator or competent police officer;
7) sanction searches and other activities of a preliminary investigator in the cases prescribed by law;
8) extend the term for the settlement and investigation of a petition or a notice concerning a criminal offence in the cases prescribed by law;
9) return a criminal matter to a preliminary investigator with instructions for the conduct of further investigation or for the elimination of deficiencies;
10) remove a preliminary investigator from any criminal matter by his or her reasoned order for the conduct of more thorough and objective investigation, and to refer such criminal matter to another preliminary investigator, taking into account the competence of preliminary investigators provided for in this Code. Investigative jurisdiction determined by a prosecutor may be altered only by a higher ranking prosecutor;
11) remove preliminary investigators who have violated the law upon the investigation of a criminal matter from further proceedings in the criminal matter by his or her reasoned order;
12) commence criminal proceedings or terminate criminal proceedings, approve the summaries of charges, and in the cases prescribed by the law, approve an order of a preliminary investigator, refer criminal matters to court;
13) perform the tasks provided for in this Code upon the application of simplified proceedings.

199. Written instructions of a prosecutor given to a preliminary investigator pursuant to the procedure provided for in the Code of Criminal Procedure are binding on the preliminary investigator. An appeal against received instructions filed with a higher ranking prosecutor does not as a rule suspend the compliance with such instructions.

200. The Ministry of Justice includes as a structural unit the department of prisons whose main task is to organise the work of prisons, places of preliminary confinement, and expulsion centres, as well as supervision, carrying out of pre-trial investigation and surveillance activities. Supervision over the situation of prisons is constant. The Ministry of Justice receives about 20 letters from prisoners every day.

201. Pursuant to Article 29(4) of the Imprisonment Act, the prison administration is prohibited to inspect prisoner's letters and phone calls to the lawyer, prosecutor, court, Legal Chancellor and the Ministry of Justice.

Compensation

202. According to Article 25 of the Constitution everyone has the right to compensation for moral and material damage caused by the unlawful action of any person.

203. The protection of private life is regulated by the General Principles of the Civil Code Act which stipulates that everyone has the right to demand termination of a violation of the inviolability of his/her private life and to demand compensation for moral and proprietary damage caused thereby (Article 24). Also a person whose interests are damaged by use of his/her name or publicly used pseudonym may demand compensation of damage (Article 25).

204. According to the Act for the Compensation of Damage Caused to the Person by the State through Unfounded Deprivation of Liberty, the damage is compensated to the person:

1) who was under arrest with the permission of the court and in whose matter the ruling to initiate criminal proceedings has been annulled, the proceedings have been terminated in the stage of preliminary investigation or investigation or at an organising meeting of the court, or with respect to whom an acquitting decision has been made;
2) who had been detained as suspected of committing a crime and was released in connection with dropping of charges;
3) who was serving a sentence of imprisonment and in whose case the decision to convict has been annulled and proceedings of criminal matter terminated or an acquitting decision has been made;
4) who served a sentence of imprisonment longer than the term of sentence originally imposed on him/her;
5) who had been placed in a psychiatric hospital without ground by the court in connection with committing of an act with characteristics of an offence and in whose case the court ruling has been annulled;
6) who served an administrative arrest and the decision of arrest has been annulled;
7) who had been deprived of liberty without ground or without disciplinary, administrative or criminal proceedings, with the decision of an official authorised to warrant deprivation of liberty, if such a proceeding was compulsory (Article 1).

205. The Ministry of Social Affairs has submitted to the Government a national criminal prevention sub-programme 'Creating a system for assisting victims of crime''. Victims of crime include people who have become victims of negligent or bad treatment, physical, mental or sexual violence, i.e. people who have been caused suffering or damage by another person, group of persons or organisation, regardless of whether the person causing the damage has been revealed or whether criminal proceedings have been brought against that person. The aim of the sub-programme is to create an organised system of victims of crime.

206. In Estonia, there are currently assistance services to help victims of crime, there is *Ohvriabi* Society for Supporting Victims of Crime, and there are shelters. Through the Social Rehabilitation Centre and the Society for Supporting Victims of Crime counselling of victims, their representation in court, providing financial support, and crisis assistance are organised. Conciliation of victims is provided through conciliation services.

207. The aim of the State Compensation of Victims of Crime Act is to regulate alleviating of the financial situation of victims of severe violent crimes by way of payment of compensation by the state. State aid is given to the victims also within social welfare and social insurance framework, but these systems do not cover all victims in need of assistance and also not the whole amount of damage arising as a result of the crime is covered. The system of payment of compensation described in the law is an important supplement to the

assistance provided to victims of crime as one target group within social law. Compensation is paid only to those victims of crime who do not receive compensation from other sources for the damage caused through crime. According to the law, the amount of compensation by the state is 50%, i.e. half of the amount of damage which is the basis for calculating the compensation. In calculating the damage, the law proceeds from the individual situation of every victim or his/her dependants, i.e. mainly the victim's income before the violent act of crime was committed. The State Compensation of Victims of Crime Act entered into force on 1 January 2001.

208. The State Liability Act establishes the protection and restoration of rights that have been violated in the course of implementation of powers by public authority and in the exercise of other public functions, and provides the basis and procedure for the compensation of damage caused (state liability). A person whose rights have been violated through unlawful activity of a public authority in a public-legal relationship, may demand that both material and non-material damage caused to him or her be compensated. A natural person may demand monetary compensation of non-material damage in the case of culpable degradation of his or her dignity, damaging of health, deprivation of liberty, infringement of inviolability of home or private life or confidentiality of information, and defamation of honour and good name. An application for the compensation of damage may be filed with the administrative agency that caused the damage or a complaint may be filed with an administrative court. The State Liability Act entered into force on 1 January 2002.

Extradition, expulsion and refoulement

209. The Aliens Act regulates the arrival, presence, residence and work of foreigners in Estonia and the basis for legal liability of foreigners. The Obligation to Leave and Prohibition on Entry Act regulates the basis and procedure of the obligation of foreigners to leave and prohibition to enter Estonia.

210. The Citizenship and Migration Board issues a precept to leave Estonia to foreigners who have no legal basis to stay in Estonia during the term specified in the precept. Before issuing the precept a foreigner has the right to an oral hearing with an official and to submit objections and applications. A representative of the foreigner has the right to participate at the hearing and issuing of the precept. The foreigner confirms with a signature the receipt of the precept that is issued in writing. Upon issuing of the precept the foreigner is explained his right to appeal and the consequences of the failure to comply with the precept. The content of the precept is explained to the foreigner in a language that he or she understands.

211. When issuing a precept against a minor who is in Estonia without a parent, guardian or other representative, the person's departure from Estonia is organised by a guardianship institution in coordination with competent authorities of the admitting state.

212. A foreigner is expelled from Estonia if he or she does not comply with the precept with good reason. The decision of expulsion is made by an administrative judge on the request of the Citizenship and Migration Board pursuant to the procedure provided in the Code of Administrative Offences. The court judgement on expulsion can be appealed. When deciding expulsion the court takes into account the following circumstances (Article 14(2) of the Obligation to Leave and Prohibition on Entry Act):

1) the duration of the alien’s legal stay in Estonia;

2) personal, economic and other ties which the alien has with Estonia and which merit protection;
3) the consequences of the expulsion of the alien for the family members of the alien;
4) circumstances which are the basis for expulsion;
5) the age and state of health of the alien;
6) the possibility of enforcing the expulsion;
7) other relevant considerations.

213. An alien may not be expelled to a state to which expulsion may result in his or her torture, inhuman or degrading punishment or treatment, or death or persecution for racial, religious, social or political reasons (Article 17(2)).

214. In 1998 the Citizenship and Migration Board issued precepts to leave the country to 35 persons who were illegally staying in Estonia.

215. Article 21 of the Refugees Act stipulates that the Republic of Estonia will not expel or return an applicant or refugee to a state where his or her life or freedom would be threatened on account of his or her race, nationality, religion, membership of a particular social group or political opinion.

216. In addition, extradition to other countries of persons suspected of offences is regulated by the following acts:
1) Article 36 of the Constitution which states that extradition of an Estonian citizen to a foreign country is decided by the Government of the Republic;
2) European Convention on Extradition;
3) Chapter 35 of the Code of Criminal Procedure which establishes international cooperation in criminal proceedings.

217. Estonia signed the European Convention on Extradition in 1993 and it entered into force in 1997. In accordance with the Convention on Extradition, persons are extradited in the case of offences that are punishable by more than one year imprisonment both in the requesting and requested state.

218. Requests for legal assistance in criminal matters are settled on the basis of international agreements of the Republic of Estonia. Estonia has concluded legal assistance agreements with Latvia, Lithuania, Ukraine, Poland and Russia. Legal assistance to states with whom there is no international agreement is provided on the basis of principles arising from the Council of Europe criminal conventions and part of the Code of Criminal Procedure on international cooperation. The provisions of the Code are applied unless otherwise provided in an international agreement entered into by Estonia. Legal institutions which submit requests for legal assistance to foreign countries and settle requests for legal assistance from foreign countries within their area of competence are the courts of the Republic of Estonia, Public Prosecutor's Office, the Ministry of Justice and the Ministry of Internal Affairs.

219. The Minister of Justice forwards a request for extradition submitted by a foreign country immediately to the Public Prosecutor's Office. If the request for extradition arrives directly to the Public Prosecutor's Office, a prosecutor in the Public Prosecutor's Office will immediately also inform the Ministry of Justice about it. A prosecutor in the Public Prosecutor's Office is obliged to review the request and verify whether all necessary documents have been annexed to it. If the request for extradition meets all the requirements

a prosecutor in the Public Prosecutor's Office will immediately forward it to the court. Proceeding of the request for extradition of a person to a foreign country is within the jurisdiction of Tallinn City Court. In resolving the request of extradition of a person to a foreign country the court will make one of the following rulings:

1) to support extradition of a person to a foreign country;
2) not to support extradition of a person to a foreign country if extradition is legally unjustified.

220. After the court has received the request for extradition, a judge will decide on the basis of a reasoned order of a preliminary investigator or prosecutor of the Public Prosecutor's Office granting of a permission to take the person to be extradited into custody. Refusal to permit taking of person into custody will be reasoned.
In cases of urgency a city or county court judge may grant a permission for taking a person into custody before the receipt of a request for extradition to a foreign country if a competent authority of a foreign state requests it and if the authority confirms that there is an order for taking the person into custody or there is a judgement of conviction by the court and request for extradition will be sent immediately.

221. A person may be released from custody if the foreign state fails to submit a request for extradition and the required documents within eighteen days after the detention of the person. A person will be released from custody if a request for extradition has not been received within forty days.

222. The final decision to extradite an Estonian citizen is made by the Government of the Republic with its order. Refusal to extradite will automatically entail an obligation to initiate criminal proceedings against the person.

Table 6. Overview of requests in 1998

COUNTRY	Criminal matters	Civil and Family Law Matters	TOTAL
To Russia	1	376	377
From Russia	3	370	373
To Finland	2	196	198
From Finland	2	199	201
To Latvia		45	45
From Latvia	1	50	51
To Lithuania		33	33
From Lithuania	8	23	31
To Ukraine		88	88
From Ukraine		97	97
To Germany	3	24	27
From Germany	3	20	2
To Poland	3	7	10
From Poland		8	8
To France	1	2	3
From France		5	5
To Holland	1	4	5
From Holland	1	2	3

To Denmark From Denmark	2	5 5	7 5
To Austria From Austria	1 2	1 5	2 7
To Norway From Norway		4 3	4 3
To Sweden From Sweden	2 3	7	9 3
To USA From USA		4 3	4 3
To Switzerland	1		1
To UK	2		2
To Italy	1		1
To Cyprus	1		1
Grand Total	**44**	**1671**	**1715**

Source: Ministry of Justice

Psychiatric care

223. The Mental Health Act regulates the procedure and conditions for provision of psychiatric care and the relationships with health care institutions which arise from the provision of psychiatric care, provides the duties of the state and local governments in the organisation of psychiatric care, and provides the rights of persons in receiving psychiatric care. The Ministry of Social Affairs has financed the Estonian Psychiatric Patients Advocacy Association from the state budget in order to guarantee the protection of psychiatric patients in psychiatric hospitals and care homes.

224. The chief doctor of a hospital will ensure that two psychiatrists carry out a medical examination of a person admitted for involuntary treatment within forty-eight hours after commencement of inpatient treatment. If both psychiatrists declare the admission for treatment or continuation of treatment of the person pursuant to Article 11(1) of the Mental Health Act to be justified, the person will be kept in involuntary treatment for up to fourteen days. Involuntary treatment of a person in the psychiatric department of a hospital may continue for more than fourteen days only with the authorisation of a court which is issued by an administrative court on the basis of a written application of the chief doctor of the hospital.

225. An administrative court judge will review an application for authorisation of involuntary treatment and promptly decide whether to grant or deny authorisation, without a court hearing. On the first occasion, an administrative court judge may grant authorisation for involuntary treatment of a person for up to thirty days as of the date of receipt of the application by the court. On subsequent occasions, an administrative court judge may extend the authorisation for involuntary treatment of a person for up to ninety days as of the day following the end of the previous period. If an administrative court judge refuses to grant or extend authorisation for involuntary treatment of a person or revokes an authorisation, the person may immediately leave the hospital or continue treatment voluntarily.

226. If during involuntary treatment its necessity ceases to exist, the involuntary treatment will be discontinued on the basis of a decision of two psychiatrists. If treatment was provided pursuant to a court authorisation, the chief doctor of the hospital will inform the court of discontinuation of involuntary treatment in writing. Persons in involuntary treatment may not be subjected to clinical trials, testing of new medicinal products or treatment methods. County medical officers exercise supervision over involuntary treatment.

227. In the year 2000 there were 5 psychiatric hospitals together with 825 beds in Estonia: Tallinn Psychiatric Hospital – 420 beds; Jämejala Psychiatric Hospital – 203 beds; Ahtme Hospital – 110 beds; Taagepera Hospital – 60 beds (ends its activities 01.06.2002) and Tallinn Wismari Hospital – 32 beds. The rest of the beds are under the general hospitals. All together, there were 1033 beds of psychiatric nature (10,5% of the total number of beds), number of hospitalised 13 584 of which 15 underaged and the average time of treatment 23,4 days for the date of 31.12.2000.

228. Majority of the psychiatric hospitals will not continue to exist as specialised hospitals in the future. They will be integrated with general, central or regional hospitals. Tallinn Psychiatric Hospital as separate state institution was ended in 2001 and it is now under North-Estonian Regional Hospital. Tallinn Wismari Hospital is since 2001 under Western Tallinn Central Hospital. Jämejala Psychiatric Hospital and Viljandi County Hospital formed Viljandi Hospital.

229. Health Service Quality Expert Committee operating by the Ministry of Social Affairs has dealt with 3 complaints concerning psychiatrical treatment and considered them unfounded.

Visits by European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and the contents of its reports

230. Estonia is a party to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (ETS 126) (entered into force on March 1, 1997) and under Article 7 of that convention European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter "CPT") has carried out two visits to Estonia from 13 to 23 July 1997 and from 15 to 21 December 1999. The December 1999 visit was one which appeared to the CPT "to be required in the circumstances". Its main aim was to review the progress made in implementing the recommendations formulated by the CPT after the 1997 periodic visit on two particular subjects: the situation in the Social Welfare Home in Valkla and conditions of detention in police arrest houses.

231. Since the CPT submitted its 1997 report to the Estonian authorities, the Ministry of Social Affairs began to formulate a new policy for the treatment and care of the mentally retarded and the mentally ill with increasing emphasis on the training of existing staff and on the establishing of separate "day centres" for residents of special care homes. There have also been efforts to improve the physical environment in the homes and to seek alternative accommodation for residents. Those changes were welcomed by the CPT. The shift in policy had a direct impact on the situation in the Valkla Social Welfare Home.

232. The Valkla Social Welfare Home is a "special care home" for chronic psychiatric patients, alcohol abusers and persons suffering from severe mental retardation and/or variety of physical disabilities. According to the Report on the visit carried out from 15 to 21 December 1999, the delegation of the CPT heard no credible allegations of ill-treatment of residents by the staff. The delegation formed the impression that relations between the staff and inmates were marked by kindness and respect. More generally, the vast majority of inmates interviewed stated that they felt safe in the Home (the "culture of violence" observed in 1997 was no longer in evidence).

Disciplinary measures in Armed Forces

233. Tallinn garrison is a penal institution under the area of government of the Ministry of Defence. The Disciplinary Measures in Armed Forces Act establishes deprivation of liberty as a disciplinary punishment both in the form of disciplinary detention and disciplinary arrest. Disciplinary detention takes place in a detention chamber and its use is allowed if a serviceman is unable to control his or her behaviour or may endanger his or her own or other people's life, health or property. The length of detention is forty-eight hours.

234. Disciplinary arrest is imposed on servicemen who have committed a disciplinary offence or have repeatedly or seriously violated the discipline in the defence forces. The length of arrest is three to ten days. A person under arrest has the right to receive daily food, medical care, to send and receive letters, to participate in religious service, to read regulations of defence forces, to issue publications in the same way as other servicemen. An administrative court is informed of an imposition of arrest. If a court finds that it is unlawful the person will immediately be released from arrest and will be paid compensation. The rights of persons in custody and restrictions applied to them have been established with the Disciplinary Measures in Armed Forces Act and legislation based on it.

Children

235. The Child Protection Act establishes a general principle for the treatment of children according to which every child will, at all times, be treated as an individual with consideration for his or her character, age and sex. It is prohibited to humiliate, frighten or punish the child in any way which abuses the child, causes bodily harm or otherwise endangers his or her mental or physical health (Article 31).

236. If an adult treats a child in a prohibited manner, the social services departments are competent to intervene in order to resolve the conflict and, if necessary, to apply for punishment of the person at fault under administrative or criminal procedure. A child who has suffered violent treatment or mistreatment will be given necessary assistance. An adult who treats a child violently will also receive counselling in order to prevent further mistreatment.

237. The law also establishes that instruction at school may not involve physical violence or mental abuse (Article 40).

238. Ministry of Education is only aware of those incidences of corporal punishments in schools where a parent has lodged written application to the ministry. On the basis of such

application superintendent from Ministry of Education or County Government has examined the situation in the educational institution and if the guilt of a teacher is ascertained, the headmaster of the school is proposed to dismiss the teacher. There is no separate statistics on the matter as there has been only isolated cases.

239. There has been no comprehensive researches on the school violence. Estonian Union for Child Welfare (EUCW) has conducted some surveys on school violence but without any in-depth case-analysis. The interviews with the school-children showed that biggest problem for pupils is common front formed by the co-pupils.

240. In Estonia, several campaigns for the prevention of violence against children have been carried out. In 1993, the Estonian Central Union for the Protection of Children launched a programme "Children and Violence" which is aimed at studying the problems of violence against children, raising awareness of the problem and, if possible and necessary, interfering in particular cases of violence. Within the programme, parents of children are advised mainly on the legal aspect. A campaign "Don't hit the child" has been carried out on several occasions.

241. There are two specialised centres in Estonia (in Tartu and Tallinn) dealing with the counselling and rehabilitation of mistreated children and their families. In addition, specialists working with children are also trained and a network of specialists is being developed for resolving cases involving mistreatment of children.

Violence against women

242. On the basis of the police statistics, it couldn't be said that violence against women is a problem in Estonia. However, the police statistics only reflect part of the real criminal activity. Criminologists, in order to ascertain the actual scope of crime, use interviewing of victims of crime and have started to conduct regular victim surveys to obtain a picture of the actual crime situation. In Estonia, three victim surveys have been carried out, in 1993, 1995 and 2000.

243. The survey conducted by EMOR in 2000 demonstrated that in 1999 4% of respondents fell victim to threats of violence and 2.2% fell victim to attack (incl. 3.4% of men and 1.2% of women). As a rule, such surveys reflect only cases that have occurred in public places, not family violence. The real level of violence against women is very difficult to ascertain, this is a difficulty pointed out by many researchers. This is a kind of violence that is hidden from the public (by victims themselves). The public only learns about the most serious cases when the victim has been practically beaten half-dead or killed.

244. When Estonian women were asked whether the reason of domestic conflicts was violence of the husband or partner, the majority of women answered negatively; 2% of women considered violence in their partnership a frequent problem and 9% a rare problem.
245. In April 2001, the Estonian Open Society Institute began a study of family violence. Such a study is the first of its kind in Estonia and the results were published in an article in the book on gender-related violence called "Vaikijate Hääled" (*Voices of the Silent*) that was presented on 1 November 2001.

246. Article 391 of the Code of Criminal Procedure gives women the possibility to commence criminal proceedings concerning acts of violence against them, i.e. they can file a relevant application with the court. The application can be withdrawn until the end of summations.

247. Only about 10% of women inform the police of the most severe and life-threatening cases and although 44 000 women received injuries, only 2-3% of the cases of violence end with criminal charges or a convicting decision. The violent person remains practically unpunished. The feeling of unpunishment gives the violent person inner confidence to treat the victim even more cruelly. Women are helpless in situations of violence. As a rule, they have few possibilities to ask for someone's help or advice.

248. Also men in Estonia are victims of violence. Every day 227 men experience physical violence. Men suffer mainly from violence occurring in public places (82% of the cases). Incidents at home make up only 9% and then men suffered because of other family members, not because of their wife or partner.

249. Rape is one of the most hidden types of crime. In reality, rape occurs often but the police are informed only of 5-20% of incidents of sexual harassment. This is also reflected in the police statistics on registered and cleared offences in 2000 and in the first six months of 2001.

Table 7. Rape and attempted rape

	Registered		Cleared	
Year	**2001**	**2000**	**2001**	**2000**
Rape	25	29	15	21
Attempted rape	7	7	2	9

Source: Statistical Yearbook of Estonia 2001

Table 8. Cleared offences, 1997-2000

Type of Offence	**1997**	**1998**	**1999**	**2000**	**2001**
Rape and attempted rape	69	37	34	47	25

Source: Statistical Yearbook of Estonia 2001

Article 8 Prohibition of slavery, servitude and compulsory work

250. According to the Constitution, an Estonian citizen has the right to freely choose his or her area of activity, profession and place of work. Conditions and procedure for the exercise of this right may be provided by law. Citizens of foreign states and stateless persons who are in Estonia have this right equally with Estonian citizens, unless otherwise provided by law.

251. No one shall be compelled to perform work or service against his or her free will, except service in the armed forces or alternative service, work to prevent the spread of an infectious disease, work in the case of a natural disaster or a catastrophe, and work which a

convict must perform on the basis of and pursuant to procedure established by law (Article 29).

252. ILO Convention no 29 concerning Forced or Compulsory Labour came into force on 7 February 1997 and ILO Convention no 105 concerning the Abolition of Forced labour came into force also on 7 February 1997.

253. Under chapter 3 "Offences against Persons" of the Criminal Code there are a number of articles stipulating offences against freedom.

Article 123. Abuse of rights of guardianship or curatorship
Exercise of rights of guardianship or curatorship for the purpose of personal gain and to the detriment of the ward or the person under curatorship, is punishable by a fine or up to three years' imprisonment.

Article 123^1. Sale or purchase of children
The sale or purchase of children is punishable by up to seven years' imprisonment.

Article 124. Switching or theft of children
(1) Switching or theft of children in revenge or for the purpose of personal gain or other personal reasons is punishable by up to five years' imprisonment.
(2) Same acts, if committed by a group of persons, are punishable by five to eight years' imprisonment.

Article 124^1. Hostage taking
(1) Taking or holding a person hostage under a threat to kill, cause bodily injury or continue to hold the person hostage, in order to force a state, international organisation, natural or legal person or a group of persons to perform or refrain from performing certain acts as a condition for the release of the hostage, is punishable by up to ten years' imprisonment.
(2) Same acts, if they result in serious consequences or are committed against a child, are punishable by eight to fifteen years' imprisonment.

Article 124^2. Illegal hospitalisation in psychiatric hospital
Hospitalisation, knowingly, of a healthy person in a psychiatric hospital is punishable by up to three years' imprisonment and deprivation of the right of employment in a particular position or operation in a particular area of activity.

Article 124^3. Unlawful deprivation of liberty
(1) Unlawful deprivation of the liberty of a person is punishable by a fine or detention or up to one year imprisonment.
(2) Same act, if it involves the use of violence that is dangerous to life or health, is punishable by a fine or up to five years' imprisonment.

Article 202^6. Pandering or pimping
(1) Pandering or pimping is punishable by up to one year imprisonment.
(2) Pandering or pimping a person between 18 and 21 years of age is punishable by one to three years' imprisonment.
(3) Pandering or pimping is punishable by three to seven years' imprisonment if committed:

1) using violence or other enforcement measures, or
2) against a minor, or
3) against two or more persons, or
4) by a person who has previous criminal record for the same act.

Table 9. Recorded offences, 1997-2000

Type of Offence	1997	1998	1999	2000
Hostage-taking (Criminal Code Article 124[1)]	1	-	2	1
Unlawful deprivation of liberty (Criminal Code Article 124[3])	18	22	18	24

Source: Statistical Yearbook of Estonia 2001

254. Chapter 9 "Offences against Persons" of the new Penal Code contains a separate division stipulating offences against freedom.

255. The following articles of the Penal Code deal with slavery and servitude:

Article 133. Enslaving

1) Placing a human being, through violence or deceit, in a situation where he or she is forced to work or perform other duties against his or her will for the benefit of another person, or keeping a person in such situation, is punishable by one to five years' imprisonment.
2) The same act, if committed:
1) against two or more persons, or
2) against a person of less than 18 years of age,

is punishable by three to twelve years' imprisonment.

Article 134. Taking a person to a State restricting personal freedom

(1) Taking or leaving a person, through violence or deceit, in a state where it is possible to persecute or humiliate him or her on grounds of race or gender or for other reasons, and where he or she lacks legal protection against such treatment and does not have the possibility to leave the state, is punishable by a pecuniary punishment or up to five years' imprisonment.
(2) The same act, if committed:
1) against two or more persons, or
2) against a person of less than 18 years of age,

is punishable by two to ten years' imprisonment.

Article 135. Hostage taking

(1) Imprisonment of a person in order to compel, under the threat to kill, detain or cause health damage to the person, a third person to commit or consent to an act is punishable by three to twelve years' imprisonment.
(2) The same act, if committed against a person of less than 18 years of age, is punishable by five to fifteen years' imprisonment.

Article 136. Unlawful deprivation of liberty

(1) Unlawful deprivation of the liberty of another person is punishable by a pecuniary punishment or up to five years' imprisonment.

(2) The same act, if committed against a person of less than 18 years of age, is punishable by one to five years' imprisonment.

256. Chapter 11 *Offences against Family and Minor* contains the following articles:

Article 172. Child stealing
Concealed or unconcealed kidnapping of another person's child of less than 14 years of age from a person under whose care the child legally is, is punishable by a pecuniary punishment or up to three years' imprisonment.

Article 173. Sale or purchase of children
(1) The sale or purchase of children is punishable by one to five years' imprisonment.
(2) The same act, if committed by a legal person, is punishable by a pecuniary punishment.

Article 175. Disposing minors to engage in prostitution
A person who by inducement, threat or any other act influences a person of less than 18 years of age in order to cause him or her to commence or continue prostitution, but the act does not have the necessary elements of an offence provided for in Article 133 (enslaving) or 143 (compelling person to engage in sexual intercourse) of this Code, shall be punished by a pecuniary punishment or up to three years' imprisonment.

Work in prison

257. Estonian laws do not provide for forced labour as a punitive measure. Mandatory work by prisoners is regulated by the new Imprisonment Act since 1st December 2000. Relevant chapters concerning rights and obligations of detainees under the Executive Procedure Act are concurrently invalid.

258. Under Division 4 "Education and work in prison" of the Imprisonment Act the following articles deal with mandatory work of prisoners

259. Article 37. Mandatory work
(1) Prisoners are required to work unless otherwise provided by law.
(2) The following categories of prisoners are not required to work:
1) prisoners of more than 63 years of age;
2) prisoners who are acquiring general or secondary vocational education or participating in vocational training;
3) prisoners who are unable to work for health reasons;
4) prisoners who are raising a child of less than 3 years of age.
(3) The medical officer of a prison shall determine the ability of prisoners to work.
(4) The manner and content of work organisation shall correspond, as far as possible, to the organisation of work outside of prison.
(5) Prisoners may be required to work at the plants only with the consent of the prisoners.

260. Article 38. Providing prisoners with work in prison
(1) A prison administration shall ensure that a prisoner is provided with work, considering the physical and mental abilities and skills of the prisoner. If it is impossible to ensure that a prisoner is provided with work, the prisoner shall be required to participate in the maintenance of the prison.

(2) In order to ensure prisoners with work, a prison may build plants within or outside the territory of the prison, allow prisoners to work outside the prison or require prisoners to participate in the maintenance of the prison.
(3) In order to ensure prisoners with work, permission may be granted to build plants within the territory of a prison also to natural persons or companies whose sole shareholder is not the state if such persons or companies enter into a corresponding contract with the state. The Minister of Justice shall approve the requirements for such the contract.

261. Article 39. Working conditions in prison
(1) Prisoners' working conditions shall comply with the requirements established by labour protection law, except the specifications arising from this Act. A prison administration is required to ensure that prisoners are guaranteed working conditions which are safe to life and health.
(2) Prisoners may be required to work overtime, on their days off and on public holidays only with the consent of the prisoners.
(3) Prisoners participating in the maintenance of the prison are required to work according to the nature the work at the discretion of the prison administration.
(4) On the order of the director of a prison, prisoners shall be required to participate in the prevention of a natural disaster, epidemic, accident or catastrophe or the elimination of the effects thereof and in case of other emergencies. In such event, the prison administration shall ensure the security and safety of the prisoners.

262.. Article 40. Disability pension
A prisoner who, while in prison, suffers partial or full loss of capacity for work due to an accident at work or an occupational disease and who has no dependants shall be paid disability pension after the release pursuant to the procedure provided by law. A prisoner who has dependants shall be paid disability pension also during the time of the imprisonment pursuant to the procedure provided by law.

263. Article 41. Work outside of prison
(1) A prisoner with regard to whom there is adequate reason to presume that he or she will not commit a new offence shall, with his or her consent, be allowed to work outside a prison without supervision or under supervision if this complies with the objectives of imposition of imprisonment and the individual treatment programme of the prisoner.
(2) Provisions of labour law, including the provisions concerning entry into employment contracts, remuneration and holidays, shall apply to unsupervised work of prisoners outside a prison. An employment contract entered into with a prisoner shall not indicate that he or she is serving a sentence.
(3) An employer shall transfer the wages of a prisoner who is working outside a prison to the bank account of the prison.

264. Article 42. Release from mandatory work
(1) If a prisoner has worked or participated in the maintenance of the prison for one year, the prisoner has the right to apply for release from mandatory work for up to twenty eight calendar days. Prisoners shall not be remunerated for the time when they are released from mandatory work.
(2) Days on which a prisoner did not work due to an illness shall be included in the working year of a prisoner, however, not more than to the extent of six weeks.

265. Article 43. Remuneration of work of prisoners

(1) Prisoners who work shall receive remuneration. Prisoners who are required to participate in the maintenance of a prison shall also be remunerated.
(2) Remuneration of a prisoner is calculated based on the current minimum wage, the nature of the work and the amount of time that the prisoner worked. The Government of the Republic shall approve the procedure for remuneration of the work of prisoners.
(3) The director of a prison may reduce the remuneration of a prisoner working in the prison for up to 60 per cent for unsatisfactory work results due to the fault of the prisoner. Remuneration shall be reduced on proposal of the person who organises the work.
The prisoner shall be informed in writing of the amount of his or her remuneration.

266. In order to ensure prisoners with work, a prison may build plants within or outside the territory of the prison, allow prisoners to work outside the prison or require prisoners to participate in the maintenance of the prison. Permission may be granted to build plants within the territory of a prison also to natural persons or companies whose sole shareholder is not the state if such persons or companies enter into a corresponding contract with the state.

Table 10. Employment of prisoners as of 31.12.2001

Prison	Maintenance of the prison	Occupation with production activities	No of employed together
Tallinn Prison	103	0	103
Viljandi Prison	4	0	4
Maardu Prison	7	0	7
Pärnu Prison	10	0	10
Central Prison	112	0	112
Harku Prison	31	80	111
Murru Prison	220	201	421
Ämari Prison	59	71	130
Rummu Open Prison	28	0	28
Together	574	352	926

Source: Ministry of Justice

267. At the moment the prisoners are employed in the following fields:
Harku Prison – sewing; general works (sorting, packing) and prison maintenance works.
Ämari Prison – metal and wood works, prison maintenance works.
Murru Prison - metal and wood works, prison maintenance works.
Central Prison – 5 life inprisonment persons started doing sewing works since April 2002 and number of prisoners is occupied with prison maintenance works.
Rummu Open Prison – wood works, work in laundry and prison maintenance works.
Viljandi Open Prison – repairing soft furniture, repairs of the prison compartments (painting and brickwork) and prison maintenance works.

In other prisons (Maardu Prison, Tallinn Prison, Pärnu Prison) the prisoners are occupied with maintenance works (cleaning, minor repair works etc). In most prisons prisoners also work outside prison in different fields. Althogether the number of prisoners working outside prisons is 33.

Service in Defence Forces and alternative service

268. Article 3 of the new Defence Forces Service Act that entered into force on 16 April 2000 states that every male Estonian citizen is required to serve in the Defence Forces – to perform his duty to serve in the Defence Forces.

269. Article 3 divides the groups of persons liable to service in the Defence Forces to persons eligible to be drafted, conscripts and reservists.
Performance of the duty to serve in the Defence Forces is divided into performance of the conscript service obligation and performance of the reserve service obligation. Refusal to serve in the Defence Forces on religious or moral grounds does not release the person concerned from performance of the duty to serve in the Defence Forces.

270. Article 61 stipulates the duration of compulsory military service. Under paragraph 3 of Article 61, the duration of compulsory military service, which shall not be longer than twelve months or shorter than eight months, shall be determined by the Government of the Republic on the proposal of the Minister of Defence.

271. Article 4 also stipulates alternative service:
(1) A person eligible to be drafted who refuses to serve in the Defence Forces for religious or moral reasons is required to perform alternative service pursuant to the procedure prescribed by law.
(2) Alternative service shall be conducted pursuant to the procedure provided for in this Act and legislation issued on the basis thereof.

272. According to Article 7, a person eligible to be drafted is a person who is liable to service in the Defence Forces and who attains 16 years of age during a given year, until call-up for compulsory military service or release from call-up for compulsory military service.

273. Persons eligible to be drafted shall be called up for compulsory military service between the ages of 18 and 27 (inclusive). A person eligible to be drafted who has commenced acquisition of higher education at a vocational educational institution or in full-time study at an institution of applied higher education or university on the basis of a state accredited curriculum shall be called up for compulsory military service at a time suitable for him but not later than within three years after admission to the educational institution. After admission to an educational institution and not later than by 15 September, a person eligible to be drafted shall notify a national defence department in writing of the time when he wishes to commence performance of his conscript service obligation.

274. According to Article 52, postponement of the call to service is postponement of the call-up of a person eligible to be drafted for active service for a specified time or under specific conditions and it can be given due to illness or health disorder (Article 53); for family or economic reasons (Article 54); or in order to complete education, run as candidate or work in elected office (Article 55).

275. The following persons eligible to be drafted shall not be called up for compulsory military service:

1) persons who are declared unfit for active service for health reasons and who are deleted from the register of persons liable to service in the Defence Forces;
2) persons who have served a sentence for an intentionally committed criminal offence;
3) persons who during the term of postponement of the call to service attain 28 years of age.

276. In addition, a person liable to service in the Defence Forces who has served in the army, navy or air force of another state for at least twelve months shall be released from call-up for compulsory military service, his compulsory military service is deemed to have been performed and he shall be assigned to the reserve pursuant to the procedure provided for in Defence Forces Service Act.

277. Article 60 stipulates that a person eligible to be drafted shall be declared unfit for active service due to a serious chronic illness or a physical or mental disability, shall be completely released from the duty to serve in the Defence Forces, and shall be deleted from the register of persons liable to service in the Defence Forces.

278. Persons in alternative service shall serve in structural units determined by the Government of the Republic which are in the area of government of the Ministry of Internal Affairs or the Ministry of Social Affairs and which are engaged in rescue, social care or emergency work.

279. Article 76 paragraph 3 sets that the titles of positions of persons in alternative service shall be established by the Government of the Republic. Article 77 paragraph 3 stipulates that alternative service shall be organised by a directive of the Minister of Internal Affairs or Minister of Social Affairs.

280. During the period of 1995-2001, only in year 1996 11 persons eligible to be drafted served in Tallinn Military Rescue Company (under Estonian Rescue Board).

281. The duration of alternative service shall not be longer than twenty-four months or shorter than sixteen months. The duration of alternative service shall be determined by the Government of the Republic on the proposal of the Minister of Defence.

282. Article 21 of the Emergency Situation Act regulates engagement of natural persons in rescue work during emergency situation:
(1) Persons between the ages of eighteen and fifty years may be engaged in rescue work.
(2) The following are exempt from rescue work during an emergency situation:
1) pregnant women and mothers of children of up to three years of age;
2) persons who are raising disabled children;
3) one of the parents or the caregiver of a child under the age of twelve years;
4) disabled persons;
5) mentally or physically disabled persons and their curators.
(3) During an emergency situation, females under thirty years of age are exempt from rescue work in conditions of dangerous radiation.

Economic exploitation and child labour

283. According to Article 14 of the Child Protection Act, the child will be protected from economic exploitation and from performing work which is hazardous, beyond the child's capabilities, harmful to the child's development or may interfere with the child's education.

284. A child who has completed basic education, who does not wish or is unable to continue studying, may be admitted to employment. Admitting to employment of a child without basic education or a child without parental care is decided by employment offices together with the social services departments. Schools are required to inform social services departments of all children who discontinue acquiring of basic education.

285. The employment offices are required to keep a register of children who are neither working nor studying and to inform the social services departments of such children. The social services departments are required to assist children who do not study or work in arranging for their education and employment (Child Protection Act Articles 14, 43, 44).

286. According to the Labour Contracts Act, an employee may be a natural person who has attained 18 years of age, who is with active legal capacity or with limited active legal capacity. By law, a higher age limit may be established for certain categories of employees.

287. In exceptional cases, employees may be minors who are at least 13 years of age. For entering into a labour law relationship, a minor who is 15 years old must have the consent of at least one parent or caretaker, a minor who is between 13 to 15 years of age in addition must also have the consent of the labour inspector of their place of residence on the condition that the work does not endanger the minor's health, morals or acquiring of education and the work is not prohibited for minors by a collective agreement or by law.

288. The labour inspector of the location of a parent, guardian, caretaker or employer of a minor may demand that an employment contract with a minor be terminated if the work endangers minor's health, morals or acquiring of education.

289. When admitting a minor to employment, no probationary period may be used to ascertain the employee's suitability for performing the work or to ascertain the employee's state of health, abilities, communication skills and professional skills. It is also prohibited to send a minor on a business trip, i.e. send a minor to perform work outside the location of work set out in the labour contract.

290. It is prohibited to hire and employ minors for heavy work, work which poses a health hazard or has dangerous working conditions, underground work, or work which endangers the morals of minors.

291. The general normative working time in Estonia may not exceed eight hours a day and forty hours a week. Reduced working time has been established for minors in accordance with Article 10 of the Working and Rest Time Act. The reduced working time may not exceed:
20 hours a week for employees who are 13-14 years of age;
25 hours a week for employees who are 15-16 years of age;
30 hours a week for employees who are 17 years of age.

292. Article 14 of the Working and Rest Time Act prohibits requiring a minor to work overtime and work at night, i.e. work from 10 p.m. until 6 a.m. According to Article 12,

upon the recording of total working time, the duration of working time of employees who are 13–14 years of age may not exceed five hours per day, the duration of working time of employees who are 15–16 years of age may not exceed six hours per day and the duration of working time of employees who are 17 years of age may not exceed seven hours per day.

293. Minors enjoy equal rights with adults in employment relationships and disputes, and they have benefits prescribed by law, administrative legislation and collective agreements (Labour Contracts Act, Article 12).

294. The procedure for settling of labour disputes is established by law. If a minor has concluded a labour contract by violating the law, then in accordance with Article 125 of the Labour Contracts Act, a labour dispute resolution body will declare the labour contract invalid. A labour contract is declared invalid if: both parties were minors; labour contract was entered into in the capacity of employer by a minor – on the basis of an action by one parent or the guardian of such minor; labour contract was entered into in the capacity of employee by a minor of thirteen to eighteen years of age without the consent of one parent, a guardian, caretaker or the labour inspector; commencement of employment would endanger the health, morals or education of the minor - on the basis of an action by one parent, guardian or the labour inspector.

295. The Government has approved in 1992 "The list of heavy work, work hazardous to the health or hazardous working conditions and work where employment of minors is prohibited".

296. It is prohibited to employ minors for work for which medical checks prior to employment and regular medical checks during the employment are required; work requiring manual displacement of loads for one third of the working time; work involving inflammable and explosive substances; work requiring contact with dangerous animals; work related to production, storage, transport and sale of alcoholic beverages; underground work; etc.

297. With the Government regulation of 22 July 1992 "The list of work endangering the morals of minors, where employment of minors is prohibited" was approved. According to it, the following work is prohibited: work involving slaughter or destruction and processing of live animals and birds; work related to exploiting and promoting of sex, violence, gambling; work where a minor is in contact with alcohol, narcotic, toxic and psychotropic substances.

298. The list of work where minors who are 13-15 years of age are allowed to work was approved by the Government regulation in 1992. Minors who are 13-15 years of age may be employed for the following work: picking of berries and fruit; selling of small-sized and cheap goods; putting up posters on billboards; working as a messenger; picking of herbs; weeding of plants; cleaning of vegetables; manual knitting of nets; watering works; stamping of objects or manual gluing of labels, etc.

299. Occupational Health and Safety Act states that a legal person will bear administrative liability for not observing the restrictions on the employment of minors or disabled persons. A fine up to 50 000 kroons may be imposed. Supervision over compliance with the requirements of legislation is exercised by the National Labour Inspectorate (Article 26).

The Labour Inspectorate will monitor compliance with provisions of labour law with respect to children. There is no economic exploitation of children and forced child labour in Estonia.

300. Information about employment of children can only be obtained from labour surveys. Surveys in the first quarter of 1995 and in 1999 indicated that employees aged 16-17 make up 0.2% of the total number of employees. Thus, it may be stated on the basis of the surveys that employment of children is at a very low level in Estonia and no exploitation of children has been noted. There is no national statistical data on it.

301. In the first quarter of 2000, the labour inspectorate carried out targeted checks in eight counties, in 129 businesses and establishments. First of all those establishments were checked where use of children as labour could be expected (theatre, television, modelling agencies, film studios, recreational centres and community centres). The checks revealed that no child labour was used in recreational centres and community centres where children participate in the activities of music groups and hobby groups. Child labour was used in theatres (in 56 cases either a labour contract, role contract, or acting contract was concluded or payment was made on the basis of written notice). Contracts were concluded with a child or a child's parent. The contract stipulated the number of performances and pay for one performance. Performances with participation of children were delivered either during the day or ended before 10 p.m., children had been appointed a tutor for the time of the performance, resting possibilities had been created during breaks.

302. In television, child labour is used for recording children's programmes which took place during the day, no labour contracts were concluded, payment was on the basis of written notice.

303. Use of child labour in modelling agencies is not common. In a few instances, there is mediation of minors to foreign modelling agencies and this activity takes place strictly with a written consent of a parent. The working time is 2-3 hours a day (preparation and photographing of a model). In all cases, working conditions were agreed previously, including pay, and a contract was made with a parent.

304. In 1999, there were five children working in film studios, four of them were up to 13 years old. Working time limits were observed and payment was on the basis of a contract which had been concluded either with a child or parent.

305. Use of child labour in Estonia poses no problems; in 1999, the labour inspectorate gave its consent for employment of children 13-15 years of age in 102 cases. In most cases, employment was during the school summer vacation.

306. In connection with preparation for the ratification of ILO Conventions no. 182 "Elimination of worst forms of child labour" and no. 138 "Minimum age for admission to employment", a need for additional surveys on child labour arose. The Ministry of Social Affairs contacted in January 2000 the ILO Director General for receiving technical assistance and joining the IPEC programme. Based on the possibility of fulfilling the conditions of Convention 182 in Estonia, the Ministry of Social Affairs ordered an expert assessment from the ILO working standards department who assessed Estonian laws to be fully in compliance with the requirements of the Convention. On 28 January 2000, the

trilateral Estonian ILO council decided to propose to the Riigikogu to ratify the child labour convention.

