



**Convention on the Rights
of Persons with Disabilities**

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Committee on the Rights of Persons with Disabilities

**Initial report submitted by Estonia under article
35 of the Convention, due in 2014***


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Introduction

1. This is the initial report submitted by Estonia to the United Nations Committee on the Rights of Persons with Disabilities pursuant to Art 35.1 of the Convention on the Rights of Persons with Disabilities. The report provides information on measures taken to give effect to the obligations assumed under the Convention and also indicates factors and challenges affecting the degree of fulfilment of these obligations.
2. Estonia signed the CRPD on 25 September 2007, and the parliament ratified the Convention together with its Optional Protocol on 30 May 2012. Prior to ratification of the CRPD, Estonia reviewed its legislation and determined it to be in conformity with the requirements of the Convention.
3. As Estonia has a monist legal system, the provisions of the CRPD became binding in the domestic legal order upon ratification. Estonia also considers generally recognised principles of international law to be an integral part of the Estonian legal order. The Convention was translated into Estonian for ratification, has been widely distributed and is available to the public on the website of the State Gazette.
4. Ratification of the CRPD has provided a new impetus for Estonia to improve the situation of people with disabilities and to ensure that application of the law in practice fully respects the rights and obligations provided under the Convention.
5. In 2013, the Estonian Government began the process of consulting with governmental and non-governmental partners to elaborate a development plan for the protection of rights of people with disabilities as a part of Social Protection, Inclusion and Equal Opportunities Development Plan 2016-2023, scheduled for adoption at the end of 2015. The new development plan will further enhance the effects of the Work Ability Reform which will launch in 2016 with the goal of greater participation of disabled people in the labour market.
6. Upon ratification, the Ministry of Social Affairs was designated as the Focal Point under Article 33.1, and the Ministry is also responsible for co-ordinating the implementation of and reporting on the Convention. This report was drafted by the Ministry of Social Affairs, in co-operation with all other ministries and their relevant agencies, and with input from the civil society. The Estonian Chamber of Disabled People, the Estonian Human Rights Centre, the Estonian Institute of Human Rights and the Estonian Patient Advocacy Association were invited to contribute their views on fulfilment of the Convention to date and to participate in a seminar to facilitate this dialogue.

I. General information

Article 1-Purpose

7. The full and equal exercise of human rights and fundamental freedoms is incorporated into the Constitution of the Republic of Estonia. The Constitution also acknowledges fundamental rights and freedoms not expressly set out in the Constitution but being in compliance with the Constitution or guided by the Constitution's spirit. Everyone is entitled to non-discriminatory treatment;¹ discriminatory treatment on grounds of a disability is also prohibited. The respect towards the natural dignity of disabled people is encompassed by the human dignity principle set out in §10 of the Constitution.
8. Estonia does not have a single agreed definition of disability. Disability is defined in two laws. Pursuant to the Social Benefits for Disabled Persons Act (§2 (1)), disability is the loss of or an abnormality in an anatomical, physiological or mental structure or function of a person which in conjunction with different relational and environmental restrictions

¹ The Constitution of the Republic of Estonia: commented edition. Tallinn 2002, <http://www.pohiseadus.ee/>.

prevents participation in social life on equal bases with the others. Pursuant to the Equal Treatment Act (§5), disability is the loss of or an abnormality in an anatomical, physiological or mental structure or function of a person which has a significant and long-term unfavourable effect on the performance of everyday activities. The Equal Treatment Act provides a definition of disability only in the meaning of that Act (mainly for employment relationships, see also reports on Articles 2 and 5). Other national legal acts addressing disability are guided by the definition provided in the Social Benefits for Disabled Persons Act.

9. Disability of a person is established on the basis of the person's health status and ability to cope with social life or work life (§2 of Social Benefits for Disabled Persons Act). The degree of disability of children (up to 16 years of age) and persons in the retirement age is established on the basis of the need for personal assistance, guidance or supervision. The disability of a person of working age (a person of 16 years of age until attaining the retirement age) is established on the basis of restrictions in participation in daily activity and social life.

10. Besides disability, additional concepts are used in various contexts. "Special need" is wider and more varied in its meaning (see report on Article 24) and "incapacity for work" (see report on Article 27) used in the context of labour market to describe restrictions of capacity for work among persons of working age. Also, concepts of long-term health damage and restrictions in activities are used for example in surveys assessing limitations in everyday coping. None of these concepts is fully identical with the definition of disability, therefore disabled people, people with special needs and people incapacitated for work cannot be considered identical groups, although they may more or less overlap in practice.

11. As of the beginning of 2015, the proportion of disabled people in the total population was approximately 11% i.e. more than 141,000 persons. The number and proportion of disabled people in Estonia has steadily increased. Most disabled people are in older age groups (70% of disabled people are 55 years or older) but the proportion of those below 15 years of age has increased by 7% during last years. Mainly due to the difference in life expectancy of men and women in Estonia² there are more women (59%) among disabled people in general, but among disabled children aged below 16 years the proportion of boys is higher (62%).³

12. The most numerous type of disability (34% of all disabled people) in Estonia is mobility impairment which is explained by the age structure of disabled people, as more than half of them are 65 years old and older. 16% of all disabled people have a mental disorder and 3% have an intellectual disability. There are fewer hearing impaired, language or speech impaired and visually impaired people. Nearly a quarter of all disabled people have been determined to be disabled due to a general illness or chronic illness. Approximately one fifth of all disabled people have multiple disabilities.⁴

13. The proportion of disabled people in the population varies highly across regions. The proportion of disabled people in the population is the highest in South-East Estonian counties (ranging from 20.5% in Valga County to 25.5% in Põlva County) and lower in North Estonia (ranging from 6.3% in Harju County to 7.9% in Hiiu County).⁵ The difference in proportions is explained by differences in the population's age structure, the location of public services (e.g. care homes, educational institutions for disabled children and children with special education needs, etc.) and overall socioeconomic situation in the region. Considering the migration of residents, the proportion of disabled people in certain regions may continue to increase in the future as young people migrate elsewhere and the population consequently decreases and ages. The National Audit Office has drawn attention

² Statistics Estonia forecasts the average life expectancy of men and women in 2014 to be 72.1 and 81.8 years, respectively.

³ Source: Statistics Estonia.

⁴ Source: Estonian National Social Insurance Board.

⁵ Source: Statistics Estonia.

to the fact that this kind of trend makes more difficult and expensive to organise and ensure the assistance necessary for disabled people.⁶

Article 2-Definitions

14. The Equal Treatment Act aims to ensure the protection of persons from discrimination, among others, on grounds of disability (Equal Treatment Act, §3 (1)). The Act differentiates between direct and indirect discrimination. Direct discrimination (Equal Treatment Act, §3 (2)) is taken to occur where, on grounds of disability or any other characteristic specified in the Act, persons, according to their subjective perception, are unlawfully and unjustifiably differentiated in a comparable situation. Harassment — violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment — is also considered to be direct discrimination (Equal Treatment Act, §3(3)). Indirect discrimination is taken to occur where an apparently neutral provision or practice is applied to all groups that has a disproportionate effect on members of one group (Equal Treatment Act, §3 (4)).

15. Discrimination includes also a situation where one person is treated less favourably than others or negative consequences follow because he or she has filed a complaint regarding discrimination or has supported a person who has filed such complaint (Equal Treatment Act, §3 (6)). To date, very few official complaints have been filed regarding discrimination based on disability (see also report on Article 5 for more information on monitoring of respect for the principle of equality). In 2013, no cases relating to disability were decided by the labour dispute committees or by the Gender Equality and Equal Treatment Commissioner.

16. Reasonable accommodation means that employers shall take appropriate measures, where needed, to enable a person with a disability to have access to, participate in, or advance in employment, or to undergo training, unless such measures would impose a disproportionate burden on the employer. In determining whether the burden on the employer is disproportionate, the financial and other costs incurred by the employer, the size of the entity or enterprise and the possibilities to obtain public funding or funding from other sources shall also be taken into account (Equal Treatment Act §11).

17. The concept of “long-term” is not unambiguously defined in Estonian laws. Pursuant to the Labour Market Services and Benefits Act (§10 (5)), long-term unemployment occurs when a person has been seeking work for 12 months or longer. A young person of 16-24 years of age is deemed to be a long-term unemployed if he or she has been seeking employment for at least 6 months. The concept of “long-term care” used in social welfare is not defined in legislation and its use is guided by the general understanding that the care is considered to be long-term if it cannot be substituted with other social services.

18. Pursuant to the Language Act (§3), the Estonian sign language is recognised as an independent language and the signed Estonian language is as mode of the Estonian language, which is the official language of the state. The Act also provides that deaf and hearing impaired persons have the right to use the Estonian sign language in communication with state and municipal authorities, with notaries, bailiffs and sworn translators, cultural self-government agencies, and other organisations, companies, non-profit organisations and foundations registered in Estonia.