307. Pursuant to the Juvenile Sanctions Act, one of the sanctions that may be applied to minors is community service (Article 3). A minor may be required to perform community service of ten to fifty hours only with their consent and while they are not engaged in work or studies. Community service of up to ten hours may be imposed on minors under 13 years of age.

Article 9 Right to liberty and security of a person

308. Article 20 of the Constitution stipulates that everyone has the right to liberty and security of person. No one shall be deprived of his or her liberty except in the cases and pursuant to procedure provided by law:
1) to execute a conviction or detention ordered by a court;
2) in the case of non-compliance with a direction of the court or to ensure the fulfilment of a duty provided by law;
3) to combat a criminal or administrative offence, to bring a person who is reasonably suspected of such an offence before a competent state authority, or to prevent his or her escape;
4) to place a minor under disciplinary supervision or to bring him or her before a competent state authority to determine whether to impose such supervision;
5) to detain a person suffering from an infectious disease, a person of unsound mind, an alcoholic or a drug addict, if such person is dangerous to himself or herself or to others;
6) to prevent illegal settlement in Estonia and to expel a person from Estonia or to extradite a person to a foreign state.
No one shall be deprived of his or her liberty merely on the ground of inability to fulfil a contractual obligation.

309. Everyone who is deprived of his or her liberty shall be informed promptly, in a language and manner which he or she understands, of the reason for the deprivation of liberty and of his or her rights, and shall be given the opportunity to notify those closest to him or her. A person suspected of a criminal offence shall also be promptly given the opportunity to choose and confer with counsel. The right of a person suspected of a criminal offence to notify those closest to him or her of the deprivation of liberty may be restricted only in the cases and pursuant to procedure provided by law to combat a criminal offence or in the interests of ascertaining the truth in a criminal procedure.

310. No one shall be held in custody for more than forty-eight hours without the specific authorisation of a court. The decision of the court shall be promptly communicated to the person in custody in a language and manner which he or she understands (Article 21 of the Constitution).

311. Criminal Proceedings in Estonia are regulated under Code of Criminal Procedure. As compared to the information in the previous Report, certain amendments have been made in the Code of Criminal Procedure.

312. Chapter 5 of the Code concerns preventive measures, fines and compelled attendance. Article 66 lists the following classes of preventive measures:
1) signed undertaking not to leave place of residence;
2) personal surety;
3) taking into custody;
4) security.
Preventive measures may be applied if there is sufficient reason to believe that an accused or accused at trial who is at large absconds investigation or court proceedings, impedes the establishment of the truth in a criminal matter or continues to commit criminal offences, or in order to ensure the enforcement of a court judgment.

313. A preventive measure shall be applied only with regard to a person against whom charges have been brought, except for some cases prescribed by the Code.
In exceptional cases, a preventive measure may be applied to a person who is suspected of the commission of a criminal offence prior to the bringing of charges or the prosecution of a suspect pursuant to expedited procedure. In such case, charges shall be brought or the suspect shall be prosecuted pursuant to expedited procedure not later than within ten twenty-four hour periods as of the application of the preventive measure. If no charges are brought or the suspect is not prosecuted during the term, the preventive measure shall be annulled, except for some exceptional cases.

314. If taking into custody is applied as a preventive measure and no charges are brought or a suspect is not prosecuted pursuant to expedited procedure within ten twenty-four hour periods as of the application of the preventive measure, a county or city court judge may extend the preventive measure for up to thirty twenty-four hour periods. If no charges are brought or the suspect is not prosecuted pursuant to expedited procedure during that term, the suspect shall be released from custody.
A person who is taken into custody prior to the bringing of charges or the prosecution of a suspect pursuant to expedited procedure has the right to file complaints against the acts of a preliminary investigator, prosecutor, county or city court judge, to give statements and submit applications.

315. In the choice of preventive measure, the seriousness of the committed criminal offence, the personality of the suspect, accused, or accused at trial, the possibility that the suspect, accused, or accused at trial may abscond investigation or the court proceedings or may impede the establishment of the truth and the state of health, age and marital status and other facts concerning the suspect, accused or accused at trial which may be relevant in the application of a preventive measure shall be taken into account.

316. A preliminary investigator or prosecutor shall prepare a reasoned order, or a court shall prepare a reasoned ruling concerning the application of a preventive measure which sets out the nature of the charges and provides the grounds for the application of the preventive measure. The order or ruling concerning the application of a preventive measure shall be communicated to the person with regard to whom such order or ruling is made.

317. Article 73 stipulates that taking into custody may be applied as a preventive measure with regard to a suspect, accused or accused at trial in order to prevent the absconding of the criminal proceeding, the commission of a new criminal offence by the suspect, accused or accused at trial, or in order to ensure the enforcement of a court judgment.

318. The permission for the taking of a suspect or accused into custody, or the permission for the performance of exceptional surveillance activities is given by a county or city court judge on the basis of a reasoned ruling submitted to him or her, which shall set out the period of time for holding the suspect or accused in custody. After the completion of pre-trial investigation, the extension of the term for holding a person in custody, or the performance of exceptional surveillance activities in penal institutions may be requested by a prosecutor.

319. A preliminary investigator shall notify the criminal defence counsel and prosecutor of an application for taking into custody beforehand; the criminal defence counsel and prosecutor have the right to participate in the hearing of the application by the county or city court judge.

320. A person to be taken into custody must be interrogated as a suspect or accused, and the person shall be ensured the right of defence. A person to be taken into custody has the right to request his or her interrogation by a county or city court judge with the participation of the criminal defence counsel; minutes shall be prepared concerning such interrogation. Such requirements are not applied if the person to be taken into custody is a fugitive, or if his or her whereabouts is unknown.

321. Permission for taking into custody, or permission for the performance of exceptional surveillance activities in penal institutions, or refusal to grant such permission shall be formalised by a reasoned ruling of a county or city court judge. The county or city court judge shall sign the ruling and certify it by the court seal.

322. A term for holding in custody is extended pursuant to the provisions which regulate taking into custody. The issue of an extension of a term for holding in custody shall be decided by the county or city court judge of the location where the person is held in custody. A court shall notify the institution where a person is detained of the extension of the term for holding in custody, or of the annulment of such preventive measure; a preliminary investigator shall notify a prosecutor of the extension of the term for holding in custody, or of the annulment of such preventive measure. The notice shall reach the institution prior to the expiry of the term for holding in custody.

323. A person may not be held in custody for longer than six months in the investigation of a criminal matter. In the case of particular complexity or extent of a criminal matter, the Chief Public Prosecutor or senior county or city prosecutor may request the extension of the term for holding in custody for up to one year as an exception.

324. If a court returns for further investigation a criminal matter where the term for holding the accused in custody is expired, and where the holding of the accused in custody as a preventive measure cannot be altered due to the facts of the matter, a county or city court judge shall extend the term for holding in custody for not more than forty days after the matter is returned from the court. The term shall be further extended pursuant to the procedure and to the extent determined by the law, taking into account the time the accused was held in custody before the matter was referred to court.

325. If an accused commits a new criminal offence during the investigation for which the punishment prescribed by law is imprisonment for more than one year, the extension of the term for holding the accused in custody for a longer period than forty days may be

requested with regard to the accused. The calculation of the term for holding in custody and the extension of such term shall be based on the new criminal offence, regardless of how much time the accused is held in custody on the basis of the previous criminal offence (Article 74).

326. At the request of a person taken into custody, the person is given an opportunity to notify, at his or her choice, at least one person close to him or her of being taken into preventive custody through a preliminary investigator, a prosecutor or a court. Such right may be restricted only for the prevention of a criminal offence or in the interest of the ascertainment of the truth in the criminal proceeding.

327. If a person taken into custody has minor children who are left without supervision, they shall be placed under the curatorship of appropriate persons or institutions. If the property or residence of a person taken into custody is left without supervision, measures shall be taken for the maintenance thereof. The right of a person held in custody to correspondence, use of a telephone and other public communication channels shall be restricted and the granting of permission to receive visits or to be granted prison leave under supervision shall be decided by a preliminary investigator or prosecutor by his or her order or adjudicated by a court by a ruling.

328. The performance of exceptional surveillance activities in penal institutions, that is covert examination of the postal items of the person held in custody, and wiretapping and recording of the messages and other information of the person held in custody, delivered by telegraph, telephone and other commonly used technical communication channels, is permitted only with the permission of the court. A preliminary investigator may ask the permission of a county or city court for the performance of exceptional surveillance activities by a prison with regard to a suspect or accused in an application for taking into custody, or in an application submitted separately, if this is necessary for the ascertainment of the truth in the criminal matter investigated by him or her (Article 75).

329. A person with regard to whom a preliminary measure is applied, or criminal defence counsel or a legal representative of such person, or a prosecutor may file an appeal against a ruling on taking into custody, on extension of the term for holding in custody or refusal to extend the term for holding in custody within five days pursuant to the procedure prescribed in the Code of Criminal Court Appeal and Cassation Procedure (Article 77^1).

330. A preliminary investigator, prosecutor or court shall annul a preventive measure if there is no further need for the application thereof, or alter the preventive measure and choose a new preventive measure. The permission of a court is necessary for substitution of a preventive measure by taking into custody. Security as a preventive measure may be altered or annulled on the proposal of a preliminary investigator or prosecutor only by a county or city court judge.

331. A prosecutor has the right to make a written proposal to a preliminary investigator to annul a chosen preventive measure, to substitute the measure with another, or to choose a preventive measure, if a measure has not been chosen. The proposal of a prosecutor is binding on the preliminary investigator. Holding in custody as a preventive measure, or a preventive measure chosen by a prosecutor or preliminary investigator, may be annulled or altered by the preliminary investigator only with the consent of the prosecutor.

332. A preliminary measure chosen with regard to an accused at trial may be altered or annulled by the court conducting the proceeding in the criminal matter, or by a higher court. If a person, who prior to the taking into custody was interned, is released from custody, an authorised agency of the Republic of Estonia or a regional unit thereof shall be notified of the pending release of such person. The notice shall be immediately delivered by telephone, telegraph or telefax (Article 78).

333. The detention of a suspect is a procedural act whereby a person is deprived of liberty for up to forty-eight hours, and concerning which minutes of detention shall be prepared.

334. A person shall be detained as a suspect if:
1) he or she is apprehended in the act of commission of a criminal offence or directly thereafter;
2) an eyewitness to a criminal offence or a victim indicates such person as the person who committed the criminal offence;
3) the evidentiary traces of a criminal offence refer to him or her as the person who committed the criminal offence.

335. A suspect may be detained on the basis of other information referring to a criminal offence, if:
1) he or she attempts to escape;
2) he or she has not been identified;
3) he or she may continue to commit criminal offences;
4) he or she may abscond the criminal proceedings or impede the criminal proceedings in any other manner.

336. Persons who are apprehended in the act of commission of a criminal offence or directly thereafter in the act of attempting to escape may be immediately conveyed to the police for detention as a suspect by everyone.

337. A detained suspect has the right to file a complaint against the activities of a preliminary investigator, to give explanations and to submit applications. The suspect is given an opportunity to notify at least one person close to him or her at his or her choice of his or her detention through a preliminary investigator. A preliminary investigator is required to prepare minutes concerning the detention of a person suspected of commission of a criminal offence, indicating the grounds and motives for detention, and to notify a prosecutor of the detention within twenty-four hours. The content of the minutes and the rights and obligations shall be communicated to the detained person against a signature. A suspect shall be interrogated not later than within twenty-four hours after his or her detention pursuant to the rules prescribed by this Code for the interrogation of an accused. If the basis for the detention of a suspect ceases to exist in the pre-trial proceedings, the suspect shall be promptly released.

338. Charges shall be brought not later than within forty-eight hours after the preparation of the order on charging with criminal offence. The term for bringing charges shall be suspended if the accused absconds investigation or his or her whereabouts is unknown (Article 124).

339. If during the conduct of forensic medical examination or forensic psychiatric examination it becomes necessary to subject the suspect or accused to prolonged medical

observation or assessment, a preliminary investigator shall place the suspect or accused in an appropriate medical institution. A suspect or accused who is not being held in custody shall be placed in a medical institution with the permission of a county or city court judge. The time spent in a medical institution by a suspect or accused pursuant to the procedure provided for in this article shall be included in the service of a sentence on the same bases as the taking into custody which is applied as a preventive measure.

340. Chapter 19 of the Code of Criminal Procedure deals with appeal against activities of preliminary investigator or prosecutor.

341. A complaint against the activities of a preliminary investigator shall be submitted to a prosecutor either directly or through the preliminary investigator against whose activities the complaint is submitted. Complaints may be both oral and written. A preliminary investigator or prosecutor shall record oral complaints in the minutes which shall be signed by the appellant and the person preparing the minutes. A preliminary investigator shall send the submitted complaints and his or her explanations thereto to a prosecutor within twenty-four hours. The submission of a complaint shall suspend the performance of the activities against which the complaint is filed if the suspension is considered necessary by the preliminary investigator or prosecutor.

342. A prosecutor shall adjudicate a complaint within ten twenty-four hour periods after the date of receipt of the complaint and notify the person who submitted the complaint of the consequences. If, for the adjudication of a complaint, it is necessary to demand the submission of and to verify the materials of a criminal matter or the termination of criminal proceedings, the term for the adjudication of the complaint may be extended for up to twenty twenty-four hour periods and the appellant shall be notified thereof.

343. A prosecutor has the right to demand explanations from preliminary investigators in adjudication of complaints. A complaint may be submitted against the decision of a prosecutor on the adjudication of a complaint or against the activities of a prosecutor during investigation with a higher-ranking prosecutor.

Table 11. Persons incarcerated in penal institutions, 1995-2000 (at the end of the year)

	1995	**1996**	**1997**	**1998**	**1999**	**2000**
Total (icluding convicted offenders)	4 224	4 638	4 790	4 379	4 712	4 796
Persons under investigation and prosecution	1 671	1 691	1 540	1 323	1 639	1 541
Persons under arrest	8	8	12	16	13	11
Internees	25	50	29	21	20	8

Source: Statistical Yearbook of Estonia 1999, 2001

Psychiatric Care

344. The Mental Health Act regulates the procedure and conditions for provision of psychiatric care and the relationships with health care institutions which arise from the provision of psychiatric care, provides the duties of the state and local governments in the

organisation of psychiatric care, and provides the rights of persons in receiving psychiatric care (Article 1).

345. According to Article 3 of the Act, psychiatric care is provided on a voluntary basis, i.e. at the request or with the informed consent of a person or to a person without active legal capacity at the request or with the consent of his or her legal representative. The treatment of a person with a mental disorder without his or her informed consent or the consent of his or her legal representative is permitted only in the cases provided by law.

346. A person is admitted to the psychiatric department of a hospital for emergency psychiatric care without the consent of the person or his or her legal representative, or the treatment of a person is continued regardless of his or her wishes only if all of the following circumstances exist:

1) the person has a severe mental disorder which restricts his or her ability to understand or control his or her behaviour;
2) without inpatient treatment, the person endangers the life, health or safety of himself or herself or others due to a mental disorder; and
3) other psychiatric care is not sufficient.

347. If after carrying out a medical examination of a person the need to admit the person for treatment becomes evident, a physician of the psychiatric department of a hospital shall promptly make such decision. Such decisions shall be documented pursuant to the procedure established by the Minister of Social Affairs. The date of documenting a decision is deemed to be the commencement of involuntary inpatient treatment.
Persons who are in treatment in certain circumstances provided by the law shall not discontinue assessment or treatment or leave the psychiatric department of the hospital (Article 11).

348. A person is taken to the psychiatric department of a hospital by emergency medical staff, police, a person close to him or her, or another person. On the basis of a written request of a physician, the police shall aid medical staff in detaining, carrying out medical examinations on and transferring a person to the psychiatric department of a hospital, and ensure temporary protection of the property of such person. A physician shall immediately inform a person of a decision to place the person in involuntary emergency psychiatric treatment (hereinafter involuntary treatment) and inform a person close to him or her, or his or her legal representative within seventy-two hours of documenting the decision.

349. Upon placing a person in involuntary treatment, a person close to or legal representative of the person or a physician or lawyer of their choice have the right to meet briefly with the person placed in involuntary treatment. The duration of such meeting shall be decided by the attending physician based on the state of health of the person placed in treatment. If a physician has no information regarding the existence or address of a person close to or legal representative of the person, the physician shall inform the local government of the residence of the person that the person has been placed in involuntary treatment. (Article 12)

350. The chief doctor of a hospital shall ensure that two psychiatrists carry out a medical examination of a person admitted for involuntary treatment within forty-eight hours after commencement of inpatient treatment. If one or both of the psychiatrists declare the admission for treatment or continuation of treatment to be unjustified and the person does

not consent to remain in treatment in the psychiatric department of the hospital, the person may immediately leave the hospital. If both psychiatrists declare the admission for treatment or continuation of treatment of the person to be justified, the person shall be kept in involuntary treatment for up to fourteen days.

351. Involuntary treatment of a person in the psychiatric department of a hospital may continue for more than fourteen days only with the authorisation of a court which is issued by an administrative court on the basis of a written application of the chief doctor of the hospital. An administrative court judge shall review an application for authorisation of involuntary treatment and promptly decide whether to grant or deny authorisation, without a court hearing.

352. On the first occasion, an administrative court judge may grant authorisation for involuntary treatment of a person for up to thirty days as of the date of receipt of the application by the court. On subsequent occasions, an administrative court judge may extend the authorisation for involuntary treatment of a person for up to ninety days as of the day following the end of the previous period.

353. If an administrative court judge refuses to grant or extend authorisation for involuntary treatment of a person or revokes an authorisation, the person may immediately leave the hospital or continue treatment voluntarily.

354. An administrative court judge shall revoke an authorisation for involuntary treatment of a person on the basis of a protest of the official exercising supervision or an application of the spouse, legal representative or a close relative of the person in treatment, having heard the explanation of the chief doctor of the hospital or of a doctor performing the duties of the chief doctor who has been authorised to provide the explanation. If necessary, an administrative court judge may order a forensic psychiatric examination of the person in treatment.

355. The grant, extension and revocation of an authorisation for involuntary emergency psychiatric treatment of a person shall be decided pursuant to the provisions of the Code of Administrative Court Procedure concerning the grant of permission for administrative acts.

356. If even one of the circumstances specified above ceases to exist during involuntary treatment, the involuntary treatment shall be discontinued on the basis of a decision of two psychiatrists, and the person may immediately leave the hospital or continue treatment voluntarily. If treatment is provided pursuant to a court authorisation, the chief doctor of the hospital shall inform the court of discontinuation of involuntary treatment in writing. Persons in involuntary treatment shall not be subjected to clinical trials, testing of new medicinal products or treatment methods. County medical officers exercise supervision over involuntary treatment.

357. Means of restraint are used with regard to persons with mental disorders if there is an immediate danger of bodily harm to themselves or violence toward other persons and if other measures for elimination of danger have been insufficient. Isolation and physical restraint are used as means of restraint. Isolation means placement of a person in an isolation room and detainment in that room under supervision of medical staff. Physical restraint means the use of mechanical means (straps, special clothing) in order to restrict the liberty of movement of a person in an isolation room under supervision of medical

staff. Means of restraint are used on the basis of decisions of physicians which are documented in medical files with justifications, and their use is discontinued immediately after danger ceases to exist.

358. If in a criminal proceeding a need arises for psychiatric expertise, it will be prescribed pursuant to the Code of Criminal Procedure by the court and investigator.

359. Chapter 6 of the Code of Criminal Procedure deals with sanctions of medical and educational nature.

360. Article 59. Sanctions of medical nature
(1) Sanctions of medical nature are applied to persons specified in the Criminal Code and also to a person who after the delivering of the court judgement but before completing serving the sentence has become mentally ill, as a result of which the person is unable to understand and guide his or her behaviour, and to a person who in the course of preliminary investigation or hearing of a matter in court has been found with a temporary malfunction of brain activities that hinders the ascertainment of the mental state of the person during the commission of the act prescribed in this Code, if the person due to the nature of the committed act and his or her mental condition is dangerous and needs treatment. Sanctions of medical nature are placement for treatment under ordinary or intense supervision in a psychiatric hospital.
(1^1) A person who has been placed for treatment under intense supervision in a psychiatric hospital is kept there in conditions that exclude the commission of dangerous acts by him or her. In imposing sanctions of medical nature, the court will take into account the severity of the committed act and the person committing it, as well as what kind of treatment the person needs. Sanction of medical nature is applied until the person is cured or until the danger ceases to exist. Application, termination or change of type of such sanctions is ruled by the court.

361. If after the termination of the application of a sanction of medical nature a punishment is applied to the person, the time of application of the sanction is accounted for the time of serving the punishment. One day of application of a sanction of medical nature is considered equal with one day of imprisonment.
If application of a sanction of medical nature to a person is not necessary or if the court terminates application of such sanction, the person may be given under the care and medical supervision of people close to him or her or other persons.

362. Sanctions of educational nature that the court may impose on a minor in accordance with the Criminal Code are:
1) placement in a school for pupils needing special educational conditions;
2) placement in a medical educational institution.
The procedure, conditions and term of placement in a school for pupils needing special educational conditions or in a medical educational institution is established by law.

Table 12. In-patient treatment (provided by psychiatrists) 1995-2000

	1995	**1996**	**1997**	**1998**	**1999**	**2000**
Hospitalised regardless of will	48	55	44	347	299	484
- of them, continuing treatment with permission of administrative court				5	6	18

Of persons remaining in hospital treatment at the end of year - treatment ruled by court in general psychiatric ward	19	16	17	22	21	18
- treatment ruled by court in ward with intense supervision	32	No data	30	31	35	27

Source: Ministry of Social Affairs

Table 13. Psychiatric expertises, 1995-2000

	1995	**1996**	**1997**	**1998**	**1999**	**2000**
Forensic psychiatric expertise	880	335	984	808	861	1262
Incl. out-patient*				678	746	1177
Incl. in-patient*				130	115	85
Psychiatric examination to determine fitness for service in the defence forces	1821	1456	1811	1092	2279	2682
Incl. out-patient*				983	2161	2589
Incl. in-patient*				109	118	93
Psychiatric examination to refer to expertise for determining incapacity for work	3250	2509	4613	5767	6383	6678
Incl. out-patient*				684	5690	6096
Incl. in-patient*				5190	693	582

Source: Ministry of Social Affairs
** In 1995-1997 no data was collected*

Right to compensation

363. Under paragraph 11 of the Concluding Observations of the Human Rights Committee (CCPR/C//)/Add.59), the Committee expressed its concern in relation to lack of legislation regarding the right to compensation for citizens whose rights have been violated by the State or by unlawful behaviour of officials.

364. Compensation of damage to persons is described in more detail under Article 7 of this Report.

Refugees

365. Under paragraph 21 of the Concluding Observations of the Human Rights Committee (CCPR/C//)/Add.59), the Committee was concerned that, as a result of the lack of domestic legislation and procedures governing the treatment of asylum-seekers and the determination of their status, the Government has too often resorted to measures of deprivation of liberty.

366. As compared to the previous report, important changes have occurred in this respect. Pertinent legislation has been adopted, the practice has developed and the conditions have

been created for receiving refugees. Estonia has also acceded to the UN Convention on Refugees and the principles of the Convention have been reflected in domestic legislation.

367. On 18 February 1997, the Refugees Act was passed in Estonia to regulate the legal status and bases of stay in the country of asylum-seekers and refugees in accordance with the UN Convention relating to the Status of Refugees and the Protocol relating to the Status of Refugees of 31 January 1967. The Riigikogu ratified the Convention and the Protocol on 19 February 1997 and the Convention entered into force on 9 July 1997 and the Protocol on 10 April 1997.

368. The Refugees Act defines the terms applicant for asylum and refugee – an applicant for asylum is an alien who applies for asylum to the Republic of Estonia while in Estonia, including at a border checkpoint. A refugee is an alien who complies with the definition in Article 1 of the Convention together with the complementary provisions of Article 1 of the Protocol, or to whom the Republic of Estonia has granted asylum.

369. The Government of the Republic may grant asylum to an applicant who has reason to fear persecution in his or her country of nationality or country of permanent residence for reasons of race, religion, nationality, membership of a particular social group or political opinion and who is unable, or owing to such fear is unwilling to avail himself or herself of the protection of his or her country of nationality or country of permanent residence or who is unable, or owing to such fear is unwilling to return to it. The Government may also grant asylum to an applicant who has arrived in Estonia directly from the country of his or her nationality or country of permanent residence, or who has arrived in Estonia indirectly from another country in which the alien is also threatened by persecution or expulsion to a country where such persecution threatens the alien.

370. In addition, asylum may also be granted to the spouse or minor child of a refugee if he or she is outside of Estonia and conforms to the definition of refugee set out in the Convention and the Protocol.

371. It may be refused to grant asylum to an applicant who does not have a basis for the grant of asylum; who has been granted asylum in another state; who is receiving protection or assistance from an organ or agency of the United Nations other than the United Nations High Commissioner for Refugees; who has committed a crime against peace, a war crime, or a crime against humanity, as defined in international instruments, or a serious non-political crime or who is guilty of acts contrary to the purposes and principles of the United Nations; or with respect to whom there are serious reasons to believe that he or she may pose a threat to the security or public order of Estonia.

372. An applicant has the right to receive information concerning the procedure for applying for asylum and related rights and duties in a language which he or she understands; be in contact with the Office of the United Nations High Commissioner for Refugees (UNHCR) and other organisations for the protection of the rights of refugees; have a representative during proceedings relating to the application for asylum; receive a written reasoned decision concerning refusal to grant asylum; to have recourse to the courts if his or her rights and freedoms are violated. Special reception centres have been created that arrange applicants' temporary housing, food and provision with essential clothing and other necessities and toiletries and money for urgent small expenses; emergency care and

medical examinations; essential translation services and Estonian language instruction; information regarding their rights and duties; and other essential services.

373. The stay in the reception centre is compulsory, except if the alien has a legal basis for staying in Estonia and he or she wishes to reside somewhere else. The reception centre will retain the personal information and other documents of applicants and ensure their confidentiality. The reception of refugees is organised by the local government. The local government will assist refugees in finding housing and employment; obtaining social and health services; arranging for translation and Estonian language instruction; obtaining training and cultural services; obtaining information concerning their rights and duties; and resolving other issues. Article 14 of the Act establishes social rights of refugees, which include the right to receive state allowances, child benefits, employment services and state unemployment benefits, social benefits and other assistance on the same grounds as permanent residents of Estonia.

374. In the internet page of Estonian Citizenship and Migration Board (http://www.mig.ee) there is information in three languages – Estonian, English and Russian on how to apply for asylum in Estonia, where and how the applicants are accommodated and what happens if the asylum is granted. In addition there can be found contact addresses and phone numbers of Estonian Citizenship and Migration Board, Liaison Officer of UNHCR, Tallinn Administrative Court and of Law Clinic co-ordinator (organisation providing assistance to refugees and asylum seekers).

Article 10 All persons deprived of their liberty shall have the right to be treated humanely and with dignity

375. In its Concluding Observations (CCPR/C/79/Add.59), the Human Rights Committee was deeply concerned by the fact, as confirmed by the State party in its report, that "prison facilities are overcrowded and that many inmates are subject to unhealthy living conditions". It further regrets that it did not receive sufficient information which would have enabled it to examine the extent to which the State party is in violation of Articles 7 and 10 of the Covenant. The Committee further noted with concern that it was not provided with information regarding separation of accused persons from convicted persons, as required under Article 10, paragraph 2 (a), of the Covenant.

376. The Estonian prison system and corresponding legislation is characterised by constant progress which has especially speeded up in recent years. The transfer of the administration of prisons under the Ministry of Justice and the Imprisonment Act that entered into force on 1 December 2000 have created necessary conditions for the development of the structure of prisons and taking practical steps.

377. The Department of Prisons of the Ministry of Justice that was created on 1 January 2000 instead of the former Prison Board, and the Imprisonment Act that entered into force on 1 December have established necessary conditions for developing the structure of prisons and for taking necessary practical steps.

378. Instead of the former prison system with prisons of very different type and regime, there are currently eight maximum-security prisons and one open prison: Keskvangla,

Tallinn, Maardu, Murru, Ämari, Harku (women's prison), Viljandi (juvenile prison), Pärnu prison and Rummu laundry as an open prison. In order to solve the increasing employment problems of prisoners, the Government of the Republic created the stock company Eesti Vanglatööstus (Estonian Prison Industry). The aim is to employ a possibly large number of prisoners and to ensure better fulfilment of the re-socialising function of prisons, to create a possibility for prisoners to compensate civil claims, and to offer customers good and competitive products. Prisoners from Ämari and Harku prisons are employed in the stock company Eesti Vanglatööstus (Estonian Prison Industry).

Table 14. Prisoners provided with work in Estonian Prison Industry

Estonian Prison Industry	**Prisoners provided with work**
Harku prison	80
Ämari prison	71
Total	151

379. In practice, the main problem is depreciation of the existing prisons and overcrowded situation in prisons although as compared to 1994-95 the situation has changed considerably for the better. Living conditions of prisoners have improved, employment has increased and the number of persons acquiring education has increased.

380. Estonian prisons are still overcrowded. Currently the number of inmates in prison is 4800. However, according to the norms of the Council of Europe, the capacity of the existing prisons is only for 2792 persons. The problem will be somewhat alleviated by the new modern Tartu Prison for 500 people that will be completed at the end of 2002. For the exact numbers of persons incarcerated in penal institutions, 1995-2000, see table 10 under Article 9.

381. At the beginning of December 2001, there were 3323 prisoners in Estonian prisons, most of them in Murru prison (1806), there were 1340 persons in custody. In Keskvangla prison, there are ten persons subject to expulsion. Out of the total, 99 persons are in the reception ward and 3224 persons under general regime. At the moment there are places for 5200 prisoners including the central prison hospital.

Table 15. Number of prisoners

Date	**Number of prisoners**
01.01.1995	4401
01.01.1996	4224
01.01.1997	4228
01.01.1998	4752
01.01.1999	4342
01.01.2000	4679
01.01.2001	4803
01.01.2002	4775

Source: Ministry of Justice

382. Most prisoners are within the age group of 22-30 years (1301), 1388 prisoners have secondary education. Ethnic origin of prisoners is as follows: 1564 Russians, 1372 Estonians, 181 persons from the regions of the former Soviet Union, and 119 persons from European countries.
Among prisoners, there are 1583 Estonian citizens, 1491 stateless persons and 162 foreign citizens.
94.3% of prisoners are adult men, 3.8% adult women, 1.8% men less than 18 years of age, and 0.1% women less than 18 years of age.

383. Persons serving a sentence for the first time make up 26% of prisoners, persons serving a sentence for the second time 23%, for the third time 19% and for the fourth or more times 32%.

384. 53% of convicted persons are in prison for offences against property, 33% for offences against persons and 10% for offences against public order and security.
26 prisoners serve a life imprisonment, 94 prisoners 15-30 years' imprisonment, 319 prisoners 10-15 years' imprisonment, 1245 prisoners 5-10 years' imprisonment, 1406 prisoners 1-5 years imprisonment and 172 prisoners up to 1 year's imprisonment.

Table 16. Number of offences committed in penal institutions*

Year	Offences
1995	78
1996	69
1997	89
1998	77
1999	80
2000	102
2001	141

** More than a half of these offences were related to narcotics or alcohol*

385. Pursuant to the Imprisonment Act, the objective of application of imprisonment is to help prisoners lead law-abiding life and to protect public order. In order to guide prisoners to law-abiding behaviour and to avoid committing of new offences by them, their communication with the outside world is encouraged, possibilities are provided for general and vocational education and employment, and social welfare is provided. The protection of legal order must be guaranteed by supervision over prisoners.

386. The development strategy for prisons until 2004 drawn up by the Ministry of Justice provides for the creation of prisons meeting modern requirements. For this, administrative and territorial location of prisons is determined (the status and future perspective of the existing prisons is fixed, a complex study is carried out to determine the location of new prisons (economic analysis, regional analysis of crime, receptiveness of local governments)), prisons will be reconstructed in accordance with the process of transition from the camp system to the cell system (new Tartu prison will be completed, Keskvangla will be closed upon opening of Tartu prison, the prison hospital will be transferred under Viljandi prison, the former schoolhouse of Ämari prison will be reconstructed into dwelling quarters, and the former prophylactic facilities of Harku prison into an open prison), professional prison staff will be trained.

387. The new Imprisonment Act directly establishes the requirement of segregation (Article 12) – the following shall be segregated in prisons: men and women; minors and adults; convicted offenders and persons in custody; first offenders and habitual offenders; persons punished by detention and persons punished by imprisonment; persons who are serving life imprisonment; persons who due to their previous professional activities are in risk of revenge. In order to comply with the requirement of segregation, prisons shall have separate prison wards and cells. In addition, the Act establishes social welfare in prisons. The objective of social welfare is to assist the prisoners to sustain and develop essential and positive contacts with the outside world, to increase the prisoners' independent coping abilities and to encourage law-abiding behaviour of prisoners. There are separate regulations for young prisoners who are less than 21 years of age. Young prisoners shall be imprisoned in maximum-security or open prisons prescribed exclusively for such purpose (juvenile prisons) or in separate wards of maximum-security prisons (juvenile wards). Young prisoners shall be segregated in juvenile prisons and juvenile wards as follows: young prisoners less than 15 years of age; 15 up to 16 years of age; 16 up to 18 years of age; 18 up to 21 years of age. In order to improve the conditions of prisoners, renovation of old prisons and building of new prisons has been started.

388. In Tallinn, a new prison for 350 people meeting the European requirements was opened. In connection with the overcrowded situation in Keskvangla, it was decided to rebuild the production facilities of Tallinn prison into quarters for persons under preliminary investigation. In 1993-1995, the former mechanical workshop was rebuilt into the first regime quarters with 73 cells. Prisons have been renovated also in other regions in Estonia. The biggest project is the construction of Tartu prison in southern Estonia where only prisoners from South-Estonia will be serving their sentences. It is hoped that being closer to their families prisoners will not return to criminal activities. All cells in the new prison are single cells, thanks to which the prison environment will be less depressing for prisoners. Every cell is 10 m^2, it has a shower, toilet, bunk that is fixed to the wall, table and cupboard. The number of cells shall be 500. The prison has a church, football field, basketball grounds and a sports hall. The total prison area is 95 000 m^2 .

389. On 12 August 1998, the renovated dwelling quarters of Pärnu prison were opened. With new dwelling quarter there are all together 120 places for prisoners. A prison house built at the beginning of the last century has been reconstructed. It is a two-storeyed stone building with three bigger rooms and three smaller cells on both floors. Previously, the building was used as a dormitory for work and health prevention. The building has been furnished with modern looks by reconstruction that corresponds to the valid requirements.

390. The building has 1-, 2- and 4-person cells (11 four-person, 2 two-person and 4 single cells for total 52 prisoners). The average general area of a 4-person cell is 14 m^2, totalling to 3.5 m^2 per person (min. norm 2.5 m^2).

Distinctions between persons in custody and prisoners

391. There are number of distinctions between persons in custody and convicted prisoners. The conditions of imposition of custody pending trial are under chapter 5 of the Imprisonment Act and in this report the conditions are further discussed under Article 7. Hereunder the main distinctions are mentioned.

392. Persons in custody are kept in a ward prescribed for custody pending trial in a maximum-security prison, in closed cells. Prisoners don't usually stay in closed cells (quarantine or punishment cell), except in the interests of prisoner's personal safety. A specific distinction is that prisoners cannot receive packages but persons in custody are permitted to receive packages, and unlike persons in custody, prisoners have the right to receive long-terms visits. Persons in custody are not required to work.

General rules of treatment of prisoners

393. The internal rules of prisons contain provisions that have to ensure that prisoners are treated humanely and with dignity. In communication with inmates, prison staff have to express themselves appropriately, it is prohibited to degrade the dignity of inmates either by word or deed. In communication with prison staff, prisoners are required to use the polite third person plural form of address, the same applies to communication of staff with prisoners. Public control over prisons, incl. with regard to treatment of prisoners, is exercised through prison committees operating at the given prisons. A prisoner is allowed to receive short and long-term visits, the frequency depends on the prison regime. Prisoners have the right to correspondence and phone calls under the control of prison administration, to participate in cultural and educational or religious events, to deal with a hobby or individual work and to possess and use tools needed for the work, to read books and magazines, and to own personal money. Prisoners have the possibility to read acts of legislation through the mediation of prison library.

394. In order to guarantee the health of prisoners, the law establishes requirements for the dwelling, food and medical care provided to prisoners. The dwellings of prisoners must be in conformity with the requirements of construction technology, health and hygiene. The dwellings of prisoners must have windows to ensure suitable lighting of the premises. Prisoners are required to clean their dwellings and the furnishings and keep them in order.
The provision of food for prisoners must be organised in conformity with the general dietary habits of the population with a view to meet the food requirement necessary for survival. Food must be provided for prisoners on a regular basis and the food must meet the requirements of food hygiene.

395. The medical officer of a prison is required to supervise the state of prisoners' health on a constant basis, treat them in prison to the extent possible and place them in treatment in medical care institutions prescribed for the purpose, and perform other duties assigned to the medical officer. Prisoners are guaranteed full assistance of doctors and psychologists.
Prisoners must take care of their personal hygiene. Prisoners are given the opportunity to have a sauna, bath or shower at least once a week and upon reception into prison.

396. Upon serious illness or the death of a prisoner, the director of a prison shall promptly inform the immediate family of the prisoner or any other person as designated by the prisoner.

Rehabilitation of prisoners

397. With the aim of possibly effective rehabilitation of prisoners to society, an individual treatment programme is made for a prisoner upon his or her arrival in prison. The

individual treatment programme of a prisoner prescribes the placement of the prisoner to a prison; the transfer of the prisoner to an open prison or another maximum-security prison; the prisoner's ability to work and his or her professional skills; the need to provide the prisoner with general education, secondary vocational education or vocational training; privileges granted to the prisoner; measures necessary for the preparation of the release of the prisoner; other measures necessary to achieve the objective of the execution of imprisonment. The individual treatment programme of a prisoner is discussed with the prisoner and it is amended along with the development of the prisoner.

398. Rummu open prison has been established to facilitate coping of prisoners after their release from prison. A prisoner may be transferred to an open prison if it is not practical for the prisoner to serve his or her sentence in a maximum-security prison, the actual term of his or her imprisonment is not more than one year or if the unserved time of the sentence is not more than eighteen months, and there is adequate reason to presume that the prisoner will not commit new offences.
In 2000, 1130 prisoners were released from prison upon completion of serving the punishment, 351 prisoners conditionally before completion of serving the punishment, one prisoner on pardon and seven prisoners due to incurable illness.

399. When preparing the release of a prisoner before completion of serving the punishment, information concerning the prisoner is forwarded to the criminal probation supervision department of the prisoner's or his or her family's place of residence.
Upon release, the prisoner is handed over the savings fund deposited on his account from the payments for work performed by the prisoner.
Rural municipality or city government will arrange the provision of social welfare services, social benefits, employment, and provision of other assistance to a person released from prison.

Education in prison

400. Prisoners have a possibility to acquire education. The objective of providing an opportunity to prisoners to acquire education to is to ensure that the prisoners have adequate knowledge, skills and ethical principles which allows the prisoners to continue their education and work after release. Prisoners who lack basic education are provided with the opportunity to acquire basic education on the basis of a corresponding national curriculum.

401. Pursuant to the new Imprisonment Act, both in open prisons and maximum-security prisons prisoners with secondary education may be permitted to study at vocational educational institutions, institutions of applied higher education or universities. Earlier, only prisoners in open prison had this right. In practice, first steps in this direction were made when three prisoners from Ämari prison were allowed to enrol in distant learning at a higher educational institution.

402. One of the aims of the criminal prevention project drawn up by the Government is to make the system of prison education more flexible and bring it to an equal level with the general education. In the framework of the project, the set of advisory standards of the Council of Europe on " Education in Prison " (Rec. No R(89) Education in Prison) will be published in Estonian.

403. In 2000, in schools on the territory of prisons 283 prisoners began acquiring general education and 501 prisoners began acquiring vocational education. Specialities offered include electric and gas welding, sewing, tractor driver, boiler operator, construction worker, electrician. New specialities added in 2000 are sales management in small businesses and sales representative. Also courses of Estonian are offered to prisoners who are not of Estonian origin.
In Viljandi juvenile prison, it is possible to study the specialities of locksmith, lathe operator/miller, soft furniture repairer, construction finishing worker, and mason.

404. The Institute of Human Rights in their comments to the report has pointed out that financing of education in the prisons is not sufficient and therefore in reality acquiering of education and vocational education is also insufficient.

Work in prison

405. Prison administration shall ensure that a prisoner is provided with work, considering the physical and mental abilities and skills of the prisoner. If it is impossible to ensure that a prisoner is provided with work, the prisoner shall be required to participate in the maintenance of the prison. Guaranteeing of work to prisoners has proved effective when a sole proprietor or a commercial undertaking has established a plant on the prison territory.

406. In 2000, 1002 prisoners had work. Harku prison produces mainly sewing products, in Ämari prison tin vessels and gardening tools are produced. In Rummu prison wooden and metal furniture, garden barrows and fireplace supplies are produced. Products of Murru prison include wooden details as subcontractual deliveries to Estonian industrial enterprises. Private plants in the prison produce metal containers and wooden pallets.

407. Prison administration will ensure that the wages and other funds paid to a prisoner are transferred to the internal personal account of the prisoner. Of the funds deposited on the personal account of a prisoner, 50 per cent will be reserved for the satisfaction of civil claims, 20 per cent will be deposited as a savings fund to be handed over to the prisoner on release and the rest of the funds will be reserved for the use of the prisoner inside the prison pursuant to the internal rules of the prison. If no civil claims exist against the prisoner or if the claims amount to less than 50 per cent of the funds in the prisoner's personal account, the corresponding funds in the personal account of the prisoner will also be deposited as a savings fund to be handed over to the prisoner on release.

408. At the request of the prisoner, the funds reserved for the use of the prisoner inside the prison may be used for the satisfaction of civil claims, sent to his or her family members or dependants or transferred to his or her bank account.

Disciplinary sanctions in prison

409. Upon reception of a prisoner into a prison, the personal file of a prisoner is opened. Documents pertaining to the grounds for detention of a prisoner, disciplinary sanctions imposed on the prisoner and the time and the reason for imposition thereof, and information on the conduct, studies and work of the prisoner and other information and documents provided for in the internal rules of the prison shall be entered in the personal

file of the prisoner. The personal effects which a prisoner has with him or her upon reception into a prison shall be deposited with the prison administration.

410. Disciplinary sanctions may be imposed on a prisoner for the violation of the requirements of the Imprisonment Act, internal rules of the prison or other legislation by the prisoner's fault. The following disciplinary sanctions may be imposed: reprimand, prohibition of one short or long-term visit, removal from work for up to one month, commission to a punishment cell for up to 45 twenty-four hour periods. A prisoner who is a minor may be committed to a punishment cell for up to 20 twenty-four hour periods. In the choice of a disciplinary sanction, the objective of the application of imprisonment is considered. Only one disciplinary sanction may be imposed for the commission of one and the same disciplinary offence. In the case of a serious violation of discipline, the director of a prison or a higher prison officer present has the right to commit the disciplinary offender in a separate cell prior to the termination of disciplinary proceedings (Article 63 of the Imprisonment Act).

411. Disciplinary proceedings shall be conducted and the facts of disciplinary sanctions shall be ascertained by the director of a prison or a prison officer duly authorised by the director. A prisoner shall be immediately informed of the disciplinary offence of which he or she is accused. The prisoner has the right to make statements.

412. A disciplinary sanction shall be imposed by the director of a prison on proposal of the prison officer who conducted the disciplinary proceeding. The imposition of a disciplinary sanction shall be effected in the form of a directive; the imposition of a disciplinary sanction shall be substantiated. A prisoner shall be allowed to examine, against signature, the directive by which a disciplinary sanction is imposed. Material concerning an imposed disciplinary sanction shall be annexed to the personal file of a prisoner (Article 64 of the Imprisonment Act).

413. As a rule, disciplinary sanctions shall be enforced immediately. But the law stipulates that the director of a prison may suspend the enforcement of a disciplinary sanction or an aspect thereof on the condition that the prisoner does not commit another disciplinary offence during the probationary period. The duration of a probationary period shall be from one up to six months. If the prisoner commits a new disciplinary offence during the probationary period, sanctions imposed for both offences shall be enforced immediately. If the prisoner does not commit a new disciplinary offence during the probationary period, the disciplinary sanction shall not be enforced.

414. A disciplinary sanction shall expire if the prisoner does not commit a new disciplinary offence within one year after the imposition of the sanction. A disciplinary sanction shall not be executed if the sanction is not enforced within eight months as of the imposition of the sanction (Article 65).

415. Additional security measures shall be imposed with regard to a prisoner who regularly violates the Imprisonment Act or the internal rules of the prison, wilfully damages his or her health or is likely to attempt suicide or escape, and to a prisoner who acts in a violent manner towards other persons.
Additional security measures that can be applied by the director of a prison include restriction of a prisoner's freedom of movement and communication inside the prison, prohibition for a prisoner to wear personal clothing or use personal effects, prohibition for a

prisoner to engage in sports, commission of a prisoner in an isolated locked cell, use of means of restraint (Article 69 of the Imprisonment Act).
Means of restraint that can be used include tying up or handcuffing a prisoner or use of a restraint-jacket. Means of restraint may not be applied for longer than twelve hours (Article 70 of the Imprisonment Act).

416. Prison officers are permitted to use firearms or special equipment only as a measure of last resort if all the remaining measures are exhausted to prevent a prisoner's escape, to apprehend an escaped prisoner, to neutralise an armed or otherwise dangerous prisoner or to prevent attack or the intrusion of other people in the prison. It is prohibited to use firearms against women and minors, except in the case where a woman or minor escapes, uses firearms to initiate resistance against a prison officer or attacks a prison officer or other people (Article 71 of the Imprisonment Act).

417. In the year 2000, 8358 violations of order were registered in prisons, 20 cases of consumption of alcoholic beverages were registered and 39 cases of consumption of narcotic substances.102 criminal offences were registered (mostly acquisition or consumption of drugs or alcohol), charges were brought with regard to one prison officer.

Prisoners contacts with the outside world

418. The objective of prisoners' contact with the outside world is to facilitate the prisoners' contact with their families, relatives and other close persons in order to prevent the breaking of the prisoners' social links. Prisoners are permitted to receive at least one supervised visit per month from their family members and other persons with regard to whose reputation the prison administration has no reasoned doubts. The duration of a short-term visit shall be up to three hours. Prisoners who are citizens of foreign states have the unrestricted right to receive visits from consular officers of their countries of nationality (Article 24 of the Imprisonment Act).

419. A prisoner is allowed to receive long-term visits from his or her spouse, father, mother, grandfather, grandmother, child, adoptive parent, adoptive child, brother or sister. A prisoner shall be allowed to receive long-term visits from his or her cohabitee on condition that the prisoner and his or her cohabitee have a common child or a shared household or that they had cohabited for at least two years before the prisoner began to serve his or her sentence (Article 25 of the Imprisonment Act).

420. Long-term visit means that the prisoner and the visitor are allowed to live together without constant supervision in prison premises designated for such purpose during a period of one up to three days. A prisoner who is staying in the reception ward of a prison or is committed to a punishment cell to serve a disciplinary sanction is not allowed to receive long-term visits.

421. Prisoners have an unrestricted right to receive visits from their criminal defence counsel and ministers of religion. Visits from criminal defence counsel and ministers of religion shall be uninterrupted, prison officers are allowed to observe but not to listen in on these conversations. It is prohibited to review the content of the written material brought along by criminal defence counsel (Article 26).

422. Prisoners have the right to correspondence and the use of telephone and other public communication channels if relevant technical conditions exist.
A prison officer shall open letters sent by or to a prisoner in the presence of the prisoner, and shall confiscate any items the holding of which in a prison is prohibited by the internal rules of the prison. It is prohibited to examine the contents of prisoners' letters and telephone messages to the legal defence counsel, prosecutor, a court, the Legal Chancellor or the Ministry of Justice.

Prison officials

423. Pursuant to the Imprisonment Act, persons who are 21 years of age, have at least secondary education, who are Estonian citizens with active legal capacity and who have undergone preparatory service for prison officers and complied with the obligation of military service may be appointed to office as prison officers. In order to maintain the professional competence of prison officers, regular evaluations of prison officers are carried out.
Prisons employ training specialists, including the training adviser of the department of prisons of the Ministry of Justice. Their task is to find out what kind of training the prison staff needs and organise such training according to need.

424. There are 1729 prison officers, 464 officials and 178 support staff in Estonian prisons. The average staff volatility has been 22% a year; in 2000, 460 prison workers were hired and 617 were released from service. 99.71% of prison workers participated in professional training, most participants attended training relating to prison's main activities (2641) and legal training (1372).

Prisoners right to submit complaints

425. Prisoners are entitled to have a reception with the prison administration and to submit applications to agencies. The prisoner can file a complaint either to the prison administration, the Ministry of Justice, the Legal Chancellor or the court. A prisoner may also have recourse to court to claim compensation in the case of discrimination.
Director of a prison or a person accordingly authorised by the director checks at least once a month how the issues raised by prisoners have been settled.

426. Applications received by the Legal Chancellor included a large proportion of applications from prisoners: 51 applications, or 7% of the total, were submitted by prisoners in 1999; 58 applications, or 11% of the total, in nine months of 2000. Complaints of prisoners are mainly connected to the prison regime.

Women in prisons

427. As to offences committed by women and their imprisonment, in the last five years the number has grown more than two-fold. Pursuant to the Imprisonment Act, in the placement of prisoners to prison also their sex has to be taken into account. Any search upon arrival in prison or during stay in prison is performed by a prison officer of the same sex.

428. Prisons shall provide separate premises fitted out for women prisoners who are pregnant and organise care for children. A mother and her child of up to three years of age shall be allowed to live together at the request of the mother if the guardianship authority grants consent. A prison administration shall ensure that the ties of a mother with her child over three years of age are sustained unless this disturbs the normal raising of the child or has a negative influence on the child.

429. Harku Prison is located in the guarded area of 8,3 hectares. It is a closed prison were all the inmates are women. Longest time there to be served at the moment is 16 years and shortest 3 months, the average sentence is ca 4 years.Currently, Harku female prison has 129 inmates (in comparison there were 50 inmates in 1993 and around 100 in 1996), the number of women prisoners has also grown in Keskvangla although it is mostly a prison for persons in custody. Harku prison is a female prison and it is distinguished from other prisons by the fact that women can be there together with their children for whom separate wards have been arranged. Physical environment has been created in prisons for age-specific development of small children who stay in prison with their mothers.

430. In March 2001, a new completely renovated ward for mothers and children and children's playground was opened. Upon wish, children are also given a possibility to attend the local kindergarten. In this prison, also the number of employed inmates is the biggest (about 70-80%). Women in Harku prison serve sentences mainly for crimes against persons (55) and crimes against property (59), less prisoners have committed offences against public order and security (10). Fifty-five inmates have at least one previous judicial punishment, 11 are HIV positive, one has tuberculosis. Almost all age groups are represented in the prison – from minors (14) to advanced age (over 70 years). Out of 88 women in Keskvangla prison, 28 have had previous judicial punishments, 11 have HIV, two have tuberculosis and are under treatment in the prison hospital. Prisoners have a possibility for employment, i.e. they have to stay in prison only at nights and at weekends – the remaining five days of the week they can work outside the prison and earn money.

Young prisoners

431. For the purposes of the Imprisonment Act, young prisoner means a person who at the time of enforcement of his or her punishment is younger than 21 years of age. Prisoner is a minor if he or she is less than 18 years old. Young prisoners shall be imprisoned in maximum-security or open prisons prescribed exclusively for such purpose (juvenile prisons) or in separate wards of maximum-security prisons (juvenile wards). Young prisoners are segregated in juvenile prisons and juvenile wards as follows: young prisoners less than 15 years of age; 15 up to 16 years of age; 16 up to 18 years of age; 18 up to 21 years of age.

432. Upon reception into prison, young prisoners may not stay in the reception ward of a prison for more than two weeks. All differences concerning the working of minors arising from labour protection laws, including the provisions concerning working hours, shall be applied to the working of young prisoners less than 18 years of age.

433. In Viljandi juvenile prison, there are 87 prisoners aged 14-19 years, incl. 35 Estonians and 48 Russians. The prison has a shop, good sporting facilities, first-aid post, library that constantly receives new books and publications, sauna, chapel, large dining hall with a

kitchen. One room is occupied by one to four prisoners. Every floor has renovated toilets, every room has a sink, rooms are ventilated. In day-rooms on every floor there are possibilities to watch television (Estonian, Russian and satellite channels) and videos, to play board games (carom, table tennis). There is a sports hall, literature and newspapers, meals are provided three times a day.

434. Two punishment cells in Viljandi prison are fully renovated, minors committed to the punishment cells have a possibility to deal with activities outside the building for one hour a day.
In 1999, alcohol and drug free ward was opened in Viljandi prison where assistance is provided to prisoners who are drug addicts. For this purpose, rooms separated from others were renovated, necessary supplies for therapy were procured and short-term and long-term programmes were prepared for work with prisoners who wish to give up consumption of addictive substances.

Special care homes

435. Special care homes are twenty-four hour social welfare institutions which have been established for living, care and rehabilitation of persons of unsound mind or persons with severe mental disabilities who are unable to live by themselves and whose coping cannot be guaranteed by other social welfare services or provision of other type of assistance.
Persons beginning from the age of 18 (in exceptional cases from the age of 16) may be transferred to special care homes on the basis of a decision of a committee of psychiatrists and court.

436. In January 2001, there were 19 special care homes in Estonia with total 2509 persons under care. By age groups, 44.2% of the persons under care were under 50 years old, 19.2% were 50-59 years old and 34% were 60 years or older. 53.9% of the persons under care were men, 46.1% women, 87% of all persons under care received a disability pension.
In 2000, total 1595 new persons were admitted to special care homes for adults and 1614 persons left the special care homes, 70.3% of them died, 21.5% started independent life and 7.6% moved to other care homes. Eight persons under care started employment.

437. Special care homes have a total staff of 1180 persons, of them 918 women and 262 men.
Out of five social welfare workers, three have professional higher education, one has professional secondary vocational education and one has secondary education.
Out of 121 medical nurses, two have professional higher education, 116 have professional secondary vocational education, one has secondary education and two have 9-year education. All three medical nurses without professional education have completed relevant courses at the Red Cross.

Article 11 No person may be deprived of his liberty solely on the grounds of inability to fulfil a contractual obligation.

438. Reference is made to the initial report (CCPR/C/81/Add.5. para 109). Article 20 of the Constitution states that no one shall be deprived of his or her liberty merely on the ground of inability to fulfil a contractual obligation.
There have been no such cases in practice as the law does not give a possibility to hold anyone liable for the inability to fulfil a contractual obligation.

Article 12 The right to liberty of movement and freedom to choose his residence

439. Article 34 of the Constitution stipulates that everyone who is legally in Estonia has the right to freedom of movement and to choice of residence. The right to freedom of movement may be restricted in the cases and pursuant to procedure provided by law to protect the rights and freedoms of others, in the interests of national defence, in the case of a natural disaster or a catastrophe, to prevent the spread of an infectious disease, to protect the natural environment, to prevent the leaving of a minor or a person of unsound mind without supervision, or to ensure the administration of a criminal procedure.

440. The following is a brief overview of the Acts, pursuant to which it is possible to restrict the persons' right to freedom of movement.

441. According to the Criminal Code, the rights of the convicted may be restricted or the convicted may be deprived of his or her rights by a court procedure. The courts may, as a principal punishment, apply also a detention or deprivation of liberty. The convicted may be sentenced to deprivation of liberty from three months to fifteen years or for life. In the case of aggregation of fixed-term punishments constituting deprivation of liberty, the court may impose a final punishment of a fixed term imprisonment for up to thirty years. The term of imprisonment of a person who was under eighteen years of age when the crime was perpetrated, may not exceed eight years (Article 23 of the Criminal Code).

442. The term of detention imposed as a punishment may be up to three months. Detention imposed on a minor may be for a period of up to one month during the time free from studies and work, and the number of days of detention served during one calendar month will be determined.

443. If the court, considering the facts of the commission of an offence and the personality of the offender, finds that serving of the imposed period of imprisonment by the convicted person is not purposeful the court may rule that the imprisonment will conditionally not be applied to the convicted offender. In such case, the court will rule that the punishment will not be enforced if the convicted person does not commit another criminal offence or administrative offence during the probationary period imposed by the court. In such case, the court will place the convicted offender under the supervision of a criminal probation supervisor for a probationary period. The period of probation may be from one to three years. The convicted offender under the supervision of the probation supervisor has to observe the following requirements:

1) appear periodically for registration at the time and place specified by the probation supervisor;
2) present the probation supervisor documents concerning fulfilment of obligations imposed on him or her by the court;
3) live in the specified location;

4) apply for the permission of the criminal probation supervisor in order to leave the place of residence for longer than 15 days;
5) apply for the permission of the criminal probation supervisor in order to change the place of residence, work, or study.

444. In the case of placement under the supervision of the probation supervisor, the court may impose the following obligations on the convicted person for the probationary period:
1) to eliminate the damage caused by him or her by the time and to the extent specified by court;
2) to start employment or studies by the time specified by court;
3) to fulfil the maintenance obligation;
4) to undergo treatment and detoxification courses for which the person has previously given his or her consent;
5) to refrain from contacts with persons specified by court;
6) not to stay in places specified by court.

445. The right to freedom of movement may also be restricted to ensure the administering of a criminal proceeding. If there is sufficient reason to believe that an accused or accused at trial who is at large absconds investigation or court proceedings, impedes the establishment of the truth in a criminal matter or continues to commit criminal offences, or in order to ensure the enforcement of a court judgment, one of the following preventive measures may be applied with regard to him or her:
1) signed undertaking not to leave place of residence;
2) personal surety;
3) taking into custody;
4) security (bail).

446. In addition to the application of such preventive measures, a minor may be placed under the supervision of his or her parents, guardians, curators, or the administration of an educational, child care or medical institution.
With regard to a member of the armed forces, supervision by the command staff of a military unit may also be applied as a preventive measure.
If the application of a preventive measure is not necessary, a signature shall be obtained from the accused or accused at trial concerning his or her obligation to appear for investigation or to the court, and to notify of a change in his or her residence (Article 66 of the Code of Criminal Procedure).

447. A signed undertaking not to leave a place of residence means a written commitment obtained from a suspect, accused or accused at trial not to leave his or her permanent or temporary residence without the permission of a preliminary investigator, prosecutor or court.

448. Personal surety is a written commitment by a trustworthy person to ensure the appearance of a suspect, accused or accused at trial when summoned by a preliminary investigator or court. The number of sureties shall be determined by a preliminary investigator, prosecutor or court. The number of sureties shall be at least two.

449. Taking into custody may be applied as a preventive measure with regard to a suspect, accused or accused at trial in order to prevent the absconding of the criminal proceeding, the commission of a new criminal offence by the suspect, accused or accused at trial, or in

order to ensure the enforcement of a court judgment (Article 73(1)). A person may not be held in custody for longer than six months in the investigation of a criminal matter. In the case of particular complexity or extent of a criminal matter, the Chief Public Prosecutor or senior county or city prosecutor may request the extension of the term for holding in custody for up to one year as an exception (Article 74(1)).

450. In the choice of preventive measure, the seriousness of the committed criminal offence, the personality of the suspect, accused, or accused at trial, the possibility that the suspect, accused, or accused at trial may abscond investigation or the court proceedings or may impede the establishment of the truth and the state of health, the age and the marital status and other facts concerning the suspect, accused or accused at trial which may be relevant in the application of a preventive measure shall be taken into account (Article 68 (1)).

451. Compelled attendance may be applied on the basis of an order of a preliminary investigator or a ruling of a court with regard to a victim, plaintiff, defendant, or the representative of a victim, plaintiff or defendant, or with regard to a suspect, accused, witness, specialist, interpreter, translator or impartial observer of investigative activities, if he or she was required to appear before a preliminary investigator or court, and a warning of a fine was given to him or her, and he or she failed to appear before the preliminary investigator or the court without a reasonable impediment. Compelled attendance is conducted by the police. A person subject to compelled attendance who is staying in the same district as the preliminary investigator or court may be detained for up to eighteen hours prior to the commencement of an investigative activity or a court session. Upon the compelled attendance of a person who stays in another district, the term for detention shall not exceed forty-eight hours (Article 78^3).

452. Pursuant to the War-Time National Defence Act, the Government of the Republic or the Commander-in-Chief of the Defence Forces in war time may, during a state of war from the declaration of a state of war until the termination of a state of war, restrict the right to freedom of movement and choice of residence in the interests of national security and public order (Article 5). The War-Time National Defence Act does not differentiate between aliens and nationals.

453. Persons' right to freely move is also restricted under the Protected Natural Objects Act. Pursuant to the Act, in different parts of protected areas (protected area zones) which have different protection procedure, the restrictions of the movement of persons are different. The types of protected area zones are: natural reservation, protected zone intended for a specific purpose, restricted zone, and general zone of a program area.

454. Persons are prohibited to stay (move) in the natural reservation, except for monitoring, scientific and rescue work. Unless otherwise established by protection rules, the stay of persons is also prohibited in such areas of protected zones intended for a specific purpose which are habitats of the protected species or assembly places of migratory birds; the traffic of motor vehicles, bicycles and vessels is also prohibited, as well as to camp, make a campfire and organise popular events. In a restricted zone, if not provided otherwise by protection rules, fishing and hunting, and the traffic of motor vehicles, bikes and vessels are also prohibited in the roads not meant for these purposes which are not marked. The Act does not distinguish between nationals and aliens.

455. The right to free movement may also be restricted on the basis of the Mental Health Act. A person is admitted to the psychiatric department of a hospital for emergency psychiatric care without the consent of the person or his or her legal representative, or the treatment of a person is continued regardless of his or her wishes only in the specific circumstances provided by the law.

Aliens

456. The Aliens Act regulates the entry of aliens into Estonia, their stay, residence and employment in Estonia and the bases for legal liability of aliens. For the purposes of this Act, an alien is a person who is not an Estonian citizen. A permanent resident is an Estonian citizen residing in Estonia or an alien residing in Estonia who holds a permanent residence permit. Aliens staying in Estonia are guaranteed rights and freedoms equal to those of Estonian citizens unless the Constitution, this Act, other Acts or international agreements of Estonia provide otherwise. Aliens are guaranteed the rights and freedoms arising from the generally recognised rules of international law and international custom (Article 5).

457. A legal basis must exist for an alien to enter Estonia or stay in Estonia. An alien shall hold a work permit to work in Estonia. A residence permit shall not be issued to or extended for an alien if he or she has incited or incites, or there is good reason to believe that he or she has incited or incites racial, religious or political hatred or violence.

458. The legal bases for an alien to stay in Estonia are:
1) a residence permit;
2) a visa, within the term for stay in Estonia prescribed thereby;
3) the right to stay in Estonia arising from an international agreement;
4) the right to stay in Estonia arising from a resolution of the Government of the Republic to forego the visa requirement;
5) other permission arising from law, or permission granted by administrative legislation on the basis of law for the alien to stay in Estonia

459. The annual immigration quota is the quota for aliens immigrating to Estonia which shall not exceed 0.05 per cent of the permanent population of Estonia annually. The immigration quota shall be established by the Government of the Republic taking into account the proposals of the local governments. Within the limits of the immigration quota, the Minister of Internal Affairs may, by a ruling, establish a distribution of the immigration quota according to the grounds for application for the residence permit and the basis for issuing the residence permit, and the annual schedule. Persons who have the right to settle in Estonia outside of the immigration quota or to whom the immigration quota does not apply are not included in calculating the fulfilment of the immigration quota. Every Estonian has the right to settle in Estonia outside of the immigration quota.

460. The immigration quota does not apply to the following:
1) a spouse of an Estonian citizen who applies for a residence permit if the spouses have a common child under 15 years of age or if the woman's pregnancy has lasted for more than 12 weeks.
2) an under 15-year-old child of an Estonian citizen for whom a residence permit is applied.

The immigration quota does not apply to citizens of the European Union, the United States of America, Norway, Iceland, Switzerland and Japan.

461. A residence permit may be issued outside of the immigration quota to an alien to whom the issue of a residence permit is justified and does not damage the interests of the Estonian state and who settled in Estonia before 1 July 1990 and has thereafter not left to reside in another country (Article 21).

462. Estonia recognises the principle that human rights should be protected on a possibly wide scale. As an example, we can look at the decision of the Supreme Court of 18 May 2000 (No. 3-3-1-11-00) in the administrative case of Valentina Ushakova. The Citizenship and Migration Board refused to grant a residence permit to Valentina Ushakova and her minor son due to the fulfilment of the immigration quota. The Supreme Court was of the opinion that an alien's right to live in Estonia does not merely derive from the Aliens Act but also from the Constitution and the European Convention on Human Rights. If an alien has a family life in Estonia in the meaning of the Estonian Constitution and the Convention then his or her right to reside legally in Estonia may also derive from the Constitution and the Convention, not only the Aliens Act.

463. The Minister of Internal Affairs may, on a reasoned proposal of the Minister of Economic Affairs, Minister of Finance, Minister of Culture or Minister of Education, exempt specific persons from the immigration quota if their arrival in Estonia is necessary in the national interests for economic, educational, scientific or cultural development.

464. The Identity Documents Act establishes an identity document requirement and regulates the issue of identity documents to Estonian citizens and aliens by the Republic of Estonia.

465. An identity document is a document issued by a state agency in which the name, date of birth or personal identification code, and a photograph of the holder are entered, unless otherwise provided by law or legislation established on the basis thereof.
The following documents are issued pursuant to this Act:
1) identity cards;
2) Estonian passports;
3) diplomatic passports;
4) seafarer’s discharge books;
5) alien’s passports;
6) temporary travel documents;
7) travel documents for refugees;
8) certificates of record of service on Estonian ships;
9) certificates of return;
10) permits of return.

466. An Estonian citizen staying (residing) permanently in Estonia shall hold an identity card. An Estonian citizen who is under 15 years of age need not hold an identity card. An alien staying (residing) permanently in Estonia on the basis of a valid residence permit with a period of validity of at least one year shall hold an identity card. An alien under 15 years of age staying (residing) permanently in Estonia on the basis of a residence permit with a period of validity of at least one year need not hold an identity card if he or she holds a travel document or if his or her name, date of birth, citizenship and photograph and data

concerning his or her residence permit are entered in the travel document held by one of his or her parents.

467. An alien arriving in Estonia, staying temporarily in Estonia or departing from Estonia shall hold a valid travel document issued by a foreign state, an alien's travel document issued by Estonia or a document permitting return issued in a foreign state, unless otherwise prescribed by an international agreement. An alien under 15 years of age need not hold a travel document or certificate of return if his or her name, date of birth and photograph are entered in the travel document held by a person accompanying him or her. A photograph of an alien under 7 years of age need not be entered in the travel document held by a person accompanying him or her (Article 7).
An alien's passport is a travel document issued to an alien by the Republic of Estonia in which data concerning the residence permit and, if necessary, work permit of the alien are entered (Article 26).

468. An alien's passport shall, on the basis of a personal application, be issued to an alien who holds a valid residence permit in Estonia if it is proved that the alien does not hold a travel document issued by a foreign state and that it is not possible for him or her to obtain a travel document issued by a foreign state. An alien's passport shall be issued with a period of validity of up to ten years, but the period of validity shall not exceed the period of validity of the residence permit issued to the alien.

469. A temporary travel document is a travel document issued by the Republic of Estonia to an alien staying in Estonia for departure from and return to Estonia. A temporary travel document may be issued to an alien who departs or is obliged to depart from Estonia without the right of return if he or she does not hold a valid travel document or a certificate of return issued by a foreign state. A temporary travel document for a single departure from and return to Estonia may be issued to an alien legally residing in Estonia if he or she does not hold a valid travel document and does not have the right to receive an alien's passport (Article 29).

470. A certificate of return shall be issued to an Estonian citizen staying in a foreign state whose travel document becomes unusable or is destroyed or lost (Article 35).

471. For return to Estonia, a permit of return may be issued to an alien residing in the Republic of Estonia on the basis of a residence permit and whose alien's passport, temporary travel document or travel document for a refugee becomes unusable or is destroyed or lost when he or she is in a foreign state (Article 36^1).
Upon entry into Estonia, both a certificate and permit of return shall be returned to the border guard authority who shall forward the permit to the Ministry of Foreign Affairs.

472. The personal data to be entered into the passport are same for all documents under that Act and adequate for the aliens passport to function as an identification document. Thus, the alien's passport of the Republic of Estonia meets all the international requirements set for travel documents.

473. The following table reflects the number of persons who have settled in or left Estonia:

Table 17. International migration, 1990, 1995-1999

		Registered immigrants			Registered emigrants			Net migration	
Year	Total	To urban areas	To rural areas	Total	From urban areas	From rural areas	Total	In urban areas	In rural areas
1990	8 381	7 005	1 376	12 403	10 270	2 133	-4 022	-3 265	-757
1995	1 616	1 361	255	9 786	8 457	1 329	-8 170	-7 096	-1 074
1996	1 552	1 261	291	7 235	6 396	839	-5 683	-5 135	-548
1997	1 585	1 310	275	4 081	3 684	397	-2 496	-2 374	-122
1998	1 414	1 168	246	2 545	2 317	228	-1 131	-1 149	18
1999	1 418	1 135	283	2 034	1 647	387	-616	-512	-104

Source: Statistical Yearbook of Estonia 2001

Article 13 Expulsion of aliens

474. Reference concerning the article in the Constitution is made to the initial report (CCPR/C/81/Add.5. para 113).

475. The Obligation to leave and Prohibition on Entry Act that came into force on 1 April 1999 provides the bases and procedure for the application to aliens of the obligation to leave Estonia and the prohibition on entry into Estonia. According to Article 3, obligation to leave is the obligation of an alien to leave Estonia which arises directly from law or from administrative legislation passed on the basis of law. Expulsion shall be completed within forty-eight hours after the alien is detained (Article 18). Until the completion of expulsion, aliens shall be detained by way of administrative procedure for the terms provided for in Article 18 of this Act. An administrative court judge may extend the terms provided for in Article 18 of this Act by up to three days and grant permission for the detention of an alien during such term (Article 19).

476. The Citizenship and Migration Board issues a precept to leave Estonia to foreigners who have no legal basis to stay in Estonia during the term specified in the precept. Before issuing the precept a foreigner has the right to an oral hearing with an official and to submit objections and applications. A representative of the foreigner has the right to participate at the hearing and issuing of the precept. The foreigner confirms with a signature the receipt of the precept that is issued in writing. Upon issuing of the precept the foreigner is explained his right to appeal and the consequences of the failure to comply with the precept. The content of the precept is explained to the foreigner in a language that he or she understands. When issuing a precept against a minor who is in Estonia without a parent, guardian or other representative, the person's departure from Estonia is organised by a guardianship institution in coordination with competent authorities of the admitting state.

477. A foreigner is expelled from Estonia if he or she does not comply with the precept with good reason. The decision of expulsion is made by an administrative judge on the request of the Citizenship and Migration Board pursuant to the procedure provided in the Code of Administrative Offences. The court judgement on expulsion can be appealed. When deciding expulsion the court takes into account the following circumstances (Article 14(2) of the Obligation to Leave and Prohibition on Entry Act):
1) the duration of the alien's legal stay in Estonia;

2) personal, economic and other ties which the alien has with Estonia and which merit protection;
3) the consequences of the expulsion of the alien for the family members of the alien;
4) circumstances which are the basis for expulsion;
5) the age and state of health of the alien;
6) the possibility of enforcing the expulsion;
7) other relevant considerations.

478. An alien may not be expelled to a state to which expulsion may result in his or her torture, inhuman or degrading punishment or treatment, or death or persecution for racial, religious, social or political reasons (Article 17(2)).

479. Article 21 of the Refugees Act stipulates that the Republic of Estonia will not expel or return an applicant or refugee to a state where his or her life or freedom would be threatened on account of his or her race, nationality, religion, membership of a particular social group or political opinion.

480. Expulsion shall not be applied if:
1) a precept is annulled or declared invalid or it has expired;
2) expulsion is no longer possible;
3) expulsion may result in the alien's torture, inhuman or degrading punishment or treatment, or death or persecution for nationality, racial, religious, social or political reasons (Article 14(4)).

481. Expulsion can be contested in accordance with the procedure established by the Code of Administrative Court Procedure. Contesting of expulsion does not suspend the expulsion for the time of court proceedings. After the passing of the term for the contesting of a precept for the enforcement of which expulsion is implemented, illegality of the precept cannot be invoked as a ground of contestation (Article 16).

482. A person to be expelled shall be expelled to the state from which he or she arrived in Estonia, to the country of his or her nationality or to his or her country of habitual residence, or to a third state with the consent of the third state. If there is more than one option, the reasoned preference of the person to be expelled shall be the primary consideration, if such preference does not significantly impede enforcement of the expulsion (Article 17(1)).

483. The expulsion of a minor shall be organised in co-ordination with the competent state agencies of the admitting country and, if necessary, of the transit country and protection of the rights of the minor shall be ensured (Article 21).

484. If the admitting country refuses to admit a person to be expelled or if other circumstances impeding the completion of expulsion become evident during the transportation to a border checkpoint of the person to be expelled or at the border checkpoint, the person to be expelled shall be detained by way of administrative procedure until the completion of his or her expulsion or until he or she is placed in an expulsion centre, but the person to be expelled shall not be detained for longer than forty-eight hours (Article 22).

485. Article 9 of the Act also foresees a possibility to make a precept to legalise. A precept imposing an obligation to apply for a residence permit pursuant to the established procedure in order to legalise the stay in Estonia (hereinafter precept to legalise) shall be issued to an alien who is staying in Estonia without a basis of stay and who:

1) leads family life in Estonia protected by law;
2) is of Estonian origin;
3) settled in Estonia before 1 July 1990 and has not left Estonia to reside in another country and whose continued stay in Estonia does not damage the interests of the Estonian state.

A precept to leave shall be issued to an alien if it is necessary to ensure the protection of public order, national security, health or moral standards, or to prevent an offence.

486. Chapter 4 of the Act deals with detention in expulsion centre. Under Article 23, if it is not possible to complete expulsion within the term provided for in this Act, the person to be expelled shall, at the request of the government agency which applied for or which is enforcing the expulsion of the alien and on the basis of a judgment of an administrative court judge, be placed in an expulsion centre until his or her expulsion, but for not longer than two months.

487. According to Article 25, if it is impossible to enforce expulsion within the term of detention in an expulsion centre, an administrative court shall, at the request of a competent official of the Citizenship and Migration Board, extend the term of detention in the expulsion centre of a person to be expelled by up to two months at a time until expulsion is enforced or until the alien is released pursuant to Article 24 of this Act.

488. Judgments concerning the detention of persons to be expelled and extension of the term of detention shall be made by an administrative court pursuant to the procedure provided for in Chapter 4 of the Code of Administrative Court Procedure. Placement in an expulsion centre and extension of the term of detention in the expulsion centre shall be decided in a court session (Article 26).

Table 18. Number of foreigners who have been issued a precept to leave Estonia

1995	1996	1997	1998	1999	2000	2001
1770	1220	1005	1373	1858	1539	288

Source: Citicenship and Migration Board

Table 19. Number of foreigners expelled from Estonia

1995	1996	1997	1998	1999	2000	2001
216	102	51	35	27	33	17

Source: Citicenship and Migration Board

Table 20. Number of foreigners placed in the expulsion centre

1995	1996	1997	1998	1999	2000	2001
96	122	114	96	81	33	28

Source: Citicenship and Migration Board

489. Average term of detention in an expulsion centre is 6 months, the longest term has been 3 years and the shortest 1 week.

Article 14 Equality of all persons before the courts

Article 14 (1) Equality before the Courts

490. Reference concerning the articles in the Constitution relevant to equality before the courts and competence, independence and impartiality of the courts is made to the initial report (CCPR/C/81/Add.5. para 119-121).

491. Article 4 of the Courts Act states that every citizen has the right to judicial protection in cases of violations against life, health, personal freedoms, property, honour and dignity, and violations of other rights and freedoms ensured by the Constitution. Justice shall be administered on the principle that all citizens are equal before the law and the court. Citizens of foreign states and stateless persons have the right to judicial protection in the territory of the Republic of Estonia equal to the right to judicial protection of Estonian citizens unless otherwise provided by international agreements entered into by the Republic of Estonia. Pursuant to the Constitution, legal persons have the right of recourse to courts in order to have their violated rights and freedoms protected.

492. Preparation of applicants for a position of judge, appointment of judges to office, work of judges, release and removal from office are regulated by the Constitution, the Courts Act and the Status of Judges Act. Judges are appointed to office to the relevant court instance for life by the Riigikogu or the President of the Republic from among the applicants for a position of judge.

493. Judge, assistant judge or lay judge can be an Estonian citizen who has been appointed to office or elected in accordance with the procedure provided in the Status of Judges Act. A person who has high moral values, who is suitable for judicial office and who has higher education in law acquired at the University of Tartu or education corresponding to this level, may work as a judge. Correspondence with the requirements established by law of an applicant's higher legal education acquired elsewhere is verified by the judges examination committee.

494. An administrative judge can be a person who has attained 24 years of age by the time of appointing to office and has passed the examination for judges. A county and city court judge can be a person who has attained 25 years of age by the time of appointing to office and has passed the examination for judges. Member of the Supreme Court can be a person who has attained 30 years of age by the time of appointing to office.

495. The judges examination committee may make a reasoned decision to exempt a person from passing the examination for judges if the person has worked as a judge, professor of law with a scientific degree in a domestic higher educational institution, attorney at law, prosecutor, legal chancellor, or other position requiring higher legal qualification and consider it as equal with work in the position of judge.

496. Assistant judge may be a person who has acquired higher legal education at a relevant applied higher educational institution or the University of Tartu and who is a citizen of at least 21 years of age and has passed the examination for judges.

497. The following persons cannot appear as applicants for a position of judge or assistant judge:

1) persons convicted for an intentional criminal offence;
2) persons dismissed, removed or discharged from the professions or positions of judge, professor of law with a scientific degree in a domestic higher educational institution, attorney at law, prosecutor, legal chancellor, or other position requiring higher legal qualification and consider it as equal with work in the position of judge in connection with unsuitability to perform the work;
3) persons who due to their health are unsuitable to work as judges. In the case of doubt, the condition of health of a person is determined by a medical committee.

498. Equality before the courts is stipulated in addition in relevant procedure codes.

499. Article 6 of the Code of Civil Procedure states that all persons are equal before the law and the court in the administration of justice in civil matters.

500. Article 13 of the Code of Criminal Procedure stipulates that justice in criminal matters is administered according to the principle of equality of persons before the courts regardless of the persons' origin, social status, financial situation, race, nationality, gender, education, language, attitude towards religion, field and type of activity, place of residence and other circumstances.

501. A person who finds that his or her rights have been violated or his or her freedoms have been restricted by an administrative act or measure has the right to file an action with an administrative court. An action for the establishment of the existence or absence of a public law relationship or the unlawfulness of an administrative act or measure may be filed by a person who has legitimate interest in the matter. A protest against an administrative act or measure may be filed with an administrative court by an agency or official to whom the corresponding right is granted by law. An association of persons, including an association which is not a legal person, may file an action with an administrative court in the interests of the members of the association or other persons if the corresponding right is granted to the association by law.

502. In the Republic of Estonia, justice is administered by courts which are the only authority with judicial power. In the first instance, justice is administered by county, city and administrative courts, in the second instance, justice is administered by circuit courts and in the highest instance by the Supreme Court (Article 1 of the Courts Act).

503. All Estonian courts, with the exception of administrative courts, are courts of general jurisdiction. Administrative courts are specialised courts with specific jurisdiction to examine administrative cases. In addition to administrative courts, pursuant to Article 148(1) of the Constitution and Article 1(3) of the Courts Act, it is possible to create other specialised courts with specific jurisdiction by law. So far no such courts have been created. Article 148(2) of the Constitution and Article 1(4) of the Courts Act prohibits the formation of emergency courts.

504. In the Republic of Estonia, administration of courts is provided for in the Constitution and the Courts Act (Article 2 of the Courts Act). The function of a court is to protect the rights and freedoms of every person in compliance with the Constitution and Acts of the Republic of Estonia (Article 3 of the Courts Act).

505. According to Article 6 of the Courts Act, court sessions shall be public. A court may, pursuant to the provisions of court procedure, declare that a session or a part thereof be held *in camera* to protect a state or business secret, morals or the private and family life of a person, or where the legitimate interests of a minor, a victim, or justice so require. Court judgments shall be pronounced publicly, except in cases where the legitimate interests of a minor, spouse or victim require otherwise.
Similar provisions are contained in the procedure codes. Article 17 of the Code of Criminal Procedure stipulates that the hearings of matters in all courts are public. A court may declare that a session or a part thereof be held *in camera*:
1) to maintain a state or business secret;
2) to protect morals or the private or family life of a person;
3) to maintain the confidentiality of adoption;
4) in the interests of a minor;
5) in the interests of the security of the participants in the criminal proceeding, and of witnesses.

506. At a court session held *in camera* the participants in the criminal proceeding and, if necessary, with the permission of the judge, also witnesses, experts, interpreters and translators shall be present at the hearing of the matter. With the permission of the judge, court officials, trainees, and persons with a particular reason therefor may also be present at a court session held *in camera*; such persons shall be cautioned against the prohibition of disclosure of information concerning the proceeding. Persons of up to fifteen years of age who are neither participants in the proceeding nor witnesses may be present in a court session with the permission of the court. Court judgments shall be made public unless the interests of a minor, a spouse or a victim require otherwise.

507. Article 8 of the Code of Civil Procedure stipulates that the hearings of matters in all courts are public. The composition of the panel of the court which hears a matter shall be made public. A court may declare that a session or a part thereof be held *in camera*:
1) to maintain a state or business secret;
2) to protect morals or the private or family life of a person;
3) to maintain the confidentiality of messages sent or received by a participant in the proceeding by post, telegraph, telephone or other commonly used means;
4) to maintain the confidentiality of adoption;
5) in the interests of a minor;
6) in the interests of the administration of justice;
7) to hear a person who is up to 15 years of age, or who has a mental disorder or mental disability.

508. At a court session held *in camera* the participants in the proceeding and, if necessary, also the witnesses, experts, interpreters and translators shall be present at the hearing of the matter. Court officials, trainees, and persons with a particular reason therefor may also be present at a court session held *in camera* with the permission of the presiding judge. A person of up to 15 years of age who is neither a participant in the proceeding nor a witness may be present at a court session with the permission of the court. The provisions of civil

procedure shall be observed in court sessions held *in camera*. Judgments in court sessions held *in camera* shall be made public unless the interests of a minor or a spouse require otherwise. A court shall not disclose a state secret which has become known to the court in the course of a civil proceeding. A person with a legitimate interest has the right to examine the court records concerning a civil matter which has been adjudicated by a court if the court's decision has entered into force. The court records concerning a civil matter shall not be examined if the matter was heard in a session held *in camera* or if a basis specified in law for declaring that a session be held *in camera* existed. A judge shall verify the existence of such basis for declaration that a session be held *in camera* before giving permission to examine a file.

509. It is not stipulated directly in the Code of Administrative Court Procedure that hearings are public, but Article 5 of the Code stipulates that in matters not regulated by the Code, administrative courts shall take guidance from provisions of civil procedure, taking into consideration the specifications of the administrative court procedure .

510. Article 28 of the Code of Administrative Court Procedure stipulates that a judgment of an administrative court shall be pronounced in the court room or made public in the court office within fifteen days after the end of court session. Paragraph 4 of that Article makes an exception if a court judgment contains information which may constitute the grounds for declaration of a court session to be held *in camera*, a participant in a proceeding may also request an extract of the court judgment. An extract shall contain the introduction and conclusion of the court judgment.

Legal aid

511. There exists a possibility to apply to court for appointment of a state paid advocate to receive free legal aid advice and/or representation in court proceedings. Such a possibility is used according to procedural norms in cases concerning criminal, civil, administrative and violation of administrative law processes.

Table 21. Legal aid

Year	Sum (EEK)
1995	5 600 000
1996	10 384 000
1997	13 922 400
1998	15 992 400
1999	14 312 400
2000	13 267 500
2001	25 267 500
2002	24 000 000

Source: Ministry of Justice

512. In order to ensure access to the judicial system to all persons, there exists also a possibility for persons without sufficient command of the language to use services of a translator. People without sufficient resources are guaranteed in many instances (in any case in court proceedings but also in administrative proceedings) use of a translator at the expense of the state.

513. According to Article 18 of the Code of Criminal Procedure, suspects, accused and accused at trial shall be ensured the right of defence. The courts, prosecutors and preliminary investigators shall, within the limits of their competence, ensure a suspect, accused and accused at trial an opportunity to defend himself or herself against the suspicion or charges brought against him or her by means and in the manner prescribed by law, and ensure the protection of personal and proprietary rights of the suspect, accused or accused at trial.

514. The suspect, accused or accused at trial has the right to have a criminal defence counsel during the entire criminal proceedings (Article 36^1 of the Code of Criminal Procedure).

515. In certain instances, the law prescribes mandatory participation of criminal defence counsel in criminal proceedings. Those instances are prescribed in Article 38 of the Code of Criminal Procedure:

1) in criminal matters of minors until the minors attain the age of majority;
2) in criminal matters of persons who due to physical or mental disabilities are not capable of exercising their right of defence by themselves;
3) in criminal matters of persons who are accused of the commission of a criminal offence for which life imprisonment may be imposed as punishment;
4) in the hearing of criminal matters in the Supreme Court;
5) the participation of criminal defence counsel in simplified proceedings is mandatory as of the commencement of negotiations.

516. In the above-mentioned cases the participation of the criminal defence counsel appointed by the state is guaranteed irrespective of the person's wish.

517. A person to whom criminal defence counsel is appointed, has no right to turn down the defence counsel but he or she may request replacement of the criminal defence counsel if the circumstances prescribed cause necessity of removal of the criminal defence counsel (Article 20 of the Code of Criminal Procedure).

518. The system of criminal legal aid is administered by the Bar Association.

519. There are altogether 395 members in the Estonian Bar Association at the moment, of which 212 are attorneys-at-law, 104 are senior assistant attorneys and 79 are assistant attorneys. According to law regulating the activities of the Bar Association, only the attorneys-at-law and the senior assistant attorneys have the right of representation. Assistant attorneys are competent to represent and defend persons requiring legal aid in courts, investigative organs or elsewhere only on the basis of corresponding decision of the board of the Bar Association and under supervision of the patron attorney-at-law.

520. A non-governmental and independent non-profit institution, the Institute of Human Rights was established in 1992. Under this institute, three legal aid services in different regions of the country provide information and legal aid concerning human rights. Those services are financed by private funds.

521. In the human rights area another non-profit institution, the Legal Information Centre for Human Rights (LICHR), exists. According to the Statutes of LICHR its primary tasks

are: 1) to provide free legal counselling to people and to refer them if necessary to proper authorities, institutions, private lawyers etc when required; 2) to collect and disseminate human rights related information for the whole society; 3) to strengthen the human rights knowledge among lawyers and students of law, as well as other professional groups; 4) to assist lawyers to prepare human rights related court cases.

522. Free legal consultations provide besides the aforementioned institutions also other non-profit organisations like Memento Union and Estonian Entitled Owners Union concerning the problems of unlawfully repressed persons. Fifteen associations being part of the Memento Union are striving to provide free legal aid to restore political, civil and economic rights of those who have suffered repressions. Programmatic goal of the Estonian Entitled Owners Union is a thorough protection of interests of entitled owners and support to fair conduct of the property and land reform resulting from the continuity of the Estonian State.

523. The possibility to apply for free legal advice and representation exists also in civil and administrative law proceedings. The Institute of Human Rights in their comments to the report has pointed out the lack of the general law regulating the questions of legal aid to those who have no sufficient means.

524. According to Article 59 of the Code of Civil Procedure, a court has the right to fully or partially release a natural person from payment for legal assistance and to charge the advocate's fees to the state if the court finds that the person is insolvent. The rate of fees paid to advocates' law offices by the state is established by the Minister of Justice. A ruling on full or partial release from payment for legal assistance shall be sent for execution to an advocates' law office and to the Ministry of Justice. Similarly, if a court finds that a person is insolvent, the court may, by a ruling, fully or partially release the person from payment of a state fee into the public revenues or from payment of security on cassation.

525. In addition, if a court finds that the essential interests of a natural person who is a party to a matter may be insufficiently protected due to his or her insolvency, the court may appoint an advocate to represent the person at the state's expense. In such case, the court shall send a ruling to the Estonian Bar Association for execution (Article 83 of the Code of Civil Procedure.

Article 14(2) the presumption of innocence

526. Reference is made to the initial report (CCPR/C/81/Add.5. para 123).
In addition to Article 22 of the Constitution, Article 10 of the Courts Act states that an accused at trial does not have the duty to prove his or her innocence. No one shall be presumed guilty of a criminal offence until a conviction by a court against him or her enters into force.

Article 14(3) minimum guarantees in criminal proceedings

527. Reference is made to the initial report (CCPR/C/81/Add.5. para 124-128).

528. Article 16 of the Code of Criminal Procedure stipulates that the language of criminal proceedings is Estonian. With the consent of the court and the participants in a criminal proceeding, the criminal proceeding may be conducted in another language if the court and the participants in the criminal proceeding are proficient in that language.