19. Inclusive design (also called universal design or design for all) is a manner of designing goods, services, buildings and environments while taking into account the needs and interests of the widest possible user group regardless of their specifics and making the results usable and accessible to the maximum possible and reasonable amount of people without any adaptation. The main purpose of applying inclusive design is to ensure equal

⁶ *Riigi tegevus puuetega inimete ja töövõimetuspensionäride toetamisel.* (State activities in supporting disabled people and people receiving pension for incapacity for work) National Audit Office’s report to the Parliament, Tallinn, October 18, 2010, <http://www.riigikontroll.ee/tabid/206/Audit/2159/Area/21/language/et-EE/Default.aspx>.

opportunities and equal participation in the society for people with limited coping abilities, by removing the existing barriers and preventing any new barriers. The universal design handbook *Kõiki kaasava elukeskkonna kavandamine ja loomine* (Planning and creating inclusive living environment for everyone)⁷ was prepared in 2012.

Article 3-General principles and Article 4-General obligations

20. Pursuant to the Constitution of the Republic of Estonia (§28), disabled people enjoy special care of the national government and of local authorities.

21. The Government of the Republic that came into office in April 2015 has put disability issues high in its agenda and continues the work of previous governments to comprehensively promote the opportunities to involve people with special needs in the society. With the involvement of the target groups, a work capacity reform is being prepared and implemented with the purpose to help people with special needs to find employment.

22. Starting from 1 July 2016 the Government will launch a comprehensive work ability reform⁸ which entails a paradigm shift in the approach to disability and employment and is aimed at enabling disabled persons to participate in the labour market and prevent work incapacity through awareness and early intervention. Through the reform, the Government will abolish the establishment of percentages of permanent incapacity for work, start assessing work capacity and increase the provision of labour market and supportive social services (rehabilitation, assistive technology, social services provided by local governments etc.), thus admitting persons with health damage in the labour market. The criteria for allocation of the benefit will be an individual's capacity to work. Persons with partial or absent work capacity are paid a work capacity benefit, but its payment to persons with partial work capacity depends on the person's fulfilment of activeness requirements. In case of employment, the amount and payment of benefit depends on the amount of wages. Thus, the reform balances better the rights and obligations of persons with health damage, as they get more rights to receive help and support, but also an obligation to be active.

23. The reform has received criticism from employers' associations, employees' association, human rights organisations and associations of disabled people. While there is general agreement that the work ability reform is a necessary and welcome step in meeting the challenges of the labour market and improving the quality of life of all people in the society, there is also concern that the reforms are being launched without sufficient preparation. On 18 November 2014 twelve organisations⁹ signed a Cooperation Agreement for Ensuring Social Protection for Persons with Disabilities or Health Damage to support the implementation of work ability reform. Principles and measures were agreed for the development of preventive actions, the increase of employment among persons with reduced work capacity, the development and increase of availability of social and labour market services, the promotion and increase of accessibility of education for children and young people, and the increase of public awareness.

24. The enhancement of protection of the rights of disabled people are divided between several sectoral development plans, the most important of which is the Competitiveness Strategy *Estonia 2020*¹⁰ which aims to increase the impact of active labour market policy, general employment rate and labour market participation rate. *Estonia 2020* objectives are supported by the Ministry of Social Affairs Development Plan for 2015-2018¹¹ which

⁷ The handbook is available online at:

http://www.abivahendikeskus.astangu.ee/fileadmin/media/Trukised/Koiki_kaasava_elukeskkonna_kavandamine___loomine.pdf.

⁸ Website of the work ability reform: <http://www.sm.ee/et/uus-toovoime-toetamise-sustem>.

⁹ All organisations wishing to do so can join the cooperation agreement later on.

¹⁰ Competitiveness Strategy *Estonia 2020*: <https://valitsus.ee/sites/default/files/content-editors/arengukavad/eesti2020.pdf>.

¹¹ The Ministry of Social Affairs Development Plan for 2015-2018 is published at the Ministry of Social Affairs website: http://www.sm.ee/sites/default/files/content-editors/Ministeerium_kontaktid/

targets the increase of the employment rate of disabled people from the current 22% to 42% by 2020. In the coming years, labour market and social services (e.g. social transport, services alleviating the care burden, etc.) supporting the employment of disadvantaged groups will be further developed and employers will be motivated to employ disabled people or to retain their job.

25. The Estonian Lifelong Learning Strategy 2020¹² promotes the implementation of inclusive education. Guided by the principle that every child is valuable, the Children and Families Development Plan 2012-2020¹³ includes measures and activities to support the economic and social coping of disabled children and their families. The General Principles of Cultural Policy until 2020¹⁴ stress that all people living in Estonia must have a chance to create culture and participate in it regardless of their regional, social, cultural, ethnic, age, gender-related or other individual characteristics and needs. The Transportation Development Plan 2014-2020¹⁵ is guided by the principle that the transportation system must ensure safe and environment-friendly movement possibilities for everyone (incl. disabled people). The planning and implementation of the mobility environment will be based on the principles of universal design and different needs and social status of various social groups.

26. The Ministry of Social Affairs is in the process of drafting a Social Protection, Inclusion and Equal Opportunities Development Plan for 2016-2023, which will set out a clear strategy for disability policy. Consultations are currently being held with other actors in the public sector as well as all social partners, including the Estonian Chamber of Disabled People and other disabled people's organisations in Estonia. The Development Plan will be completed at the end of 2015.

27. There is a widespread practice that government authorities include stakeholders and the public into elaboration of the decisions concerning them to ensure the best possible quality and legitimacy of those decisions. The Government Communication Handbook¹⁶ (elaborated in 2011, with later amendments) provides instructions for planning and organisation of public inclusion. The Public Participation Handbook¹⁷ that describes good inclusion practices and guidelines has been prepared for officials and NGOs. The drafts of national legislation and development plans are presented to the Estonian Chamber of Disabled People and other human rights organisations for opinions.

28. The Rules for Good Legislative Drafting and Technical Rules for Drafts of Legislative Acts prepared by the Government of the Republic¹⁸ set the obligation to assess the impact of changes in the legislation or strategic planning. Upon drafting legislation or development plans it is mandatory to carry out an impact assessment on the equality and non-discrimination of people with disabilities. The impact assessment questionnaire¹⁹ provides guidelines on how to assess changes in the rights, coping and quality of life, opportunities to find work, social inclusion etc. of people who need special treatment (including people with disabilities).

Ministeeriumi_arendukava_ja_tooplaan/sotsiaalministeeriumi_valitsemissala_arendukava_2015-2018.pdf.

¹² Estonian Lifelong Learning Strategy 2020: https://valitsus.ee/sites/default/files/content-editors/arendukavad/eesti_elukestva_oppe_strateegia_2020.pdf.

¹³ Children and Families Development Plan 2012-2020: https://valitsus.ee/sites/default/files/content-editors/arendukavad/lpa_2012-2020_taiendatud_2013.pdf.

¹⁴ General Principles of Cultural Policy until 2020: https://www.riigiteataja.ee/akt/3140/2201/4002/RKo_lisa.pdf.

¹⁵ Transportation Development Plan 2014-2020: <https://www.riigiteataja.ee/akt/321022014001>.

¹⁶ The Government Communication Handbook is available at: https://riigikantselei.ee/sites/default/files/content-editors/Failid/valitsuskommunikatsiooni_kasiraamat_eng.pdf.

¹⁷ The *Public Participation Handbook* is available at: https://riigikantselei.ee/sites/default/files/kaasamine_avalikus_sektoris_ja_vabakonnas1.pdf.

¹⁸ Government of the Republic Regulation No. 180 of December 22, 2011 *Rules for Good Legislative Drafting and Technical Rules for Drafts of Legislative Acts*.

¹⁹ The impact assessment questionnaire is published at the Ministry of Justice website: http://www.just.ee/sites/www.just.ee/files/elfinder/article_files/kontrollkusimustik.pdf.

29. On 30 March 2012, a Memorandum of Cooperation Principles was signed between the Government of the Republic and the organisations representing disabled people with the purpose to involve the organisations representing disabled people better into the decision-making processes. The Memorandum sets out principles such as the involvement and consultation of disabled people in all policy areas, with particular attention on education, employment, the constructed environment, transportation, infrastructure, information, culture and social protection. A consultative Cooperation Assembly was formed to mainstream disability issues, coordinate activities to ensure protection of the rights of persons with disabilities, set strategic objectives and priorities. All the ministries, the Estonian Chamber of Disabled People and 4 main DPOs (Association of Persons with Reduced Mobility, Association of the Blind, Association of the Deaf, and Association of People with Intellectual Disabilities) are represented in the Cooperation Assembly.

30. The largest association of disabled people in Estonia is the Estonian Chamber of Disabled People (EPIK) that was formed in 1993. Its purpose is to be a nationwide body of cooperation and co-ordination of activities of disabled people, thereby improving the coping and living standard of disabled people as well as their inclusion in the society. The goal of EPIK is to fight social exclusion and discrimination upon securing constitutional rights (health, education, employment), to contribute actively to awareness-raising and inclusion of disabled people in the society, and to promote equal opportunities for everyone pursuant to the non-discrimination principles in cooperation with the state, citizens' associations, business sector and international organisations. EPIK includes 42 organisations of disabled people from all over Estonia. The Estonian Chamber of Disabled People and its member organisations are supported from the gambling tax funds through the Estonian Fund of Disabled People.