529. A participant in a criminal proceeding and other persons involved in the criminal proceeding who do not understand the language of the criminal proceeding have the right to submit petitions, give statements and testimony, appear in court and submit applications through an interpreter or translator in the person's native language or in a language in which the person is proficient. Participants in criminal proceedings are given copies of the decisions in Estonian prepared as separate documents.

530. If a proceeding is conducted in a language other than Estonian, procedural documents prepared as separate documents shall be delivered in the language of the criminal proceeding or, at the request of a participant in the criminal proceeding, shall be translated into Estonian. If a written petition or documentary evidence submitted to the court by a participant in the criminal proceeding is not in Estonian, the court may demand a translation of the petition or documentary evidence from the person who submits such petition or evidence within a specified term. If the translation is not submitted within the term, the court may disregard the document or extend the term for submission thereof.

531. According to Article 18 of the Code of Criminal Procedure suspects, accused and accused at trial shall be ensured the right of defence. The courts, prosecutors and preliminary investigators shall, within the limits of their competence, ensure a suspect, accused and accused at trial an opportunity to defend himself or herself against the suspicion or charges brought against him or her by means and in the manner prescribed by law, and ensure the protection of personal and proprietary rights of the suspect, accused or accused at trial.

532. Article 35^1 deals with the rights and obligations of suspect, accused and accused at trial. A suspect has the right to know what he or she is suspected of, to have a criminal defence counsel and to confer with the counsel without the presence of other persons for unlimited number of times with unlimited duration, except in the cases prescribed by the Code.

533. A suspect has the right to know that his or her testimony may be used to bring charges against him or her. A suspect has the right to give testimony concerning the content of the suspicion against him or her, or to refuse to give such testimony. A suspect has also the right to submit petitions for removal, submit applications, file appeals and participate in the court sessions in which the taking of the suspect into custody or the extension of the term during which the suspect may be held in custody is discussed. If a person being held in custody is undergoing treatment in an in-patient medical institution, the court may, without the presence of the person, extend the term during which the person may be held in custody. A suspect may participate in procedural acts with the permission of the preliminary investigator. An accused has the right to know what he or she is accused of, and he or she shall have all the procedural rights of a suspect.

534. If simplified proceedings are proposed to the accused, he or she has the right to accept or reject such proposal, and during the negotiations for simplified proceeding, he or she has the right to make proposals concerning the type and term of punishment, and to enter or not

enter into a settlement for simplified proceedings, or to withdraw such settlement. After the end of pre-trial proceedings or during the negotiations for simplified proceedings, the accused has the right to examine the materials of the criminal matter and make excerpts therefrom.

535. An accused at trial has the right to know the charges which are the basis for the hearing of his or her criminal matter in court, and he or she shall have all the procedural rights of an accused. An accused at trial has the right to participate in the court hearing of the criminal matter, and the right of final rebuttal. An accused at trial may, pursuant to the procedure prescribed in this Code, file appeals against the acts of court, against court rulings and judgments, to examine the minutes of court sessions and to submit petitions or make comments for the amendment thereof.

536. A person with regard to whom the simplified proceedings apply shall have all the procedural rights of an accused. In the application of simplified proceedings, the accused at trial has the right to know the charges which are the basis for the hearing of his or her criminal matter in court, to participate in the court hearing of the criminal matter, to give explanations concerning the circumstances of entry into a settlement for simplified proceedings, to withdraw a settlement until the withdrawal of the court to chambers for deliberations, to appeal against the court judgment in connection with alleged violation of the principles of simplified proceedings, to examine the minutes of court sessions and to submit petitions or make comments for the amendment thereof.

537. Other rights of the suspect, accused and accused at trial are also provided for in the Code of Criminal Procedure. Suspects, accused or accused at trial are required to appear when summoned by competent public authorities, preliminary investigators, prosecutors or courts, and to adhere to all orders and restrictions made on the basis of this Code and to comply with procedural organisation. The rights and obligations set out in this article shall be explained to a suspect or accused in writing and against a signature without unnecessary delay. The rights and obligations of an accused at trial shall be explained to him or her at the opening of a court session and this shall be recorded in the minutes.

538. Choice, ensurance and replacement of criminal defence counsel is guaranteed by Article 36^1 of the Code**.** A suspect, accused or accused at trial has the right to have criminal defence counsel during all the criminal proceedings. A person being defended may be fully or partly released from payment for legal assistance on the bases and pursuant to the procedure prescribed.

539. According to Article 240(4) of the Code, during the whole examination by the court, the accused at trial has the right to submit questions to witnesses, experts, specialists, plaintiffs, defendants, victims and the other accused at trial who have been heard.

540. Article 112 sets the conditions for the participation of interpreter or translator. If a person participating in a criminal matter is not proficient in the language in which the investigation is conducted, an interpreter or translator shall be summoned to the investigative activity. A person proficient in the form of expression of a deaf or mute person shall be summoned to the questioning of such person. An interpreter or a translator, or a person proficient in the form of expression of a deaf or mute person shall be warned of his or her liability in the case of refusal to perform his or her duties, and in the case of

producing a knowingly false interpretation or translation and his or her signature shall be obtained thereto.

Article 14(4) rehabilitation of juveniles

541. Reference is made to the initial report (CCPR/C/81/Add.5. para 129).

542. Pursuant to Article 10 of the Criminal Code, a person can be held criminally liable if he or she has attained fifteen years of age prior to the commission of the criminal offence. A person who committed a criminal offence at the age of thirteen to fifteen is criminally liable only for serious crimes.

543. If the court finds that a person who committed a criminal offence prior to attaining fifteen years of age or at the age of fifteen to eighteen can be influenced without applying a criminal punishment, the court may, regardless of the severity of the committed offence, to apply the following sanctions of educational nature with regard to the person:
1) placement in a special educational institution;
2) placement in a medical educational institution.

544. If the court finds that a person who committed a criminal offence prior to attaining fifteen years of age, or a person who committed a criminal offence in third degree at the age of fifteen to eighteen, can be influenced without applying a criminal punishment or a sanction of educational nature, the court will forward the file to the juvenile committee for review and for applying sanctions prescribed by the Juvenile Sanctions Act.

545. With regard to a person who has been imposed a punishment of imprisonment for a criminal offence during the commission of which the person was a minor – younger than eighteen years of age – release on parole or replacement of the unserved period of the imprisonment with a less severe punishment may be applied. Release on parole or replacement of the unserved period of the imprisonment with a less severe punishment may only be applied if the person with his or her excellent behaviour and conscientious attitude to studies has proved his or her improvement (Code of Criminal Procedure, Article 56).

546. The Code of Criminal Procedure includes provisions that take into account special conditions for juveniles in process. Under Article 38 of the Code, the participation of criminal defence counsel in criminal proceedings shall be mandatory in criminal matters of minors until the minors attain the age of majority. A teacher or psychologist shall participate in the interrogation of an accused who is a minor of less than fifteen years of age (Article 126). A witness who is a minor of less than fifteen years of age shall be questioned with the participation of a teacher or a psychologist, and if necessary, in the presence of the parents or other legal representatives of the witness (Article 133).

547. The Juvenile Sanctions Act provides sanctions applicable to minors and the competence of juvenile committees. For the purposes of the Act, a minor is a person between 7 and 18 years of age.

548. The Act applies to a minor who commits:
1) an act prescribed in the Criminal Code and is not of age for criminal liability during the commission of the act;

2) an act prescribed in the Code of Administrative Offences and is not of age for administrative liability during the commission of the act;
3) an act prescribed in the Criminal Code if a court terminates the criminal proceedings and refers the materials to a juvenile committee;
4) an administrative offence if an official, administrative court judge or court hearing the matter terminates the administrative offence proceedings and refers the materials to a juvenile committee.

549. The Act also applies to minors who do not fulfil the obligation to attend school or consume alcoholic beverages, narcotic or psychotropic substances.

550. One or several of the following sanctions may be imposed on a minor:
1) warning;
2) sanctions concerning organisation of study;
3) referral to a psychologist, addiction specialist, social worker or other specialist for consultation;
4) conciliation;
5) an obligation to live with a parent, foster-parent, guardian or in a family with a caregiver or in a children's home;
6) community service;
7) surety;
8) participation in youth or social programs or medical treatment programs;
9) sending to schools for students with special needs.

551. The purpose of a sanction is to provide assistance in the re-socialisation of a juvenile offender and to prevent him or her from committing offences in the future (Article 7(1)).

Article 14(5) right to review of a conviction or sentence by a higher tribunal

552. Reference is made to the initial report (CCPR/C/81/Add.5. para 130-131).

553. Estonia has a three-level court system. County, city and administrative courts are the courts of first instance. Circuit courts are the courts of second instance who review the decisions of first instance courts by way of appellation. The principle of unrestricted appellation is exercised in Estonia, meaning that it is possible to appeal against wrong assessment of evidence as well as against wrong interpretation or application of substantive and procedural norms. The court of third instance – the highest court in the Country – is the Supreme Court. The Supreme Court examines cases by way of cassation, review and revision of judicial errors.

Table 22. Number of persons in pre-trial proceedings

	1995	**1996**	**1997**	**1998**	**1999**	**2000**	**2001**
Total	10300	10847	10494	9950	11192	13297	13392
Juveniles	2074	2044	1894	1779	1824	1920	2068

Source: Police Department

554. According to statistics of criminal cases sent to the court in 2001 the average length of pre-trial proceedings was 4,8 months. The length of court proceedings of settled criminal cases was 4 months in 2001.

Table 23. Criminal Cases in courts of first instance, 1997-2000

	1997	1998	1999	2000
Received during year	6413	6290	7279	9224
Settled by judgement	6086	5706	6479	8235
Closed	176	208	173	204
Medical treatment imposed to offender	21	31	29	24
Returned for additional investigation	153	139	137	154
Filed to another court	53	86	55	131
Unsettled at the end of the year	2904	3089	3234	3329
- proceedings suspended	420	399	383	319
Total sum of fines ordered to be paid, thousands kroons	4192	5034	33223	17165

Source: Statistical Yearbook of Estonia 2001

Table 24. Indicators of work of courts of second instance in criminal matters, 1997-2000

	1997	1998	1999	2000
Received cases with complaint or protest	1901	1956	2041	2261
Left without consideration	27	45	43	46
Closed	68	79	76	80
Returned	27	39	24	31
Proceeded	1838	1948	1871	2115

Source: Statistical Yearbook of Estonia 2001

Table 25. Indicators of work of the Supreme Court in criminal matters, 1997-2000

	1997	1998	1999	2000
Received applications and complaints	959	946	771	683
Leave for proceedings not given	533	567	453	416
Proceeded	264	212	189	194
Settled with judgement	238	200	177	160
- of which satisfied	107	90	81	55
Judgement of the court of first or second instance quashed or changed	95	95	81	93

Source: Statistical Yearbook of Estonia 2001

555. In addition to domestic remedies, a person who finds that his or her rights have been violated has the right to file a complaint to the Human Rights Committee or to the European Court of Human Rights.

Article 14(6) compensation according to law in cases of a miscarriage of justice

556. According to the Act for the Compensation of Damage Caused to the Person by the State through Unfounded Deprivation of Liberty, the damage is compensated to the person:

- who was under arrest with the permission of the court and in whose matter the ruling to initiate criminal proceedings has been annulled, the proceedings have been terminated in the stage of preliminary investigation or investigation or at an organising meeting of the court, or with respect to whom an acquitting decision has been made;
- who had been detained as suspected of committing a crime and was released in connection with dropping of charges;
- who was serving a sentence of imprisonment and in whose case the decision to convict has been annulled and proceedings of criminal matter terminated or an acquitting decision has been made;
- who served a sentence of imprisonment longer than the term of sentence originally imposed on him/her;
- who had been placed in a psychiatric hospital without ground by the court in connection with committing of an act with characteristics of an offence and in whose case the court ruling has been annulled;
- who served an administrative arrest and the decision of arrest has been annulled;
- who had been deprived of liberty without ground or without disciplinary, administrative or criminal proceedings, with the decision of an official authorised to warrant deprivation of liberty, if such a proceeding was compulsory (Article 1).

Article 14(7) the resumption of criminal cases

557. Article 5 of the Code of Criminal Procedure lists cases when a criminal proceeding shall not be commenced, and a criminal proceeding shall be terminated. A criminal proceeding shall not be commenced, and a criminal proceeding shall be terminated with regard to a person concerning whom a judgment has entered into force in respect of the same charges, or with regard to a person concerning whom a court ruling has entered into force in respect of the termination of the criminal proceedings on the same basis; and with regard to a person concerning whom an order of a preliminary investigator or prosecutor concerning the termination of the criminal proceedings in respect of the same charges has not been annulled.

Article 15 Non-retroactive force of criminal law

558. Reference concerning the articles in the Constitution, the Criminal Code and the Code of Criminal Procedure is made to the initial report (CCPR/C/81/Add.5. paras 132-136). No changes in those Acts have occurred since.

559. On 6 June 2001, the Riigikogu passed the Penal Code that is due to enter into force in year 2002. Provisions related to non-retroactive force of the criminal code as stipulated in the Covenant are also contained in Article 5 of the Penal Code.

560. Article 5. Temporal applicability of penal law
(1) A punishment shall be imposed pursuant to the law in force at the time of commission of the act.
(2) An Act of law which precludes the punishability of an act, mitigates a punishment or otherwise alleviates the situation of a person, shall have retroactive effect.

(3) An Act of law which declares an act as punishable, aggravates a punishment or otherwise exacerbates the situation of a person shall not have retroactive effect.
(4) Offences against humanity and war crimes shall be punishable regardless of the time of commission of the offence.

Article 16 The right of all persons to recognition everywhere as persons before the law

561. The General Principles of the Civil Code Act came into force on 1 September 1994. Article 180 of that Act repealed Articles 1-94 and 566-573 of the Civil Code.

562. Chapter 2 of that Act deals with natural persons and division 1 of Chapter 2 more specifically with passive legal capacity and active legal capacity.

563. Every natural person has passive legal capacity. Passive legal capacity begins with the live birth of a human being and ends with the death. In the cases provided by law, a foetus has passive legal capacity from conception if the child is born alive (Article 8).

564. An adult person has active legal capacity. A person who has attained eighteen years of age is an adult.
If marriage before the attainment of eighteen years of age is permitted by law, a minor acquires active legal capacity as of the date of the contraction of marriage. Upon termination or annulment of marriage due to reasons which are not associated with the marriage, a minor does not lose active legal capacity acquired by marriage (Article 9).

565. A minor between seven and eighteen years of age has restricted active legal capacity. The minor has the right to enter into transactions with the consent of his or her legal representative. A transaction entered into by a minor between seven and eighteen years of age without the consent of his or her legal representative shall be deemed valid if the minor performs the transaction with means granted to him or her for this purpose or for free use by his or her legal representative or a third person with the consent of the legal representative. A supervisory guardian may grant a minor of at least fifteen years of age, with the consent of his or her legal representative, the right to engage in economic activity unless this is prohibited by law. A minor who has acquired the right to be a trader has active legal capacity to enter into transactions necessary therefor except transactions for which his or her legal representative requires the consent of a supervisory guardian. With good reason, a court may take away the right specified at the request of the legal representative (Article 10).

566. A minor under the age of seven is without active legal capacity. Transactions in the name of the minor shall be entered into by his or her legal representative. A minor under the age of seven may enter into petty transactions independently (Article 11).

567. At the request of an interested person, a court may restrict the active legal capacity of a person who places his or her family in a difficult economic situation as a result of dissipation or the use of alcoholic beverages or narcotic substances. A person with restricted active legal capacity shall be placed under guardianship. Upon restriction of active legal capacity, a court shall decide which transactions a person with restricted active legal capacity may enter into only with the consent of his or her guardian. Other

transactions are performed independently by the person with restricted active legal capacity (Article 12).

568. At the request of an interested person, a court may declare a person to be without active legal capacity if due to mental illness or mental disability the person is persistently unable to understand the meaning of or to direct his or her actions. Such person shall be placed under guardianship. The guardian of a person who has been declared to be without active legal capacity shall enter into transactions in the name of the person. Upon declaration of incapacity, a court may decide which transactions the person declared to be without active legal capacity may enter into himself or herself (Article 13).

569. If the grounds for restriction of the active legal capacity or declaration of incapacity of a person cease to exist, a court shall declare the restriction of active legal capacity or declaration of incapacity invalid (Article 14).

570. A person with capacity to exercise will may enter into a transaction within the limits of active legal capacity. A person who in entering into a transaction does not understand the meaning of or is unable to direct his or her action is without capacity to exercise will (Article 15).

571. Article 5 of the Law of Succession Act defines the succession capacity and stipulates that any person with passive legal capacity has succession capacity. A child born alive after the opening of a succession shall be deemed to have succession capacity at the time of opening of the succession if the child was conceived before the opening of the succession.

Article 17 Right to respect of privacy and family

572. Article 26 of the Constitution establishes that all persons shall have the right to inviolability of family life and privacy. State and local government authorities and their officials may not interfere with the family life or privacy of any person, except in the cases and in accordance with procedures established by law for the protection of health or public morals, public order, the rights and liberties of others, or in order to prevent a criminal act or apprehend a criminal.

573. Article 33 of the Constitution states that the home is inviolable. No person may forcibly enter or search any person's dwelling, property or place of work, except in the cases and in accordance with procedures established by law for the protection of public order or health, or the rights and liberties of others, or in order to prevent a criminal act, to apprehend a criminal offender or to establish facts in criminal proceedings.

574. Article 43 of the Constitution provides that every person shall be entitled to the secrecy of messages transmitted by or to him or her by mail, telegram, telephone or other generally used means. Exceptions can be made on authorization by a court, in the cases and in accordance with procedures established by law in order to prevent a criminal act or to establish facts in criminal proceedings.

575. Illegal search or eviction is a crime pursuant to Article 133 of the Criminal Code, as is the violation of secrecy through transmission by a communication device (Article 134), and

it is an aggravating circumstance is if the crime was committed by a person who had access to the information due to his official position.

576. Article 44 of the Constitution requires that at the request of an Estonian citizen and to the extent and in accordance with procedures established by law, all State and local government authorities and their officials are obligated to provide information on their work, with the exception of information which is prohibited from disclosure by law and information which is intended for internal use only.

577. Every Estonian citizen shall have the right to obtain information about himself or herself held by State or local government authorities and in State and local government archives, in accordance with procedures established by law. This right may be restricted by law in order to protect the right and liberties of others and the secrecy of a child's parentage, as well as in order to prevent a criminal act, to apprehend a criminal or to establish facts in criminal proceedings (Article 44 of the Constitution).

578. Article 167 of the Criminal Code protects all persons against violation of rights or damages that may result from the incorrect use of government information. It establishes that the violation of the regulations for maintaining or using information in government registries, if such a violation constitutes a violation of fundamental rights of any person or significant damage to the interest of the State, is an offence punishable with either a fine or up to two years' imprisonment.

579. No State or local government authority or officials therein may collect or store information on the beliefs of any Estonian citizen against his or her free will (Article 42 of the Constitution).

580. Article 15 of the Constitution provides every person with the right to bring a case before the courts if his or her rights or liberties have been violated. A case may be closed to public in cases established by law, which includes the protection of people's private and family lives (Article 24).

Protection of personal rights

581. Division 4 of Chapter 2 of the General Principles of the Civil Code Act deals with the protection of personal rights.

582. A person has the right to demand termination of defamation, refutation of defamatory information concerning the person and compensation for moral and material damage caused by the defamation by a court proceeding, unless the defamer proves the accuracy of the information. If inaccurate information is disseminated through a mass medium, it shall be refuted in the same mass medium. A document which contains inaccurate information shall be replaced. If defamatory information is disseminated in a manner different from that provided by law, a court shall specify the manner in which the information is to be refuted (Article 23).

583. A person has the right to demand termination of a violation of the inviolability of his or her private life and to demand compensation for moral and material damage caused thereby. The following shall be deemed a violation of the inviolability of private life if

performed without legal basis or against a person's will: 1) entry into the dwelling or onto the immovable of a person; 2) search of a person or of things in his or her possession; 3) violation of the confidentiality of messages sent or received by a person by post, telegraph, telephone or other commonly used means, and use of a person's manuscripts, correspondence, notes or other personal documents or information; 4) receipt of information through a person's means of communication or disruption of its functioning; 5) surveillance of the private life of a person; 6) collection of information concerning the private life of a person. A court may also declare an act not specified above which damages the private life of a person without legal basis or against the person's will to be a violation of the inviolability of private life (Article 24).

584. A person whose interests are damaged by use of his or her name may demand termination of the unauthorised use of the name and compensation for moral and proprietary damage caused to him or her thereby. The provisions also apply to a publicly used pseudonym (Article 25).

585. In the cases provided by law, a person may also demand termination of the violation of his or her personal rights not specified in Articles 23–25 and compensation for moral and proprietary damage caused thereby (Article 26).

586. There is a number of court cases under Article 23 of the General Principles of Civil Code Act concerning demand for termination of defamation, refutation of defamatory information concerning the person and compensation for moral and material damage caused by the defamation. The most recent one is the judgement of 17 October 2001 of the Supreme Court in case 3-2-1-105-01 where a Finnish citizen demanded termination of defamation, refutation of defamatory information concerning the person and compensation for moral damage caused by the defamation from *Eesti Ekspressi Kirjastuse AS* (publisher of a weekly newspaper). The judgement of the Supreme Court annulled the decision of the district court in that part and referred the case back to circuit court for a new hearing.

587. A number of articles in the Criminal Code also deal with the protection of personal rights of individuals:

Article 128^1. Disclosure of confidential data which become known due to professional activity
Disclosure by a doctor, medical assistant, nurse, midwife, psychologist, advocate, notary or other person of confidential data relating to the descent, artificial insemination, family or health of a person which become known to the offender due to his or her professional activity, if such disclosure violates legislation regulating the professional activity or other legislation, is punishable by a fine or deprivation of the right of employment in a particular position or operation in a particular area of activity.

Article 129. Defamation
(1) Dissemination, knowingly, of false or embarrassing unfounded information about another person is punishable by a fine.
(2) Defamation in print or by other means accessible by several persons, or in a petition or anonymous letter submitted to a state, non-profit or other organisation, is punishable by a fine or detention.

Article 130. Insult

Degradation of the honour or dignity of another person in an improper manner is punishable by a fine or detention.

588. One case concerning the violation of the freedom of expression was reviewed by the Human Rights Court in 2000. The Court did not ascertain any violation of the right to freedom of expression in this case. The case involved a journalist's complaint against Estonia. The journalist had been convicted of insult under Article 130 of the Criminal Code (private charges).

589. In the new Penal Code, defamation and insult are not considered as criminal offences. Chapter 10 on offences against political and civil rights, under division 2 on breaches of fundamental freedoms, contains articles concerning breach of secrecy of correspondence (156) and violation of obligation to maintain confidentiality of secrets which have become known in course of professional activities (157).

Data Protection

590. The Databases Act that entered into force on 19 April 1997 provides for the procedure for possession, use and disposal of state and local government databases, for the general principles of maintenance of databases belonging to the state, local governments and persons in private law, and for release and use of their data (Article 1).

591. Article 3 sets the principles of collection of data in databases. According to this, persons in private law have the right to collect any publicly available data or any data voluntarily submitted by persons in databases maintained by them. Persons in private law have the right to request from their clients only data necessary for the performance of acts requested by the clients. Persons in public law have the right to collect only data necessary for the performance of functions specified in the Act establishing the persons in public law in databases maintained by them. Local governments and the state may collect data for the performance of their functions imposed on them pursuant to law in the databases maintained by them if the collection of such data is prescribed by Acts or legislation issued on the basis thereof. In the collection of data in databases, the owners of databases shall adhere to the restrictions provided for in this Act, the Personal Data Protection Act, the State Secrets Act, other Acts and legislation issued on the basis thereof and, in the cases prescribed by law, shall obtain permission for data collection from the data protection supervision authority.

592. According to the Act personal data are any information relating to an identified natural person or a natural person identifiable directly or indirectly by reference to the person's physical, mental, psychological, economic, cultural or social characteristics, relations and associations. Personal data are either sensitive or non-sensitive personal data. Sensitive personal data are:
1) data revealing political opinions, or religious or philosophical beliefs, except data relating to being a member of legal persons in private law registered pursuant to procedure provided by law;
2) data revealing ethnic or racial origin;
3) data relating to state of health, genetic information or sexual life;
4) information collected in criminal proceedings or in other proceedings to ascertain an offence before a public court session or before a judgment is made in a matter concerning

an offence, or if this is necessary in order to protect public morality or the family and private life of persons, or where the interests of a minor, a victim, a witness or justice so require.
The list of sensitive personal data may be supplemented by an Act regulating the corresponding area.
Collected statistical data relating to a natural person are not personal data if it is not possible to identify the person relating to whom the data are collected (Article 4).

593. Chapter 2 regulates permission for processing personal data.

594. Processing of non-sensitive personal data is permitted without the consent of the person if the purpose of processing is:
1) performance of a contract entered into with the person or performance of work carried out on an order placed by the person;
2) protection of the person's life, health or freedom;
3) performance of obligations prescribed by law or international agreements;
4) performance of a task in the public interest which is assigned by law or legislation established on the basis thereof to a chief processor or a third person to whom the data are disclosed;
5) consideration of general interests, the legitimate interests of a chief processor or the legitimate interests of a third person to whom the data are disclosed, unless the interests of the person are more significant.

595. Disclosure to third persons of non-sensitive personal data processed for the purposes specified above is permitted if the processing thereof, including use by a third person, is carried out for such specified purposes. If processing of non-sensitive personal data, including use thereof by a third person, is not carried out for such specified purposes, disclosure of such data is only permitted with the consent of the person.
Processing of personal data, including disclosure thereof to a third person, is permitted for purposes which are not specified above if the person has given consent therefor and the processing is not contrary to law or legislation established on the basis thereof (Article 8).

596. Processing of sensitive personal data revealing political opinions or religious or other beliefs of an Estonian citizen or an alien residing in Estonia on the basis of a permanent residence permit, including disclosure thereof to a third person, is only permitted with the consent of the person. In other cases, processing of sensitive personal data revealing political opinions or religious or other beliefs of a person, including disclosure thereof to a third person, is permitted:
1) without the consent of the person if the processing is carried out for the performance of obligations prescribed by law;
2) with the consent of the person unless the processing is contrary to law or legislation established on the basis thereof.

597. Processing of sensitive personal data revealing ethnic or racial origin, state of health, genetic information or sexual life is permitted without the consent of the person if the processing is carried out:
1) for performance of obligations prescribed by law;
2) for protection of the person's life, health or freedom;
3) for performance of a task in the public or general interest which is assigned by law to a chief processor or a third person to whom the data are disclosed.

598. Processing of personal data relating to criminal convictions, judicial punishments or a criminal proceeding is permitted without the consent of the person if the processing is carried out:
1) for performance of obligations prescribed by law;
2) for performance of a task in the public or general interest which is assigned by law to a chief processor or a third person to whom the data are disclosed.
In other cases, processing of sensitive personal data is permitted if the person has given consent therefor and the processing is not contrary to law or legislation established on the basis thereof.

599. Chapter 3 sets personal data processing requirements and protection measures.
According to Article 12, in view of the categories of personal data to be processed, chief processors and authorised processors are required to take organisational and technical measures to protect personal data against:
1) accidental or intentional tampering;
2) accidental loss and intentional destruction;
3) unauthorised organisation, disclosure or other processing.
In the automatic processing of personal data, chief processors and authorised processors are required to:
1) prevent access of unauthorised persons to equipment used for processing personal data (access control);
2) prevent the unauthorised reading, copying, alteration or removal of data carriers (data carrier use control);
3) prevent the unauthorised recording of personal data and alteration or erasure of recorded personal data (recording control) and to ensure that it be subsequently possible to determine when, by whom and which personal data were altered;
4) prevent the unauthorised use of a data processing system for the transmission of personal data by data communication equipment (data communication control);
5) ensure that every user of a data processing system only has access to personal data permitted to be processed by him or her (access control);
6) store information concerning disclosure of personal data regarding when, to whom, by whom and which personal data were disclosed (disclosure control);
7) ensure that it be subsequently possible to determine when, by whom and which personal data were input into the data processing system (input control);
8) ensure that unauthorised reading, copying, alteration or erasure is not carried out in the transmission of personal data by data communication equipment and in the transportation of data carriers (transport control);
9) organise the work of enterprises, agencies and organisations in a manner that allows compliance with special data protection requirements (organisational control)
Chief processors and authorised processors are required to familiarise persons subordinate to them with legislation regulating processing of personal data and, in the case of the automatic processing of personal data, arrange for the training of such persons.

600. Chapter 4 of the Act regulates registration of processing sensitive personal data. Chapter 5 deals with rights of persons. Under that chapter, persons have the following rights.

601. Person's right to receive information before the collection of personal data (Article 21); Person's right to receive information and personal data relating to him or her in

processing of personal data (Article 22); Person's demand to rectify, close or erase personal data (Article 23); Person's right to prohibit disclosure of personal data relating to him or her for public use (Article 24); Person's right of recourse to data protection supervision authority or court (Article 26).

602. Article 25 lists exceptions to the right to receive information and personal data in the following manner:
A person's right to receive information before the collection of personal data pursuant to Article 21 of this Act and a person's right to receive information and personal data relating to him or her in the processing of personal data pursuant to Article 22 of this Act are restricted if this may prejudice:
1) the rights and freedoms of other persons;
2) protection of the confidentiality of filiation of a child;
3) prevention of a criminal offence or apprehension of a criminal offender;
4) ascertainment of the truth in a criminal proceeding.
A decision to refuse to provide data or information shall be made by a chief processor, who shall notify the person thereof.

603. Chapter 6 deals with supervision over processing of personal data. According to Article 27, the data protection supervision authority shall monitor observance of the requirements of this Act and legislation established on the basis thereof. The data protection supervision authority shall be the Data Protection Inspectorate.

604. According to Article 30, the data protection supervision authority has the following rights and duties:
1) to monitor compliance with the personal data processing requirements provided by this Act, other Acts and legislation established on the basis thereof;
2) to register processing of sensitive personal data pursuant to the procedure provided for in this Act;
3) to resolve petitions and complaints submitted to the personal data protection supervision authority with regard to processing of personal data;
4) to issue precepts pursuant to the procedure provided for in Article 31 of this Act;
5) to demand relevant documents and other necessary information from persons;
6) to provide persons with information and arrange for training in the processing and protection of personal data.

605. Competent officials of the data protection supervision authority have the right, for the purpose of carrying out checks, to freely enter into the office of a person processing personal data.

606. An official of the data protection supervision authority has the right to issue the following mandatory precepts in writing to a chief processor and authorised processor:
1) to terminate violation of the personal data processing requirements by a specified date;
2) to take supplementary organisational and technical measures to protect personal data by a specified date;
3) to register processing of sensitive personal data by a specified date (Article 31).

607. According to the information of the Data Protection Inspectorate, 80-85% of the complaints submitted to it are connected with the Public Information Act. The Data Protection Inspectorate has not received any concrete complaints concerning the violation

of inviolability of family life and privacy, but indirectly the complaints are connected with it. Since the creation of the Inspectorate in 1997, the number of complaints submitted to it has risen constantly: 4 complaints in 1998; 45 complaints in 1999; 34 complaints in 2000; and 81 complaints by 1 November 2001.

608. Persons who violate the requirements of the Personal Data Protection Act shall bear disciplinary, administrative or criminal liability (Article 32).

609. The Code of Administrative Offences includes Article 183^1 concerning violation of personal data processing requirements:

(1) A fine of ten to two hundred days' wages is imposed on an official of the chief processor or authorised processor who violates the requirements for permitting processing of personal data, violates the personal data processing requirements or fails to apply measures to protect personal data.
(2) A fine of fifty to two hundred days' wages is imposed on a competent official of the chief processor who fails to register processing of sensitive personal data with the data protection supervision authority.
(3) A fine of up to two hundred days' wages is imposed on an official of the chief processor or authorised processor who knowingly submits inaccurate information in inspection of processing of personal data.
(4) A fine of up to twenty days' wages is, at the request of a person, imposed for failure to:
    1) rectify inaccurate personal data; or
    2) close or erase personal data which are processed in an unlawful manner.
(5) A fine of up to twenty days' wages is imposed for violation of other rights of a person in the processing of personal data.

610. The following articles in the Code of Administrative offences deal with the processing and use of personal data: Article 183^2. Failure to present mandatory data to the state and local government database; Article 183^3. Illegal refusal to issue data from the state or local government database; Article 183^4. Illegal issue of data from the state or local government database; Article 183^5. Non-designated use of data issued from the state or local government database; Article 183^6. Liability for requiring a person to submit data without ground; Article 184. Violation of the procedure for maintenance of state databases.

611. The Criminal Code includes following articles concerning offences in data collection and use:

612. Article 167^1. Violation of procedure for maintenance of state or local government databases or for use of data therein; if the fundamental rights of a person are thereby violated or significant damage is caused to national interests, is punishable by a fine or up to two years' imprisonment.

613. Article 167^3. Violation of the requirement of disclosure and issue of public data
Disclosing or issuing of knowingly incorrect public data or data designated for internal use of an agency, if this resulted in significant damage to another person's legally protected rights or interests, is punishable by a fine or detention.

614. Chapter 17 of the Penal Code *Offences related to office* under Division 1 *Misuse of authority* contains the following article on violation of requirement for maintenance of databases

615. Article 292. Violation of requirements for maintenance of databases

(1) Violation of the requirements for the maintenance of a state or local government database, if significant damage is thereby caused to the rights or interests of another person that are protected by law or to public interests, is punishable by a pecuniary punishment or up to one year of imprisonment.

(2) The same act, if significant damage is thereby caused to the rights or interests of another person that are protected by law or to public interests through negligence, is punishable by a pecuniary punishment.

Surveillance

616. The Surveillance Act, entered into force on 18 March 1994, provides the conditions and procedure for surveillance to guarantee the security of the Republic of Estonia, Estonian citizens and other states and persons, to detect and prevent criminal offences against the Republic of Estonia, Estonian citizens and other states and persons, and to guarantee the constitutional rights of Estonian citizens and other persons; provides restrictions on the constitutional rights of Estonian citizens and other persons in accordance with the Constitution, which are essential for performance of the functions specified above; performs international obligations of the Republic of Estonia which require surveillance and are not contrary to the purposes specified above (Article 1).

617. The purpose of surveillance is to collect information and conduct other activities permitted by this Act which are necessary:

1) to combat criminal offences which are under preparation or being committed;
2) to detect criminal offences which have been committed, search for persons who have committed a criminal offence, compensate for damage caused by a criminal offence and ascertain other facts of material importance in a criminal procedure;
3) to detain fugitives and determine the whereabouts of missing persons;
4) in other cases prescribed in this Act.

618. Surveillance may be exercised for the purposes set out above in order to respond to inquiries which arise from international agreements of the Republic of Estonia and from the participation of the Republic of Estonia in the activities of Interpol or other international organisations (Article 3).

619. The legal basis for surveillance is provided by the Constitution, the Acts providing for criminal procedure, the Police Act, this Act and other Acts and legislation issued on the basis and for the implementation thereof (Article 4).

620. The following are surveillance agencies within the limits of their competence:

1) the Security Police Board;
2) the Police Board;
3) the Border Guard Administration;
4) the Headquarters of the Defence Forces;
5) the Prisons Department of the Ministry of Justice and prisons;
6) the Customs Board;
7) the Tax Board (Article 6).

621. In order to exercise surveillance, surveillance agencies have the right to:
1) conduct special and exceptional surveillance activities under the conditions and pursuant to the procedure provided for in the Surveillance Act;
2) recruit persons for secret co-operation in surveillance activities under the conditions and pursuant to the procedure provided for in the Surveillance Act;
3) collect and store information and to establish information systems and data banks necessary to ensure the prevention and detection of criminal offences;
4) use covert measures which allow persons who have been engaged in surveillance activities, the purpose of the activities and the ownership of rooms and means of transport used to be concealed;
5) use housing, other rooms and property of other persons on the basis of a contract;
6) found cover organisations under the conditions and pursuant to the procedure provided for in in the Surveillance Act;
7) plant undercover agents in criminal groups and organisations being monitored and assign undercover agents to interact with individuals being monitored in order to ascertain the nature of criminal plans and activities and influence the abandonment thereof;
8) use their staff employees as undercover agents working in other agencies, enterprises and organisations;
9) recruit qualified persons for surveillance activities with the consent of such persons (Article 7).

622. Upon exercising surveillance, surveillance agencies are required to:
1) collect, store, analyse and use information which is related to crime and the infrastructure thereof;
2) protect the lawful rights and freedoms of Estonian citizens and other persons who have been involved in surveillance activities, persons who have been recruited for surveillance activities and other natural or legal persons who have provided assistance in surveillance activities;
3) protect persons who are or have been engaged in surveillance activities and who are or have been recruited therefor in order to prevent danger to such persons and to the life, health, property, honour and dignity of persons connected with them;
4) ensure the secrecy of co-operation;
5) comply fully with the requirements of legislation providing for surveillance (Article 8(1)).

If elements of a criminal offence become evident from information obtained as a result of surveillance, the surveillance agency shall disclose such information for the initiation of a criminal proceeding (Article 8(2)).

623. Article 12. Special and exceptional surveillance activities

(1) Surveillance agencies have the right to conduct the following special surveillance activities:
1) covert collection of information by persons who are engaged in surveillance activities or recruited therefor;
2) covert collection of comparative samples, and the covert examination and initial examination of documents and objects;
3) covert surveillance;
4) covert identification;
5) collection of information concerning the fact of messages being communicated via telecommunications networks, duration and manner of communication thereof and

personal data and location of senders and receivers of such messages from telecommunications network operators and providers of telecommunications services.

(2) Under the conditions and pursuant to the procedure provided for in this Act, the Security Police Board, upon pre-trial investigation of criminal offences, and the Police Board have the right to conduct the following exceptional surveillance activities:

6) covert entry into housing, other buildings and constructions and other premises, data banks, workplaces and means of transport for the purpose of collecting and recording information and installing technical appliances necessary therefor;
7) covert examination of postal items;
8) wire tapping and recording of messages and other information forwarded by telegraph, telephone or other commonly used technical communication channels;
9) staging of criminal offences for the purpose of detention of a criminal or detection of a criminal offence.

624. Special and exceptional surveillance activities are permitted only if it is impossible to collect information necessary for a surveillance proceeding through other surveillance activities or procedural acts established by the Acts providing for criminal procedure. Special and exceptional surveillance activities shall not damage the life, health and property of a person or the surrounding environment.

625. Permission of court to conduct exceptional surveillance activities is needed according to Article 13. The grant, extension and revocation of permission for the conduct of an exceptional surveillance activity, and declaration of the exceptional surveillance activity to be justified shall be decided promptly without a court session pursuant to the provisions of the Code of Administrative Court Procedure concerning grant of permission to take administrative measures. Every Estonian citizen has the right to access personally information maintained in surveillance agencies and the archives thereof which concern him or her (Article 17(1)).

626. Everyone has the right to submit complaints or applications to the head of a surveillance agency or the superior state agency of a surveillance agency concerning the professional activities of a surveillance agency or of an employee of a surveillance agency. Everyone whose rights and freedoms are violated by the activities of a surveillance agency or an official of a surveillance agency has the right of recourse to the courts (Article 18).

627. Monitoring and supervision over legality of surveillance is regulated by Article 19.

628. Article 133^1 of the Criminal Code deals with illegal surveillance activities, according to which intentional activity by a person or group of persons who did not have the right for surveillance activities and whose activities contain the elements of special surveillance activities listed in Article 12(1) of the Surveillance Act, if this activity violated the right to the inviolability of family life and privacy or the right to the inviolability of home is punishable by a fine, detention or up to three years' imprisonment. Intentional activity by a person or group of persons who did not have the right for surveillance activities and whose activities contain the elements of special surveillance activities listed in Article 12(2) of the Surveillance Act is punishable by a fine, detention or up to five years' imprisonment

629. According to Article 133^2 of the Criminal Code producing, owning, storing, forwarding, transporting, selling or transfer of means enabling covert collection and storing

of data with the aim of performing illegal special surveillance activities is punishable by a fine, detention or up to three years' imprisonment.

630. Chapter 18 of the Penal Code *Offences against administration of jus*tice under Division 2 that deals with offences against person's rights in pre-trial proceedings or court proceedings establishes the following offences:

Article 314. Unlawful search or eviction
Unlawful search or eviction from a dwelling is punishable by a pecuniary punishment.

Article 315. Unlawful special or exceptional surveillance activities
Unlawful special or exceptional surveillance activities conducted by a person with the right arising from law to engage in surveillance are punishable by a pecuniary punishment or up to three years' imprisonment.

Individual rights in criminal procedure

631. In the Code of Criminal Procedure, the following articles touch upon individual rights:

632. The interrogation rules are more in detail discussed under Article 7.

633. Recording of questioning and interrogation is regulated under Article 107^2. A preliminary investigator may record the interrogation of an accused and suspect, questioning of a witness or victim, if the person being questioned or interrogated is notified thereof prior to the commencement of questioning or interrogation. A recording may also be made at the request of an accused, suspect, witness or victim.A recording shall contain the information prescribed in Article 79 (3) (date, time etc) of this Code, if the provisions of Article 79^1 (anonymity) of this Code were not applied; the recording shall also contain the entire process of the questioning or interrogation. Partial recording of a questioning or interrogation and the repetition of a testimony given during the same questioning or interrogation specifically for the purpose of recording such testimony is prohibited.The full recording shall be presented to the person being questioned or interrogated for listening upon completion of the questioning or interrogation. Amendments made by the person being questioned or interrogated to the recording of the testimony shall be recorded. The recording shall be completed by the answer of the person being questioned or interrogated to the question whether he or she verifies the correctness of the recording.

634. Testimony obtained during a questioning or interrogation where a recording is made shall be entered in the minutes of the questioning or interrogation pursuant to the rules of this Code. Minutes of a questioning or interrogation shall also contain: a notation on making a recording and the notification of the person being questioned or interrogated thereof; information on the equipment used in the recording and on the conditions of the recording; a petition by the person being questioned or interrogated concerning the making of the recording; a notation on the presentation of the recording to the person being questioned or interrogated; and the verification of the person being questioned or interrogated and the preliminary investigator concerning the correctness of the minutes. A recording shall be sealed and stored together with the file.

If the recording of a testimony is presented for listening upon performance of another investigative activity, a preliminary investigator is required to make a notation to that effect in the minutes of the corresponding investigative activity.

635. Chapter 14 of the Code of Criminal Procedure deals with search, seizure and seizure of property. If a preliminary investigator has sufficient grounds to believe that an object relevant to a criminal matter may be located, or a fugitive or a person concerning whom compelled attendance is applied may be hiding in a room, at an area or with a person, the preliminary investigator shall conduct a search in order to find such object or person. A search shall be conducted on the basis of an order of a preliminary investigator, and only with the consent of a prosecutor. In the cases which allow no postponement, a preliminary investigator may conduct a search without the consent of a prosecutor; however, the prosecutor shall be notified of the conduct of the search within one twenty-four hour period (Article 139).

636. During a search or seizure, a preliminary investigator shall confiscate only such objects and documents which are relevant to the criminal matter. The objects and documents which may be acquired only with special permission shall be confiscated if such permission does not exist, regardless of their connection with the criminal matter. Each confiscated object and document shall be presented to the persons who participate in or are present at the search or seizure, and shall be indicated in the search or seizure report; the amount, volume, weight and individual characteristics of such objects and documents shall be specified in the minutes in an accurate manner (Article 140 subs 1 and 2).

637. A search shall be conducted in the presence of impartial observers of investigative activity; a seizure shall be conducted in the presence of impartial observers of investigative activities in certain the cases provided for in this Code. During a search or seizure, the presence of the person at whose place the investigative activity is performed, or his or her adult family member, or in the absence of the person or his or her adult family member, the presence of a representative of a local government shall be ensured. During a search or seizure in the premises of an enterprise, agency or organisation, impartial witnesses of the investigative activity from among the employees of such enterprise, agency or organisation shall be present; in the absence of the employees, the presence of a representative of a local government shall be ensured. The right to be present at all activities of the preliminary investigator during the search or seizure, and to make statements concerning the activities of the preliminary investigator shall be explained to the person at whose place the search or seizure is conducted, and to the impartial witnesses of investigative activity; the statements shall be documented in the minutes (Article 141).

638. As a general rule, a search or seizure shall be conducted during the daytime. If necessary, a preliminary investigator has the right to summon a specialist to participate in the search or seizure (Article 142(1)).