31. Social entrepreneurship is a rapidly growing sector in Estonia. Various start-ups mostly financed by private sector have been introduced to support the disabled people in their everyday lives. For example in 2014 an initiative called Garage 48²⁰ organized a 48 hours event with the aim of developing ideas into functioning prototypes that enable disabled people through innovative technology. For example, an Assistive Technology Assessment Tool was created which allows finding the suitable assistive product for the disability of the person. Online service called Helpific²¹ was created, which is a person-to-person online platform that connects volunteers to people with special needs who need help with their everyday activities.

II. Specific rights

Article 5-Equality and non-discrimination

32. The right to equality and non-discrimination is guaranteed under §12 of the Constitution, which states that “everyone is equal before the law. No one may be discriminated against on the basis of nationality, race, colour, sex, language, origin, religion, political or other views, property or social status, or on other grounds”.²² Moreover, according to the Constitution, everyone is entitled to protection by the government and of the law (§13), and persons with disabilities are under the special care of the state and local governments (§28).

33. Estonia is also bound by the European Convention on Human Rights (ECHR) and its Article 14 on non-discrimination in implementing the ECHR, as well as by the Charter of Fundamental Rights of the European Union and its Article 21 on non-discrimination and Article 26 on integration of persons with disabilities upon implementing European Union law.

²⁰ More information about the Garage 48 initiative is available at: <http://hub.garage48.org/>.

²¹ More information about Helpific can be obtained from: <https://helpific.com/en>.

²² While some legal scholars previously contended that the list of protected grounds under the Constitution is exhaustive, the Supreme Court in 2011 held that the list of protected grounds is open and may include e.g. age and disability.

34. Within domestic law, the principle of equality is further detailed in the Equal Treatment Act, which ensures the protection of persons against discrimination on the grounds of nationality (ethnic origin), race, colour, religion or other beliefs, age, disability or sexual orientation. The prohibition of discrimination includes direct discrimination, indirect discrimination, harassment, instructions to discriminate and victimisation (Equal Treatment Act, §3). For the purposes of the Equal Treatment Act, disability is the loss of or an abnormality in an anatomical, physiological or mental structure or function of a person which has a significant and long-term unfavourable effect on the performance of everyday activities (§5). The Act also allows for the pursuit of de facto equality through positive action, which is defined as the application of specific measures to prevent or diminish inequality deriving from any characteristic protected under the Act, which must be proportionate to the objective sought (§6).

35. The Equal Treatment Act clearly states that it is not discriminatory to grant preferences to persons with disabilities, such as creating a suitable work environment for persons with special needs or disability (Equal Treatment Act §11). The Act further provides that employers provide reasonable accommodation (see definition in the report on Article 2).

36. Under the Equal Treatment Act, this is restricted to employment, vocational guidance and training and membership in professional organisations. Discrimination on the basis of disability is prohibited upon the establishment of conditions for access to employment, to self-employment or to occupation, including selection and recruitment criteria and promotions. It is also prohibited upon entry into employment contracts or contracts for the provision of services, appointment or election to office, establishment of working conditions, giving instructions, remuneration, termination or cancellation of employment contracts or contracts for the provision of services and release from office. Disability must not be a factor in access to vocational guidance, vocational training, advanced vocational training and retraining and practical work experience, as well as with regard to membership in an organisation of employees or employers, including a professional organisation, and the grant of benefits by such organisations. As noted above, employers are also required to provide reasonable accommodation under the conditions provided for in the Act (see also report on Article 27).

37. The Ministry of Social Affairs is currently preparing changes in the legislation to expand the prohibition on discrimination due to disability to other areas, such as education and access to goods and services.

38. Despite the currently limited scope of the provisions regarding discrimination, the Equal Treatment Act provides for the promotion of equality on a broader scale. Under the Equal Treatment Act educational and research institutions and other entities and persons organising training are required, upon determination of the content of studies and organisation of studies, to take into account the need to promote the principle of equal treatment. Further, all ministries, within their area of responsibility, are obliged to monitor compliance with the requirements of the Equal Treatment Act and to co-operate with other persons and entities in the promotion of the principle of equal treatment.

39. Implementation of the Act is monitored by the Gender Equality and Equal Treatment Commissioner, who is an independent and impartial expert. The Commissioner advises members of the public upon filing a complaint regarding discrimination and provides opinions on alleged cases of discrimination on the basis of complaints lodged or on the Commissioner's own initiative. While the Commissioner's opinion is non-binding, the Commissioner has the right by law to obtain information from all persons who may possess information which is necessary to ascertain the facts relating to a case of discrimination, and demand written explanations concerning facts relating to an alleged case of discrimination, and filing of documents or copies thereof within the term set by the Commissioner. The Commissioner additionally analyses the effect of law on the situation of persons with the characteristics protected under the Act, as well as the situation of men and women in the society. The Commissioner advises the Government, government authorities, and local governments and authorities on the implementation of the Equal

Treatment Act and the Gender Equality Act, and may make proposals to the same to amend legislation. The Commissioner publishes an annual report²³ on the implementation of the principles of gender equality and equal treatment, and also provides training and other awareness raising activities for the public sector and the public at large.

40. Pursuant to the Equal Treatment Act, alleged cases of discrimination are heard by a court or a labour dispute committee. A person whose rights are violated due to discrimination may demand that the discrimination be discontinued and may claim compensation for damage caused by the violation. A victim of discrimination may also claim a reasonable sum of money to be paid as compensation for non-patrimonial damage caused by the violation. In determining the amount of compensation, the court or labour dispute committee must take into account; *inter alia*, the scope, duration and nature of the discrimination. Sanctions for incitement to hatred and violation of the principle of equality are also provided for in the Penal Code (§151 and §152).

41. The European Commission's Discrimination Survey from 2012²⁴ indicated that nearly half (48%) of Estonian residents aged 15 years or older were on the opinion that discrimination on grounds of disability is very common or quite common in Estonia. Discrimination on grounds of disability was considered more common in employment relationships and in the labour market (61% of respondents)²⁵ and less common outside work life (e.g. in education, health care, recreation, etc.). 2% of the population have personally experienced discrimination or harassment on grounds of disability within twelve months prior to the survey, while 10% of the population have seen or heard about discrimination or harassment on grounds of disability.²⁶ Nearly half of the Estonians (47%) assessed the efforts made in the country to combat all forms of discrimination as effective or quite effective.

Article 8-Awareness raising

42. Pursuant to the Constitution of the Republic of Estonia (§19), when exercising his or her rights and freedoms and fulfilling his or her duties, everyone must respect and observe the rights and freedoms of others. Full respect for this provision requires that all persons are sufficiently aware of the situation, rights, responsibilities and opportunities of disabled persons. The Chancellor of Justice and the Gender Equality and Equal Treatment Commissioner increase awareness about the rights of disabled people, advise and help people upon filing a complaint regarding discrimination, provide opinions on alleged cases of discrimination, make proposals to amend legislation, implement measures to promote equal treatment and publish reports.

43. In 2013, one of the Commissioner's priorities was to increase the awareness of disabled persons of their rights and to ensure that everybody has a good understanding of the role of the Commissioner and the assistance that the Commissioner's Office can provide.

44. During the first eight months of 2015 the Commissioner has received 119 complaints²⁷ about unequal treatment, mostly about gender discrimination. However, compared to last year, the number of disabled people who have turned to the Commissioner

²³ The annual reports are available at the Commissioner's website:

<http://www.vordoigusvolinik.ee/voliniku-too/aasta-tegevuse-ulevaated/> (only in Estonian).

²⁴ Discrimination in the EU in 2012. Special Eurobarometer 393. Wave EB 77.4. European Commission (2012). http://ec.europa.eu/public_opinion/archives/ebs/ebs_393_en.pdf.

²⁵ The reason for this assessment may be that the employment and work related activeness of disabled people in Estonia as a whole is very low. This in turn indicates various restrictions and barriers to employment, including possible attitude related hindrances.

²⁶ When interpreting personal experiences of discrimination, it must be taken into account that these experiences are subjective perceptions and no actual discrimination may have occurred. On the other hand, people having been victimised by discrimination may not be aware and/or acknowledge that they have been treated in a discriminatory manner.

²⁷ More information can be obtained from the Commissioner's website: <http://www.vordoigusvolinik.ee/>.

has increased. This indicates a rise in the awareness of people with disabilities about their rights and the possibility to seek help in case of discrimination.