639. A person may be searched without a corresponding order only upon the detention or taking into custody of the person, and if there is reason to believe that the person staying at a site to be searched is concealing objects or documents relevant to the criminal matter on him or her. A person may be searched only by a person who is of the same sex as the person to be searched, and in the presence of impartial observers of investigative activity who are of the same sex as the person to be searched (Article 143).

640. The detention and seizure of correspondence from post and telegraph offices shall be conducted only on the basis of a permission or ruling of a county or city court judge. A representative of the post and telegraph office shall be present upon the seizure of correspondence. If necessary, a preliminary investigator has the right to summon a specialist to participate in the seizure of correspondence by post or by telegraph (Article 145).

641. Complaints against the activities of a preliminary investigator shall be submitted to a prosecutor either directly or through the preliminary investigator against whose activities the complaint is submitted (Article 182(2)).

Correspondence and communication

642. The purpose of the Telecommunications Act that entered into force on 19 March 2000 is to create favourable conditions for the development of telecommunications and to guarantee the protection of the users of telecommunications services by promoting free competition. In addition, it establishes the requirements for telecommunications networks, for the operation of telecommunications networks and for the provision of telecommunications services, and the procedure for state supervision of compliance with the established requirements. This Act guarantees the purposeful and just planning, allocation and use of telecommunications limited resources (Article 1).

643. The following articles in that Act deal with the right to private life.

644. Article 35. Publication of data concerning subscribers
(1) A provider of public telephone and mobile telephone services shall ensure the publication of the name and address of a subscriber of the services and data concerning at least one number of the subscriber in at least one directory and by a public directory information services free of charge unless the subscriber prohibits this.
(2) A provider of public telephone and mobile telephone services shall organise the publication of the data specified in subsection (1) of this article in the directory and the public directory information services at least once every two years.

645. Article 36. Protection of information relating to provision of telecommunications services
(1) A telecommunications network operator and a telecommunications service provider shall not disclose any data on users which becomes known to them during provision of telecommunications services, including the fact of using the telecommunications service.
(2) A telecommunications network operator and a telecommunications service provider may disclose data concerning the content and form of messages transmitted via the telecommunications network, as well as data concerning the sender and recipient of the messages, and the time and manner of transmission or receipt of the messages only to the sender and recipient of the messages. Data on the transmitted message may be communicated to third persons only with the consent of the sender and recipient of the message unless otherwise provided by law
(3) For the purpose of calculating the charge for the use of telecommunications services or access network connection and monthly charges, a telecommunications service provider may, without the consent of a subscriber, store and process data which contain:
1) information unequivocally identifying the user or terminal equipment;

2) user's address;
3) units on the basis which the charge for public telecommunications services payable by the user is calculated;
4) the addressee or number of the messages or calls transmitted by the user;
5) the time of transmission, duration and amount of messages or calls transmitted by the user;
6) information concerning advance payments or payments by instalment made by the user to the telecommunications service provider;
7) information concerning the restriction of access to telecommunications services and warnings given to the telecommunications services provider

(4) A telecommunications services provider shall delete the aforementioned data one year after the provision of the telecommunications service.
(5) A telecommunications network operator and a telecommunications service provider shall ensure that third persons have no access without a legal basis to the data and shall promptly notify users of telecommunications service of any possibility of such risk.
(6) If a user has given consent to the preservation and processing of data and the subscription contract does nor provide a longer term, the telecommunications services provider shall retain the data for the time of contestation of the charge and shall make the information available to the user if the user so wishes.

646. The Estonian Communications Act that lost effect on 31 December 2001 upon the entry into force of the new Postal Act established the rights and obligations of legal persons and individuals in the Republic of Estonia regarding the possession, use and disposal of means of communication and communication networks and organisation of communication networks, as well as general principles of liability for the violation of the communications legislation. In connection with the passing of the Telecommunications Act, the Communications Act has remained to regulate mainly the provision of postal services. Article 5 of the Communications Act contained the following provision on the protection of confidentiality of communications: All information pertaining to the messages transmitted through correspondence and electrical communication networks is the secret of the sender and the addressee which is protected by laws of the Republic of Estonia.

647. The purpose of the new Postal Act is to ensure the high quality conveyance of postal items and to protect the interests of customers of postal services. The Act establishes the requirements for the provision of postal services, and the procedure for state supervision of compliance with the established requirements (Article 1). Chapter 5 of the Act deals with postal secrecy and data protection.

648. According to Article 30 of the Postal Act, postal secrecy means confidentiality of all information pertaining to the sender, addressee and contents of a postal item, including information concerning the postal traffic of a specific person.
It is prohibited to collect information concerning the content of postal items or specific circumstances of postal traffic to a wider extent than needed for the provision of postal services. It is prohibited to use such information for purposes other than the provision of postal services.

649. Article 31. Opening of postal items
(1) A postal service provider has the right to open a postal item only:
1) with the consent of the sender or addressee thereof;

2) if this is inevitable for the protection of the contents of a damaged postal item or for the documentation of its condition;
3) for the prevention of possible physical danger arising from the postal item to persons or things, or
4) in the case where a postal item has not been forwarded due to being undeliverable and the return of the postal item to the sender is impossible due to the lack of information.

(2) A postal item is opened by a committee formed for such occasion in the facilities of the postal service provider prescribed for such purposes. The committee formed for the opening of postal items shall have at least three members and one of the members shall be a police officer appointed for the performance of the corresponding duty. A postal item to be opened with the consent of the sender or addressee thereof may also be opened in the presence of the sender or addressee, or a person authorised by the sender or addressee, only.

(3) In the case of possible physical danger, a postal item may be opened and rendered harmless if there is reason to believe that possible physical danger may arise fom the postal item and if at least two rescue workers or police officers are present upon the opening of the postal item.

(4) It is prohibited to examine the contents of an opened postal item to a wider extent than required in connection with the reason for the opening of the postal item. The persons present at the opening of a postal item are required to maintain postal secrecy concerning information which becomes known to them upon the opening of the postal item.

(5) An opened postal item shall be duly labelled and a report concerning the opening shall be prepared pursuant to the established procedure.

650. Article 32. Data protection

(1) A postal service provider has the right to gather and process non-sensitive personal data pursuant to the procedure provided in the Personal Data Protection Act and this Act for the preparation and maintenance of an address register used for the provision of postal services pursuant to the Databases Act.

(2) A postal service provider may collect, process and use personal data insofar as it is necessary to ensure the provision of postal services and above all for:
1) entry into and amendment of contracts;
2) ascertainment of postal traffic data for contractual purposes;
3) delivery of postal items in accordance with the requirements;
4) determination, assessment and monitoring of postal charges.

(3) This article does not give the right to collect, process and use information related to the content of postal items.

(4) A postal service provider may, with the consent of a customer, process and use the personal data collected for the entry into and amendment of contracts in order to advertise its own services, advise customers or conduct market research.

(5) A postal service provider shall not make the provision of postal services or determination of the charges therefor contingent upon the disclosure of personal data which is not necessary for the provision of the service or determination of the charges therefor.

651. Chapter 6 deals with supervision over compliance with this Act. According to Article 33, the Estonian National Communications Board exercises supervision over compliance with the requirements provided for in this Act.

Article 18 Freedom of thought, conscience and religion

652. Article 40 of the Constitution provides that all persons shall have freedom of conscience, religion and thought. All persons may freely belong to churches or religious associations. There shall be no State church. Every person shall have the freedom to practice his or her religion, either alone or in community with others and in public or in private, unless this endangers public order, health or morals.

653. Article 41 of the Constitution states that every person shall have the right to hold his or her opinions and beliefs. No person may be coerced to change such opinions and beliefs. Beliefs shall not constitute an excuse for a legal offence. No person may be held legally liable because of his or her beliefs.

654. The right to freedom of conscience, religion and thought is protected under the Constitution's provision by which rights and liberties may be restricted only in accordance with the Constitution and such restrictions must be necessary in democratic society, and their imposition may not distort the nature of the rights and liberties (Art. 11, EC). In exercising their rights and liberties and in fulfilling their duties, all persons must respect and consider the rights and liberties of others and must observe the law (Art.19, EC).

655. The right of freedom of conscience, religion and thought established in Articles 40, 41 and 1 of the Constitution are such that they may not be restricted even during a state of emergency or state of war (Art. 130, EC).

656. Freedom of religion is further protected by the Criminal Code which defines the obstruction of religious ceremonies as a criminal offence punishable with fine or imprisonment (Article 138). For such an offence to be punishable, the religious ceremony that is obstructed must not endanger public order, health or morals.

657. The Criminal Code places some restrictions on the freedom to practice religion. Article 201 of the Criminal Code states that if a person organizes or leads a group which is involved in the violation of public order or which causes damage to the health of any person or otherwise threatens the life or rights of any person or persuades any person to refuse to fulfil their civic duties, such person may be held liable and punished with a fine or up to five years' imprisonment. If any person actively participates in the activities of such group, or propagates actions that are prescribed by the group's religious teachings and ceremonies, such person may be punished with a fine, detention or up to three years' imprisonment (Article 201(2), Criminal Code).

658. A conscript who has refused to serve in the armed forces due to religious or moral reasons is obliged to undergo an alternative service pursuant to the procedure provided by the Defence Forces Service Act.

659. Medical, educational, welfare and penal institutions are required to enable people in their institutions to exercise their religion in accordance with their confession if they so wish and if it is not detrimental to the order established in these institutions and to the interests of other people in the institution.

660. Conscripts serving in the armed forces are guaranteed the possibility to exercise their religion by command staff of a military unit.

661. Services and religious ceremonies in medical, educational, welfare and penal institutions and in military units are organised by a church or congregation with the permission of the local government or relevant authority.

662. The function of the Churches and Congregations Act is to establish the procedure for joining the churches and congregations and regulating their activities in order to bring to life the freedom of religion ensured for everyone by Article 40 of the Constitution. According to Article 4 of the Act, everyone has the right freely to choose, confess and proclaim his or her religious convictions. No one is obligated to provide information on his or her religious conviction or membership of a church. According to Article 6, every person has the right to be interred pursuant to his or her religious conviction. Article 7 states that every person of at least 15 years of age can independently join or leave a congregation pursuant to its statutes. A child under the age of 12 may join his parents' congregation or the congregation of one of the parents by agreement between the parents. A child between the ages of 12 and 15 may belong to a congregation on consent of his or her parents or guardians. Article 9 states that every person has the right to leave a church or congregation, notifying the directors of the respective church or congregation in advance. Children up to 15 years of age must leave a congregation together with their parents, if not decided otherwise by the parents. In the case of a child up to 15 years of age without parents, the question will be decided by his or her guardian.

663. Parents and legal guardians are guaranteed the right to provide their children with religious education in accordance with their own beliefs.

664. Religious instruction in public schools is voluntary in accordance with Article 4(4) of the Education Act. As there is no State church in Estonia, religious education is of a non-confessional and general Christian nature and does not propagate any specific confession. The principles and topics of religious instruction are established in a curriculum approved by the Ministry of Education, which is coordinated with the member churches of the Estonian Council of Churches. The aim of religious education is to teach students to honour and value various viewpoints in order that students may develop their own personal beliefs.

665. According to article 3 (4) of the Basic Schools and Upper Secondary Schools Act religious education shall be non-confessional. A school is required to teach religious studies if at least fifteen students in a stage of study so wish. The study of religious education shall be voluntary.

666. Clause 8 of National Curriculum also elaborates that when compiling curriculum of religious education the wishes of the parents must be taken into account.

667. Religious education puts an emphasis on ethics and value education. Although deriving from the historical-cultural context more attention is paid on Christianity, other religions are dealt with as well. Teacher has the possibility to substantiate 20% of the curriculum taking into account local circumstances and wishes and interests of the pupils. Central principle of the curriculum of the religious education is to model respect towards people who see the world differently and make pupils conscious of the plurality of the ways to see the world and support to moral development of pupils. Understanding of connections between religions and cultures has also relevant position in religious education.

668. Teachers of the religious education must have certain amount of theological preparation and pedagogical preparation. Corresponding curricula have been elaborated by:

1) theological department of Tartu University;
2) theological institute of the Estonian Evangelical Lutheran Church (EELC) where additional theological training is provided to teachers and pedagogical training to persons with theological decree;
3) theological Seminar of the Estonian Methodist Church;
4) higher theological Seminar of the Estonian Union of Evangelical Christians and Babtists;
5) Theological Academy of Tartu.

669. All children may receive confessional instruction in their congregations' Sunday and church schools (see under article 27 rights of minorities). There are 2 confessional basic schools in Estonia – Tartu "Elu Sõna" Christian School and Tartu Catholic School. Congregations' Sunday schools are not legal persons and therefore not registered.

670. All members of a church or congregation are equal before the law. Every adult member of a church or congregation has the right to inquire about and obtain information about the issues concerning the activities of his or her church, congregation or association of congregations. Persons who have active legal capacity and are 18 years of age have the right to participate in the elections of the board and officials of the church or congregation, unless the statutes prescribe a higher age limit.

671. A congregation with at least 12 adult members who have active legal capacity may apply for registration. Statutes of churches, congregations and associations of congregations and amendments and revisions thereto are registered by the Ministry of Internal Affairs who maintains the register of churches, congregations and associations of congregations.

672. A church, congregation and association of congregations has the right to be a founding member or member of national and international church, religious, charity or educational organisations.

673. The following are the churches and congregations and associations of congregations and their branches and single congregations, registered at the Ministry of Internal Affairs by 15 May 1998, pursuant to the Churches and Congregations Act:

CHURCH	**CONGREGATION**
Estonian Apostolic-Orthodox Church	58 congregations
Estonian Union of Evangelical Christian and Baptist Congregations	89 congregations 2 subordinates
Estonian Union of Evangelistic Christian Pentecostal Congregations	3 congregations
Estonian Evangelical Lutheran Church	167 congregations 12 deaneries 19 subordinates
Estonian Union of Congregations of Jehovah's Witnesses	11 congregations
Estonian Charismatic Episcopal Church	10 congregations
Estonian Christian Pentecostal Church	38 congregations 3 subordinates

Estonian Union of Christian Free Congregations (Word of Life congregations)	7 congregations
Estonian Methodist Church	24 congregations 1 subordinates
Estonian Union of Full Gospel Congregations	5 congregations
Estonian Union of Congregations of Old Believers	11 congregations
Roman-Catholic Church in Estonia	7 congregations 4 orders
Estonian Union of Seventh-Day Adventists	18 congregations
The House of Taara and Mother Earth people of Maavald	3 congregations
New Apostolic Church in Estonia	10 congregations
Single congregations	57 congregations
The Pühtitsa Dormition Stavropegic Convent	

Source: Ministry of Internal Affairs

674. The following national congregations have been registered with the Department of Religious Affairs of the Ministry of Internal Affairs:

1. Ukrainians:
   Tallinn Congregation of the Ukrainian Greek-Catholic Church;

2. Armenians:
   Estonian Congregation of St Gregory of the Armenian Apostolic Church;

3. Jews:
3.1. Estonian Jewish Congregation,
3.2. Jewish Progressive Congregation in Tallinn,
3.3. Jewish Progressive Congregation “Hineiny” in Narva;

4. Swedes:
   Tallinn Swedish-Michael Congregation of Estonian Evangelic Lutheran Church;

5. Ingrian-Finns:

5.1. Ingrian-Finns Congregation of Estonian Evangelic Lutheran Church in Tallinn,
5.2. Finnish Congregation of Estonian Evangelic Lutheran Church in Tartu;

6. Germans:
   German Congregation "The Redeemer" of Estonian Evangelic Lutheran Church in Nõmme;

7. Russians:
7.1 Old-believers' Congregations (11),
7.2 Tallinn Congregation of Russian Evangelical Christians and Baptists,
7.3 Sillamäe Congregation of Evangelical Christians and Baptists,
7.4 Narva Congregation of Estonian Methodist Church,
7.5 Fellowship of New Covenant in Tallinn,
7.6 Full Gospel Congregation in Tallinn,
7.7 Pentecostal Congregation “Immanuel” in Tallinn,
7.8 Russian Pentecostal Congregation in Pärnu,

7.9 Christians-Pentecostal Congregation in Kohtla-Järve,
7.10 Pentecostal Congregation "The Reviver" in Tallinn,
7.11 Full Gospel Free Congregation "Gift of Grace" in Jõhvi,
7.12 Russian Congregation of Estonian Christian Pentecostal Church in Lasnamäe,
7.13 Russian Congregation of Estonian Christian Pentecostal Church in Sillamäe,
7.14 Russian Congregation of Estonian Christian Pentecostal Church in Pärnu,
7.15 Russian Congregation of Evangelical Christians and Baptists in Kohtla-Järve;

8. Poles:
There is a Polish national group within the Congregation of St. Peter and Paul of Roman Catholic Church in Tallinn, who are served in Polish.

9. Lithuanians:
There is a Lithuanian national group within the Congregation of St. Peter and Paul of Roman Catholic Church in Tallinn, who are served in Lithuanian.

10. Mixed Congregations:
10.1 The majority of the 58 Congregations of Estonian Apostolic Orthodox Church are mixed Estonian-Russian congregations,
10.2 Congregations of Roman Catholic Church in Valga, Ahtme, Narva and Sillamäe are Estonian-Russian mixed congregations,
10.3 Estonian Islam Congregation and Estonian Mussulman Sunnite Congregation, embracing the Tartars, Azerbaijanis, Kazakhs, Uzbeks, Chechens, Lesgins,
10.4 Bahaî Community in Tallinn has Estonians, Persians, Russians,
10.5 Christian Congregation of New Testament in Tallinn embraces Estonians and Russians.

11. Under the Canonical Subordination of Moscow Patriarchy (predominantly Russian-speaking associations):
11.1 The Pühtitsa Dormition Stavropegic Convent,
11.2 Alexander Nevski Stavropegic Congregation in Tallinn.

675. There are chaplaincy in every prison. At the moment there are 10 chaplains in prisons from different churches and congregations. Chaplain is a public servant and social worker in prison. The salary is paid to the chaplain by the prison. The chaplains from different prisons co-opreate with each other and with churches, other organisations, state institutions and foreign partners. The chaplains are supported in their work by the volunteers from different churches and congregations. There are 40 active volunteers in prisons.

676. The new Penal Code in Chapter 10 *Offences against political and civil rights* under Division 2 deals with violation of fundamental freedoms.

677. Article 154. Violation of freedom of religion
A person who interferes with the religious affiliation or religious practices of a person, unless the religious affiliation or practices are detrimental to the morals, rights or health of other people or violate public order, shall be punished by a pecuniary punishment or up to one year of imprisonment.

678. Article 155. Compelling person to join or retain membership of religious association

Compelling a person to join or be a member of a religious association is punishable by a pecuniary punishment or up to one year of imprisonment.

Article 19 The freedom of expression

679. Article 41 of the Constitution states that every person shall have the right to hold his or her opinions and beliefs. No person may be coerced to change such opinions and beliefs. Beliefs shall not constitute an excuse for a legal offence. No person may be held legally liable because of his or her beliefs.

680. Article 45 of the Constitution provides that all persons shall have the right freely to circulate ideas, opinions, beliefs and other information by word, print, picture or other means. This right may be restricted by law in order to protect public order or morals, or the rights and liberties, health, honour and reputation of others. The law may likewise restrict this right for State and local government officials, in order to protect State or business secrets or confidential communication to which, due to their service, the officials have access, as well as to protect the family life and privacy of others, and the interests of justice. There shall be no censorship.

681. The provisions in the General Principles of the Civil Code Act deal with the protection of individual rights. More specific information is provided under Article 17.

682. Article 44 of the Constitution stipulates that everyone has the right to freely obtain information disseminated for public use. At the request of an Estonian citizen, and to the extent and in accordance with procedures established by law, all state agencies and local governments, and their officials are obliged to provide information about their activities, with the exception of information the disclosure of which is prohibited by law, and information which is intended for internal use only.

683. Every Estonian citizen has the right to access information about himself or herself held in state agencies and local governments and in state and local government archives, pursuant to procedure established by law. This right may be restricted pursuant to law to protect the rights and freedoms of others or the confidentiality of a child's parentage, and in the interests of preventing a criminal offence, apprehending a criminal offender, or ascertaining the truth in a criminal proceeding (Article 4 of the Constitution).

684. The Constitution allows for restrictions to freedom of expression only on the basis of the law. For instance, Article 72 of the Criminal Code provides such restrictions for the protection of national defence, or the rights, reputation, health or morals of others. The restrictions imposed by the Criminal Code can be considered as necessary in democratic society and non-discriminatory.

685. The Public Information Act that entered into force on 1 January 2001 provides for:
1) the conditions of, procedure for and methods of access to public information and the bases for refusal to grant access;
2) restricted public information and the procedure for granting access thereto to the extent not regulated by other Acts;

3) the procedure for the exercise of state supervision over the organisation of access to information.

686. The Act does not apply:
1) to information which is classified as a state secret;
2) upon granting access to public records by archival agencies pursuant to the procedure provided for in the Archives Act and on the basis thereof;
3) upon responding to petitions and memoranda pursuant to the procedure provided for in the Response to Petitions Act if responding requires the analysis and synthesis of the recorded information or the collection and documentation of additional information;
4) to restrictions on access to information and to special conditions for, the procedure for and methods of access if these are otherwise provided for in specific Acts or international agreements.

687. The purpose of the Public Information Act is to ensure that the public and every person has the opportunity to access information intended for public use, based on the principles of a democratic and social rule of law and an open society, and to create opportunities for the public to monitor the performance of public duties.

688. According to the Act, public information is information which is recorded and documented in any manner and on any medium and which is obtained or created upon performance of public duties provided by law or legislation issued on the basis thereof.

689. Article 4 of the Act sets the principles of granting access to public information. In order to ensure democracy, to enable public interest to be met and to enable all persons to exercise their rights and freedoms and perform their obligations, holders of information are required to ensure access to the information in their possession under the conditions and pursuant to the procedure provided by law.

690. Access to information shall be ensured for every person in the quickest and easiest manner possible. Upon granting access to information, the inviolability of the private life of persons shall be ensured. Access to information shall be granted without charge unless payment for the direct expenses relating to the release of the information is prescribed by law. Every person has the right to contest a restriction on access to information if such restriction violates the rights or freedoms of the person.

691. Access to information shall be granted by a holder of information by:
1) complying with a request for information;
2) disclosing information that is the grant of access to information by a holder of information pursuant to the procedure provided by law, without a person being required to make a request for information.

692. Information specified in the Act shall be disclosed on a web site. In addition to a web site, information specified in this Act may be disclosed:
1) by the broadcast media or in the printed press;
2) by displaying the document for public examination in a local government agency or public library;
3) in an official publication;
4) in any other manner prescribed by an Act or legislation passed on the basis thereof (Article 29).

693. Estonian legislation does not regulate press or publishing, there is no law on the press as such in Estonia; cases regarding defamation are covered by the civil and criminal codes. There is no censorship. Currently, everyone may freely publish newspapers, periodicals or books, whereby the Criminal Code prohibits the printing of certain publications, such as those containing war propaganda or inciting racial or religious hatred.

Table 26. Print Media

Print Media	**1995**	**1996**	**1997**	**1998**	**1999**	**2000**
Books and Brochures						
No of titles	2635	2628	3317	3090	3265	3466
-In Estonian	2254	2243	2767	2558	2512	2732
Periodical publications						
No of titles	501	517	572	578	930	956
-In Estonian	426	440	496	492	725	778
Newspapers						
No of titles	146	119	102	109	105	109
-In Estonian	110	86	74	78	73	82
Including daily papers	19	15	15	16	17	16
-In Estonian	14	11	11	12	13	12

Source: Statistical Office of Estonia

694. There are no restrictions on founding and publishing newspapers and magazines. Newspapers and magazines may also be published by political parties. There are no restrictions on the distribution of newspapers and magazines. Besides printed versions, most Estonian newspapers and magazines are also available through the Internet. Similarly, all the foreign newspapers and magazines that have Internet publications are accessible through the Internet in Estonia. Major foreign newspapers are also available and people who wish can subscribe to them.

695. The Estonian Newspaper Association (ENA) is an organisation of newspaper publishers, uniting 38 newspapers published in Estonia, with a total daily circulation of 480 000 copies. ENA was founded in 1990 and is a member of the World Association of Newspapers since 1991. ENA aims at defending the common interests and rights of newspapers, proceeding from internationally recognized principles of democratic journalism. To fulfil its goals, ENA represents newspapers by influencing processes relating to newspaper publishing (lobby in parliament, property relations, distribution, printing, advertising); develops co-operation with media organisations in Estonia and abroad; offers member papers a chance to exchange ideas and compare notes in professional environment; in conjunction with the Press Council, upholds good journalistic practices and fights against violations of the freedom of the press; organises training courses for newspaper managers and editors, arranges contests for newspapers; and collects and publishes media statistics, distributes information and publishes annual newsletter.

696. The Estonian Press Council (EPC) was set up by the ENA in 1991. In April 1997, several media organizations decided to reorganize the EPC on a wider basis, i.e. a non-profit organization was founded on the basis of private a agreement between the ENA, the Association of Broadcasters, the Journalists' Union, the Union of Media Educators and the Consumers' Union. At present, also the Network of Estonian Non-Profit Organizations, the

Estonian Council of Churches and the Baltic News Service have become the members of the non-profit organisation.

697. The aims of the non-profit organisation are as follows:

- to protect freedom of the press
- to examine complaints about print media (and broadcasting) from the aspect of media ethics
- to support the development of journalists' professional skills (including ethics) and adherence to the good tradition of journalism.

698. EPC participated in creating the national Code of Ethics. The Code was introduced in December 1997 by the ENA, the Association of Estonian Broadcasters and EPC. Before that, adjudications were made on the basis of international professional tradition and the best knowledge of the members of EPC. At present, the Code provides a basis for assessing the cases. But as it does not cover all possible cases, EPC refers to the body of cases already considered. EPC is mainly financed by the membership fees. Some projects have been financed by foundations. The NGO employs a part-time assistant, the members work on a voluntary basis.

699. EPC meets once a month. The adjudications are made independently of the member organisations. In the year 2000, EPC received 37 complaints of which 33 were concluded. 13 cases were upheld, 13 dismissed, and 7 rejected.

700. The activities of electronic media in the Republic of Estonia are regulated by the Broadcasting Act which came into force on 15 June 1994. Pursuant to Article 1 of the Act, one of its objectives is to regulate the procedure for broadcasting information and the principles of the broadcasting activities. According to this Act, everybody can obtain the permission to broadcast.

701. The principles of broadcasting activities are provided in Chapter II. A broadcaster has the right, in compliance with law and the conditions of a broadcasting licence, to freely decide on the content of its programmes and programme services (subs 1 of Article 6). Thus, it is prohibited for the broadcasters to transmit programmes, the content of which is in conflict with the principles of the Constitution or laws prohibiting discrimination or incitement of discrimination. This prohibition is established by Article 9, which guarantees the standards of decency and the legality as follows: “Broadcasters shall not transmit programmes the content of which is immoral or in conflict with the Constitution or laws”.

702. Pursuant to Article 13, the broadcasters shall appoint executive producers or equivalent persons for programmes and programme services, who shall be responsible for ensuring, *inter alia*, that respective programmes or programme services meet the requirements of law and observe the principle of freedom of expression.

Table 27. Radio

Radio	**1995**	**1996**	**1997**	**1998**	**1999**	**2000**
Number of broadcasters	24	22	25	27	27	29
- public law	1	1	1	1	1	1
- private law	20	20	23	24	26	28
- other	3	1	1	2	-	-

Total programmes (hours)	125 929	155 439	214 009	232975	251414	267078
In Estonian (%)	85.4	81.4	83.7	85.1	84.1	67.1
In Russian (%)	12.0	10.8	6.6	13.7	14.7	21.1

Table 28. Television

Television	**1995**	**1996**	**1997**	**1998**	**1999**	**2000**
No of broadcasters	9	7	7	7	7	5
- public law	1	1	1	1	1	1
- private law	8	6	6	6	6	4
Total programmes (hours)	8800	8767	20 640	23489	25311	32463
In Estonian (%)	89.5	93.0	87.0	92.5	95.9	98.9
In Russian (%)	12.0	10.8	6.6	6.3	8.5	5.5

Source: Statistical Office of Estonia

703. For the purposes of the Broadcasting Act, *Eesti Raadio* (Estonian Radio) and *Eesti Televisioon* (Estonian Television) are broadcasting organisations in public law. Article 25, which establishes the functions of *Eesti Raadio* and *Eesti Televisioon*, states, *inter alia*, the responsibility to satisfy the information needs of all nationalities, including national minorities. Article 26 stipulates basic requirements for programmes and programme services of *Eesti Raadio* and *Eesti Televisioon*, and pursuant to subsection 2 of Article 26, the programmes and programme services of *Eesti Raadio* and *Eesti Televisioon* shall influence everyone to respect human dignity and observe laws considering the moral, political and religious beliefs of different nationalities.

704. Persons in private law need a broadcasting licence that grants the legal or natural person specified in the licence the right to broadcast programmes and programme services under the conditions specified in the licence. Broadcasting licences are issued by the Ministry of Culture on the bases and pursuant to the procedure prescribed by the Broadcasting Act.

705. The Ministry of Culture shall refuse to issue a broadcasting licence if:
1) the applicant or the programme service planned by the applicant does not meet the requirements provided for in this Act;
2) a decision has been made to issue the broadcasting licence to another person who competed for the same licence and made a better offer;
3) it is not possible to allocate a broadcasting frequency;
4) the issue of a broadcasting licence would result in a violation of obligations of agreements assumed by the Republic of Estonia;
5) the activity applied for is illegal;
6) the issue of the broadcasting licence results in a press or information monopoly or cartel in the territory planned for the broadcasting activity, or the broadcasting in the planned territory or part of the territory of Estonia would accumulate in the hands of persons who co-operate with each other;
7) the issue of the broadcasting licence would violate the requirements of free competition and of enterprise based on equal grounds in the territory planned for the broadcasting activity or a part of the territory of Estonia;

8) a person operating as a television and radio broadcaster or the responsible publisher of a daily or a weekly newspaper would become simultaneously a person operating as a television and radio broadcaster and the responsible publisher of a daily or a weekly newspaper in the territory planned for the broadcasting activity or a part of the territory of Estonia; this restriction shall not extend to the television guide published by a broadcaster itself.

Upon refusal to issue a licence, the basis for refusal to issue the licence shall be indicated with a reference to the provision in the Broadcasting Act. An applicant may contest in a court a refusal to issue a broadcasting licence or non-acceptance of an application.

706. A broadcasting licence may be revoked by a court or the Ministry of Culture, which issued the licence.

A broadcasting licence shall be revoked if the person specified in the licence:

1) submits a corresponding application;
2) continually fails to fulfil the conditions specified by the licence;
3) violates the requirements of this Act in the person's activities;
4) submitted false information in order to obtain the licence;

A directive of the Ministry of Culture revoking a broadcasting licence may be contested in a court.

707. The following shows the consumption of categories of media by Estonians and non-Estonians:

Consumption of media in Estonia in 1993–1997

	Estonians					Non-Estonians				
Year	1993	1994	1995	1996	1997	1993	1994	1995	1996	1997
No. of people questioned	918	1016	1026	1016	1051	613	579	585	557	516
Average no. of newspapers read*	8,7	7,7	7,3	6,3	6,3	3,9	3,7	4,3	3,8	3,1
Do not read newspapers (%)	-	3	2	2	2	-	15	8	9	13
Average no. of magazines read*	4,7	4,2	4,3	5,1	5,4	0,8	0,8	0,6	0,7	1,0
Do not read magazines (%)	-	28	24	19	16	-	74	79	74	55
Average number of newspapers subscribed	2,7	2,2	2,0	1,9	1,8	0,5	0,4	0,4	0,3	0,3
Average no. of TV stations watched	3,4	3,8	4,1	3,5	3,8	3,2	3,8	4,5	3,4	4,8
Do not watch TV (%)	-	6	5	4	4	-	10	5	6	5
Average time spent watching TV per day (min.)	183	176	190	214	215	237	218	244	262	261
Average no. of radio stations listened to	2,6	2,6	2,8	3,1	3,2	2,9	3,0	2,6	2,4	2,6
Do not listen to the radio (%)	-	1	2	2	2	-	6	8	10	9
Average time spent on listening to the radio per	265	269	282	243	230	174	193	197	162	162*

day (min.)										

** Both regular and occasional reading*

Source: Baltic Media Facts (BMF). Surveys representative of the population aged between 15-74 years, conducted in October-November of the respective year.

708. Restrictions to the freedom of expression can also be found in the Advertising Act, which came into force on 1 January 1998, and which establishes the prohibition of offensive advertising (in Article 5):

- an advertisement is offensive if it is contrary to good morals and customs, calls on people to act unlawfully or to violate prevailing standards of decency, or if it contains such activities. Offensive advertising is prohibited.
- an advertisement is considered offensive in particular if the advertisement:
  presents, incites or endorses discrimination on the grounds of nationality, race, colour, sex, age, language, origin, religion, political or other opinion, and financial or social status or other circumstances.

Internet

709. The number of Internet users in Estonia has increased more than 10-fold during the past six years. In the third quarter of 2001, 36% of Estonian population 15-74 years old were Internet-users, i.e. they had used either e-mail or other Internet possibilities in the last six months. The number of Internet users remained stable at 32% during the most of last year and the growth could rather be noted regarding the intensity of Internet use; however, in the third quarter the number of users began to grow again.

710. There are no restrictions on Internet use or access to web pages.

711. During the years 1998-1999, Balti Meediateabe AS – BMF Gallup Media has conducted three surveys "Usage of computers and Internet among Estonian population" as parts of National Media Surveys (the survey can be seen on their home page http://www.bmf.ee). The purpose of the surveys has mainly been to analyse the computer usage, but the recent special survey is concentrated on Internet users, their usage patterns, experience and purposes.

712. Actual Internet users can use Internet in different places, most important of which is the working place (62%), mentioned by 2/3 of Internet users. For 1/3 (almost 55 thousand), the usage place is school (33%) and almost a quarter of Internet users (almost 38 thousand) use Internet at home (22%). The main usage places are also listed in the same order.

713. Already for a long time Internet is not anything new and totally unknown, and even in Estonia there are quite a lot of people whose first usage experience extends as far back as before 1996 – 11% of all Internet users and more than almost 18 thousand.

714. According to the survey, the following activities were mentioned as different purposes for Internet usage: targeted or random surfing in WWW (72%), sending or receiving e-mails (64%) and reading different on-line publications (53%). Comparatively common purposes of Internet usage were also reading of NewsGroups, MailingLists etc (26%), finding and downloading software (14%) and interactive communication in different chat rooms (12%).

715. In most cases the reasons of reading Internet homepages were searching information both for work (54%) and for personal life (52%). Significant usage reasons were also interest towards some topic (49%), entertainment (41%). Hobbies (29%) and searching information for school (25%) were also mentioned. Main usage reasons were still searching information for work (41%), the percentage of other usage reasons was more than two times smaller. It shows that to quite a large extent surfing in WWW is still taken as a tool not as a playstation or interactive entertainment centre.

Article 20 Prohibition of war propaganda

716. Reference concerning the relevant articles of the Estonian Constitution and the Criminal Code is made to the initial report (CCPR/C/81/Add.5. paras 168-171).

717. In addition to the above-mentioned articles of the Criminal Code, there is also Article 72^1 which deals with violations of equality in the following wording:
Direct or indirect restriction of an individual's rights or granting direct or indirect preferences to a person on the basis of his or her nationality, race, colour, sex, language, origin, religion, political or other conviction, financial or social status or other circumstances is punishable by a fine or detention. This amendment was made to the Criminal Code after the submission of the last report by Estonia.

718. The new Penal Code in Chapter 8 on *Offences against humanity and international security* in Division 3 under Article 92 makes propaganda of war a criminal offence. According to this article, any incitement to war or other use of arms in violation of the generally recognised principles of international law is punishable by a pecuniary punishment or up to three years' imprisonment.

719. Chapter 10 of the Penal Code, *offences against political and civil rights*, under Division 1 deals with offences against equality:

Article 151. Incitement to social hatred
Activities which publicly incite to hatred or violence on the basis of nationality, race, colour, sex, language, origin, religion, political opinion, financial or social status are punishable by a pecuniary punishment or up to three years' imprisonment.

Article 152. Violation of equality
Unlawful restriction of the rights of a person or granting of unlawful preferences to a person on the basis of his or her nationality, race, colour, sex, language, origin, religion, political opinion, financial or social status is punishable by a pecuniary punishment or up to one year of imprisonment.

Article 153. Discrimination based on genetic risks
Unlawful restriction of the rights of a person or granting of unlawful preferences to a person on the basis of his or her genetic risks is punishable by a pecuniary punishment or up to one year of imprisonment.

Article 21 The right to peaceful assembly

720. Reference concerning the relevant articles of the Estonian Constitution and the Criminal Code is made to the initial report (CCPR/C/81/Add.5. paras 172, 174, 175).

721. The purpose of the Public Assemblies Act in accordance with Article 47 of the Constitution is:
1) to guarantee people's right to assemble peacefully and to conduct meetings in accordance with fundamental rights, freedoms and duties and the principles of a democratic country governed by rule of law;
2) to establish restrictions for organising and conducting of public meetings that are necessary to ensure national security, public order, morals, traffic safety, and the safety of participants in a meeting, or to prevent the spread of an infectious disease.

722. For the purposes of the Public Assemblies Act, a public meeting is a meeting, demonstration, rally, picket, religious event, procession, or other manifestation conducted on a square, in a park, on a road, street or other public place in open air.

723. It is prohibited to organise a meeting that:
1) is directed against the independence and sovereignty or the Republic of Estonia or at violently changing the current system of government;
2) incites to violently infringe the territorial integrity of the Republic of Estonia;
3) incites national, racial, religious or political hatred, violence or discrimination between social strata;
4) incites to violate public order or undermines morals.

724. It is prohibited to conduct a public meeting:
1) in a border post or closer than 300 metres to the state border;
2) closer than 50 metres to a unit of the defence forces or the territory of a defence forces establishment;
3) on a bridge, on rails and in a mine;
4) under a high-voltage electric line;
5) on a territory where an infectious disease has spread;
6) in a dangerous place in nature or in other place that may be dangerous to people.

725. The Act also establishes requirements for organisers of public meetings. The organiser and steward of a public meeting has to be an adult person who has active legal capacity and who is:
1) an Estonian citizen, or;
2) an alien staying in Estonia on the basis of a permanent residence permit.

726. The organiser of a meeting has to submit a notice of meeting at least seven days prior to the date of conducting the meeting:
1) to the rural municipality government or city government on whose administrative territory the public meeting is to be conducted;
2) to the county government if the public meeting is to be conducted on the administrative territory of several municipalities or cities of that county;
3) to the Government of the Republic if the public meeting is to be conducted on the administrative territory of several counties.

If reorganisation of traffic is needed for conducting a public meeting, the organiser has to submit the relevant notice 10 days prior to the date of conducting the public meeting and enclose with the notice a traffic scheme approved by the police and local government.

727. The organiser of a public meeting is required to:
1) be present at the meeting and ensure peaceful conducting of the meeting;
2) ensure the safety of participants in the meeting and if necessary use barriers to limit dangerous areas;
3) observe the requirements of health protection;
4) warn persons who cause disturbances;
5) stop a speaker if the speaker makes statements that call the participants in the meeting to engage in prohibited activities;
6) comply with the orders of the officials of the police, medical and rescue services;
7) terminate the meeting prematurely if the activities of the meeting become violent and endanger public order or people's life or health.

728. The steward of a meeting is required to observe the following requirements for the conducting of public meetings:
1) to be present at the place of conducting the meeting;
2) to propose to police officials present at the meeting to remove persons who disregard his or her orders;
3) to comply with the orders of the officials of the police, medical and rescue services;
4) to carry a clearly visible identification with the indication "Steward".

729. Participants in a public meeting are required:
1) to behave peacefully in the meeting;
2) to comply with the orders of the organiser, steward, officials of the police, medical and rescue services at the meeting.

730. The official accordingly authorised by the head of a government agency or local government agency is required to notify the relevant police prefect and medical and rescue service of the date, place and route of the public meeting during one day from the receipt of the notice of public meeting.

731. The Act also establishes requirements for the notice of conducting a public meeting. If the notice is not submitted in accordance with the requirements provided by law or if conducting of another public meeting at the same time and at the same place or route has been registered earlier, the official of the government agency or local government agency has the right not to register the notice. The official will promptly issue the organiser a reasoned communication to that effect, referring to the provisions of the law according to which the notice was not registered. The organiser may submit a new notice of conducting a public meeting that complies with the requirements of law, or the organiser may dispute the decision not to register the notice in administrative court. Conducting of a public meeting is prohibited if the notice for public meeting was not registered.

732. Conducting of public meetings during emergency situations and sates of emergency is regulated by the Emergency Situation Act and the State of Emergency Act.

733. Pursuant to the Emergency Situation Act, during an emergency situation which is declared regarding a natural disaster or catastrophe, the Government of the Republic may:

1) restrict the rights of natural persons to move freely in the emergency area;
2) prohibit natural persons from assembling and conducting meetings in the emergency area, in order to maintain public order and ensure traffic safety;
3) require natural persons to participate in rescue work.

734. During an emergency situation which is declared in order to prevent the spread of an infectious disease, the Government of the Republic may:
1) restrict the rights of natural persons to move freely and to enter Estonia;
2) prohibit natural persons from assembling and conducting meetings in the emergency area;
3) require natural persons to participate in rescue work.

735. The Public Assemblies Act also brought along amendments to the Criminal Code, the Code of Administrative Offences and the Code of Administrative Court Procedure. Two articles were added in the Criminal Code: Article 76^1, according to which holding of a public meeting for which the notice for public meeting required by the Public Assemblies Act was not submitted or if the notice was not registered or if holding the meeting was banned, is punishable by a fine or up to three years' imprisonment; and Article 76^2, according to which obstructing the holding of a legally organised public meeting or dispersing such a meeting by use of violence or threat of violence is punishable with a fine, detention or up to two years' imprisonment. Both articles entered into force together with the Public Assemblies Act on 2 May 1997.

736. Article 155 of the Code of Administrative Offences was amended and the present wording is as follows: Holding a public meeting by ignoring the requirements of the Public Assemblies Act is punishable by a fine of up to 150 daily wages or an administrative detention of up to ten days.
The Code was also amended with Article 155^1 in the following wording: A call to participate in a prohibited public meeting is punishable by a fine of up to fifty daily wages or an administrative detention of up to ten days.

737. Applications for public meetings are registered separately by local government units. There is no centrally collected statistics about the applications. For example, Tallinn Central District Government registered 29 applications in 1998, in 1999 they received 43 applications and five of them were not registered (the reason being late submission), and 36 applications were registered in 2000.

738. During public assemblies Police is acting according to the Police Act, there are no specific laws regulating acting of Police during public meetings. Use of force by the Police is allowed only if the activities of the meeting endanger public order.
In practice, there have been no dismissal of the meetings even if the meetings are illegal (meetings without proper permission), if the assemblies are not viloent and endanger peoples' rights. There have been no cases of use of force by the Police to dismiss the meetings.

Article 22 The right to freedom of association

739. Reference concerning the relevant articles of the Estonian Constitution is made to the initial report (CCPR/C/81/Add.5. paras 176-180).

740. The Estonian Constitution makes a distinction between forming non-profit and profit-making associations. The Constitution establishes that "All persons shall have the right to form non-profit associations and leagues" (Article 48) and "Estonian citizens shall have the right ... to form profit-making associations and leagues. The law may establish conditions and procedures for the exercise of this right. If not otherwise established by law, this right shall exist equally for Estonian citizens and citizens of foreign states and stateless persons who are sojourning in Estonia" (Article 31).

741. Although the right of association does not require formal registration by a public authority, in the majority of cases it is in the interests of the founders to found a legal association as a legal person (in order to own collective property and to be liable for their actions collectively). In accordance with the General Principles of the Civil Code Act, a legal person in private law may be founded pursuant to the respective Act concerning the corresponding category of legal persons (Non-profit Associations Act, Political Parties Act, Churches and Congregations Act, Commercial Code, Co-operatives Act, etc.), and a legal person in public law may be founded pursuant to the Act directly concerning that legal person.

742. The Non-profit Associations Act restricts the activities of non-profit associations by prohibiting associations which are directed against the principles of democratic society (Article 5). In addition, the Act reiterates the prohibition set forth in the Constitution (see Article 48, Estonian Constitution). According to the Non-profit Associations Act, the activity of the association may provide grounds for the suspension or termination of the association's activity or for a fine to be imposed on the association, if such activity: .... 2) compromises national defence or jeopardises the state's international relations; 3) incites ethnic, racial, religious or political hatred, or violence or discrimination; 4) incites hatred, violence or discrimination between social strata; 5) violates public order, morals, the rights and freedoms of others, or their health, or insults their honour or reputation; 6) contradicts the law or the aims established in the association's statutes, or the means of achieving such aims (Article 23).