45. Civil society plays a key role in awareness-raising. Over the years, public awareness about disabled people as fully valued members of the society has been promoted. For example, employers' awareness is raised by information campaigns and materials, trainings, cooperation networks between public, private and third sector entities. The Good Company (*Hea Ettevõte*) award was developed as a way to recognise businesses that create equally good work conditions for all employees and offer jobs and practical training opportunities for disabled people. Companies can use the trademark *h.e.a* i.e. *Hingega Ehe Asi* (Genuine Item with a Soul) to mark products made with the involvement of disabled people, thereby helping consumers more easily to notice the products that disabled people have helped make. Service providers have been supported with guidance materials (e.g. the manuals of the Astangu Centre of Disability Information and Assistive Technology)²⁸ and support of funding schemes (e.g. the European Regional Fund to improve the accessibility of services) in order to make their services more accessible (e.g. lowering doorsills, construction of wheelchair ramps, accessibility of lifts and information signs, etc.). Professionals (including judges, court registrars, prison officials, police officers, education employees, etc.) have received training on disability, and when deemed necessary, their curricula are reviewed and supplemented with disability issues in cooperation with the Ministry of Education and Research.

46. A yearly fair for the disabled (*Invamess*) takes place in Tallinn. The expositions of participant organisations encompass learning opportunities, activities of disabled peoples' associations, assistive technology and medical products, rehabilitation services and other aspects related to disabilities. Information sessions and social worker consultations are organised to all visitors.

47. The Ministry of Culture and its subordinate authorities are paying increasingly more attention to the topic of disabled people in media. The Estonian National Broadcasting shows daily news in sign language. Many reruns have subtitles. Since 2005 the TV programme *Puutepunkt* (Point of Contact) is on air every Sunday on the ETV channel of Estonian National Broadcasting, followed by telephone counselling and accompanied by online publication www.vedur.ee. Since 2011, the free magazine *Puutepunktid* (Points of Contact) is being published in order to establish a platform for cooperation among disabled people and their families, specialists and politicians. The TV series *Meie inimesed* (Our People) gathers stories of people (including disabled people) living in Estonia. Charity concerts performed by Estonian actors and musicians for the benefit of Maarja Village established for intellectually impaired people are also broadcasted on TV. Every Christmas the one-day-long TV programme *Jõulutunnel* (Christmas Tunnel) is published with the aim to gather a targeted fund to support people with special needs.

48. Since 2012, visually impaired people have the opportunity to download and stream more than 2000 audiobooks, newspapers and magazines from the online library of the Estonian Library for the Blind. The majority of more than 3400 audiobooks of the Library stored on CDs or audiocassettes can be used by visually impaired people without having an obligation to return them. In addition, the Estonian Library for the Blind prepares and electronically publishes a monthly list of new books, called *Raamatututvustaja* (Book Introducer) for visually impaired people and bimonthly audio magazine *Epiifon* about the life of visually impaired people.

49. Estonian language courses for hearing or visually impaired adults have been organised in Tallinn and Ida-Viru County. A learning kit for visually impaired people *Lood elust enesest* (Stories from the Real Life),²⁹ consists of audio clips and worksheets on aspects of everyday life. The Estonian language courses learning kit for hearing impaired

²⁸ The guidance materials are available at: <http://www.abivahendikeskus.astangu.ee/kaasav-elukeskkond.html>.

²⁹ *Lood elust enesest*, available at: <http://web.meis.ee/vaegnagijad/>.

adults *Pille ja Lauri lood* (Pille's and Lauri's Stories)³⁰ includes worksheets, videos and electronic exercises.

50. Tallinn Law School of Tallinn University of Technology in cooperation with the Estonian Human Rights Centre conducts a project *Erinevus rikastab* (Diversity Enriches)³¹ aimed to raise awareness about equal treatment and human rights, to notice and seek help in cases of discrimination and to combat intolerance. In 2011, the project focused on promoting the social status of disabled people. In 2013 and 2014 the focus is on the empowerment of disabled people. Information campaigns, media programmes, articles in nationwide newspapers, exhibitions, trainings and studies have been organised during the project. The campaigns *Märka inimest, mitte puuet* (Notice the person, not the disability) in 2011 and *Austame erinevusi* (We respect the differences) in 2012 drew attention to the importance of disabled people in Estonian society and stressed the importance and benefit to include them in the labour market. Weekly radio programmes called *Huvituja* (Interested) focusing on various domains of equal treatment (including inclusion of people with special needs) were broadcasted in 2011. The annual campaign week *Erinevus rikastab nädal* (Diversity Enriches week) has been conducted since 2011, including various awareness-raising events and film festivals on the topic of rights of minorities. For example in 2013 the special focus was on coping of intellectually impaired people and their inclusion in the society.

Article 9-Accessibility

51. Pursuant to the Constitution of the Republic of Estonia (§44), everyone is entitled to free access to information disseminated for public use. Having ratified Article 15 of the European Social Charter (revised), Estonia has the obligation to implement measures helping disabled people to live independently, integrate socially and participate in the society regardless of their age and the cause and nature of their disability. The right is repeated for children in the Republic of Estonia Child Protection Act (§54), according to which public buildings, roads and means of transport used by disabled children shall be adapted to accommodate movement by wheelchair, crutches or other aids. Buildings intended for use by children shall include special facilities to satisfy the sanitary needs of the disabled child.

52. A population survey ordered by the European Commission and conducted in 2012 indicated that people in Estonia have most frequently encountered problems with accessibility regarding the use of the means of transportation, entry into buildings and movement on streets.³² Poor accessibility is also one of the most commonly mentioned problems that parents with disabled children and adult disabled people have experienced in relation to studies and use of educational, social and health care services.³³

53. The National Transportation Development Plan 2014-2020³⁴ establishes that the principles of universal design shall be used in development of infrastructure, steadily transitioning to rolling stock suitable for also serving people with reduced mobility, and implementing information systems corresponding to the needs of hearing and visually impaired people.

54. In April 2015 the Accessibility Council comprising of representatives of DPOs, architects, constructors, designers, parliament, universities, other ministries, relevant

³⁰ *Pille ja Lauri lood*, available at: <http://web.meis.ee/vaegkuuljad/>.

³¹ The project is being funded from the European Commission's PROGRESS programme and co-funded by Tallinn Law School of Tallinn University of Technology as well as the Ministry of Social Affairs. The project's website is www.erinevusrikastab.ee.

³² Source: European Commission (2012). Accessibility. Flash Eurobarometer 345. http://ec.europa.eu/public_opinion/flash/fl_345_en.pdf.

³³ *Puudega lastega perede toimetuleku ja vajaduste uuring 2009* (Survey on coping and needs of families with disabled children 2009). Tallinn: GfK Custon Research Baltic, Estonian branch. <http://rahvatervis.ut.ee/bitstream/1/4023/1/Gfk,%202009.pdf>.

³⁴ The Estonian Transport Development Plan is published at the Government of the Republic website: <https://www.riigiteataja.ee/akt/321022014001>.

government agencies and local governments was established with the purpose to propose solutions on how to make buildings, transportation, living environment, information etc. accessible to all.

55. The Public Transport Act (§17 and 18) provides for a possibility for state subsidies for purchase of public transport vehicles and accommodations in transportation and infrastructure, for example the construction or renovation of public transport infrastructure objects like passenger terminals, bus stations etc. There are examples of such constructions (e.g. Tallinn Bus Station, Jõgeva Bus Station, Mäo Passenger Terminal), which have improved the accessibility also for wheelchair users. The state has subsidised the purchase of buses with a ramp or a lifter and provided training and rehearsals for bus drivers and service personnel in assisting people with reduced mobility. Every public transport vehicle must have at least 2 seats marked as seats intended for disabled people. Public procurements for bus transport in counties include the requirement for the carrier to use buses accessible for wheelchair users. If the freedom of movement of people with reduced mobility cannot be ensured with public or special transport, the state subsidises³⁵ the acquisition or reconstruction of a passenger car.

56. In 2014, railway transport became accessible for disabled people as the entire rolling stock was replaced and waiting platforms were reconstructed. Timetable of public transport vehicles suitable for disabled people is available at stops and online. People with reduced mobility point out that their free movement is not fully ensured and access to older buildings, buses etc. is hindered. The majority of vehicles in public transport are over 10 years old (the average age of buses is 9.9 years, that of trams 27.7 years and trolleys 14.4 years) and do not take into account the needs of various passenger groups. The situation is better in major cities where most vehicles are city buses with accessible floors.³⁶ For example, 48% of the rolling stock in Tallinn has low floors (incl. 52% of buses, 16% of trams and 56% of trolleys)³⁷ and all new vehicles have to be accessible for people with reduced mobility.

57. The Social Welfare Act (§26 (1)) sets for local governments the obligation to organise transportation for the disabled people. A social transportation service (also a taxi service for the disabled people in larger local governments) aims to enable people with disabilities and reduced mobility to attend work or school and to facilitate their access to public services (e.g. medical, financial, legal assistance etc. services). It is increasingly more widespread that local governments co-operate to provide social transportation service (for example cooperation between local governments in Lääne County and in Lääne-Viru County).³⁸ The procedure for the use of taxi service and partial compensation thereof is established by local governments themselves.

58. The Traffic Act provides special requirements for visually impaired people and people with reduced mobility as well as special rights (e.g. the right to parking, to parking places, to stopping in the area of effect of a prohibiting traffic sign) to a driver with reduced mobility and the driver of a vehicle serving a person with reduced mobility or a blind person. Sidewalks and pedestrian crossings must be equipped with more lighting, more varied surface coverings and touch-discernible and contrast-coloured safety strips. Marking lights and sound alarm traffic lights must be used. Disabled people see the need for a more clearly organised parking system, sidewalks with less obstacles and improvement of the availability of information about participation in traffic.

59. The Building Code and its implementation acts provide that all public construction works (including roads, parking lots, paths and walkways) and its public parts (including e.g. doors, stairs, railings, gates, elevators, etc.), rooms (including toilet rooms) or areas that were built, extended or reconstructed after 2002 must be accessible to and usable by persons with reduced mobility and by visually impaired and hearing impaired persons. A

³⁵ Minister of Social Affairs Regulation No 79 of December 14, 2000 *The conditions and procedure for applying for and favourable assigning of technical aids.*

³⁶ Source: Ministry of Economic Affairs and Communications.

³⁷ Source: Ministry of Economic Affairs and Communications.

³⁸ For example, the social transportation service in Lääne-Viru County: <http://www.virol.ee/sotsiaaltransport>.

national priority of the building sector is to increase the efficiency of supervision. The Estonian Chamber of Disabled People continues to cooperate with *Riigi Kinnisvara AS* (State Real Estate Ltd) in order to improve the accessibility of public sector buildings for disabled people. The Centre of Disability Related Information and Assistive Technology in cooperation with the Union of Estonian Architects, the Estonian Design Centre and the Estonian Academy of Arts have prepared the handbook *Kõiki kaasava elukeskkonna kavandamine ja loomine* (Planning and creating a living environment inclusive of everyone).³⁹

60. Pursuant to the Public Information Act, access to information shall be ensured for every person in the quickest and easiest way possible. The information holder is required to disclose information in a way that ensures that it reaches every person who needs the information as quickly as possible. Every institution providing public services is responsible for availability of information to visually impaired people in Braille or other alternative forms and shall bear the publishing costs.

61. Increasingly more websites and digital archives are using the WCAG (Web Content Accessibility Guidelines) and WAI (Web Accessibility Initiative) guidelines to ensure access for people with special needs (see more in the report on Article 21). The digital archive of the National Library of Estonia will be provided with a new software solution for a text-to-speech interface which will provide the possibility to generate audiobooks. This will provide visually impaired people with access to a large quantity of recently published information. Since 2014, the websites of the Government of the Republic, ministries and other government agencies are accessible for users with visual, hearing, physical, speech, cognition, language, learning or neurological disabilities.

Article 10-Right to life

62. The right to life is a generally recognised principle of international law which is binding on Estonia through the Constitution as well as international conventions (e.g. the Convention for the Protection of Human Rights and Fundamental Freedoms (Article 2)) and the UN Convention on the Rights of the Child (Article 6). Pursuant to §3 of the Constitution of the Republic of Estonia, generally recognised principles and rules of international law form an inseparable part of the Estonian legal system. Pursuant to §16 of the Constitution of the Republic of Estonia, everyone has the right to life. The right to life is protected by the law. No one may be arbitrarily deprived of his or her life.

Article 11-Situations of risk and humanitarian emergencies

63. Estonian legislation that regulates the situations of risk (the Emergency Act, the State of Emergency Act, the Peacetime National Defence Act and the Wartime National Defence Act) does not emphasize the special status of disabled people and therefore disabled people may be in a graver danger than other people in case of an emergency. In the future, the implementation acts of the Emergency Act and the guidelines to be prepared on the basis of the Act (e.g. the guidelines for preparing an emergency resolution plan) must establish an obligation that while preparing the plan, the security of disabled people (including provision of information in a manner and form understandable to them and removal of hindrances) needs to be taken into account.

64. In order to support disabled people in situations of risk, the Rescue Board, the Emergency Centre and other relevant authorities have organised several activities. Hearing and speech impaired people can send free of charge emergency text messages in Estonian, Russian and English to the rescue hotline 112 (SMS-112) from all communication networks operation in Estonia, use text messages to the Emergency Centre to call rescue services, police and ambulance and receive information about solving the incident in the form of text

³⁹ The handbook is available online at:
http://www.abivahendikeskus.astangu.ee/fileadmin/media/Trukised/Koiki_kasava_elukeskkonna_kavandamine___loomine.pdf.

message. Positioning of the senders of emergency messages is enabled via the SMS-112 system. Information activities and trainings have been conducted to disabled people in this matter.

65. A workgroup at the Rescue Board has been tasked to develop rescue services for disabled people. Practical and theoretical trainings about fire detection devices, behaviour in case of fire, use of primary firefighting means for future rescuers and physically impaired people have been organised. The Estonian Academy of Security Sciences organises training days and evacuation exercises to make sure that future rescuers know how to help disabled people. Fire safety video clips (a total of 13 videos)⁴⁰ and film *Teoreem tulest* (Theorem of Fire) have been prepared in sign language. The water and fire safety related thematic websites www.veeohutus.ee and www.tuleohutus.ee of the Rescue Board have been prepared taking into account people with special needs.

66. The Rescue Board holds an annual project competition to support fire and water safety prevention activities for disabled people and their family members. For example, trainings and information days have been conducted to introduce the use of smoke detector designed especially for hearing impaired people. Water safety information materials have been prepared for people with special needs. Emergency buttons that are installed for elderly and disabled people living alone enable to call for help in situations where person his/herself is not able to move and open the door for rescuers (for example in cases of sudden health problems, falling, fire and other emergency cases).

67. Pursuant to the evacuation requirements established with a Regulation of the Minister of the Interior,⁴¹ evacuation plans for buildings with heightened fire risk (e.g. shopping centres, care homes, housing institutions) must take into account the needs of people with special needs. Guidance materials have been prepared and information days have been organised for the possessors of sites and buildings where disabled people may be staying or moving around. Evacuation guidelines for schools include instructions for evacuation of disabled children.

68. Through an Estonian-Swiss cooperation programme⁴² and in cooperation with the Rescue Board, fire safety has been improved and probability of proprietary damage has been reduced in around-the-clock medical and welfare institutions. Guidance materials have been prepared, trainings and practical instructions have been conducted and evacuation means have been purchased with the purpose to contribute to the safety in institutions.

69. Pursuant to the Military Service Act, a person enrolling in military service must pass prior medical examination assessing the compliance of the person's state of health to the health requirements prescribed for conscripts. There is no provision expressly prohibiting disabled persons from joining the military service, but it is probable that disabled persons do not comply with the requirements prescribed for enrolling in the military service.

70. Comprehensive medical treatment, rehabilitation and support are ensured for people having incurred severe health damage in the course of performing service duties and being therefore officially established as permanently incapable of work in order to enable them to cope independently. Except in case of some psychiatric diagnoses, the Estonian Defence Forces offer injured and disabled servicepersons the opportunity to continue the military service. The service position offered has to correspond to the injured person's skills and qualification and retraining opportunities shall be provided, if necessary.

Article 12-Equal recognition before the law

71. Legal capacity is regulated by the General Part of the Civil Code Act which provides that all natural persons have uniform and unrestricted passive legal capacity (legal standing), which is defined as the capacity to have rights and obligations under civil law. Passive legal

⁴⁰ Fire safety related videos are available at the Rescue Board's YouTube channel.

⁴¹ Minister of the Interior regulation No. 43 of September 1, 2010 *Requirements for action plans in case of fire and for organisation of fire evacuation and action trainings*.

⁴² More information about the co-operation programme:
<http://www.rescue.ee/eesti%26%23169%3Bveitsi-koostooprogramm>.

capacity cannot be restricted, and therefore there is no restriction, for example, on the ability or right of persons with disabilities to own or inherit property. The Constitution also clearly states that the law protects everyone from arbitrary exercise of governmental authority (§13 (2)), that the property of every person is inviolable and equally protected (§32 (1)) and the right of succession is guaranteed (§32 (4)).

72. Passive legal capacity is complemented by active legal capacity (legal agency), which is defined as the capacity to enter independently into valid transactions. Persons who have attained 18 years of age are considered adults and have full active legal capacity. Persons who are under 18 years of age (minors) and persons who due to mental illness, mental disability or other mental disorder are permanently unable to understand or direct their actions, have restricted active legal capacity. In the latter case, restricted legal capacity must be determined by a court on the basis of a forensic psychiatric examination about the person's ability to understand his or her actions.

73. The restriction of legal capacity is not determined based on the existence of a disability or any diagnosis, but rather is solely based on the ability of a person to comprehend the nature and consequences of his or her actions. Under no circumstances can the active legal capacity of a person be restricted merely because the person has a physical, sensory, mental or intellectual impairment.