743. Every natural person or legal person who complies with the requirements of the articles of association of a non-profit association may be a member of the non-profit association. A non-profit association shall comprise at least two members unless the law or the articles of association prescribe a greater number of members. The management board decides on membership in a non-profit association unless this is placed in the competence of the general meeting or some other body by the articles of association. A non-profit association may be founded by at least two persons. The founders may be natural persons or legal persons. In order to found a non-profit association, the founders shall enter into a memorandum of association that shall set out the name, location, address and objectives of the non-profit association being founded; the names and residences or locations, and the personal identification codes or registry codes of the founders; the obligations of the founders with regard to the non-profit association; the names, personal identification codes and residences of the members of the management board. Upon conclusion of a memorandum of association, the founders shall also approve the articles of association of the non-profit association as an annex to the memorandum of association.

744. Since 1991, the Network of Estonian Non-profit Organisations (NENO) operates in Estonia. The NENO is a membership organisation founded for common implementation and protection of the interests of Estonian non-profit associations and foundations that gives a contribution to the development of a balanced society. The main objectives of the organisation are to develop the common activities of non-profit associations and foundations in Estonia and to express and protect their views and common interests before the state and local government bodies, to introduce non-profit activities and their good traditions to the public, and to involve the informed public and its members in developing civil society in Estonia.

745. Every non-profit association or foundation that is registered in Estonia and operates in public interest may apply for membership in the NENO. The Network of Estonian Non-profit Organisations had 129 legal members as at May 2001. All these non-profit associations and foundations are recognised organisations in the non-profit arena in Estonia and their activities are aimed at charitable supporting of science, culture, education, human rights, sport, health care, social welfare, nature protection and sustainable development in public interests.

746. The NGOs have also formed other umbrella organisations, for instance Estonian Representation of Non-profit Unions; Estonian Union for Child Welfare, Estonian Chamber of Disabled People. In 2001 the Rountable of Estonian Non-profit organizations was formed. The Roundtable is not a legal preson and it units the non-profit organisations all over the country on the voluntary bases.

747. According to sociological surveys, the activity of participation in associations among different ethnic groups is as follows:

Participation in associations (%)	**Estonians**	**Russians**	**Other nationalities**
In none	51,5	61,2	52,4
In one	26,8	29,6	40,8
In two	14,0	7,8	3,9
In three	5,0	1,0	1,9
In four or more	2,6	0,5	1,0

748. The formation and activities of profit-making associations in Estonia is mainly regulated by the Commercial Code. Profit-making associations may take one of the following forms: general partnership, limited partnership, share-holding company, joint-stock company. A company shall be entered in the commercial register. The passive legal capacity of a company shall commence as of its entry in the commercial register and shall terminate as of its deletion from the commercial register. The law does not provide for significant restrictions to the founding members or membership of such associations (most significantly, no restrictions are made on the basis of citizenship).

749. Generally, the existence of civil legal capacity is required, and in certain cases a residence in Estonia is also required (for some members of the board of a share-holding company or joint-stock company).

750. Pursuant to the Commercial Code, the participation of persons in the existing forms of enterprise is regulated as follows:

1) any natural person may be a sole proprietor (Article 3);
2) a natural person or legal person may be a partner in a general partnership (Article 80);
3) the provisions concerning a partner of a general partnership shall apply to a general partner and a limited partner (Article 126);
4) a founder may be a natural person or a legal person (Article 137);
5) Article 180(2) establishes that at least one-half of the members of the management board must be persons who reside in Estonia (must have a permanent residence permit).
6) a founder may be a natural person or a legal person (Article 242);
7) at least one-half of the members of the management board must be persons who reside in Estonia (Article 308(4));
8) the residence of at least one director of a foreign commercial undertaking must be in Estonia (Article 385(1));

751. As the Commercial Code and the Associations Act do not differentiate between citizens and aliens, the commercial register has collected no statistical data concerning the foundation of profit associations by aliens (or different nationalities).

Non-governmental organisations dealing with human rights

752. Several non-governmental organisations are also involved in the protection against discrimination. The most important of them are dealt with below.

753. *The Jaan Tõnisson Institute* is a non-profit, non-governmental research and training centre, founded on April 17, 1991. The aim of the Institute is to foster democratic development and the strengthening of civil society in Estonia. The Institute arranges research programmes, training seminars, courses, workshops and information services for teachers, politicians, governmental and local authorities and members of non-governmental organisations.

754. There are four centres in the institute to implement its goals:
- Civic Education Centre
- Corruption Analysis Centre
- Human Rights Centre
- Training Centre.

755. To promote democratic values in society, the Institute developed a civic and human rights education programme, developing curricula and training teachers for both Estonian- and Russian-language schools in Estonia. This programme has been operational for several years and recently has contcentrated its attention on multi-ethnic and multi-cultural issues in Estonia. An important part of the Instutute's activities is co-operation with other organisations both in Estonia and abroad. The Institute co-operates with UNESCO, European Commission, Westmintser Foundation for Democracy in Great Britain and with different ministries of Estonia (Ministry of Education, Ministry of Foreign Affairs), Open Estonia Foundation, Danish Culture Institute.

756. *The Institute of Human Rights* was created in 1992. The Institute is a non-governmental non-profit association whose aim is to monitor human rights situation in Estonia and throughout the world. The Institute participates in human rights activities in Estonia and on the international scale. The Institute prepares and publishes reports and

treatments of single issues concerning the situation of human rights in Estonia and elsewhere, both on its own initiative and on request.

757. Maintaining contacts with international and national organisations that promote human rights, the Institute of Human Rights applies for international expert assistance to study human rights situation in Estonia, involves international human rights experts to promote human rights and familiarises the international community with Estonia's problems, situation and achievements with regard to the protection of human rights.

758. Legal assistance services have been opened in Tallinn, Jõhvi and Pärnu providing information about human rights and legal assistance. Legal assistance services operate with the financial support from the Open Estonia Foundation.

759. The Institute of Human Rights cooperates closely with other organisations. Considerable amount of literature on human rights and international human rights documents have been translated into Estonian, reports on situation in different fields in Estonia as well as a study material have been prepared in cooperation with the UNDP. Numerous international events have been organised and a video "Are Human Rights Violated in Estonia?" was produced.

760. On the initiative of the President of the Republic, the *President's Roundtable* was created on 10 July 1993 which is a permanent forum consisting of representatives of ethnic minorities and stateless persons residing in Estonia as well as representatives of political parties.

761. The task of the Roundtable is to discuss issues of public and social life, including national, economic and social-political issues. The Roundtable also helps to solve socio-economic, cultural and legal problems of foreigners and stateless persons permanently residing in Estonia as well as problems of ethnic minorities. It also seeks to assist applicants for Estonian citizenship and help to solve issues related to the studying and use of the Estonian language.

762. *Legal Information Centre for Human Rights (LICHR)* was created as a public non-profit organization in 1994. Intimately involved in the setting up and consolidation of the LICHR were the non-governmental organizations of Denmark: Danish Centre for Human Rights - DCHR, Minority Rights Group-Denmark MRG-DK and Information Centre on Eastern Europe of the University of Copenhagen - ICEE; also some public organizations of Estonia: the Presidential Round Table of the National Minorities, the Representative Assembly of Non-Citizens of Estonia; the material assistance was provided by Tallinn City Government.

763. The LICHR, which launched its activities at the beginning of January 1995, was founded to promote constructive dialogue and to enhance the awareness about human rights in Estonian society. The basic activities of the LICHR are legal advice, provided free of charge, the collection, analysis and dissemination of information regarding the human rights. The LICHR operates in contact and cooperation with the Government and Parliament of Estonia, the political parties, NGO-s, educational and research institutions and the international public.

764. The activities of the LICHR are directed to contribute to the strengthening of security, trust and equal opportunities in society. The main goal of the LICHR is to monitor the situation concerning the realization of rights of residents of Estonia, and to counteract the negative factors undermining the development of democratic processes.

765. The association tries to substantiate human rights related knowledge and culture in Estonian society and also helps to promote constructive debates of human rights problems both on local and international level, cooperating with international and national human rights bodies and organisations. The tasks of the association include gathering and disseminating information about human rights.

766. On 31 March 1998, the Government of the Republic created the *Foundation for the Integration of Non-Estonians*. The Foundation aims to initiate and support projects oriented towards integration of the Estonian society and to coordinate effective use of different resources in this area.

767. The work of the Integration Foundation is administered by a 12-member council chaired by the Population Minister of the Republic of Estonia and its members include members of the Estonian Government and Parliament and representatives of the UNDP, Estonian higher educational establishments and Ida-Viru County Government.

Political parties

768. The Political Parties Act that entered into force on 16 June 1994 regulates the foundation and organisation of activities of political parties and financing of political parties. Article 1 of the Act gives a definition of political party: A political party is a voluntary political association of Estonian citizens which is registered pursuant to the procedure provided for in this Act and the objective of which is to express the political interests of its members and supporters and to exercise state and local government authority. A political party shall be a non-profit association.

769. The means for achieving the objectives of a political party are:
1) the presentation of candidates and conduct of election campaigns of the political party in the Riigikogu and local government council elections;
2) the participation of the political party in the activities of the Riigikogu through members of the political party elected to the Riigikogu; in the activities of local government councils through members of the political party elected to local government councils; in the election of the President of the Republic, the formation of the Government of the Republic and the executive body of local government councils through members of the political party elected to the Riigikogu and to the local government council, respectively; and in international co-operation with political parties of foreign states.

770. Article 4 of the Act sets the restrictions for activities of political parties. Political parties whose objectives or activities are directed at changing the constitutional order or territorial integrity of Estonia by force or are otherwise contrary to criminal law are prohibited. Organisations or alliances which possess weapons, are militarily organised or perform military exercises shall not operate as a political party or structural unit of a

political party. Interference in the internal matters of a political party, except in special cases permitted by law, is prohibited. The formation and operation of political parties or their sub-units or of other political associations or their structural units of other states is prohibited within the territory under the jurisdiction of the Republic of Estonia.

771. An Estonian citizen with active legal capacity who has attained eighteen years of age may be a member of a political party. A person may be a member of only one political party at a time. A citizen is admitted into a political party on the basis of his or her personal written application. The conditions and procedures for admittance to and resignation and exclusion from a political party shall be provided for in the articles of association of the political party.

772. The following shall not be members of a political party:
1) the Legal Chancellor and his or her advisers;
2) the Auditor General, his or her deputy, and chief auditors;
3) judges;
4) prosecutors;
5) police officers;
6) members of the armed forces in active service;
7) Border Guard officials or border guards in active service.

The President of the Republic shall suspend his or her membership in a political party for the duration of his or her term of office. Political parties shall not have corporate members.

773. A political party shall be founded by a memorandum of association in unattested written form. The provisions of the Non-profit Associations Act apply to the memorandum of association of a political party unless otherwise provided by this Act.

Table 29. The distribution of mandates in 1999 Parliamentary elections

Party	**Votes**	**%**	**No of mandates**
Centre Party	113378	23,40%	28 mandates
Pro Patria	77917	16,09%	18 mandates
Reform Party	77088	15,92%	18 mandates
Moderates	73630	15,21%	17 mandates
Coalition Party	36692	7,58%	7 mandates
Estonian Country People's Party	35204	7,27%	7 mandates
Estonian United Peoples Party	29682	6,13%	6 mandates
Estonian Christian People's Party	11745	2,43%	
Russian Party in Estonia	9825	2,03%	
Estonian Blue Party	7745	1,60%	
Farmers Union	2421	0,50%	
Development Party	1854	0,38%	
Independent Candidates	7058	1,46%	
TOTAL	**484239**	**100,00%**	**101 mandates**

The right to form and join trade unions

774. Article 29 of the Estonian Constitution states that "...Employers and employees may freely join unions and associations." Thus, employees have been provided a constitutional guarantee to both the positive and negative exercise of this right.

775. The Non-profit Associations Act establishes that the procedures for the formation and termination of associations of employees, and the bases for their activity, shall be established by a separate law (subsection 2 of Article 1).

776. The Riigikogu passed the Trade Unions Act on 14 June 2000 that entered into force on 23 July 2000. The Act provides the general rights of and bases for the activities of trade unions, and their relations with state and local government agencies and employers.

777. A trade union is an independent and voluntary association of persons which is founded on the initiative of the persons and the objective of which is to represent and protect the employment, service-related, professional, economic and social rights and interests of employees. Trade unions achieve their objectives acting as social dialogue partners to employers, associations of employers, local governments and the Government of the Republic in mutual informing, consulting and collective bargaining and in other issues involving the interests of employees set out in the Act.

778. Persons have the right to found trade unions freely, without prior permission, and to join or not to join trade unions. Members of the armed forces who are in active service in the Defence Forces shall not found or join trade unions. The rights of employees or persons who seek employment shall not be restricted on grounds of their membership in trade unions, on being elected representatives of trade unions or on other legal activities related to trade unions

779. Trade unions have the right to form and join federations and central federations in order to represent the rights and interests of employees. Trade unions have the right to join the international organisations of employees.

780. In their legal activities, trade unions are independent of employers, associations of employers and representatives thereof, state agencies and local governments and other organisations. Trade unions have the right to independently organise their activities and management, to prepare their articles of association, action plans and freely elect their representatives. A state fee is not imposed on the register entries of non-profit associations and foundations of trade unions.

781. Employers, associations of employers and representatives thereof, state agencies and local governments shall not dissolve, restrict or prohibit the activities of trade unions, or intervene in the internal matters of trade unions. The activities of a trade union shall be terminated only voluntarily or by a court judgment.

782. In order to represent, exercise and protect the rights and interests of employees, the following is within the competence of a trade union:

1) entry into collective agreements or other contracts pertaining to employment, service or social affairs with employers or the associations of employees, state agencies, local governments or the Government of the Republic;

2) submission of proposals into draft legislation in issues relating to the employment, service-related, professional, economic and social rights and interests of employees;
3) submission of proposals to state and local government agencies for the amendment of legislation regulating employment and social issues;
4) in order to improve the situation of occupational health and safety, co-operation with the corresponding state and government agencies, and employers and their associations;
5) co-operation with state employment agencies and local governments in issues relating to the improvement of employment, training, in-service training, professional skills and professional training;
6) participation in the consulting and informing of employees, and in decision-making to the extent which is regulated by this Act, other legislation and agreements;
7) representation and protection of the members of trade unions in labour dispute resolution bodies, in relations with state and local government agencies, employers and associations of employers.

783. In order to exercise their competence, trade unions have the right to:
1) receive freely information concerning employment and social affairs and other information concerning issues involving the interests of employees from employers, their representatives, state agencies and local governments;
2) conduct bargaining in employment, service-related and social issues with employers and the associations of employers, state agencies and local governments for entry into collective and other agreements;
3) submit proposals concerning draft legislation relating to the employment, service-related, professional, economic and social rights and interests of members of the trade unions (federations);
4) receive information on the situation in the labour market, vacant jobs and possibilities of employment training from state employment agencies through representatives elected by the trade unions;
5) disseminate their positions through mass media, own printing facilities and media, develop publishing, and to issue and distribute newspapers and other printed matter;
6) in order to achieve their objectives, organise meetings, political meetings, street parades, pickets and strikes pursuant to the procedure prescribed by law;
7) freely develop any kind of foreign relations in order to carry out their objectives specified in the articles of association, including joining international organisations of employees;
8) train and consult their members in employment and social issues and other issues involving the interests of employees.
9) to exercise other rights prescribed in Acts or agreements.

784. Estonia has acceded to the following ILO conventions regarding the freedom of association:
- Right of Association (Agriculture) Convention;
- Convention concerning Freedom of Association and Protection of the Right to Organise;
- Convention concerning the Application of the Principles of the Right to Organise and to Bargain Collectively;
- Convention Concerning Protection and Facilities to be Afforded to Workers' Representatives in the Undertaking.

785. The right of employees to collective protection and the collective resolution of disputes are regulated in Estonia by three basic laws: the Employees Representatives Act, the Collective Agreements Act and the Collective Labour Disputes Resolution Act.

786. The Central Organisation of Estonian Trade Unions (EAKL) came into being as a wholly voluntary and purely Estonian organisation in 1990 to replace the Estonian branch of the official Soviet labour confederation, the All-Union Central Council of Trade Unions (AUCCTU). Workers were given a choice as to whether they wanted to join the EAKL or not. On 1 February 1999, the EAKL membership was 75 000 and it was organised into 27 unions. Another union of associations came into being on 28 September 1992 – the Estonian Employees Unions Association (TALO) uniting 40 000 persons by 1 February 1999. Pursuant to a 1993 sociological survey, 16.5 % of Estonians and 17.8 % of Russians and 21% of other people living in Estonia participate in trade unions.

Article 23 Marriage and family

787. Reference concerning the relevant articles of the Estonian Constitution is made to the initial report (CCPR/81/Add.5. paras 185, 187, 191).

788. Since the submission of the first Report, a new Family Act has entered into force on 1 January 1995.

1. Right of family to protection by state and society

789. According to Article 27 of the Constitution, the family, being fundamental to the preservation and growth of the nation and as the basis of society shall be protected by the state.

790. The protection of parents and children is provided by the Family Act.

791. The State Family Benefits Act that entered into force on 1 January 1998 specifies the persons who have the right to receive child benefits, the classification of child benefits and the conditions for receiving benefits.

792. Family benefits are granted and paid to:
1) permanent residents of Estonia;
2) aliens residing in Estonia who have temporary residence permits or who apply for extension of the residence permit or permanent residence permit;
3) refugees staying in Estonia.

Only such family members who reside in Estonia shall be taken into account upon the grant of family benefits. Family benefits shall not be paid if a person receives a monthly allowance granted to a child or family by another state.

Table 30. Family benefits

Year	Family benefits in millions of kroons	Number of receivers

1995	717,9	669 828
1996	798,7	670 573
1997	935,1	664 950
1998	1 158,8	667 710
1999	1 153,0	658 428
2000	1 324,0	655 863
2001	1 322,7	678 109

Source Ministry of Social Affairs

793. The Act establishes the following state benefits:
1) childbirth allowance;
2) child allowance;
3) child care allowance;
4) single parent's child allowance;
5) conscript's child allowance;
6) child's school allowance;
7) foster care allowance;
8) start in independent life allowance.
9) allowance for families with four or more children and families raising triplets.

794. The family benefits provided for in this Act are financed from the state budget. In the case of a surplus in the funds allocated from the state budget for family benefits in a budgetary year, single additional allowances shall be paid to families with four or more children in addition to family benefits listed above. The Government of the Republic shall establish the conditions for grant of additional allowances, the amounts and the procedure for payment thereof.

795. The Government decided on 20 November 2001 that families with four or more children will be paid an additional support of 500 kroons per child in 2001. In the 2001 state budget, the sum for child allowances and child care allowances is 1329 600 000 kroons. The annual forecasted expense will be 1 315 000 000 kroons and thus it is estimated that the budget surplus will be 14.6 million kroons. According to the Social Insurance Board, there were 23 000 children receiving child allowance in families with four and more children in September. The amount of the single additional allowance will be 500 kroons and 11.5 million kroons will be spent for paying the additional allowances. The adoption of the regulation in November makes it possible to pay the additional allowances already in December together with the family benefits for December.

796. A single childbirth allowance shall be paid with respect to each first child at twenty-five times the child allowance rate and with respect to each subsequent child at twenty times the child allowance rate. In the case of a multiple birth, a single childbirth allowance shall be paid with respect to each child at twenty-five times the child allowance rate.

797. Child allowance shall be paid monthly from the birth of a child until he or she attains 16 years of age or, in the case of enrolment in basic school, upper secondary school or vocational school in daytime study or another form of study for medical reasons, until he or she attains 19 years of age. If a child attains 18 years of age during a school year, allowance shall be paid to the end of the school year. A monthly allowance shall be paid at the child allowance rate to families raising one child who receives child allowance. A monthly allowance shall be paid to a second child at one and one-half times the child

allowance rate and to each subsequent child at twice the child allowance rate to families raising two or more children who receive child allowance. A child who has the right to receive a child allowance and who due to enrolment in basic school, upper secondary school or vocational school in daytime study or another form of study for medical reasons does not live temporarily in family is deemed to be a member of the family.

798. A monthly child care allowance shall be paid at one-half the child care allowance rate to one parent raising one or more children of up to 3 years of age for each child of up to 3 years of age. If, in addition to one or more children of up to 3 years of age, there are children between 3 and 8 years of age in the family, a monthly child care allowance shall be paid at one-quarter of the child care allowance rate to one parent raising the children for each child between 3 and 8 years of age. If a child subject to the obligation to attend school starts year one and attains 8 years of age during the given school year, the child care allowance for the specified child shall be paid until the end of the school year. If one of the parents of a child of up to 3 years of age is on parental leave, child care allowance shall be paid to the parent on parental leave. If a person other than a parent uses parental leave, a monthly child care allowance shall be paid at one-half of the child care allowance rate to the above-mentioned person for each child with whom he or she is on parental leave, but not more than one and one-half times the child care allowance rate in total. Under the conditions provided for above, child care allowance shall also be paid to the caregiver with whom a written foster care contract has been entered into, or to the guardian.

799. Single parent's child allowance shall be paid for children of up to 16 years of age and children enrolled in basic school, upper secondary school or vocational school who receive child allowance to a single:

1) mother raising a child alone, if no entry has been made concerning the father in the birth registration of the child or the entry has been made on the basis of a statement by the mother, monthly, at twice the child allowance rate;
2) parent raising a child alone, if the other parent is declared to be a fugitive pursuant to the procedure established by law, monthly, at twice the child allowance rate;

800. A monthly allowance shall be paid for the children of conscripts in the armed forces at five times the child allowance rate during the entire term of military service of the parent.

801. A school allowance for the commencement of the school year shall be paid at three times the child allowance rate with respect to children who receive child allowance and who are enrolled in basic school, upper secondary school or vocational school in daytime study, or in another form of study for medical reasons.

802. A monthly allowance shall be paid at twice the child allowance rate with respect to children without parental care who are up to 16 years of age and children enrolled in basic school, upper secondary school or vocational school and receive child allowance, and for whom guardianship has been established or with respect to whom a written foster care contract has been entered into. Upon termination of guardianship or foster care when a child attains 18 years of age, payment of an allowance shall continue until the end of the school year when the child attains 19 years of age.

803. A start in independent life allowance of 5000 kroons shall be paid to orphans or persons without parental care who have lived in a children's home or school for the disabled for at least the last three years. If an orphan or a person without parental care has

lived in a children's home or school for the disabled for less than three years, the start in independent life allowance shall be reduced by 2.5 per cent for each month less than three years.

804. An allowance for families with four or more children and families raising triplets shall be paid to one parent or guardian raising four or more children who receive child allowance, or to one parent or guardian raising triplets who receive child allowance. The amount of an allowance for families with four or more children is the child allowance rate multiplied by the number of children who receive child allowance for a family per quarter. The amount of an allowance for families raising triplets, is the child allowance rate multiplied by four for a family per quarter. An allowance shall be paid regardless of the duration of payment of child allowance for four or more children or for triplets within the given quarter. An allowance shall be paid out within the last month of each quarter of the given calendar year.

2. Right to marry and to found a family

805. According to the Family Act, marriage is contracted between a man and a woman, and both will enter into contractual relationships independently and under their own name (Articles 1 and 2).

806. A person who has attained eighteen years of age is of age to marry. A minor between fifteen and eighteen years of age may marry with the written consent of his or her parents or guardian (Article 3). If even one of the parents or a guardian does not consent to the marriage, a court may grant permission to marry on the application of one parent or the guardianship authority. A court shall grant permission to marry if the marriage is in the interests of the minor.

807. According to Article 117, prospective spouses shall submit a written application for marriage to a vital statistics office in person. Prospective spouses certify with their signatures on the application for marriage that they desire to marry and that there are no circumstances which hinder contraction of marriage and that they are aware of one another's state of health. A person who was previously married shall submit a document certifying termination of the marriage or annulment of the marriage.

808. If a vital statistics office is notified of a circumstance hindering a contraction of marriage prior to the contraction of marriage, the contraction of marriage is postponed for up to one month for verification of the application.

809. A marriage has legal effect only if the marriage is registered at a vital statistics office upon contraction of the marriage (Article 1(2)). Prospective spouses contract marriage with both being present in person at the same time. A marriage is contracted when the marriage registration is signed by the prospective spouses (Article 1(4)).

810. A religious marriage shall be deemed to be valid if it is contracted according to the law valid in Estonia at the time of contraction of the marriage (Article 138).

811. The Government with its regulation No. 317, adopted on 9 October 2001, approved the "conditions and procedure for the transfer of the functions of a vital statistics office to a

minister of the church, congregation of union of congregations with regard to contraction of marriage, and performance of the functions by them". Pursuant to Article 1 of the regulation, the Minister of Internal Affairs may grant a minister of religion who has necessary preparation the right to perform the functions of the vital statistics office with regard to the contraction of marriage. The preparation of ministers of religion means the training for performing the functions of the vital statistics office which is organised by the Ministry of Internal Affairs in cooperation with vital statistics offices twice a year (in March and September).

812. The forms for application for contraction of marriage, marriage registration forms and forms for marriage certificates are issued to the ministers by the vital statistics office of the location of the congregation or by Tallinn City Vital Statistics Office or the Ministry of Internal Affairs. The minister will draw up the marriage registration in two copies and will issue the prospective spouses the marriage certificate. The minister will forward either in real time or within three working days both copies of the marriage registration form, documents submitted by the prospective spouses and application for contraction of marriage to the vital statistics office of the location of the minister's congregation, or both copies of the marriage registration form to Tallinn City Vital Statistics Office if the marriage registration was drawn up in Tallinn.

Table 31. Marriages and divorces, 1990, 1995-2000

Year	Marriages	Divorces	Divorces per 1000 marriages registered in the respective year
1990	11 774	5 785	491
1995	7 006	7 456	1 064
1996	5 517	5 657	1 025
1997	5 589	5 281	945
1998	5 430	4 491	827
1999	5 590	4 561	816
2000	5 485	4 230	771

Source: Statistical Yearbook of Estonia 2001

Table 32. Newly married persons by sex and age, 1990, 1995-2000

Men

Year	Total	15-19	20-24	25-29	30-34	35-39	40-44	45-49	50-54	55-59	60+	Unknown
1990	11 774	386	4782	2409	1238	809	578	311	295	213	302	1
1995	7006	324	2371	1517	771	570	415	370	196	188	284	-
1996	5517	178	1795	1319	690	420	324	302	145	135	209	-
1997	5589	194	1647	1457	667	473	334	269	174	160	214	-
1998	5430	158	1512	1434	733	454	319	259	204	125	232	-
1999	5590	149	1433	1529	845	512	367	258	189	99	209	-

2000	5485	110	1293	1569	898	472	382	255	191	116	199	-

Women

Year	Total	15-19	20-24	25-29	30-34	35-39	40-44	45-49	50-54	55-59	60+	Unknown
1990	11774	2731	4222	1682	1027	676	509	303	270	169	185	-
1995	7006	1150	2416	1136	672	451	364	304	170	148	195	-
1996	5517	770	1955	1016	529	369	272	249	120	98	139	-
1997	5589	723	1938	1095	535	408	27	239	139	99	136	-
1998	5430	594	1844	1190	543	354	297	229	136	95	148	-
1999	5590	536	1889	1296	609	393	303	200	138	71	128	-
2000	5485	492	1773	1327	672	375	264	233	155	67	127	-

Source: Statistical Yearbook of Estonia 2001

3. Free and full consent of intending spouses

813. A marriage is contracted on the mutual desire of the prospective spouses. A marriage shall not be contracted if a prospective spouse does not confirm his or her desire to marry or if a prospective spouse is not of the age to marry or if circumstances set out in Article 4 of this Act become evident.

814. Article 4 stipulates the hindrances to contraction of marriage
A marriage shall not be contracted:
1) between persons of whom at least one is already married;
2) between direct ascendants and descendants, brothers and sisters, half-brothers and half-sisters, adoptive parents and adopted children, or between children adopted by the same person;
3) between persons of whom at least one is declared to be without active legal capacity.

815. In addition, a minister of religion of a church, congregation or union of congregations who has the right to contract marriages, can refuse from the contraction of marriage if a prospective spouse does not meet the conditions for contraction of marriage established in the respective church, congregation or union of congregations arising from its religious conviction (Article 4^1).

816. A court shall annul a marriage only if the provisions of articles 3 (age of marriage) and 4 (hindrances) of this Act have been violated upon contraction of the marriage, if an ostensible marriage was contracted or if consent for marriage was obtained against the will of a prospective spouse by fraud or duress (Article 33).

4. Equality of rights and responsibilities of spouses

817. Upon contraction of marriage, spouses shall choose the surname of one spouse as the common surname, both spouses retain their pre-marital surnames or, at the request of a spouse, the surname of the other spouse is added to the spouse's pre-marital surname (Family Act Article 5). A spouse who changes his or her surname upon marriage may according to his or her wish retain the surname taken upon marriage or resume his or her pre-marital surname. A change in surname shall be noted in a court order or divorce registration (Article 31).

818. Agreements which restrict the personal rights and freedoms of spouses are void (Article 6).

819. Proprietary rights of spouses are specified by law and, if entered into, a marital property contract (Article 7).

820. Property acquired by spouses during the marriage is the joint property of the spouses. A court may declare the separate property of a spouse, the value of which has significantly increased as a result of the work or monetary expenses of the spouses during the marriage, to be partly or wholly the joint property of the spouses (Article 14).

821. Separate property of a spouse is property which was in the ownership of the spouse before the marriage, property acquired by the spouse during the marriage as a gift or by succession, and property acquired by the spouse after termination of conjugal relations. Personal effects acquired during a marriage are the separate property of the spouse (Article 15).

822. Each spouse has an equal right to possess, use and dispose of joint property. Spouses shall possess, use and dispose of joint property by agreement. Failing agreement, a court shall, at the request of a spouse, settle disputes regarding possession and use of joint property. If one spouse enters into a transaction to transfer a movable in the joint ownership of the spouses, consent of the other spouse is presumed.
A movable in the joint ownership of spouses subject to entry in the register shall not be transferred or pledged without the written consent of the other spouse regardless of in which spouse's name the movable is entered in the register (Article 17).

823. Joint property of spouses may be divided during marriage, upon divorce or after divorce. If the conjugal relations of spouses have not terminated at the time of division of joint property, the joint property shall be determined as at the date of division. If joint property is divided after termination of conjugal relations, the joint property shall be determined as at the date of termination of conjugal relations. Spouses shall divide joint property by agreement. Agreements on the division of immovables in the joint ownership of spouses shall be notarised. In the case of a dispute, a court shall divide joint property at the request of one or both spouses. Property which is not divided upon division of joint property, and property acquired by spouses during the marriage after division of joint property is the joint property of the spouses (Article 18).

824. Upon division of the joint property of spouses, the shares of the spouses shall be deemed to be equal even if one spouse did not earn an income due to the raising of a child or for other good reasons.

A court may derogate from equality of shares of spouses in consideration of the particular interests of a child or the other spouse; if without good reasons one spouse did not participate in the acquisition of joint property with his or her income or work; if the joint property was acquired out of the separate property of one spouse; if the value of the separate property of a spouse has significantly increased during the marriage out of the work or monetary expenses of the other spouse or out of the joint property of the spouses. Upon division of the joint property of spouses, the property remaining with each spouse shall be designated as a share in common ownership of things or proprietary rights and obligations. If upon division of joint property the value of the property remaining with a spouse is greater than his or her share in the joint property, a court shall order monetary compensation to be paid by the spouse to the other spouse (Article 19).

825. Spouses may specify mutual proprietary rights and obligations different from that provided for previously in a marital property contract unless otherwise provided by law (Article 8(1)). (2) A marital property contract shall not deem property acquired by a spouse by gift or succession with the condition that it belong to the spouse as separate property to be joint property of the spouses; deny a spouse or divorced spouse the right to receive maintenance on the bases provided for in this Act; waive the right to divide joint property of the spouses upon termination of the marriage (Article 9(2)).

826. Chapter 4 of the Act regulates maintenance of spouse.

827. A spouse is required to maintain a spouse who needs assistance and is incapacitated for work, and to maintain a spouse during pregnancy and child-care until the child attains three years of age if the financial situation of the obligated spouse allows for provision of maintenance (Article 21).

828. A divorced spouse who needs assistance and is incapacitated for work has the right to receive maintenance from his or her former spouse if the divorced spouse became disabled or attained pensionable age during the marriage and if the financial situation of the obligated divorced spouse allows for provision of maintenance. A divorced spouse has the right to receive maintenance during pregnancy and child-care until the child attains three years of age if the child was conceived during the marriage, and if the financial situation of the obligated divorced spouse allows for provision of maintenance. If a marriage lasted at least twenty-five years, a divorced spouse has the right to receive maintenance from the divorced spouse even if the spouse who needs assistance attained pensionable age or became disabled within three years after the divorce and if the financial situation of the obligated divorced spouse allows for provision of maintenance.

829. If a spouse or divorced spouse fails to perform the duty to provide maintenance provided above, a court shall order support in the form of a monthly support payment for maintenance of the spouse or divorced spouse based on the financial situation of each spouse and the need for assistance.

830. A court may release a spouse from the duty to provide maintenance to the other spouse or limit the duty with a time period:
1) if the behaviour of the spouse requesting support was indecent during the marriage;
2) if the marriage lasted a short time, or upon other good reason as established by the court.

831. Chapter 8 of the Act deals with rights and duties of parents. Parents have equal rights and duties with respect to their children. Parents have the right and duty to raise a child and to care for a child. A parent is required to protect the rights and interests of his or her child. A parent is the legal representative of a child. As a legal representative, the parent has the authorisation of a guardian. A parent has the right to demand his or her child back from any person who has control of the child without legal basis. The parent does not have the right to the return of the child if the return of the child is evidently contrary to the interests of the child. A parent shall not exercise parental rights contrary to the interests of a child.

832. If parents live apart, they shall agree with which parent a child shall reside. In the absence of an agreement, a court shall settle the dispute at the request of a parent. A parent living apart from a child has the right of access to the child. A parent with whom a child resides shall not hinder the other parent's access to the child. If parents have not agreed in what manner the parent living apart participates in the raising of a child and has access to the child, a guardianship authority or, at the request of a parent, a court shall settle the dispute.

833. At the request of a parent, guardian or guardianship authority, a court may decide to remove a child from one or both parents without deprivation of parental rights if it is dangerous to leave the child with the parents. If leaving a child with a parent threatens the health or life of the child, a guardianship authority may remove the child from the parent prior to obtaining a court order. In such case the guardianship authority must file a claim with a court within ten days for removal of the child or for deprivation of parental rights. If upon removal of a child from a parent the child is left without parental care, a guardianship authority shall arrange for care of the child. If the reasons for removal of a child cease to exist, a court may order return of the child at the request of a parent.

834. At the request of a parent, guardian or guardianship authority, a court may deprive a parent of parental rights if the parent:

1) does not fulfil his or her duties in raising or caring for a child due to abuse of alcoholic beverages, narcotic or other psychotropic substances, or other reason which the court does not deem to be persuasive; or
2) abuses parental rights; or
3) is cruel to a child; or
4) has a negative influence on a child in some other manner; or
5) without good reason, has not during one year participated in raising a child who resides in a child care institution.

If upon depriving a parent of parental rights a child is left without parental care, a guardianship authority shall arrange for care of the child.

869. A person who has been deprived of parental rights loses all rights with respect to a child. A guardianship authority may permit a person who has been deprived of parental rights to visit with a child if this does not have a negative influence on the child. Deprivation of parental rights does not release a parent from the duty to provide maintenance for a child.

835. At the request of a person who has been deprived of parental rights, a court may restore parental rights with respect to a child if the person has improved his or her conduct, and desires and is capable of exercising parental rights as required. Parental rights shall not be restored if a child is adopted.

Child and family policy

836. Under the Office of the Minister for Poüpulation and Ethnic Affairs, there is a government committee for child and family policy which comprises besides the Minister and the minister's adviser also the representatives of NGOs (Estonian Union of Families with Many Children, Tallinn Triplets Club, association Estonian Vitality), representatives of the Ministry of Social Affairs, parliamentarians, representatives of universities, and others. For the discussion of specific issues, also specialists of various fields are involved.

837. The committee has been meeting since 1 June 1999. The committee meets on average every one and a half months. The committee has been discussing the following topics: in 2001 – conference "When will the unborn children be born?"; family education; Family Act; elite and family policy; family policy development guidelines 2002-2003; supporting of children by local authorities in Estonia in 2000; European family policy 2000-2001; possibility of combining work and family life in Estonia; topical issues for child and family policy; public opinion on child and family policy.

838. The initial version of the concept or bases for child and family policy was completed in December 1999 as a result of the committee's half-year work. The bases of family policy were discussed on three occasions at the committee meetings and once in the Riigikogu social affairs committee. Since 20 December 1999, the bases of child and family policy were up for discussion on the homepage of the Minister for Population and Ethnic Affairs. By December 2000, the new version of the bases for child and family policy was prepared where more attention has been paid to concrete activities and description of the situation. The new version is also up for discussion at the homepage of the Minister for Population. Many objectives established in the document have now been achieved though the Government has not officially approved the document.

839. The bases for the Estonian child and family policy (hereinafter the concept) is a national document which serves as a basis for implementing child and family policy and which defines the principles and objectives of the policy, shared responsibility of the family and the state, mechanisms of regulation and implementing levels, bringing out first of all the state's possibilities and obligations. The concept is necessary for making stable, long-term political, economic, legislative, organisational and budgetary decisions and for following specific priorities.

840. The general aim of the concept is to express commonly shared views on shaping child and family policy in order to create in Estonia a stable and safe environment for the development of children by ensuring at least average welfare of all families with children.
To achieve these aims, the concept provides a framework of principles, objectives and tasks that determine the intended scope of Estonian child and family policy. The concept helps to ensure that a necessary environment for the development of children and families with children is created, regardless of which political coalition is in power at the moment.

841. Child and family policy is more efficient if it is coordinated and is carried out with the support of different policies. A prerequisite of a successful and efficient policy is cooperation between different branch policies, first of all as concerns social, health care, monetary, educational and culture policy.

The target group of the Estonian child and family policy concept is the whole society but the main emphasis is on children up to 18 years old and families with children up to 18 years old.

Article 24 Rights of children

842. Reference concerning the articles in Constitution and the Law on the Protection of the Child is made to the initial report (CCPR/C/81/Add.5. para 204-204).

843. Estonia acceded to the UN Convention on the Rights of the Child in October 1991 and submitted its initial and second report under Article 44 of the Convention in June 2001. In addition, Estonia intends in the near future to accede to other international conventions for the protection of the child – the Hague Convention on the Civil aspects of International Child Abduction and the European Convention concerning custody and restoration of custody of children. The latter was approved by the Government of Estonia on 2 May 2000. Accession to the Hague Convention on the Civil aspects of International Child Abduction has been prepared and submitted to the Government of the Republic.

844. Estonian laws regulating the protection of children contain generally recognised principles and norms of international law. The rights of children are guaranteed by the provisions of the Constitution and other legislation.

845. The Child Protection Act provides for the internationally recognised rights, freedoms and duties of the child and protection thereof in the Republic of Estonia.

846. A child who descends from parents who are not married to each other has the same rights and duties with respect to his or her parents and their relatives as a child who descends from parents who are married to each other (Article 45 of the Family Act). Children born of an annulled marriage have the same rights and duties as children born in a marriage (Article 37 of the Family Act).

847. A child who is born after the death of the man who was married to the mother of the child shall be deemed to be conceived during the marriage if not more than ten months pass from the date of death of the man to the birth of the child (Article 39(5) of the Family Act).

848. The conditions and age of criminal liability of children are discussed under Article 14(4).

849. In addition to the Child Protection Act, rights of the child are regulated by a number of laws. Hereby, the more important ones are mentioned:

- Family Act;
- Education Act;
- Pre-School Child Care Institutions;
- Basic and Upper Secondary Schools Act;
- Vocational Schools Act;
- Hobby Schools Act;
- Juvenile Sanctions Act;
- Youth Work Act;

- Social Welfare Act;
- Family Benefits Act;
- Non-Profit Associations Act;
- Churches and Congregations Act;
- Citizenship Act;
- Ethnic Minorities Cultural Autonomy Act;
- Social Benefits for the Disabled Act.

850. The working plan of the Ministry of Social Affairs includes drawing up of a strategy for the protection of children. According to the plan, the strategy should be completed during the first half of 2002, the main goal of the strategy will be to help improve and amend legislation and the better implementation of the Convention on the Rights of the Child in Estonia. Strategy for the protection of children focuses on three main fields: basic needs of children, special needs of children and child's need of support from family, community and environment.

1. Right to receive from his family, society and the state the protection required by his status as minor

851. According to the Child Protection Act, the protection of children is guaranteed through state and local government bodies and social institutions. On the national level, the protection of children is co-ordinated by the Ministry of Social Affairs (Articles 4, 5). In the Ministry of Social Affairs, the co-ordination of activities for the protection of children is within the competence of Deputy Secretary-General for social work, daily work for the protection of children is co-ordinated by the welfare department. The Ministry of Social Affairs co-operates with the Ministry of Education, the Police Board and other state agencies. On the regional level, national policies are implemented by county governments who co-ordinate activities for the protection of children pursued by local authorities. Co-ordinators of the work for the protection of children at the local government level are social workers at the social services departments.

852. According to Article 5 of the Local Government Organisation Act the functions of local authorities in a rural municipality or city include the organisation of the following services from their budgetary resources: social assistance and services, housing and utility management, maintenance of pre-school child care institutions, basic schools, upper secondary schools (gymnasiums), hobby schools, libraries, community centres, museums, sports facilities, shelters and care homes, and health care institutions.

853. An advantage of organising activities for the protection of children through local authorities is that they are better aware of the particular needs and interests of children and families. In addition to social workers, 109 child protection officials were employed by local authorities in 1999, 76 of them had special professional training (data of the Statistical Office). Many local authorities in Estonia are small and therefore they don't have sufficient resources. Of the 247 local government units in Estonia, 194 have less than 5000 inhabitants. The administrative reform planned in Estonia, should among other things, help to advance the activities of local authorities for the prevention and solving of problems regarding the protection of children. Meanwhile, many local authorities have joined their efforts for providing different services and have consequently raised the quality and variety of services offered.

Table 33. Persons working with children in different institutions

	1999
Child protection officials in rural municipalities and cities	109
Child protection officials in counties	11
Juvenile officials in counties	14
In juvenile committees of the counties	15
In juvenile committees of the rural municipalities and cities	19
In juvenile prisons	219
In social welfare institutions as	
- children's homes	854
- school homes	275
- children's homes of family type	74
- youth homes	16
- mixed-care social welfare institutions	14
- shelters	164
- social rehabilitation centres	208
In police	82

Source: Data from Ministry of Social Affairs and Estonian Statistical Office

Table 34. Expenses from the State budget to children in 2000 (in thousands kroons)

Jurisdiction of the Ministry of Education	
Tiger Leap Foundation	21 500
Hobby schools	6 400
Other expenditure on education	59 395
Municipal schools	1 210 187
Gymnasiums	20 825
Schools for children with special needs	19 189
Private schools	14 846
Sanatorium schools and special boarding schools	45 428,2
Investments to general education	158 152(incl. municipal schools)
State schools for disabled children	92 484
Total	**16 billion**
Ministry of Culture	
Support to the youth sports activities	26 009,7
Ministry of Agriculture	
Support to the project “Milk for pupils”	5000
Ministry of Social Affairs	
Support to the health programme for children and youth	2323,7
State welfare of the children	88514
Social support to children with disabilities	50304
Support to the Union of Families With Many Children	1000
Child benefits, child care allowances	1338408,0
Total	**1480549,7**
Other expenditures	
Transport support to pupils at municipal schools	35000

Total expenditures	**3052823,9**
Expenditure from the state budget	**28530988**
% to children	**7.4**

854. In addition to the above funding, the Ministry of Justice allocated 18.5 million EEK for operating expenses to juvenile prisons under its jurisdiction in 1999.
The expenses of local authorities in the listed spheres of activity directed at children are not brought out separately in the budgets.

855. According to the Family Act, a parent is the legal representative of the child. A parent may not exercise parental rights contrary to the interests of the child (Article 50).
According to Article 24 of the Child Protection Act, the natural environment for the development and growth of the child is the family. The parents or caregivers of a child are required to get to know and understand the child in order to competently support the child's development. For such purpose, they have the right to receive consultation free of charge from a social services department (Article 25).
Parents have equal rights and duties with respect to their children. A parent is required to protect the rights and interests of his or her child. A parent may not exercise parental rights contrary to the interests of the child (Family Act, Articles 49-50).