74. Assistance in exercising rights and guardianship are regulated by the Family Law Act and the Code of Civil Procedure to allow for a person to exercise the rights that he or she is unable to exercise on his or her own. Guardianship is not established if the interests of an adult can be protected by granting authorisation to a person of trust or with the assistance of family members or other assistants.

75. The restriction of active legal capacity must not lead to unnecessary consequences or go beyond what is actually necessary. The restricted active legal capacity of an adult therefore affects the validity of the transactions entered into by the person only to the extent to which he or she is unable to understand or direct his or her actions. If a guardian is appointed, the guardian's mandate extends only to the performance of functions for which guardianship is required, which is clearly set out in the respective court order. When establishing guardianship, the court must also assess the person's capability to understand the legal consequences of contraction of marriage, acknowledgement of paternity and other transactions concerning family law, and determine whether the person retains his or her voting rights.

76. Once every five years, a court must determine whether guardianship is still necessary or whether it should be reduced in scope or terminated (Family Law Act, §203). The court must hear and give due consideration to the opinion of the person for whom a guardian is appointed. This hearing may take place in the person's normal environment, if the person so requests or the court deems it necessary in the interests of the proceedings. The person also has the right to be accompanied by a person whom he or she trusts (Family Law Act, §524). The only reasons for which a court can forego the hearing of the person in question are if an authorised medical doctor confirms that this may be detrimental to the person's health or if the court upon direct examination of the person determines that the person is manifestly unable to express his or her will. (Code of Civil Procedure, §524).

77. Further, if the court deems it to be in the interests of the person for whom guardianship is being decided, the court must appoint a representative for the person in the proceedings. If a court has reason to believe that a person suffers from a mental disease or mental disorder, the court must appoint an expert to provide an opinion on whether and to what extent guardianship is required. The expert opinion must set out the tasks for which guardianship is required and the presumed duration of this need (Code of Civil Procedure, §522). All matters relating to guardianship are decided by a court order, which may be appealed by the guardian, the person in question (ward) or by the spouse, direct ascending or descending relative or person of trust of the ward.

78. A guardian is required to act at all times in the interests of the ward, and is bound to protect his or her proprietary and personal rights, including by ensuring that the ward receives health and social services to the required extent (Family Law Act, §206). Potential conflicts of interest are avoided by restrictions on the transactions which a guardian may

make on behalf of the ward, foremost by prohibiting any transactions between the ward and guardian. Supervision over guardianship is also exercised by the courts.

79. Estonia continues to abide by the declaration made upon ratification of the Convention: “The Republic of Estonia interprets Article 12 of the Convention as it does not forbid the restricting of a person’s active legal capacity if such need arises from the person’s ability to understand and direct his or her actions. In restricting the rights of persons with restricted active legal capacity, the Republic of Estonia acts according to its domestic laws.” Estonia continues to be of the position that the person’s active legal capacity cannot be restricted because of the person’s disability, but the person’s ability to understand and direct his or her actions.

Article 13-Access to justice

80. The Constitution guarantees the rights of all persons to recourse to the courts (§15). Estonian law differentiates between passive and active legal capacity (see Article 12 of the current report). Persons with disabilities have full procedural legal capacity, which means that they can exercise all of their procedural rights and obligations independently, unless this has been explicitly restricted by a court of law.

81. Estonian procedural law provides that if a participant in a proceeding is deaf, mute or deaf-mute, the course of the proceeding must be communicated to him or her in writing, or through an interpreter or translator during the proceedings (Code of Civil Procedure, §35; Code of Criminal Procedure, §8 (1)). The Code of Criminal Procedure further provides that investigative authorities, prosecutors and the courts must provide all persons with a real opportunity to defend themselves (Code of Criminal Procedure, §8 (1)), which imposes the obligation to ensure effective communication with persons with disabilities. The criminal defence counsel’s participation in the entire criminal proceedings is mandatory if the person’s mental or physical disability renders him or her unable to defend themselves or if the defending is made difficult by it.

82. Minors of at least 15 years of age have the right to participate in proceedings together with a legal representative, i.e. a parent or legal guardian (Code of Civil Procedure, §202), and the courts must hear the opinion of a child of at least 10 years in matters that affect them, and younger children if the court deems that they are sufficiently mature. If a court deems it to be in the interests of the child, the child may be heard outside of the court in his or her familiar surroundings. If necessary, a psychiatrist, psychologist or social worker will be present.

83. A child of at least 14 years of age with sufficient capacity to exercise discretion and will has the right, in a family matter on petition pertaining to his or her person, to file an appeal against a ruling without the assistance of his or her legal representative. The same also applies to other matters where a child must be heard before adjudication of the matter (Family Law Act, §553).

84. In criminal matters, the participation of defence counsel is mandatory in any case where the accused committed the act when he or she was a minor. Where a minor is called on to give testimony, a child protection worker, social worker, pedagogue or psychologist must be present, unless the investigator has higher education or sufficient training in child protection, psychology or pedagogy.

85. Whereas judicial proceedings are as a rule public, a court may declare a proceeding or session to be closed, *inter alia*, in the interests of a minor or a person with a mental or intellectual disability, and in particular in order to hear the statements or testimony of such person (Code of Civil Procedure, §38).

Article 14-Liberty and security of the person

86. The Constitution of the Republic of Estonia provides that the rights and freedoms of people may only be circumscribed in accordance with the Constitution. Such

circumscription must be necessary in a democratic society and may not distort the nature of the rights and freedoms circumscribed.

87. According to the Constitution, everyone has the right to liberty and security of person. No one may be deprived of his or her liberty except in the cases and pursuant to a procedure provided by law. The Constitution of the Republic of Estonia does not permit deprivation of liberty on grounds of disability. Insofar as the Constitution provides equal protection to both disabled and non-disabled people, disabled people are entitled to the same procedural and financial warranties stemming from the law as other people. If the state has unjustly deprived someone of their liberty, the Compensation for Damage Caused by State to Person by Unjust Deprivation of Liberty Act shall be applied.

88. Pursuant to the law in force, a detainee shall be explained his rights both orally and in writing, from the start of his or her deprivation of liberty. Disabled people are taken into consideration similarly to non-disabled people, while paying more attention to their needs and rendering required assistance to them. Upon conducting police procedures in a situation where a concerned person cannot hear, speak or see, an interpreter from a sign language interpreting centre shall be summoned or if possible, the police officers shall communicate with the person in writing. Police officers have not been provided with special training for working with disabled people, but there have not been any reports that investigators have had any problems or complaints concerning work with disabled people.

89. The Constitution of the Republic of Estonia permits restrictions of people's rights only to the extent necessary to achieve the objective. In order to ensure the exercise of the rights of persons with restricted active legal capacity which they cannot exercise themselves due to their active legal capacity being restricted, a court may appoint a guardian for the person, but more lenient measures must be preferred to the placement of a person under guardianship. Guardianship is not required if an adult person's rights can be protected by a letter of authorisation or through his or her family members or other assistants. As the help must be proportional and conform to the person's situation, a guardian may be appointed only for the tasks for which the guardianship is necessary. The guardian must base his or her actions on the ward's interests. In order to prevent conflicts of interests as well as any abuse of the ward's property, the guardian is subject to prescribed restrictions in terms of performing transactions.

90. A person's legal representative cannot grant consent on his or her behalf for provision of health care and social welfare services. A decision to accommodate disabled person in a guarded social welfare or health care institution can be made only by a court.

91. Pursuant to the Mental Health Act and the Communicable Diseases Prevention and Control Act, the decision to provide involuntary care to a person can be made only by a court. In case of applying involuntary care, the person's decision is substituted by a court's decision only if three prerequisites are fulfilled simultaneously: 1) the person has a severe mental disorder which restricts his or her ability to understand or control his or her behaviour or the person is infected with an especially dangerous communicable disease; 2) without in-patient treatment, the person endangers the life, health or safety of himself or herself or others due to the mental disorder or the especially dangerous communicable disease and 3) other care is not sufficient. Involuntary health care services cannot be provided in Estonia for any other grounds.

92. A person is placed in a social welfare institution to receive 24-hour special care service without his or her consent or the consent of his or her legal representative upon the existence of all the following circumstances: 1) the person has a severe mental disorder which restricts his or her ability to understand or control his or her behaviour; 2) the person is dangerous to himself or herself or others if he or she is not placed in a social welfare institution and 3) the implementation of earlier measures has not been sufficient or the use of other measures is not possible. The number of people placed in a social welfare institution with a court ruling has decreased from 197 persons in 2010 to 124 persons in 2014⁴³ as a result to improved prevention and implementation of support services.

⁴³ Source: statistics by the Ministry of Social Affairs.

93. Restriction on freedom of movement of a person receiving social services is regulated with the Social Welfare Act (§20¹ and §20²), pursuant to which a provider of 24-hour special care service may restrict the free movement of persons who are placed in a social welfare institution on the basis of a court ruling. A provider of 24-hour special care service may restrict the right of a person with a mental disorder receiving the 24-hour special care service to move freely only to the extent required for the protection of the rights and freedoms of such person and other persons.