856. If parents live apart, they will agree with which parent a child will reside. In the absence of an agreement, a court will settle the dispute at the request of a parent. A parent living apart from a child has the right of access to the child. A parent with whom a child resides may not hinder the other parent's access to the child. If parents have not agreed in what manner the parent living apart participates in the raising of the child and has access to the child, a guardianship authority or, at the request of a parent, a court will settle the dispute (Family Act, Articles 51, 52).

857. In hearing a dispute concerning a child, a guardianship authority or court shall proceed from the interests of the child, considering the wishes of a child who is at least ten years of age. The wishes of a child younger than ten years of age shall also be considered if the development level of the child so permits. In hearing a dispute concerning a child, a court shall, if necessary, include a guardianship authority for the purpose of hearing its opinion in the proceeding (Articles 58 and 59 of the Family Act).

858. A parent is obliged to maintain his or her minor child and an adult child who needs assistance and is incapable of work (Family Act, Article 60). The duty of maintenance also lies with grandparents and adult brother and sister whose financial situation permits to provide such maintenance (Family Act, Articles 65, 67).

859. If a parent fails to perform the duty to provide maintenance to a child, a court shall, at the request of the other parent, guardian or guardianship authority, order support for the child to be paid to the parent who submitted the claim or to the guardian or person in whose interests the guardianship authority submitted the claim. Support for a child shall be specified as a monthly support payment based on the financial situation of each parent and the needs of the child. The monthly support payment for one child shall not be less than one-quarter of the minimum monthly wage established by the Government of the Republic.

860. A court may reduce the amount of support to less than the amount specified if a parent has another child who would be less financially secure than the child receiving support if

such amount were ordered. A court may refuse to order support or may reduce the amount thereof to less than the amount specified or terminate payment of support if:

1) a parent ordered to pay support is incapacitated for work, or
2) a child has sufficient income, or
3) other good reasons as established by the court become evident.

If those circumstances cease to exist, a court may order support or an increase of support at the request of an entitled person. If a child resides with each parent, a court shall order support for a child from the parent who has the better financial situation (Article 61 of the Family Act).

861. If a parent fails to perform the duty to provide maintenance to a child in a child care institution, a court shall, at the request of the child care institution or a guardianship authority, order support from the parent for the child to be paid to the child care institution where the child resides (Article 62 of the Family Act).

862. According to the Code of Enforcement Procedure, in the case of indebtedness of maintenance payments, the claim may be enforced against the debtor's property (Article 69). Intentional evasion by a parent of payment of alimony ordered to a child by a court is punishable through a criminal procedure (Criminal Code, Article 121).

863. According to the Child Protection Act, single parent families and two parent families have an equal obligation to raise and care for their children (Article 26). According to the same law, families with children will receive protection and support from the state. Support of needy families is organised by rural municipality or city social services departments (Articles 24, 25).

Separation from parents

864. A parent is the legal representative of a child, and as a legal representative the parent has the mandate of a guardian. A parent has the right to demand his or her child back from any person who has control of the child without legal basis (Family Act, Article 50).

865. The child and his or her parents must not be separated against their will except if such separation is in the best interests of the child, if the child is endangered and such separation is unavoidable, or if such separation is demanded by law or a judgment which has entered into force. The justification for the separation of the child is monitored by the social services departments (Child Protection Act, Article 27).

866. Removal of a child from a parent and deprivation of parental rights is regulated by the Family Act. At the request of a parent, guardian or guardianship authority, a court may decide to remove a child from one or both parents without deprivation of parental rights if it is dangerous to leave the child with the parents. If leaving a child with a parent threatens the health or life of the child, a guardianship authority may remove the child from the parent prior to obtaining a court order. In such case the guardianship authority must file a claim with a court within ten days for removal of the child or for deprivation of parental rights. If upon removal of a child from a parent the child is left without parental care, a guardianship authority will arrange for care of the child. If the reasons for removal of a child cease to exist, a court may order return of the child at the request of a parent (Article 53). A child may also be removed from a step-parent or foster-parent (Article 57).

867. According to the Social Welfare Act, a child may be separated from his or her home and family for the provision of social services and other assistance only upon the concurrent presence of the following circumstances:

- deficiencies in the care and raising of the child endanger the child's life, health or development or if the child endangers his or her own life, health or development with his or her behaviour;
- other measures applied with respect to the family and child have not been sufficient or their use is not possible;
- separation of the child from the family is effected in the interests of the child.

868. The subsequent residence, care and raising of a child separated from his or her home and family will be arranged by the rural municipality government or city government. If any of the circumstances upon which the child was separated from home and family ceases to exist, the child will be assisted in returning to his or her home and family (Social Welfare Act, Article 25).

Table 35. Children without parental care registered for the first time

	1993	**1994**	**1995**	**1996**	**1997**	**1998**	**1999**
Children registered during the year	770	1010	1134	1044	1495	1671	1752
Of which children who had a temporary residence permit	-	-	-	73	490	548	517
Children who were placed to foster families	512	586	296	627	440	479	671
Children who were placed to biological families	-*	-*	-*	-*	342	401	383
Children who were placed to social welfare institutions	186	244	239	237	202	252	188
Children who were placed to shelters	0	-	260	269	457	463	507
Children who were placed to schools, the state providing the full maintenance	31	28	95	-	-	-	-

** Until 1997, the data on children who were placed to biological families and children who were placed to foster families was considered as one category*
Source: Statistical Yearbook of Estonia, 1999

869. If a child is separated from his or her parents, the opinions and wishes of the child will be heard and annexed to the documentation concerning the separation. The opinions of the child will be heard and documented by a social services department. The justification for the separation is monitored by the social services department. A child who is separated from one or both parents has the right to maintain personal relations and contact with both parents and close relatives, except if such relations harm the child (Child Protection Act, Articles 27- 28).

870. A parent living apart from a child has the right of access to the child. A parent with whom a child resides may not hinder the other parent's access to the child. If parents have not agreed in what manner the parent living apart participates in the raising of a child and has access to the child, a guardianship authority or, at the request of a parent, a court will settle the dispute (Family Act, Article 52).

871. A person who has been deprived of parental rights loses all rights with respect to a child. A guardianship authority may permit a person who has been deprived of parental rights to visit with the child if this does not have a negative influence on the child (Family Act, Article 55).

872. Upon adoption of a child, the personal and proprietary rights and duties of the child and the biological parent will cease to exist. Consequently, the biological parents will have no right of access to the child and neither the child nor the adoptive parents will have the obligation to communicate with the parents and relatives nor to assist them. An adopted child has upon reaching the adult age the right to receive information concerning his or her parents from the transcript of the birth record containing information about his or her parents (Family Act, Articles 86, 109, 114).

873. According to the Social Welfare Act, sisters and brothers originating from one family will be kept together upon separation from their home and family unless this is contrary to the interests of the children. A rural municipality government or city government will, if necessary, provide assistance to a family from whom a child has been taken in order to help establish the prerequisite conditions for the child to return to the family. Upon placement of a child in care outside the administrative jurisdiction of a local government, the rural municipality government or city government will attend to the preservation of the child's connections with his or her former home-town, establish conditions for the child to return there, and help the child in his or her start in independent life. A child who is separated from his or her home and family has the right to receive information about his or her origin, the reasons for separation, and issues pertaining to his or her future (Article 25).

Children deprived of family environment

874. Article 62 of the Child Protection Act establishes that temporary assistance, support and protection will be provided to the child by shelters (safe houses). The director of a shelter is required to notify the social services departments and police department at the place of residence of the child of any child who enters the shelter.

875. A shelter provides assistance and protection to children in need, regardless of their place of residence, state of health, nationality and other characteristics. A child may go to a shelter on his or her own initiative if he or she has left home, a foster-parent or a child care institution due to problems relevant for the child. Any adult whom a child approaches for assistance may also bring the child to a shelter.

876. In a shelter, a child deprived of parental care or a child in danger will be provided care, medical aid, and rehabilitation appropriate for the child's age and condition. Together with the local authority of the place of residence of the child, the children are guaranteed the protection of their rights and interests.

Table 36. Children in shelters

1996	1997	1998	1999	2000
1470	1245	1296	1292	1720

Source: Statistical Office of Estonia, 2001

Table 37. Percentage of the three main causes of stay among the total number of children in shelters

	1997	1998	1999
Difficult economic situation	9	26,5	27,6
Negligence at home	23,4	21,4	25,6
Vagrancy	21,5	13	11,3

Source: Statistical Office of Estonia, 1999

Table 38. Persons in shelters and social rehabilitation centres *

Cause of stay	In shelters 1997	In shelters 1998	In social rehabilitation centres 1997	In social rehabilitation centres 1998
Violence	14	20	59	45
Domestic violence	170	122	19	17
Violence at school	15	1	6	10
Vagrancy	268	169	2	6
Negligence at home	291	277	0	51
Abuse of alcohol	94	57	5	2
Drug abuse	13	9	3	4
Lack of dwelling-place	86	86	4	3
Difficult economic situation	113	339	5	9
Other reasons	181	216	186	251
Total	1245	1296	289	398

Cause of stay	In shelters 1999	In shelters 2000	In social rehabilitation centres 1999	In social rehabilitation centres 2000
Violence	8	24	91	101
Domestic violence	109	164	105	98
Violence at school	1	1	16	-
Vagrancy	201	350	8	23
Negligence at home	339	403	103	35
Abuse of alcohol	152	119	172	191
Drug abuse	12	62	113	424
Lack of dwelling-place	253	281	115	111
Difficult economic situation	393	404	380	217
Other reasons	218	295	2949	3017
Total	1702	2119	4748	4577

** Shelters – institutions offering temporary twenty-four hour assistance, support and protection for persons*
Social rehabilitation centres – institutions established for intensive rehabilitation of persons with special needs

Source: Statistical Office of Estonia, 2000

877. Since 1999, an orphan and child deprived of parental care is guaranteed full maintenance by the state regardless of the form of maintenance provided to such a child (children's home, residential educational institution, foster family). A children's home is an institution meant as a substitute home for orphans and children who have been deprived of parental care. Residential educational institution is an institution meant to provide dwelling, development and teaching to school-aged disabled children. Special boarding schools are schools for children with physical, speech, mind and mental disabilities. Currently there are still children in Estonia whose home is a special boarding school but in the future these children should also live in a children's home if necessary (if no substitute family is found for them) from where they would attend different schools according to necessity.

878. A child is placed in a children's home or for care in a family if the child is an orphan or has been deprived of parental care and no guardian has been found for the child or the child has not been adopted. Children whose ability to cope cannot be guaranteed by the provision of other social services or assistance are sent to a children's home (Social Welfare Act, Articles 15- 16). If possible, care in a family is preferred for placement of a child. Such care will not give the foster family the right or obligation of a legal representative. The number of children placed in foster families rose in 1999 when in addition to child benefits the state began to make payments to cover costs of maintenance of a child in a foster family.

Table 39. Number of children who were placed to guardian families and foster families

	1996	**1997**	**1998**	**1999**
To guardian families	362	440	319	314
To foster families	125	130	320	610

Source: Statistical Office of Estonia, 2000

879. When placing a child in a children's home, the wishes of a child who is at least 10 years of age have to be considered. The wish of a child who is less than 10 years of age also has to be considered if the development level of the child so permits (Social Welfare Act, Article 32).

880. Russian-speaking children are placed in a children's home where the home language is Russian (i.e. the staff is Russian-speaking), thus guaranteeing the child his or her inherent language environment and cultural continuity.

881. Upon placement of a child in a children's home, documents are sent with the child containing information on the child's family, location of relatives and their financial situation, information on the child, his or her health and education. The file also has to contain documents pertaining to the inherited property of the child and its administrator, and information on other income of the child (pension and other financial income of the child).

882. Children's homes have transferred to organisation of life similar to a family. Children in a children's home live in groups or families. One family consists of 8-10 children. A child who has arrived in a children's home is placed in a family suitable for him or her. In the placement of a child, a child's age, state of health, relations with other children, etc. is

taken into account. Brothers and sisters normally live in the same family. The plans of a family are discussed together with the children of the family. Director or deputy director of a children's home advises a family and monitors its activities.

883. Upon placement of a child in a children's home, it is presumed that the child will stay in the children's home only temporarily. Local government of the child's place of residence is required to seek a guardian or an adoptive parent for the child and should attend to the preservation of the child's relations with his or her former home. The rural municipality or city government may also find a foster family for the child. A rural municipality government or city government will, if necessary, provide assistance to a family from whom a child has been taken in order to help establish the prerequisite conditions for the child to return to the family (Social Welfare Act, Article 25). In 1998, 119 children returned to their parents from children's homes, 52 were adopted, 6 were given under guardianship and 4 were given to families for care (data of the department of statistics and analysis of the Ministry of Social Affairs).

Table 40. Children and youth staying in social welfare institutions according to the cause of stay, 2000 (at end-year)

Age	Orphans	Left without parental care	On parent's application*	Total	Temporarily in families
0-2	3	99	9	111	-
3-6	8	117	20	145	2
7-14	105	648	78	831	3
15-17	48	301	35	384	-
Total	189	1350	176	1715	5

** Children are mainly placed in residential educational institutions*

Table 41. Social welfare institutions for children

	1990	1995	1996	1997	1998	1999	2000
General children's homes	12	17	17	17	24	27	27
Children's homes for infants	7	7	7	7	0	-	-
Special children's homes	3	0	0	0	0	-	-
Residential educational institutions	4	7	8	8	7	6	4
Children's homes of family type	0	0	2	3	3	4	4
Youth homes	0	0	1	2	2	1	1
Mixed-care social welfare institutions	0	0	1	1	1	1	1
Total	26	31	36	39	37	39	37

Source: Statistical Office of Estonia, 2001

Table 42. Wards in social welfare institutions for children

	1990	1995	1996	1997	1998	1999	2000
General children's homes	622	764	762	772	1143	1133	1179
Children's homes for	286	317	338	335	0	-	-

infants							
Special children's homes	116	0	0	0	0	-	-
Residential educational institutions	499	389	443	459	409	385	330
Children's homes of family type	0	0	61	71	88	140	153
Youth homes	0	0	19	20	36	24	23
Mixed-care social welfare institutions	0	0	35	29	23	28	30
Total	1523	1470	1658	1686	1699	1710	1715

Source: Statistical Office of Estonia, 2001

884. Based on a roundtable discussion convened in 1998 by the Minister of Social Affairs, involving child protection workers of local authorities and county governments and representatives of different ministries and non-governmental organisations, there are about 10 children in Estonia without home or family and who live their life in the streets, 500 children who constantly wander in the streets but who have a home and parents and 3000-4000 children who are in danger of falling to a situation where they would go to the street.

885. As a result of a roundtable on the topic of street children organised by the Open Estonia Foundation in 1999, the estimated situation is as follows: there are about 4000-5000 children in the streets in Estonia. The number seems high because it includes also children who are evading obligation to attend school and children deprived of parental care. Speaking about "street children" as children who have no home and who live "in the streets", the number would be approximately 100-200. More problematic regions are Tallinn, Tartu, and Ida-Viru county (in the latter case, more exactly the city of Narva).

886. A concrete step for improving the situation of street children was taken in Estonia at the beginning of summer 1998 when project competition "Street children/ children in the street" was announced. The competition called upon different non-governmental organisations active in the field and also day centres of local governments to submit projects related to the subject of street children. Financiers and launchers of the programme were Open Estonia Foundation, King Baudouin Foundation and also the World Bank. Total cost of the programme was 2.5 million Estonian kroons. The duration of the programme is two years and during the programme financial support is provided to different non-profit associations and welfare institutions. The programme also includes joint training, offering necessary skills and knowledge to project leaders for a better implementation of their ideas.

Abuse and exploitation of children

887. The working conditions and cases when children can be employed are described under Article 8. The special conditions of treatment of children in penitentiary are described under Article 10.

888. The Social Welfare Act imposes the duty to arrange welfare of children and create an environment favourable for the development of children on local governments who take measures both to prevent cases of maltreatment of children and to provide necessary assistance. According to Article 33 of the Child Protection Act, the child must be protected from all forms of sexual exploitation.

889. Pursuant to the Government regulation no. 4 of 7 January 1994 on the "procedure for import, export, manufacture and sale of alcohol, tobacco and tobacco products", clauses 39 and 40, it is prohibited to sell alcohol and tobacco products to persons under 18 years of age, and persons under 18 years of age may not sell alcohol and tobacco.

890. Bringing a minor in a state of intoxication, buying alcoholic beverages for a minor and failure to fulfil obligation to raise and teach a child constitute an administrative offence (Code of Administrative Offences Article 26).

891. Inducing a minor to consume alcoholic beverages (Article 202^1); inducing minors to use narcotic drugs or psychotropic substances (Article 202^2) and inducing minors to engage in non-medical use of medicinal products or other narcotic substances (Article 202^4) are also punishable under the Criminal Code.

892. In co-operation with the third sector, increasingly more attention is paid to informing the public about problems of maltreatment of children. The Estonian Central Union for the Protection of Children and the Estonian Children's Fund have carried out several media campaigns to attract the public's attention to problems of child protection.

893. The topic of maltreatment of children is included in the curriculum of pre-school education and general education schools and in the training programmes of specialists working with children. Since school year 1998/99, the topic is also covered in the curriculum of the Police Academy in order to guarantee that investigative bodies and courts treat appropriately children who have become victims of violence.

894. Tartu Children's Support Centre has launched an initiative which has been supported by Tartu Prosecutor's Office, social workers and juvenile police. In Tartu police prefecture, a special interrogation-playroom with special technical equipment for questioning of sexually abused children was built in autumn 1999. To avoid repeated questioning of the child, the investigative procedures are recorded on videotape. In 2000 a special interrogation-playroom was opened in Põlva and there are plans to open such interrogation rooms also in Tallinn and Valga.

895. The police statistics show how many sexual offences committed against children have been registered in the country within last six years.

896. According to the data of the juvenile police, there were total 460 children who had been victims of acts of violence in 1999, of them:
- victims of school violence 165;
- victims of family violence 59 (including victims of sexual abuse by family members);
- victims of sexual offences 72;

897. The following is an account of some sexual offences listed in Chapter 4 of the Criminal Code (offences against persons) where victims have been children:
- rape of a minor;
- rape of a child;
- satisfaction of sexual desire in unnatural manner, if knowingly committed against a person under 16 years of age;
- sexual intercourse with a female person under 14 years of age;

- indecent sexual acts against a person under 16 years of age;
- act of pederasty knowingly committed with a person under 16 years of age.

Table 43. 1994-1999 recorded sexual offences against children.

Article of the Criminal Code	1994	1995	1996	1997	1998	1999	2000	2001
Article 115 subs 2(3) Rape of a minor	30	33	27	28	18	22	29	14
Article 115 subs 3(2) Rape of a child	17	17	9	9	5	2	7	3
Article 115 subs 2 Satisfaction of sexual desire in an unnatural manner by violence or threat of violence or by taking advantage of the helpless situation of the victim if it is knowingly committed against a person under the age of 16	29	31	17	15	50	32	34	25
Article 116 An act of sexual intercourse knowingly committed by an adult with a female under the age of 14	5	1	1	1	3	1	2	1
Article 117 Indecent sexual acts knowingly committed towards a person under the age of 16	8	16	12	13	15	11	22	95
Article 118 subs 2 An act of pederasty knowingly committed with a person under the age of 16	3	4	4	1	11	4	3	5
Total	92	102	70	67	102	72	97	143

Source: Estonian Police Board

898. It must be noted that sexual offences committed against children have not grown in proportion to the growth of the crime rate in general. A certain positive effect can be noted since 1995. Its results can especially be felt in connection with the use of under-age prostitutes in brothels. Before the amendment of laws in 1995, 16-17-year-old girls could almost always be found in brothels during police operations. After 1995, when two court judgments were made against intermediaries using services of under-age prostitutes, the situation has changed drastically. During police operations into brothels, under-age girls are found only very rarely and even in those cases the girls themselves have cheated about their actual age.

899. The Act Regulating Dissemination of Works which Contain Pornography or Promote Violence or Cruelty was passed in 1997 and entered into force on 1 May 1998. Estonian legislation and the current Criminal Code regulate this field relatively well. The Criminal Code contains the following offences:

- acquisition, storing, transport, transfer, distribution, exhibition or making available by any other means of a work depicting a minor in erotic or pornographic situations;
- dissemination or exhibition or making available to a minor by any other means of a work promoting violence or cruelty;
- dissemination or exhibition of a work depicting a minor in erotic or pornographic situations;
- manufacture of a work depicting a minor in erotic or pornographic situations (in the Code since 1995);
- inducing a minor to engage in a crime or in prostitution (since 1995 this article is mainly used for the criminal offences where a minor has been induced to a crime as there is now a separate article in the Criminal Code for inducing a minor to prostitution);
- inducing a minor to prostitution, or mediating of prostitution with respect to a minor (in the Code since 1995).

Table 44. 1994-1999 recorded sexual offences

Article of the Criminal Code	**1994**	**1995**	**1996**	**1997**	**1998**	**1999**	**2000**	**2001**
Article 200 subs 1 Acquisition, storage, transport, transfer, dissemination, exhibition or rendering available in any other manner of works depicting minors in erotic or pornographic Situations	0	0	1	1	0	0	2	1
Article 200 subs 3 Dissemination or exhibition of works depicting minors in erotic or pornographic situations, or rendering such works available to minors in any other manner	0	1	0	0	0	0	0	0
Article 200^3 subs 1 Manufacture of a work or a copy of a work depicting a minor in erotic or pornographic situations, without using the minor as an object of	0	0	1	0	0	0	0	0

erotic or pornographic Activity								
Article 200^{3} subs 2 Use of a minor as an object of erotic or pornographic activity upon manufacture of a work depicting erotic or pornographic situations	0	0	0	0	0	0	0	0
Article 202 Inducing a minor to engage in the commission of a criminal offence or in prostitution, or exploitation of a minor in prostitution	6	11	91	99	80	79	54	58
Article 202^{6} subs 3(2) Pandering or pimping is punishable by three to seven years' imprisonment if committed against a minor	0	1	0	3	1	1	0	2

Source: Estonian Police Board

Cultural development of children

900. Thorough overview of the education, leisure and cultural activities of children is given in the Estonia's report submitted under Article 44 of the UN Convention on the Rights of the Child in June 2001.

901. Based on the Youth Work Act, the Ministry of Education supports the activities of youth associations and allocates annual grants to them. It also monitors the purposeful use of the funds allocated for youth work from the state budget (Article 4). In the state budget, the following expenses in the area of government of the ministry of Education are foreseen:

- Grants to youth programmes and projects of youth associations;
- Annual grants to youth associations;
- Grants to national and regional programmes for youth (Article 16)

902. For supporting youth programmes and projects, the Ministry of Education organises competitions of programmes and projects. Annual grants can be applied for by a youth association which has a membership of at least 500 and whose local units operate on the territory of at least one third of the counties. The conditions and procedure for applying for the above grants and their allocation have been approved by the regulation of the Ministry of Education. Applications for grants are reviewed by the Youth Work Council formed with the decree of the Minister of Education. Within one month from the deadline of submission of applications the Council makes a proposal concerning the funding of the submitted grant applications.

903. The larger youth organisations are the Estonian scout Association, the Estonian Guides Association, and the Organisation of Successful Children (ELO in Estonian). ELO has existed in Estonia since its foundation 1988 and it was the first independent children's organisation in the former Soviet Union. The ELO includes children from the fourth year of school. Children from year 4 to 9 in schools form an ELO club. Pupils from years 10-12 form a junior team. A club can be formed only if there is an adult curator who has the respective training and an activity licence. Membership of the ELO is also open to all adults who are eager to learn about a successful way of life and who are also willing to teach the children.

2. Right to be registered immediately after birth and have a name

904. Reference concerning the right of every child to be registered and have a name in the Child Protection Act is made to the initial report (CCPR/C/81/Add.5. para 205).

905. Chapter 2 of Part II of the Family Act regulates the filiation of children. According to Article 46, a child is given a given name by agreement of the parents. In the absence of an agreement between the parents, the guardianship authority shall decide which parent's proposed given name shall be given to the child. A child shall not be given a given name which is contrary to good morals or customs. A child is given the surname of the parents. If the parents have different surnames, the child is given the surname of the father or the mother by agreement of the parents. In the absence of an agreement, the guardianship authority shall decide which surname shall be given to the child. A child shall be given the surname of the mother if the mother of the child is not married or if the child born or conceived during a marriage does not descend from the man married to the mother and filiation of the child from the father is not ascertained or established (Article 48).

906. The birth of all children born in Estonia is registered, regardless of the place of residence or citizenship of the parents. In the maternity hospital a medical card is filled out for children born either dead or alive. The card is sent to the medical birth database at the Institute of Experimental and Clinical Medicine where, since 1992, all birth cards have been registered and the data has been processed. From there, the statistically processed data is sent to hospitals and county doctors and the birth card data is compared with the birth sheet data sent from the vital statistics offices to the statistical office. In compiling national statistical data on births, the data from both sources is used.

907. Births are registered at the vital statistics office of the residence of a parent. The birth of a foundling is registered at the vital statistics office of the location of the guardianship authority of the place the child is found. A birth is registered on the basis of an application of a parent. If the parent is deceased or unable to submit an application, the application shall be submitted by a relative of the parent, the head of the medical institution where the child was born, or another person. A birth shall be registered within one month after the date of birth of the child; the birth of a foundling shall be registered within three days after the date of finding the child; and the birth of a stillborn child shall be registered within three days after the date of stillbirth (Article 114).

908. No fee is paid to the state for making a birth record (State Fees Act, Article 22). No payment has to be made when giving a name; there are no other hindrances in giving a name.

909. In the case of failure to file an application for the registration of birth of a child in time, the data on the birth of the child received from the maternity hospital is sent to the register of births, thus the birth of a child is fixed. Birth data is one of the best-registered forms of data in Estonia.

910. If the parents fail to register the child's birth within one month of the date of birth of the child, a fine in the amount up to ten daily wages may be imposed on the parents (Code of Administrative Offences, Article 180).

911. A vital statistics office issues a birth certificate confirming the birth of the child. The birth certificate contains the child's first name and surname, person code, date of birth, place of birth and data about the mother and father (first name and surname, person code, citizenship).

912. In case of adoption, at the request of an adoptive parent a child is given the surname of the adoptive parent and the given name of the child may be changed. The given name and surname of an adopted child who is at least ten years of age may be changed with his or her consent. The wishes of a child younger than ten years of age shall also be considered if the development level of the child so permits (Article 85 of the Family Act).

3. Right to acquire nationality

913. Reference concerning the right of every child to acquire nationality recognised in the Constitution is made to the initial report (CCPR/81/Add.5. paras 215).

914. The new Citizenship Act came into force on 1 April 1995. The Act has been amended and changed several times since adoption.

915. Article 1 of the Act defines Estonian citizen as a person who holds Estonian citizenship upon the entry into force of this Act or a person who acquires or resumes Estonian citizenship on the basis of this Act.

916. According to Article 2, Estonian citizenship is:
1) acquired by birth;
2) acquired by naturalisation;
3) resumed by a person who lost Estonian citizenship as a minor;
4) lost through release from or deprivation of Estonian citizenship or upon acceptance of the citizenship of another state.

917. Article 5 sets the conditions for acquisition of Estonian citizenship by birth.
Estonian citizenship is acquired by birth if:
1) at least one of the parents of the child holds Estonian citizenship at the time of the birth of the child;
2) the child is born after the death of his or her father and if the father held Estonian citizenship at the time of his death.

A child found in Estonia whose parents are unknown is declared, on the application of the guardian of the child or a guardianship authority, by a court proceeding to have acquired Estonian citizenship by birth unless the child is proved to be a citizen of another state. No one shall be deprived of Estonian citizenship acquired by birth.

918. In December 1998, the Citizenship Act was modified to bring it into line with the *Convention on the Rights of the Child* by granting the right to apply for simplified naturalisation to stateless children born of stateless parents after 26 February 1992. These changes took effect on 12 July 1999.

919. The main amendment is concerned with adding subsections 4-6 to Article 13 of the Citizenship Act in the following formulation:
(4) A minor under 15 years of age who was born in Estonia after 26 February 1992 shall acquire Estonian citizenship by naturalisation if:
1) his or her parents apply for Estonian citizenship for him or her and if the parents have legally resided in Estonia for at least five years at the time of submission of the application and are not deemed by any other state to be citizens of that state on the basis of any Act in force;
2) single or adoptive parent applies for Estonian citizenship for the minor and if the single or adoptive parent has legally resided in Estonia for at least five years at the time of submission of the application and is not deemed by any other state to be a citizen of that state on the basis of any Act in force.

(5) A minor under 15 years of age for whom Estonian citizenship is applied for in accordance with subsection (4) of this article shall be staying in Estonia permanently and not have been deemed by any other state to be a citizen of that state on the basis of any Act in force.
(6) The specification provided for in subsection (4) of this article concerning persons who are not deemed by any other state to be citizens of that state on the basis of any Act in force also includes persons who, before 20 August 1991, were citizens of the Union of Soviet Socialist Republics and who have not been deemed by any other state to be citizens of that state on the basis of any Act in force.

920. This amendment received a warm welcome from OSCE HCNM, who considered it in conformity with his recommendations.[2] The amendment fulfilled the 30th recommendation out of 30 the OSCE HCNM had made during the years 1993-1998.

921. Altogether 18 950 minors have received citizenship on the bases of the Article 13 of the Citizenship Act.

Table 45. Number of minors who have received citizenship

Citizenship Act	**Number of minors**
Subsection 1 of Article 13 A minor under 15 years of age shall acquire Estonian citizenship by naturalisation if Estonian citizenship is applied for the minor by the minor's parents who are Estonian citizens, or by one parent who is an Estonian citizen, with the notarised agreement of the parent who is not an Estonian citizen, or by the minor's single or adoptive parent who is an	17354

[2] December 9, 1998 Press release by the OSCE High Commissioner on National Minorities, http://www.osce.org/inst/hcnm/news/9dec98.html

Estonian citizen.	
Subsection 3 of Article 13 A minor under 15 years of age whose parents are dead, whose parents are declared as missing or divested of active legal capacity or whose parents are deprived of their parental rights shall acquire Estonian citizenship by naturalisation on the application of a guardianship authority or the minor's guardian who is an Estonian citizen provided that the minor stays in Estonia permanently, unless it is proven that the minor is a citizen of another state, or if it is proven that the minor will be released from the citizenship of another state in connection with the acquisition of Estonian citizenship.	237
Subsection 4 of Article 13 A minor under 15 years of age who was born in Estonia after 26 February 1992 shall acquire Estonian citizenship by naturalisation if: 1) his or her parents apply for Estonian citizenship for him or her and if the parents have legally resided in Estonia for at least five years at the time of submission of the application and are not deemed by any other state to be citizens of that state on the basis of any Act in force; 2) single or adoptive parent applies for Estonian citizenship for the minor and if the single or adoptive parent has legally resided in Estonia for at least five years at the time of submission of the application and is not deemed by any other state to be a citizen of that state on the basis of any Act in force.	1359

922. As at April 2002, the number of applications for Estonian citizenship for minors was 147, of which 58 were based on subsection 1 of Article 13 and 89 applications were based on subsection 4 of Article 13. As at 31 May 2000, 302 minors had received citizenship by way of simplified naturalisation.

Article 25 Right to participate in public affairs

923. The Constitution of Estonia guarantees the right to free elections.

924. The Referendum Act provides the procedure for submission of a bill or other national issue to a referendum and referendum procedure. An Estonian citizen who has attained eighteen years of age by the referendum date may participate in a referendum. A citizen shall not have the right to vote if he or she has been divested of his or her active legal capacity by a court order; or has been convicted by a court and is serving a sentence in a penal institution at the time of voting.

925. Article 60 of the Estonian Constitution provides that the Riigikogu has 101 members. Members of the Riigikogu are elected in free elections on the principle of proportionality. Elections are general, uniform and direct, voting is secret.
Article 9 of the Riigikogu Election Act of 1994 stipulates *inter alia* that mandates are distributed between electoral districts proportionally to the number of citizens with the right to vote.

Elections to the Riigikogu

926. Article 1 of the Riigikogu Election Act establishes the bases of the election system: members of the Riigikogu shall be elected in free elections on the basis of a general, uniform and direct right to vote, by secret ballot.

927. Pursuant to the Riigikogu Election Act, an Estonian citizen with the right to vote who has attained eighteen years of age by election day has the general right to vote. An Estonian citizen with the right to vote who has attained twenty-one years of age by election day may run as a candidate for member of the Riigikogu . A citizen who has been convicted by a court and is serving a sentence in a penal institution shall not participate in elections.

928. Riigikogu Election act contained until 23 December 2001 language requirements for candidates. The language requirements were set with Article 2.1. of the Act, amendment to the Act that came into force on 17 January 1999. The oral and written knowledge of Estonian of a member of the Riigikogu shall enable him or her to participate in the work of the Riigikogu, which means being able to understand the content of legislation and other texts; to present reports on agenda items and express his or her opinion in the form of a speech and a comment; to make inquiries, pose questions and make proposals; to communicate with electors, respond to appeals and petitions, and answer inquiries.

929. In September 2001, members of the parliament initiated a bill to remove the language requirements for candidates from the Riigikogu Election Act and the Local Government Council Election Act. The proposal for the bill was based on the fact that there is no longer practical necessity for these provisions. The process of integration in society is the best guarantee for achieving the necessary language proficiency. Removal of the provision from the law would also be in conformity with Article 25 of the ICCPR, according to which every voter must be able to decide for himself or herself who of the Estonian citizens who are candidates for the Riigikogu or a local council would best represent his or her interests in the respective body, regardless of the candidate's knowledge of the state language.

930. In accordance with Article 3 of the Language Act, the language of public administration in the Riigikogu and local governments as well as in all state agencies is Estonian. The working language of the Riigikogu can be regulated with the Riigikogu Rules of Procedure Act. In addition to the Language Act, the use of language in local government bodies is also regulated with the Local Government Organisation Act. Article 41 of the Act stipulates that the working language of local government bodies is Estonian. The use of foreign languages, including the use of languages of national minorities in local governments is also established with the Language Act. The Parliament adopted the amendments to eliminate language requirement from the Riigikogu Election Act and the Local Government Council Election Act on 21st November 2001. Since 23 December 2001 Article 2.1. of the Riigikogu Election Act and Article 3.1. of the Local Government Council Election Act became invalid.

931. Pursuant to Article 26 of the Riigikogu Election Act, every Estonian citizen with the right to vote who meets the requirements provided for in Article 2 of the Act (i.e. is at least 21 years old by election day) may be nominated as a candidate in Riigikogu elections. Nomination shall not be restricted by the electoral district of permanent residence of a candidate.

Elections to local government councils

932. Pursuant to Article 156 of the Constitution, the representative body of a local government is the council which shall be elected in free elections for a term of three years. The elections shall be general, uniform and direct. Voting shall be secret. In elections to

local government councils, persons who reside permanently in the territory of the local government and have attained eighteen years of age have the right to vote, under conditions prescribed by law.

933. Article 1 of the Local Government Council Election Act, which establishes the bases of the election system, reads: Members of local government councils shall be elected in free elections on the basis of a general, uniform and direct right to vote, by secret ballot.

934. Estonia is one of the few countries in the world where non-citizens, regardless of their origin, are entitled to vote in local governments elections.

935. Article 3 provides the definition of the general right to vote for the purposes of the Act, providing that "an Estonian citizen has the right to vote, if he or she has attained eighteen years of age by the election day; if he or she resides permanently in the territory of the local government; if he or she has not been divested of his or her active legal capacity by a court. An alien has the right to vote, if he or she has attained eighteen years of age by the election day; if he or she resides permanently in the territory of the local government; 3) if he or she resides in Estonia on the basis of a permanent residence permit; if he or she has resided legally in the territory of the corresponding local government for at least five years by 1 January of the election year; if he or she has not been divested of his or her active legal capacity by a court.

936. An Estonian citizen may run as a candidate, if he or she has attained eighteen years of age by election day; if he or she is entered in the national register established for the registration of electors in the rural municipality or city on 1 August of the election year at the latest; if he or she has not been divested of his or her active legal capacity by court

937. A person who is serving a sentence for an intentional criminal offence shall not run as a candidate for member of a local government council. A person who has been convicted by a court and is serving a sentence in a penal institution shall not participate in voting.

938. The uniform right to vote has been established in Article 4 of the Local Government Council Election Act as follows: "Every Estonian citizen with the right to vote and every alien legally in Estonia with the right to vote (hereinafter elector) shall have one vote in local government council elections".

939. Article 20 of the Local Government Council Election Act provides that electors shall be registered in a national register (hereinafter register) established by the Government of the Republic.

940. The Criminal Code and the Code of Administrative Offences both establish some elements of offences related to elections.

941. Pursuant to the Criminal Code, it is a crime to hinder the exercise of the suffrage or the right to vote, and it is punishable in accordance with the Criminal Code. Article 131 of the Criminal Code establishes the hindering of the exercise of suffrage or the right to vote as follows: "The hindrance by violence, deception or threat or in any other way of an elector's or a voter's free exercise of the right to elect or be elected the President of the Republic, member of the Riigikogu or member of the local government council, or of the right to vote at a referendum held pursuant to the laws of the Republic of Estonia or to

carry out pre-election or pre-referendum propaganda, as well as purchasing of the vote of an elector or a voter shall be punished by a fine or arrest or deprivation of liberty for up to one year."

942. Pursuant to Article of the Criminal Code, the forging of any election or voting document or result, and the violation of the secrecy of voting are punishable. Namely, the provision establishes that the forging of election or voting documents or results, intentionally wrong counting of votes and violations of the secrecy of ballot at the elections of the President of the Republic, elections to the Riigikogu or local government councils or at a referendum held pursuant to the laws of the Republic of Estonia shall be punished by fine or by deprivation of the right to work in a particular office or to operate in a particular sphere of activity or by deprivation of liberty for up to one year.

943. Article 132^1. Disseminating a lie or other fiction dishonouring the President of the Republic, member of the Riigikogu or candidate for member of a local government council, or degrading his or her honour and dignity
Knowingly disseminating a lie or other fiction dishonouring the President of the Republic, member of the Riigikogu or candidate for member of a local government council, or degrading their honour and dignity in any way is punishable by a fine or detention.

944. Also, pursuant to Article 181 of the Code of Administrative Offences the violation of the provisions of the President of the Republic Election Act, the Riigikogu Election Act and the Local Government Council Election Act, is an infringement of the administrative law and punishable by a fine amounting to ten daily wages.

945. The Code of Administrative Offences establishes punishment for agitation at a rally, meeting, picket, or publishing agitation material in mass media, or using other active or passive means of agitation with the aim of affecting election results on the day of election of the President of the Republic, Riigikogu or local government council or on the day of a referendum.

Statistics

946. There were 30 political parties registered at the time of the 1995 elections to the Riigikogu (Estonian one-chamber parliament). Two of those have declared to the public that they mostly represent the interests of people living in Estonia who, while being ethnically non-Estonians, are speaking mostly Russian.

947. The elections to the Riigikogu were held on 5th March, 1995. According to the information provided by the National Election Committee, 7 electoral coalitions, 9 political parties and 12 independent candidates participated in the elections (there were 1,256 candidates altogether). The two parties mentioned above formed an electoral coalition called Our Home is Estonia! This coalition gained 31,763 votes (5.87 %) of the total 545,770 given at these elections (there were 766 626 citizens with the right to vote altogether at that time) which result guaranteed the electoral coalition Our Home is Estonia! six mandates in the Riigikogu.

948. In March 1999 the parliamentary elections were held. The overall number of citizens eligible to vote was 857,270. The election turnout was 57.4% with the total of 484,239 citizens casting their vote.

949. Elections to the local government councils were held in October 1999. 1,058,818 people were included in the polling lists, 194,525 of whom were resident foreigners. 50.9% of citizens and 49.4% of foreigners exercised their right to vote making for the overall voter turn-out of 49.4%.

950. In the capital Tallinn two electoral lists composed largely of Russian-speaking politicians are represented in the city council, one of them being part of the ruling coalition and thus also the city government. One of the vice-chairmen of the city council comes from this list and two out of eight districts of the city are governed by non-Estonians.

Information about elections

951. Chapter 3 of the Riigikogu Election Act deals with Election Committees. Article 12 sets the types of election committees. The following election committees shall hold Riigikogu elections:
1) the National Election Committee;
2) the election committees of the counties;
3) the division committees.

952. In Tallinn and Tartu, the functions of the county election committees shall be performed by the election committees of the city. The function of the National Election Committee is to ensure the uniform conduct of Riigikogu elections, instruct other election committees, exercise supervision over the activities thereof and perform other functions arising from the Act. By way of supervisory control, the National Election Committee has the right to:
1) issue precepts for the elimination of deficiencies of a decision or act of a county election committee or division committee;
2) suspend the performance of an act or the validity of a decision of a county election committee or division committee;
3) declare a decision of a county election committee or division committee invalid.

953. The National Election Committee shall issue regulations in the cases provided for in this Act. The regulations of the National Election Committee enter into force on the date following the date of signature.
By its regulation, the National Election Committee shall establish the following:
1) the procedure of the National Election Committee;
2) the procedure for the nomination and registration of candidates;
3) the standard format of candidate registration applications, the standard format of the list of candidates in an electoral district, the standard format of the national lists of candidates, the standard format consent of a candidate for his or her running as a candidate, the standard format of the personal data form of candidates;
4) the procedure for the exchange of information between election committees;
5) the procedure for the preparation, amendment and completion of a polling list, and the standard format of polling lists;
6) the procedure for voting in foreign states;

7) the procedure for the holding of voting and verification of voting results;
8) the standard format of a ballot;
9) the standard format of the records of voting results and election results;
10) the status of an observer;
11) the procedure for the verification of election results;
12) the procedure for the use of money allocated for the organisation of elections;
13) the terms for the acts of extraordinary elections to the Riigikogu.

954.The National Election Committee shall adopt decisions in order to resolve individual matters within the competence of the National Election Committee. The Chairman and Secretary of the Committee shall sign the decisions. A decision shall enter into force upon signature.

955.The National Election Committee deals with distributing pre-election information. Some of its duties derive from the laws. For example, before elections the National Election Committee will send the registered voters the elector card that contains information on the holding and conduct of elections and indicates in which polling division the person will have to vote.

956. Estonian representations abroad will have to publish a notice of elections and information about its organisation in the representation in the local newspaper.

957. The NEC is not involved in educating voters and organising campaigns. Before the elections, it cooperates with the mass media (publishing addresses of polling divisions in newspapers, broadcasting information on television and radio) to publish information regarding the election.

958. In 1996, the NEC published a booklet "Voter's Reminder". During the last elections, no such booklet was produced but information leaflets were distributed mainly in preliminary investigation prisons, hospitals, care homes and on ships.

959. In the last local government elections in 1999, the Ministry of Internal Affairs organised an election information campaign through the mass media.

Referendum

960. The procedure for submission of a bill or other national issue to a referendum and referendum procedure is regulated by the Referendum Act. An Estonian citizen who has attained eighteen years of age by the referendum date may participate in a referendum. A citizen does not have the right to vote if he or she: 1) has been divested of his or her active legal capacity by a court order; 2) has been convicted by a court and is serving a sentence in a penal institution at the time of voting.

961. Amendments to Chapters I (General Provisions) and XV (amendment of the Constitution) of the Constitution shall be submitted to a referendum. The Riigikogu also has the right to submit other bills that amend the Constitution, other bills or other national issues to a referendum. Issues regarding the budget, taxation, financial obligations of the state, ratification and denunciation of treaties, the declaration or termination of a state of emergency, or national defence shall not be submitted to a referendum.

Right to equal access to public service

962. Article 30 of the Constitution stipulates that offices in state agencies and local governments shall be filled by Estonian citizens, on the basis of and pursuant to procedure established by law. These offices may, as an exception, be filled by citizens of foreign states or stateless persons, in accordance with law.

963. Article 1 of the Public Service Act gives the definitions of public service and state office. Public service is employment in a state or local government administrative agency. Employment in a state office is deemed to be an employment relationship in an elected or appointed office prescribed, pursuant to this Act or other laws, on the staff of an institution exercising legislative, executive or judicial power, state supervision, control or national defence.

964. Pursuant to Article 14 of the Public Service Act, which sets forth the conditions for employment in service, an Estonian citizen who has attained twenty-one years of age, has at least secondary education, has legal competence and is proficient in Estonian to the extent established by or pursuant to law may be employed in the service as a state official.

965. Article 15 stipulates that an Estonian citizen who has attained eighteen years of age, has at least secondary education, has legal competence and is proficient in Estonian to the extent established by or pursuant to law may be employed in the service as a local government official.