94. The provider of 24-hour special care service may use only isolation as a restriction on freedom of movement with respect to persons who have not been placed to receive the 24-hour special care service by a court ruling. Placing a person in an isolation room is deemed to be isolation. The person shall be constantly under the supervision of the provider of 24-hour special care service during the person's stay in an isolation room and the provider of 24-hour special care service shall adopt a reasoned written decision concerning the isolation and shall notify the legal representative of the person.

Article 15-Freedom from torture or cruel, inhuman or degrading treatment or punishment

95. Protection against torture or cruel, inhuman or degrading treatment or punishment is regulated by the Constitution of the Republic of Estonia and respective international conventions. The Constitution of the Republic of Estonia stipulates that everyone is equal before the law. No one may be discriminated against on the basis of nationality, race, colour, gender, language, origin, religion, political or other views, property or social status, or on other grounds (§12). No one may be subjected to torture or to cruel or degrading treatment or punishment. No one may be subjected to medical or scientific experiments against his or her free will (§18).

96. The Chancellor of Justice is designated as the national mechanism for the prevention of torture and other cruel, inhuman or degrading treatment or punishment.⁴⁴ Under the OPCAT mandate the Chancellor of Justice pays verification visits to guarded facilities as psychiatric hospitals, special care homes, schools for students with special needs, general care homes, substitute homes, youth homes or any other agencies under supervision at least once every three years. Extraordinary verification visits take place as needed, mainly after the Chancellor of Justice has received information about an abuse incident.⁴⁵

97. The Penal Code sets out sanctions for physical abuse (including causing damage to the health of another person, or battery or other physical abuse which causes pain), torture, trafficking in human beings, forcing to work under unusual conditions, forcing to engage in prostitution and aiding prostitution, pimping, taking or leaving a person through violence or deceit into a state where his or her personal liberty may be restricted, hostage taking, illegal conduct of human research, and illegal removal of organs or tissue. The Penal Code does not differentiate between disabled or non-disabled victims.

98. Pursuant to the Law of Obligations Act (§766 (4) and §767), health care services may be provided to a person only with his or her consent. In case the person is unable to exercise his or her will, health care services are provided according to his or her actual or presumed intentions. The provision of health care services is permitted without the consent of the patient only if this is in the interests of the patient and corresponds to the intentions expressed by him or her earlier or to his or her presumed intentions and if failure to provide health care services promptly would put the life of the patient at risk or significantly damage his or her health.

99. Pursuant to the Medicinal Products Act (§91) and the Medical Devices Act (§21), a person's written consent is required for a clinical trial of a medicinal product or a medical device. Consent may be withdrawn at any time. The legal representative of a person with

⁴⁴ Estonia ratified the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 2006.

⁴⁵ Verification visit reports of the Chancellor of Justice are available at the Chancellor of Justice website: <http://oiguskantsler.ee/et/kontrollkaigud-0>.

restricted active legal capacity has the right to give, taking into account the person's presumed will, consent to the participation in a clinical trial. The person conducting the clinical trial must not adhere to the decision of the legal representative if their decision clearly violates the interests of the person with restricted active legal capacity. The person with restricted active legal capacity must be informed, to a reasonable extent, of the circumstances of the clinical trial and the decisions made. A person who is unable to provide responsibly informed consent may be the subject of a trial only if the investigated medicinal product is likely to bring direct benefit to the person and the objective of the trial cannot be achieved by way of a trial whose subjects are able to give informed consent.

Article 16-Freedom from exploitation, violence and abuse

100. The Constitution of the Republic of Estonia (§18) provides that no one may be subjected to torture or to cruel or degrading treatment or punishment. Torture, cruelty, inhumane treatment, degrading treatment and punishment are considered subtypes of abuse.⁴⁶ Everyone has the right to free self-realisation. When exercising his or her rights and freedoms and fulfilling his or her duties, everyone must respect and observe the rights and freedoms of others, and obey the law (§19).

101. The Penal Code sets out sanctions for exploitation, violence and abuse (including e.g. rape, compelling to engage in sexual intercourse or other act of sexual nature); the sanctions depend on the type and severity of the offence and vary from three to fifteen years of imprisonment. Legal persons are punished with pecuniary punishment for all the aforementioned acts. The imposition of punishments does not differ based on whether the victims are disabled or non-disabled persons.

102. The identification, investigation and, if necessary, prosecution of exploitation, violence and abuse cases is regulated with the Code of Criminal Procedure which applies to all target groups, including disabled people. The criminal procedure prescribes the required specifics for use of a sign language interpreter for disabled people.

103. Based on the Victim Support Act, persons who have fallen victim to negligence, mistreatment or physical, mental or sexual abuse and, in certain conditions also their family members, are entitled to receive victim support services (§3), social welfare services and state compensation to victims of crime (Chapter 3). If necessary, translation and interpretation services (including sign language) are provided.

104. Since 2010, nationally co-ordinated objectives, measures and activities to reduce violence are gathered into violence reduction and prevention development plans⁴⁷ with the overall goal to reduce and prevent violence in its various forms and address violence related to minors, domestic violence and trafficking in human beings. While the development plan implemented in 2010-2014 mainly focused on consequences, the new plan⁴⁸ is more oriented towards prevention and support of victims according to their needs. The development plan includes measures and activities helping shape violence-condemning social norms and attitudes in the society, increasing the awareness of children and young people about violence and improving their life skills, enabling to better notice and react to violence cases, helping violence victims, providing services to violent offenders for reduction of their recidivism.

105. The Ministry of Social Affairs cooperates with partners, counsels and supports people (including disabled people) who have experienced human trafficking and sexual

⁴⁶ The Constitution of the Republic of Estonia: commented edition (2012). www.pohiseadus.ee.

⁴⁷ The Violence Reduction Development Plan for 2010-2014 is published at the Government of the Republic website: https://valitsus.ee/sites/default/files/content-editors/arengukavad/arengukava_vagivalla_vahendamine_2010_2014.pdf.

⁴⁸ The Violence Prevention Development Plan 2015-2020 is available at the Government of the Republic website: https://valitsus.ee/sites/default/files/content-editors/arengukavad/vagivalla_ennetamise_strateegia_2015-2020_kodulehele.pdf.

violence. Estimations⁴⁹ indicate that the proportion of disabled people among persons involved in prostitution is quite high. In order to help victims of sexual violence, the work of women's shelters is supported. Social, psychological and legal counselling as well as post-incident rehabilitation services are provided to people involved in prostitution. Trainings and roundtables are organised to network specialists. Projects "Providing improved support series to victims of gender-based violence, strengthening cooperation among agencies and increasing the public awareness" and "Care for People — Stop Violence"⁵⁰ have raised the public awareness about gender-based domestic violence and sexual violence. Future plans include the establishment of self-help groups for victims of human trafficking, improvement of working conditions of shelters and the rehabilitation centres for victims of human trafficking and more systematic and wider awareness-raising focusing on different aspects of violence (including psychological violence).

106. State agencies (e.g. the Chancellor of Justice) and non-governmental organisations are both engaged in abuse prevention. For example, the work of the Estonian Patient Advocacy Association is focused on prevention of abuse and protection of people in order to represent the interests of patients at the individual, systematic and international level. For that purpose, patients are informed about their rights, lectures are given to patient organisations and health care institutions. Informing patients and employees of medical institutions contributes to the improvement of health care arrangement and patient satisfaction. Among all people who turned to the Estonian Patient Advocacy Association in 2012 (a total of 1326 people), 28% were patients with mental disorder, 28.2% were disabled people, 5.2% were patients of a guarded ward of a hospital or care home and 8% were family members with care burden.⁵¹

107. Disabled people's encounters with violence have been studied with a survey of adult disabled people in 2009.⁵² The survey indicated that nearly one fifth (18%) of adult disabled people had experienced psychological violence and 1% had experienced physical (including sexual) violence. Practically all people having experienced physical violence had also experienced psychological violence. Higher than average prevalence of suffering from violence occurred among younger (16-29 years old) and middle-aged (30-49 years old) disabled people (32% and 36%, respectively). More frequent suffering from violence occurred among people with mental disorders (39%).⁵³

Article 17-Protecting the integrity of the person

108. The Constitution of the Republic of Estonia (§20) provides that everyone has the right to liberty and security of person. Deprivation of liberty is permitted only in exceptional cases and pursuant to a procedure provided by law. No distinction in these rules is made based on disability.

109. The Termination of Pregnancy and Sterilisation Act (§5-12) provides that a woman's pregnancy may only be terminated at her own written request. Nobody is allowed to force or influence a woman to terminate her pregnancy. Pregnancy of a woman with restricted active legal capacity may be terminated at her own request and with the consent of her guardian. If a woman does not consent to the termination of pregnancy or cannot express her will or if the guardian does not consent to the termination of pregnancy, pregnancy may only be terminated with a court's permission. If due to delay of receipt of the court's permission there is a serious risk to the woman's health, pregnancy may also be

⁴⁹ Estimations are based on the experience of victim support counsellors in *MTÜ Eluliin* (NGO Life Line).