966. The following persons shall not be employed in the service:1) persons under punishment for an intentionally committed criminal offence; 2) persons under preliminary investigation for or persons accused of a criminal offence for which the law prescribes imprisonment; 3) persons deprived of the right to work in a particular office or to operate in a particular area of activity by a court order which has entered into force, in such office or area of activity; 4) persons closely related by blood (parents, brothers, sisters, children) or by marriage (spouse, spouse's parents, brothers, sisters, children) to an official or the immediate superior who has direct control over the corresponding office.

967. Different requirements for employment in the service shall be established by law (Article 17(1)). Supplementary requirements for employment in the service shall be established by or pursuant to law. The head of an administrative agency, or a person or administrative agency superior to him or her may establish supplementary qualification requirements (Article 17(2)).

968. Any position among the ten highest salary categories within the civil service must be filled through an open competition. Other positions may also be filled through open competition. A probationary period of up to six months may be applied to any civil servant. Any civil servant may be dismissed after an unsuccessful probationary period. No statistics as to the national origin of the officials has been collected.

969. An administrative agency is an agency which is financed from the state budget or a local government budget and the function of which is to exercise public authority. State administrative agencies in which employment is considered to be public service are:

(5) Chancellery of the Riigikogu;
(6) Office of the President of the Republic;
(7) Office of the Legal Chancellor;
(8) courts (including land registries and their departments);
(9) government agencies specified in the Government of the Republic Act;
(10) Headquarters of the Armed Forces;
(11) departments of national defence;
(12) military units of the Armed Forces;
(13) Headquarters of the National Defence League;
(14) State Audit Office.

970. Local government administrative agencies in which employment is considered to be public service are:
1) office of a rural municipality or city council;
2) rural municipality and city governments (as agencies) together with their structural units;
3) governments of a district of a rural municipality and of a district of a city (as agencies);
4) city government executive agencies;
5) bureaus of local government associations.

971. The public service is divided into state public service and local government public service. A public servant is a person who performs remunerative work in a state or local government administrative agency. A person who is in a service relationship with the state is a state public servant. A person who is in a service relationship with a local government is a local government servant.

972. Public servants are divided into:
1) officials;
2) support staff;
3) non-staff public servants.

973. In some high posts, the candidates must fulfil certain criteria. According to the Legal Chancellor Act, the Legal Chancellor must be an Estonian citizen who has active legal capacity, is of high moral character and is fully proficient in the official language. The Legal Chancellor must have completed an academic education in law and he or she must be an experienced and recognised lawyer. The Legal Chancellor shall be appointed to office by the Riigikogu on the proposal of the President of the Republic for a term of seven years. Criminal charges may be brought against the Legal Chancellor only on the proposal of the President of the Republic and with the consent of the majority of the membership of the Riigikogu.

974.Article 3 of the Status of Judges Act stipulates that a person who has high moral values, who is suitable for work of judge and who has higher education in law acquired at the University of Tartu or education corresponding to this level, may work as a judge. Correspondence with the requirements established by law of an applicant's higher legal education acquired elsewhere is verified by the judges examination committee.

975. An administrative judge can be a person who has attained 24 years of age by the time of appointing to office and has passed the examination for judges. A county and city court judge can be a person who has attained 25 years of age by the time of appointing to office

and has passed the examination for judges. Member of the Supreme Court can be a person who has attained 30 years of age by the time of appointing to office. The judges examination committee may make a reasoned decision to exempt a person from passing the examination for judges if the person has worked as a judge, professor of law with a scientific degree in a domestic higher educational institution, attorney at law, prosecutor, legal chancellor, or other position requiring higher legal qualification and consider it as equal with work in the position of judge.

976. Assistant judge may be a person who has acquired higher legal education at a relevant applied higher educational institution or the University of Tartu and who is a citizen of at least 21 years of age and has passed the examination for judges.

977. The following persons cannot appear as applicants for a position of judge or assistant judge: persons convicted for an intentional criminal offence; persons dismissed, removed or discharged from the professions or positions listed in the law in connection with unsuitability to perform the work; persons who due to their health are unsuitable to work as judges. In the case of doubt, the condition of health of a person is determined by a medical committee.

978. An important guarantee of the independence of judges is that judges are appointed to office for life.

979. Pursuant to Article 127 of the Constitution, the Estonian armed forces and national defence organisations shall be led by the Commander of the Armed Forces in peace-time, and by the Commander-in-Chief of the Armed Forces in war-time. The Commander and the Commander-in-Chief of the Armed Forces shall be appointed to and released from office by the Riigikogu, on the proposal of the President of the Republic.

980. According to the State Audit Office Act the State Audit Office is directed by the Auditor General, who is appointed to and released from office by the Riigikogu on the proposal of the President of the Republic. The term of office of the Auditor General is five years. An Estonian citizen who is not older than sixty years of age and is knowledgeable of the fundamental issues of public administration and economic management may be appointed as Auditor General. As director of his or her office, the Auditor General has the same rights which are granted by law to a minister in directing a ministry.

Other means for participation in conduct of public affairs

981. In spring 2001, the Government created a system called *Täna Otsustan Mina,* or TOM (meaning Today it's Me who Decides), on the government homepage.
The aim of the TOM system is to increase public participation in the state decision-making processes. People can use the system to present ideas, guidelines and opinions and comment on what others have presented and on draft legislation in preparation in the ministries.

982. The ideas that have found support among the users will be forwarded with the prime minister's resolution to relevant agencies for implementation. The public can constantly monitor what is happening to a particular idea.

983. In order to send ideas and comments or to vote and sign, prior registration is needed. Ideas and comments are available for reading for everyone.
Thus, TOM can be said as consisting of two logical parts:

- Proposals made by people
- Draft legislation presented by the ministries

984. The system is administered by the Government Press Office.
The content of TOM is based on the ideas and arguments presented by its users as well as draft legislation submitted by the ministries.

985. In general, the process can be divided in six parts, beginning from the submitting of an idea until its implementation:

- Submitting of an idea – many people have good ideas but for some reason they are not presented to anybody. A person has to give a title to his or her idea, present the authors, give a short description and content.
- After the idea has been submitted, 14 days is given for others to comment on it and for authors to defend it – a discussion is started as a result of which democratic decisions are born. In order to comment, a person has to choose an idea and write down his or her thoughts and proposals regarding the idea.
- Then there is a period of editing – the presenter of the idea will take into account the proposals that had been made, criticism and favourable opinions and if necessary will make amendments.
- The idea will be put up for voting – everybody can cast votes both in favour and against. By simple majority of votes, the idea will be signed.
- The idea will be signed by persons who submitted it and by those who feel a desire to be co-signatories.
- After the signing, the idea/proposal will be forwarded to state agencies for processing, i.e. the proposal will be forwarded to a relevant state agency under whose administration the particular issue belongs.

986. Pursuant to Article 28 of the Public Information Act, the ministries have an obligation to make available for everyone draft Acts prepared by ministries and draft regulations of the Government of the Republic, together with explanatory memoranda, when such drafts are sent for approval or presentation to the Government of the Republic. 1022. To achieve that, the above draft legislation together with explanatory memoranda is made available on the Internet homepage of the relevant ministry that is accessible for the public.

Article 26 Equality before the law without any discrimination

987. The Constitution of Estonia sets out that the rights, freedoms and duties of each and every person will be equal for Estonian citizens and for citizens of foreign states and stateless persons in Estonia (Article 9). According to the Constitution, everyone is equal before the law. No one will be discriminated against on the basis of nationality, race, colour, sex, language, origin, religion, political or other opinion, property or social status, or on other grounds. The incitement of national, racial, religious or political hatred, violence or discrimination is prohibited and punishable by law (Article 12). Everyone has the right of appeal to a higher court against the judgement in his or her case pursuant to

procedure provided by law (Article 24). The principle of equality as laid down in the constitution is reflected also in the case law.

988. In accordance with Article 15 of the Legal Chancellor Act, everyone has the right of recourse to the Legal Chancellor to review the conformity of an Act or other legislation of general application with the Constitution or the law. Article 18 of the same Act stipulates that the Legal Chancellor will propose to the Supreme Court that the legislation of general application or a provision thereof be repealed if a body which passed legislation of general application has not brought the legislation or a provision thereof into conformity with the Constitution or the law within twenty days after the date of receipt of a proposal of the Legal Chancellor.

989. The court of constitutional review is the Supreme Court which comprises the Constitutional Review Chamber (Constitutional Review Proceedings Act, Article 2).
The Supreme Court will declare invalid any law or other legislation that is in conflict with the provisions and spirit of the Constitution (Article 3).

990. In accordance with Article 15 of the Constitution, everyone has the right, while his or her case is before the court, to petition for any relevant law, other legislation or procedure to be declared unconstitutional. If the court after discussing the matter comes to the conclusion that the applicable law or other legislation is in conflict with the Constitution, the court will declare the legislation unconstitutional and will not apply it, and the court will inform the Supreme Court and the Legal Chancellor about its decision, whereupon constitutional review proceedings are initiated in the Supreme Court (Constitutional Review Proceedings Act, Article 5).

Article 27 Rights of ethnic, religious or linguistic minorities

991. The non-Estonian population of Estonia embraces historically formed minorities, such as the Jews, the Germans, the Swedes, the Russians and late immigrants, the majority of whom no longer speak their mother tongue and communicate in Russian (the majority) or Estonian (more rarely) instead.

992. During the period of 17 June 1940 – 20 August 1991, a large number of people from different Soviet Socialist Republics settled in Estonia. They make up 35.1% of the population of Estonia. After World War II, the schools system and cultural establishments of non-Estonians were changed into Russian language based schools and establishments. Under the Soviet regime, even the bigger ethnic groups such as the Ukrainians (50,000 people), Belorussians (30,000) and Finns (17,000) did not have their native language schools or cultural establishments. Every attempt to preserve and develop one's own culture was declared an act of nationalism and it brought about criminal punishment.

993. During 1987 – 1988, when the process of restoration of Estonia's independent statehood started, the cultural life of national minorities in Estonia gained impetus: various ethnic cultural associations were established and in September 1988 the first forum of minorities was convened, which elected a standing body – The Association of Estonia's Peoples – to represent the political, social and cultural rights of ethnic minorities.

994. Pursuant to Article 49 of the Constitution, everyone has the right to preserve his or her national identity. Article 48 of the Constitution provides that national minorities have the right, in the interests of national culture, to establish self-governing agencies under conditions and pursuant to procedure provided by the National Minorities Cultural Autonomy Act.

995. All persons who legally reside in Estonia have legal possibilities to cultivate their national culture. The cultivation of specific cultural traditions depends on the internal vitality of a community: on the strength of national identity, on the ability and motivation to preserve national identity within foreign cultural environment, it also depends on the economic level, namely the question is whether a community is able to rise economic resources sufficient for its activities, whether the community is able to apply for state assistance.

996. Among the national minorities in Estonia, the following have their Sunday schools: the Azerbaijanis, the Latvians, the Jews (in Tallinn, Tartu, Kohtla-Järve, Narva), the Poles (in Tallinn, Narva, Ahtme and Tartu), Ukrainians (Tallinn, Maardu, Sillamäe, Pärnu), Byelorussians, Armenians (Tartu), Georgians, Uzbeks, Bashkirs, Osseets, Tcherkess, Korea, Moldovans and the Tartars. These schools teach respective native language, cultural history, literature, history, geography and music. Some Sunday schools are religious. Majority of the schools are free of charge. Financial resources are obtained either through the embassies of mother countries or through the Association of National Minorities of Estonia or from the State. Language schools and courses also deserve to be mentioned: the Swedish language teaching in Noarootsi Gymnasium, Tallinn Jewish School, language courses of the Romania-Moldova Cultural Society, language courses of the Uzbek Cultural Society, and the Swedish language school of the Cultural Society of the Virumaa Swedes.

997. The President of the Republic of Estonia, on 10 July 1993, resolved to convoke a roundtable - a standing conference of representatives of ethnic minorities and stateless persons residing in Estonia and of political parties. The function of the President of the Republic's Roundtable of National Minorities is to discuss matters of political and public life, including societal, ethnic, economic and social-political issues.

998. The objective of the Roundtable is to work out recommendations and proposals concerning:

1) the formation of a stable and democratic society in Estonia, as well as the integration into Estonian society of all people who have linked their lives to Estonia or wish to do so;
2) the resolution of the social-economic, cultural and legal problems of aliens and stateless persons permanently residing in Estonia as well as of ethnic minorities;
3) support for persons seeking Estonian citizenship;
4) the resolution of questions related to the learning and use of the Estonian language;
5) the preservation of the cultural and ethnic identity of ethnic minorities residing in Estonia;
6) the opportunities and conditions for voluntary remigration of persons born outside Estonia to their historical homeland or their migration to third countries.

999. The overview of the sessions and work of the Roundtable can be found on the web-site of the President of the Republic at http//www.president.ee.

Integration of non-Estonian-speaking population into Estonian society.

1000. The estimated population in Estonia at the beginning of 2001 was 1 317 100*. The larger ethnic groups were as follows:
Estonians – 939,310
Russians – 403,925
Ukrainians – 36,467
Belorussians – 21,125
Finns – 12,762
***** *Source: 2000 Population and Housing Census*

1001. Of the permanent population 80.8% were born in Estonia, 13.9% in the Russian Federation, 1.8% in Ukraine, 1.1% in Belarus, 1.6% in other countries, for 0.8% of the residents the country of birth is unknown.

1002. In addition to Estonian citizens, the permanent population of Estonia includes citizens of various other countries. 80.1% of the population hold Estonian citizenship, 6.2% Russian citizenship, 0.2% Ukrainian citizenship, 0.1% Latvian citizenship, 0.1% Belorussian citizenship, 0.1% Lithuanian citizenship, 0.1% Finnish citizenship, and 0.1% citizenship of other countries.

1003. The distribution of persons with valid residence permits by citizenship in the beginning of year 2001 was as follows:

Citizenship	Percent
Stateless persons	64 %
Russian	32 %
Ukrainian	1 %
Finnish	0.6 %
Belorussian	0.4 %
Lithuanian	0.4 %
American	0.1 %
Others	1.5 %

Source: Citizenship and Migration Board

	30.04.99	30.04.00	01.01.01	01.03.02
Individuals who have received Estonian citizenship by naturalisation since 1992	107 200	111 716	113 764	117 650
Estimated number of non-ethnic Estonians holding Estonian citizenship by birth	80 000	80 000	80 000	80 000
The total number of Estonian citizen's passports (including children's passports that have been issued).	1 112 753	1 201 066	1 150 000	1 314 648
Alien’s passports issued	175 058	174 048	164 849	116 854

Total number of valid residence permits	310 666	279 876	273 766	269 289
Valid temporary residence permits	282 758	128 803	66 753	53 207
Valid permanent residence permits	27 908	151 073	207 013	216 282

Source: Citizenship and Migration Board

1004. One of the major challenges before the Estonian State today is the integration of its sizeable non-Estonian community into the Estonian society. The cornerstone of Estonia's integration policy is the implementation of the State Integration Programme pertaining, above all, to a significant reduction in the number of persons with undetermined citizenship, a substantial breakthrough in the teaching of the official language and full participation of non-Estonians in Estonian society at all its levels.

1005. Pursuant to a document called "The Bases of Estonia's National Integration Policy for Integrating non-Estonians into Estonian Society", approved by the Government of the Republic and the *Riigikogu*, the aim of the Estonian state is clearly to orient at integration of non-Estonians into Estonian society, to encourage wide-scale participation of non-Estonians in Estonian society. Also, the state of Estonia is interested in the willingness of non-Estonians who apply for Estonian citizenship to fulfil their duties as citizens equally with the Estonians.

1006. Since May 1997, the Government of Estonia has taken essential political and administrative steps to integrate non-Estonians into Estonian society:

1007. A new post of a minister without portfolio was formed, who is responsible, *inter alia*, for dealing with integration issues (in May 1997). Minister for Population and Ethnic Affairs opened in October 1999 a representation office in Jõhvi, Ida-Virumaa (north-eastern part of Estonia with high percentage of non-citizens and non-Estonians). The office was tasked to represent the minister, co-ordinate cooperation between the office and government offices situated in Ida Virumaa including county government, local offices of boards and inspections, NGOs and private sector.

1008. A 17-member expert committee was set up to work out a draft for integrating non-Estonians into Estonian society (in June 1997). Government determined the activities of the expert committeein November 2000 because committee had fulfilled its tasks. In the same timegovernment formed a leading committee of the program "Integration in Estonian Society 2000-2007" with the tasks to manage the state program, monitor the purposefulness and efficiency of its implementation and when necessary to adjust it.

1009. On 10 February 1998, the Government approved the integration policy suggested by the expert committee and the policy underwent deliberations in the *Riigikogu* and was adopted by the latter in June 1998. The expert committee referred to the Government a plan of action (framework of action), which forms the basis of the State Integration Programme, which shall remain the basis of integration-related activities until the final draft of the State Integration Programme is completed in 1999.

1010. The Government established The Non-Estonians Integration Foundation, to develop the national integration processes (on 31 March 1998). To implement activities fostering integration, 6 million EEK (~430,000 USD) was allocated from the state budget in 1998 to the Integration foundation, 5.7 million EEK was allocated in 1999. In 2000 the sum

allocated only to Integration Foundation was 5,8 million EEK, in 2001 8 million and 2002 8,5 million EEK. The Foundation, entrusted with the task of co-ordinating the use of relevant resources, has to date supported more than 50 integration-related projects from these resources.

1011. The Government approved *The Development Plan of Non-Estonian Language School: elaboration of a uniform Estonian education system, action plan for 1997 – 2007*, prepared by the Ministry of Education (on 20 January 1998).

1012. The Government approved *the Strategies of Teaching Estonian to non-Estonian speaking population*, which sets the framework and aims of teaching Estonian to non-Estonians during the next decade (on 21 April 1998).

1013. On 27 August 1998, the governments of Estonia, Finland, Sweden, Norway and Denmark and UNDP signed a treaty, whereby the UNDP and the Nordic Countries supported Estonian integration processes. In April 2000 United Kingdom joined the project and the whole amount of foreign aid to the project amounted to 1.58 million USD.

1014. During three years of the project 25 open contests were organised and 210 project applications were supported. Activities developed and financed during the project are sustainables and continued after the project finished.

1015. On 27 March 2002, the governments of Estonia, Finland, Sweden, Norway and Great Britain signed a new treaty to support Estonian integration processes. Foreign aid project "Integrating Estonia 2002-2004" promoting multiculturalism in Estonian society is planned for three years with a total budget 33,4 million EEK of which Estonia provides 16,2 million. Majority of the project activities are oriented to youth. Estonian language learning will be supported including language immersion in kindergartens and in elementary school, contacts of estonian and russian speaking youth in everyday life, between organisations and schools, will be enhanced. In addition the competition abilities of non-Estonians in labour market shall be inforced and knowledge and motivation of non-Estonians to apply for citizenship will be increased. The project shall be administered by the Non-Estonians Integration Foundation.

1016. On 16 October 1998 the Estonian Government, the EU and UNDP launched the EU Phare programme for teaching Estonian, whereby the EU will, within two and a half years, support teaching of Estonian to grown-ups and adolescents with 1.46 million Euro.

1017. The biggest integration related projects launched in 1999 are connected with education and with teaching of the official language. The most important projects financed from the state budget proceed from the "Basic and Upper Secondary Schools Act", pursuant to which in 2007/2008 a transformation from non-Estonian language education to Estonian language education in state and municipal gymnasiums will start. The amendment to the "Basic and Upper Secondary Schools Act" allowing in municipal upper secondary schools to have language of instruction other than Estonian, came into force 29.04.2002.

1018. In 1999, on the orders of the Ministry of Education, by way of experiment, the non-Estonian comprehensive schools shall have a final examination, and gymnasiums shall have a state examination in Estonian. The activities of the teachers who have been given the status of the Official Language Teacher will continue, the curriculum of the official

language shall be renewed, teaching of Estonian from the first year in all non-Estonian language schools will begin, the language and professional qualifications of non-Estonian language teachers will be checked and improved (further education and language teaching).

1019. The national programme of the Ministry of Education, called "Integration of Non-Estonian Youth to Estonian Society" (VERA) will be continued. In the field of international co-operation the following bigger programmes will be continued:
- Preparation and activities of leading teachers (together with the British Council).
- Development and launching of immersion system of learning (with Canada and Finland).
- Increasing the co-ordination capability of Ida-Virumaa County; counselling the Ministry of Education, launching the system of repayments of loans for language learning (with Finland).

1020. EU Phare programme of teaching the Estonian language (supply of grown-ups with study materials and support to the fund of compensating for study fees; supply of schools with study materials for teaching Estonian, support to language learning and integration camps, supply of two pilot schools with language laboratories, intensive courses of the Estonian language for students of pedagogical specialities; awareness-raising campaign; support for the implementation of the programme).

1021. One of the state institutions participating in the state integration programme is the Ministry of Internal Affairs, cooperating and being a partner in projects with non-profit and other organisations. As an agency under the Ministry of Internal Affairs, the Citizenship and Migration Board (CMB) plays an important role in integrating non-Estonians into Estonian society as the CMB is the main state institution through which the non-Estonian speaking population arranges its relations with the Republic of Estonia. This enables the CMB to identify and analyse problems that are related to non-Estonian clients and their integration into Estonian society. Bearing this in mind, the CMB has an important role not only in promoting its own image but also shaping the general attitudes and opinion of non-Estonians towards the Estonian state.

1022. The integration official working in the CMB bureau is competent to answer questions of non-Estonians, to provide them counselling, to solve their more complicated problems. The daily work of the integration official is to register queries made by clients. Systematisation and analysis of that information is a basis for making proposals to improve the work of the CMB and to prepare information materials.

1023. The objectives of the project:
- The service of the CMB will become more client-friendly. At the same time, the attitude of clients, in particular non-Estonians, towards the CMB and the Estonian state will improve.
- Several barriers among non-Estonians, such as lack of information, fear of the citizenship examination, negative attitude, etc, will decrease and the number of non-citizens will decline.
- The interest and motivation of Russian youth to become Estonian citizens will increase as well as their confidence in the Estonian state will strengthen.
- It will be possible to compare the integration programmes and related activities in Estonia and Nordic countries. Likewise, it will be possible to compare the functions, training and organisation of work of officials.

1024. The CMB has close cooperation with the International Organisation for Migration (IOM). On the initiative of the CMB, in July 1998 an agreement was signed with the IOM to open an integration bureau in the CMB Narva office. The aim of the project, in accordance with the state integration policy, is to support integration of non-citizens in Ida-Viru county into Estonian society, giving them prompt and accurate information about the integration conditions. Therefore, it was considered necessary to employ integration officials in regional departments of the CMB. As Ida-Viry county has the largest number of non-citizens, Narva office of the CMB was chosen to carry out the pilot phase of the project.

1025. Integration may be seen as a process creating a link between the individual and the state and society because there are more than 350 000 non-Estonians in Estonia who actively communicate with the CMB. The CMB has regional units in all the counties. The Ministry of Internal Affairs plans to employ integration officials in all the structural units of the CMB in whose service areas non-Estonians make up more than 10%.

1026. In September 1999, an integration official was employed in Narva and Jõhvi bureau of the Citizenship and Migration Board. The integration official works as an assistant client service staff who gives non-Estonians information on the topics of citizenship, application of residence permits, visas, language training, integration, etc.

1027. The aim of the Narva and Jõhvi bureau is to create a local communication network to help provide answers to every question. The official will be reliable, willing to help and have a computer connection with many various specialists, organisations and institutions to be able to find solutions to problems.

1028. The main fields of work of the integration official are:

- to develop cooperation and contacts with state institutions, local governments and educational institutions;
- to organise cooperation with non-profit organisations and local businesses;
- to participate in integration programmes;
- to inform the CMB about the problems and make proposals for solving them, to make proposals for the work of the CMB and for preparing legislation;
- to counsel people about the possibilities of applying for Estonian citizenship and possibilities for language training, the conditions of applying for permanent residence permit, entering and leaving Estonia, the conditions for visas and visa invitations and possible changes in legislation regulating these areas;
- to inform people about other developments in the areas connected with integration (e.g. elections);
- to inform people about the possibilities of learning Estonian and possibilities for vocational and higher education;
- to inform Estonians who have returned to Estonia and their family members about the issues relating to their legal status.

1029. In order to analyse various problems, the CMB has created a register into which the integration official enters problems that clients have addressed to the CMB and that require more complicated analysis. By obtaining a good overview of the more complicated issues and at the same time analysing them at the integration and migration department of the CMB, it is possible to identify conflicting provisions in Estonian legislation that may hinder people's integration into Estonian society.

Integration programme

1030. The government proceeds from the Constitutional principle to guarantee the preservation of the Estonian nation and culture through the ages, at the same time protecting the human rights and freedoms of everyone living in Estonia irrespective of their ethnic origin, religion, language and citizenship.

1031. The concept of integration of non-Estonian-speaking population into Estonian society has been implemented since 1999 when the State Programme "Integration in Estonian Society 2000-2007" was elaborated by the government expert commission. After a public discussion, the Government adopted the programme on 14 March 2000. It has also been submitted to the Riigikogu (Parliament) for discussion and is available to everybody (in Estonian, Russian and English) on the Internet at http://www.riik.ee/saks/ikomisjon/

1032. The integration programme is based on Estonia's national and social interest, on the goal of developing an European, integrated society and preserving stability. The task of the State is both to support the development of Estonian culture and guarantee the minorities opportunities for cultural development.

1033. The State Programme is an action plan for governmental agencies and other institutions for the years 2000-2007 in the field of integration.

1034. According to the State Programme the nature of integration in Estonian society is characterised by two processes:
- the social harmonisation of the society, based on the knowledge of the Estonian language and the possession of Estonian citizenship, and
- creating conditions for maintaining ethnic differences based on the recognition of the cultural rights of ethnic minorities.

1035. The harmonisation of the society is a two-way process - integration of both Estonians and non-Estonians around a strong common core.

1036. The outcome of integration process is the Estonian multicultural society, characterised by cultural pluralism, a strong common core and the development of Estonian culture.

1037. There are positive changes in attitudes of both Estonians and non-Estonians to integration. The survey carried out in 1999 showed that the integration process has reached a phase of acclimatisation among non-Estonians and a phase of tolerance among Estonians.

1038***. The main aims of integration as specified in the Programme are:***
Linguistic-communicative integration, i.e. a common sphere of information and the re-creation of the Estonian-language environment under conditions of cultural diversity and tolerance. A common Estonian-language society will emerge in parallel to the creation of favourable conditions for the development of the languages and cultures of ethnic minorities.

1039. ***Legal-political integration***, i.e. the formation of the population loyal to the Estonian state and the reduction of the number of persons without Estonian citizenship. The naturalisation process will become more productive and conditions for effective participation of citizens, regardless of their ethnic origin, in political structures will be created.

1040. ***Socio-economic integration***, i.e. the increase of the competitiveness and social mobility of every member of Estonian society through intensive language training and various regional policy initiatives.

1041. The main aims of the state programme lead to objectives, to which the following four sub-programmes correspond:

Sub-programme "Education" pursuing the following objectives:
A. Elementary school graduates are socially competent and have medium level knowledge of the Estonian language;
B. Secondary school graduates have the level of knowledge of Estonian language necessary for everyday life and work & are capable to continue studies in Estonian;

Sub-programme "The education and culture of ethnic minorities", the objective being that ethnic minorities possess opportunities to acquire education in their mother tongue and preserve their culture.

Sub-programme "The teaching of Estonian to adults" aimed at creating opportunities for non-Estonian adults to improve their knowledge of Estonian and raise their socio-cultural competence.

Sub-programme "Social competence" setting the following objectives:
A. Individuals participate actively in the development of civil society;
B. Attitudes of Estonians and non-Estonians are favourable to the achievement of the main aims of the state programme;
C. Improvement of the situation of socially vulnerable groups.

1042. ***State programme financing in 2000***
1043. Allocations provided below do not include direct allocations to particular integration-related projects by local governments (ca 8 mln EEK in 2000), various foundations and foreign donors.

1044. 27 February 2001 the Government approved the "Action plans for sub-programmes and the budget for the years 2000-2003". This document contains the plans of different ministries and other partners, it also contains an overview of the available and needed resources. Several activities will be implemented jointly by using the resources of ministries and foreign donors in the framework of co-financed projects.

Table 46. Consolidated budget for sub-programmes for the years 2000-2003*

Sub-programme	Budget (in '000 EEK)				
	source	2000	2001	2002	2003
I. Education	state budget	14276,2	13126,6	22891,8	23432,8
	foreign aid	12681,5	10555,5	18174,1	7900,2
	TOTAL	**26957,7**	**23682,1**	**41065,9**	**31333**
II. Education and culture of ethnic minorities	state budget	2873,7	2830	3665	3515
	foreign aid	521	1348	750	750
	TOTAL	**3394,7**	**4178**	**4415**	**4265**
III. Teaching of Estonian to adults	state budget	1130,8	1288	1125	1325
	foreign aid	12617	5081,38	11532,5	4066,78
	TOTAL	**13747,8**	**6369,38**	**12657,5**	**5391,78**
IV. Social competence	state budget	1236,1	1332,6	2020	2035
	foreign aid	2172,3	5871,6	4531	3330
	TOTAL	**3408,4**	**7204,2**	**6551**	**5365**
V.Part: Management and evaluation of the State Programme and insitutional capacity-building	state budget	3279,2	4394,2	4620	4610
	foreign aid	2454,8	1973,5	1970	1850
	TOTAL	**5734**	**6367,7**	**6590**	**6460**
SUM TOTAL I-V:	state budget	22796,0	22971,4	34321,8	34917,8
	foreign aid	30446,6	24830,0	36957,6	17897,0
	TOTAL	**53242,6**	**47801,4**	**71279,4**	**52814,8**

** It does not include other direct allocations for integration by local governments, private enterprises, embassies, etc. Also, it does not include permanent support by the state and local governments for administrative costs for the functioning of Russian-medium school system, Russian-language public media, and cultural institutions of ethnic minorities.*

Other activities promoting integration

1045. (a) in the field of education, the Ministry of Education and the Integration Foundation have jointly organised the publishing of a large number of study materials (dictionaries, study books, CD-s, language proficiency test materials, etc) as well as training courses for teachers at Russian-language schools and language training firms. By May 2000, about 3700 graduates from Russian-language gymnasiums and about 2000 graduates from Russian-language basic schools have registered for the Estonian language proficiency test, which is now unified with the Estonian language state exam at Russian-language schools. Students who have passed the Estonian language state exam do not have to take a separate language exam when applying for citizenship.

1046. In December 1999, a large-scale (3.624 million Canadian dollars over 4 years) project "Language immersion in Estonian schools" was launched by CIDA, Toronto School Board, Finland and the Council of Europe. 194 first year pupils and 134 second year pupils from 14 classes (9 first year classes and 5 second year classes) in russian-language schools in Kohtla-Järve, Maardu, Narva, Tallinn and Valga took part of language immersion project during the year 2001-2002. It is planned to expand the project to kindergartens (early language immersion) and to sixth year classes (late language immersions) beginning of September 2002.

1047. Early language immersion is voluntary educational program where more then 50% of the time instruction is given in other language. The objectives of this program in Russian-language schools are:

- command of Estonian language in an high level;
- command of Russian language in a level corresponding to the age of a student;
- academical knowledge of all the other subjects in level corresponding to the age of a student;
- valuation of both one's own and target culture; and
- acquirement of a third language in a good level.

Language immersion in the first year of the school takes place entirely in Estonian. During the second semester of the second year russian language instruction begins. Gradually the number of subjects taught in russian will be increased. Beginning of seventh year 50% of subjects are taught in russian.

1048. Also, nearly 9000 Russian-speaking children have participated in language camps and stayd in Estonian families during summers of 1998-2001 and 14 331 591 kroons have been spent to this project. This year (2002) estimated 2640 children will take part of the project and 5 106 001 kroons shall be spent. Languages camps and staying in the families promotes their fluency in the Estonian language and strengthens contacts between Estonian-speaking and Russian-speaking youth.

1049. (b) in the field of language training, the EU Phare Estonian Language Training Programme (hereinafter the Phare Programme) has significantly increased the motivation of non-Estonians to pass the Estonian language proficiency tests. By May 2000, about 7000 people have registered for Estonian language courses in the framework of a course fee reimbursement system established by the Phare Programme.

1050. The Phare Programme is also organising language training for socially high-priority groups, as well as risk groups from north-east region of Estonia, including non-Estonian police officers, recruits, medical workers, unemployed persons, etc. It will improve their professional skills and the knowledge of Estonian language;

1051. (c) in the field of social security, the Integration Foundation has elaborated and launched a model of professional practice in other regions of Estonia for Russian-speaking persons from north-east region of Estonia, including police officers, teachers, local government officials, medical workers, etc.;

1052. (d) in the field of mass media, a large-scale media campaign "Integrating Estonia" was launched in August 1999 with a total budget of 2.5 million EEK. In the framework of the media campaign, public advertisement campaigns "Lots of great people" and "Interest" are launched, integration-related TV series "Estonia on the air" are produced, an integration-oriented Russian language insert “Istoki” of the newspaper "Põhjarannik" is published, etc. In addition a project “One newspaper to another” was supported where journalists from estonian and russian language newspapers wrote mutually comments on the integration and internal policy issues. In the year 2001 russian language talk-show “Sputnik” was supported and in 2002 USA continues to support the talk-show. Public advertisement campaign "Lots of great people" had a great feedback in local and international press. In the year 2000 two week long media campaign to celebrate citizens day was organised. In the frames of the campaign, a social advertising campaign “A country richer” went on in internet, newspapers and in schools. Meetings with the representatives of Parliament, government anf defence forces were organised in 50 schools. During the citizens day in 2001 a campaign “To Europe with a blue passport” took place. During the year 2001 two other campaigns “Unbind” and “Friendship starts from a smile” took place. As the development of media campaign has indicated, media enterprises are playing an increasing role in funding and promoting integration-related activities in mass media;

1053. (e) in the field of culture and education of ethnic minorities, cultural societies of ethnic minorities have received significant financial and substantial support, including 2 485 000 EEK from the State Budget and 420 000 EEK from foreign donors in 2000. In addition to funds of the State Programme in 2000, local governments have stepped up their support to cultural and educational activities of ethnic minorities. For example, Tallinn City Government has allocated 5 million EEK in 2000 to support cultural societies of ethnic minorities;

1054. (f) in the field of citizenship issues, the Citizenship and Migration Board (hereinafter the CMB), the Integration Foundation and other institutions elaborated a new more comprehensive model of the citizenship exam. In the new model more emphasis is put on the citizens rights. In addition the civic state exam of upper secondary schools passes as citizenship exam.

1055. Also, the CMB has carried out customer-service training for its officials, produced materials for applicants for residence permits and citizenship, etc. Special attention is paid to increasing the CMB's capacity to process applications for residence permits, e.g. ensuring access to relevant information via the Internet, etc.

1056. In the recent year, the Government of Estonia took a number of significant political and administrative steps to further the integration process:

1057. In June 1999, a pilot project "Estonian Language and Civic Training in the Estonian Defence Forces" was launched. On 29 November 1999, the Minister for Population and Ethnic Affairs and the Minister of Defence signed an agreement whereby all conscripts of non-Estonian origin will have the possibility to study Estonian during their first three months of military service. In 2000 the Ministry of Defence will allocate 750,000 EEK from its budget to finance this initiative. Together with 400,000 EEK provided by the EU PHARE Estonian language training programme through its refunding project, a total of 1,150,000 EEK will be spent to improve the language skills of recruits.

Cultural activities of minorities

1058. The basic idea of the National Minorities Cultural Autonomy Act is the acceptance of the right of ethnic minorities to preserve their ethnic identity, culture and language.

1059. The State Integration Programme provides for an analysis of the National Minorities Cultural Autonomy Act to be performed in co-operation with the President’s Roundtable and other parties. In 2000, corresponding resources were consequently allocated to the President’s Round Table from the state budgetary funds of the Integration Foundation.

1060. Currently, it is expected that the President's Roundtable will submit the analysis of the Act and proposals on measures to amend the Act.

1061. In 2000, approximately 160 ethnic cultural societies and art groups operated in Estonia. Ethnic cultural societies and art groups have mostly become grouped into four associations and federations of ethnic cultural societies:

- ✓ the International Federation of Associations of Ethnic Cultural Societies "Lüüra" (28 societies and 5 art groups)
- ✓ the Association of Estonian Nationalities (22 societies)
- ✓ the Federation of Slavic Educational and Charitable Societies in Estonia (46 societies and 20 collectives)
- ✓ the umbrella organisation of ethnic cultural societies operating in Ida-Viru County, the Round Table of Ethnic Cultural Societies of Ida-Viru County (22 societies).

1062. The above-mentioned associations are state partners in the advancement of the educational and cultural life of national minorities and ethnic minorities.

1063. On 18 May 1989, the Association of Estonia's Peoples was established. Pursuant to its statute, it is a union of national associations and organisations, the basic aim of which is to protect the cultural, political and socio-economic interests of national minorities. In recent years, the activities of the Association of Estonia's Peoples have centred around monitoring the observance of the rights of national minorities, organising meetings

between agencies dealing with problems pertaining to national minorities and the representatives of the minorities, and mediating information and experiences between the cultural societies.

1064. The idea to found the Federation of Estonia's Ethnic Cultural Societies "*Lüüra*" was born during a joint festival on 9 May 1995. The festival developed into a tradition and evolved into organisation "*Lüüra*", which was registered in 1997. The main activity of "*Lüüra*" is to organise yearly cultural festivals, in the framework of which seminars, exhibitions and similar events are organised. Once or twice a year "Lüüra" organises training seminars, instructing participants how to address foundations and state agencies. In addition to the Ministry of Culture, also the City of Tallinn has supported the activities of "*Lüüra*".

1065. "*Lüüra*" runs a cultural university "I Live in Estonia", which teaches Estonian history and culture. The members of "*Lüüra*" - Armenian, Georgian, Ingrian Finns', Korean, Romany, Setu, Ukrainian and Russian Societies - teach their children in Sunday schools their languages, history and cultures. Within the framework of "*Lüüra*" there is a legal aid centre and a political club, as well as information and publishing centre.

1066. The Federation of Slavic Educational and Charitable Societies, which unites several Russian-speaking organisations, organises the traditional song-festival *"Slaavi Pärg" (Slavic Wreath)*.

1067. A state-financed Russian Drama Theatre operates in Tallinn. The state supported the theatre in 1998 with 6,408,000 kroons. In 1998 the Russian Drama Theatre staged 9 new productions, the total audience amounted to 73.3 thousand and the number of performances was 274.

1068. The main outlets for the cultural interests of national minorities and ethnic minorities are ethnic cultural societies and art groups.

1069. Other forms of educational organisation, including hobby schools, have been used as the main outlets for the educational interests of other national minorities and ethnic minorities. National minorities and ethnic minorities have also used Sunday schools for the advancement of their educational and cultural life.

1070. In addition to educational institutions for national minorities and ethnic minorities, this role is also to a certain extent fulfilled by the teaching of subjects in another language at Estonian-language and Russian-language schools. The shaping of the concept of the multicultural school, which was commenced in 2000 through co-ordination with the Jaan Tõnisson Institute, and various continuing education courses on this topic for teachers and school administrators, are also important.

1071. There are several programmes to increase awareness of cultural differences in Estonian society, expand the opportunities of the ethnic minorities living in Estonia for the preservation of their linguistic and cultural distinctiveness and increase their knowledge of Estonia.

Legal acts:

1. Constitution of the Republic of Estonia (RT I 1992, 26, 349);
2. International Covenant on Economic, Social and Cultural Rights (RT II 1993/10-11/13);
3. Foreign Relations Act (RT I 1993, 72/73, 1020);
4. Code of Civil Court Procedure (RT I 1998, 43/45, 666);
5. Criminal Code (RT I 1999, 38, 485);
6. Code of Criminal Procedure (RT I 2000, 56, 369);
7. Surveillance Act (RTI 1994, 16, 290);
8. Employment Contracts Act (RT 1992 15/16, 241);
9. Wages Act (RT I 1994, 11, 154; 2000, 40, 248);
10. State of Emergency Act (RT I 1996, 8, 165);
11. Termination of Pregnancy and Sterilisation Act (RT I, 1998, 107, 1766);
12. Weapons Act (RT I 2001, 65, 377);
13. Police Act (RT 1990, 10, 113);
14. European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and its Protocols no. 1 and 2. (RT II 1996, 36-37, 132);
15. Prosecutor's Office Act (RT I 1998, 41/42, 625);
16. General Principles of the Civil Code Act (RT I 1994, 53, 889; 1996, 42, 811);
17. State Liability Act (RT I 2001, 47, 260);
18. Aliens Act (RT I 1999, 50, 548);
19. Obligation to Leave and Prohibition on Entry Act (RT I 1998, 98/99, 1575);
20. Refugees Act (RT I 1997, 19, 306; 1999, 18, 301);
21. European Convention on Extradition (RT II 1997, 8/9, 38);
22. Mental Health Act (RT 1997, 16, 260);
23. Disciplinary Measures in Armed Forces Act (RT I 1997, 95/96, 1575);
24. ILO Convention no 29 concerning Forced or Compulsory Labour (RT II 1995, 45, 201);
25. ILO Convention no 105 concerning the Abolition of Forced Labour (RT II 1995, 45, 201);
26. Penal Code (RT I 2001, 61, 364);
27. Working and Rest Time Act (RT I 1994, 2, 12; 2001, 17, 78);
28. Occupational Health and Safety Act (RT I 1999, 60, 616);
29. Code of Criminal Court Appeal and Cassation Procedure (RT I 1993, 50, 695);
30. Imprisonment Act (RT I 2000, 58, 376);
31. War-Time National Defence Act (RT I 1994, 69, 1194);
32. Protected Natural Objects Act (RT I 1998, 36/37, 555);
33. Identity Documents Act (RT I 1999, 25, 365);
34. Administrative Court Procedure Act (RT I 1999, 31, 425);
35. Courts Act (RT 1991, 38, 472; 2000, 35, 219);
36. Succession Act (RT I 1996, 38, 752);
37. Databases Act (RT I 1997, 28, 423);
38. Personal Data Protection Act (RT I 1996, 48, 944);
39. Telecommunications Act (RT I 2000, 18, 116);
40. Postal Act (RT I 2001, 64, 367);
41. Broadcasting Act (RT I 1994, 42, 680);
42. Advertising Act (RT I 1997, 52, 853);
43. Public Assemblies Act (RT I 1997, 30, 472);

44. Non-profit Associations Act (RT I 1998, 96, 1515);
45. Commercial Code (RT I 1998, 91/93, 1500);
46. Political Parties Act (RT I 1994, 40, 654);
47. Trade Unions Act (RT I 2000, 57, 372);
48. Convention concerning Freedom of Association and Protection of the Right to Organise (RT II 1993, 26, 76);
49. Convention concerning the Application of the Principles of the Right to Organise and to Bargain Collectively (RT II 1993, 26, 76);
50. Convention Concerning Protection and Facilities to be Afforded to Workers' Representatives in the Undertaking (RT II 1995, 45, 201);
51. Employees Representatives Act (RT I 1993, 40, 595);
52. Collective Agreements Act (RT I 1993, 20, 353);
53. Collective Labour Disputes Resolution Act (RT I 1993, 26, 442);
54. State Family Benefits Act (RT I 1997, 42, 676; 2000, 102, 668);
55. Child Protection Act (RT I 1992, 28, 370);
56. Family Act (RT I, 1994, 75, 1326);
57. Education Act (RT I 1992, 12, 192);
58. Pre-School Child Care Institutions Act (RT I 1999, 27, 387);
59. Basic and Upper Secondary Schools Act (RT I 1999, 42, 497);
60. Vocational Schools Act (RT I 2001, 18, 86);
61. Hobby Schools Act (RT I 1995, 58, 1004);
62. Juvenile Sanctions Act (RT I 1998, 17, 264);
63. Youth Work Act (RT I 1999, 27, 392);
64. Social Welfare Act (RT I 2001, 98, 617);
65. Churches and Congregations Act (RT I 1993, 30, 510);
66. Citizenship Act (RT I 1995, 12, 122; 2000, 51, 323);
67. National Minorities Cultural Autonomy Act (RT I 1993, 71, 1001);
68. Social Benefits for the Disabled Act (RT I 1999, 16, 273);
69. Code of Enforcement Procedure (RT I 2001, 29, 156);
70. Act Regulating Dissemination of Works which Contain Pornography or Promote Violence or Cruelty (RT I 1998, 2, 42);
71. Referendum Act (RT I 1994, 41, 659);
72. Riigikogu Election Act (RT I 1998, 105, 1743);
73. Local Government Council Election Act (RT I 1999, 60, 618);
74. Code of Administrative Offences (RT I 2001, 74, 453);
75. Public Service Act (RT I 1999, 7, 112);
76. Legal Chancellor Act (RT I 1999, 29, 406);
77. Status of Judges Act (RT I 1991, 38, 473);
78. State Audit Office Act (RT I 2002, 21, 117).