⁵⁰ The project is implemented in cooperation with the Estonian Sexual Health Association.

⁵¹ Source: annual statistics of the Estonian Patient Advocacy Association: <http://www.epey.ee/index.php?page=239>.

⁵² *Puuetega inimeste ja nende pereliikmete hoolduskoormuse uuring 2009*. (Survey of people with disabilities and care burden of their family members 2009. Final Report) Saar Poll OÜ, University of Tartu.

⁵³ There are no direct comparison data about the entire population's experience of violence in Estonia.

terminated without a court's permission but in such case permission must be immediately obtained *ex post facto*.

110. The Termination of Pregnancy and Sterilisation Act (§20-24) provides that a person may only be sterilised at his or her own written request. Special quality requirements (including education and specialisation of medical doctors, organisation of health care institution and provision of counselling services before sterilisation) are established by law. The sterilisation of a person with restricted active legal capacity shall be decided by a county court in proceedings on petition of the guardian of a person.

Article 18-Liberty of movement and nationality

111. The Constitution of the Republic of Estonia guarantees all persons freedom of movement and freedom of choice of residence (§34).

112. Where appropriate, special provisions apply to persons with disabilities to ensure that naturalisation rights can also be exercised in practice. For example, adults with restricted legal capacity (see also report on Article 12) are exempt from the requirement to pass the examination on knowledge of the Estonian Constitution and the Citizenship Act and the Estonian language proficiency examination (§6 and §35), and persons who are unable to take these exams under the normal conditions due to their health are required to pass the exams only in a manner and at a level that their health allows.⁵⁴

113. The application procedures for personal identity documents are the same for all persons, with the exception of persons with restricted active legal capacity who must apply for such documents together with a legal representative. If it is deemed to be necessary in the interests of the applicant, a person with restricted active legal capacity may be required to appear in person to receive an identity document.

114. The Constitution (§35) also guarantees the right of all persons to leave Estonia, which can only be restricted in accordance with the law in order to ensure court or pre-trial proceedings or execute a court judgment. No distinction is made in these rules or in the rules for entry into Estonia based on disability.

115. The Child Protection Act states that the child shall be registered immediately after birth in a medical facility, and that all children have the right from birth to a name. As Estonian citizenship is based on *ius sanguinis*, the Constitution provides that all children born in Estonia with at least one parent, who is an Estonian citizen, have the right to Estonian citizenship by birth. No one may be deprived of an Estonian citizenship acquired by birth. All of these rights are recognised for all persons irrespective of disability.

Article 19-Living independently and being included in the community

116. Although the Constitution of the Republic of Estonia does not expressly state that people have the right to live in a community, it is implied in the principle of human dignity provided for in the Constitution (§10). The Constitution (§34) also provides that everyone has the right to choose freely where to reside. Estonia has joined the European Union Charter of Fundamental Rights which recognises the right of disabled people to benefit from measures with the purpose of ensuring the participation of disabled people in the society. Upon choosing a place of residence on equal grounds with others, the main restriction experienced by disabled people is accessibility and ability to cope with daily activities.

117. In order to enable independent living in a community and ensure disabled people to cope, the Social Welfare Act provides for a number of social services (§10) and the duty of local governments to organise the coping of disabled people in need of assistance, by the provision of social services, payment of social benefits, and provision of other assistance (§26). The Local Government Organisation Act (§6 (1)) sets out the local government

⁵⁴ The Estonian Supreme Court has held that failure to take a person's disability into account in administering the exams may constitute a violation of the right to equality.

duties in the social welfare sector (i.e. to organise social assistance and social services). In order to ensure as independent life as possible for disabled people, a number of social services (social counselling, home service, personal assistant service, support person service, dwelling adaptation service, sign language interpretation service and social transportation) are offered. Local governments may provide additional services necessary for disabled people's coping on the basis of the residents' justified needs and taking into account the possibilities and specifics of local governments. To find the most suitable measure, the person's own opinion must be heard.

118. If a disabled person needs assistance in exercising his or her rights, the assistance is usually provided by his or her family members. If this is not sufficient, the local government may appoint a caregiver whose rights and obligations are set in a contract.

119. The provision of prosthetics, orthopaedic and other technical aids (see report on Article 20) and the rehabilitation service (see report on Article 26) is organised at the national level.

120. In 2008 the Centre of Disability Information and Assistive Technology launched an advisory service for adaptation of living environments and preparation of dwelling adaptation plans. Recommendations have been developed to adapt dwellings for people with reduced mobility, visually impaired, hearing impaired people and people with psychological special needs.⁵⁵ By now, 70 people on average have been advised per year.⁵⁶ The low rate of dwelling adaptations (14% in 2011 and 30% in 2013 of homes provided with adaptation plans)⁵⁷ stems from the lack of budgetary means of local governments. Until 2020, the European Regional Fund supports the adaptation of 2000 dwellings of people with disabilities according to their individual needs that results in better inclusion of people with disabilities into society and thus improves their independent living and everyday coping.

121. The main problems with provision of social services to disabled people are related to the availability and quality of the services, as those vary across local governments because different local governments have different administrative capabilities due to their territory, revenues, population size, etc. The most frequent problems related to the availability of supportive services are distance from home (54%), complicated bureaucracy (62%) and long waiting lists (57%).⁵⁸ 47% of disabled people have indicated that they do not receive services that could support their independent coping at home and 55% do not receive services that could support their coping outside home. Slightly over half (52%) of services receivers were satisfied with the quality of social services.⁵⁹ Disabled people lack mostly medical rehabilitation (32%), home care (17%) and social transportation (10%). Analyses indicate that the actual need for care and nursing care services could be several times higher than currently offered.⁶⁰

122. Additional funds are foreseen to improve the accessibility of social welfare services. With the European Social Fund support, in the forthcoming years the delivery of the number of social welfare services (home services, care services (including interval and day care), social transportation, personal assistant service, and support person service) will be increased. New innovative services (for example video and audio care service, alarm button service) will be piloted with the purpose of finding innovative solutions and optimizing the use of time and financial resources. Clients with multiple coping difficulties (including

⁵⁵ The recommendations are available at the website of the Centre of Disability Information and Assistive Technology: <http://www.abivahendikeskus.astangu.ee/teenused/kodukeskkonna-kohandamise-noustamine.html>.

⁵⁶ Source: Centre of Disability Related Information and Assistive Technology.

⁵⁷ Source: Centre of Disability Related Information and Assistive Technology.

⁵⁸ Bruns, J. *Puuetega laste perede toimetuleku ja vajaduste uuring 2009*. (Survey on coping and needs of families with disabled children 2009) Tallinn GfK Custom Research Baltic, Estonian branch.

⁵⁹ *Puuetega inimeste ja nende pereliikmete hoolduskoormuse uuring 2009. Lõppraport*. (Survey on disabled people and care burden of their family members 2009. Final Report). Saar Poll OÜ, University of Tartu.

⁶⁰ Analysis: Elaboration of sustainable financing system in the elderly care to alleviate the care burden. PriceWaterhouseCoopers Advisors, 2009.

disability) will be provided with social counselling services, including psychological counselling, family counselling, debt counselling, support person service, counselling by specialised social workers (for example hospital social worker) and specialised expert counselling (for example legal counselling, clinical psychologists' counselling, psychiatric aid and social pedagogic counselling). Altogether, at least 10,500 persons with disabilities, elderly and their family members with care burden will be provided with social welfare services that support their possibilities of work (including retaining their job, starting to work) or entry into the labour market services.

123. The state is oriented to develop services for people with psychological special needs more close to the community and to support the person's coping in his or her usual living environment as long as possible and as independently as possible. The state provides supported living, community living, everyday life support, supported employment and the 24-hour special care service, choosing the most suitable to keep a person active and preserve or immediately start restoring his or her everyday coping skills, in particular to prevent him or her from entering the 24-hour care service. A person should enter the 24-hour care service only as a last resort when all other measures to support the person have failed and the person's coping cannot be ensured by other services.

124. During 2007-2013, institutions for people with psychological special needs in four mansion buildings were closed and reorganised into 550 high-quality service placements in family-type houses in direct vicinity of settlements with the purpose that the clients of special social welfare institutions could participate in local day centres, work centres, gym halls and other activities. The plans for 2014-2023 include using the support of the European Regional Fund for improving the living, studying and working conditions of people with psychological special needs. For that purpose, the 24-hour service facilities with over 30 placements will be reorganised into smaller ones following the deinstitutionalisation principle.

125. Upon developing social welfare services, the state is guided by the principle that the services must support independent coping, working, living at home and follow deinstitutionalisation principles. The development plan of the Ministry of Social Affairs for 2015-2019⁶¹ sets the goal that the number of those using community-based care services among people in need of services must increase and exceed the number of those using institution-based care services.

126. Based on the Special Care Development Plan 2014-2020⁶² approved by the Government, the state has assumed the obligation to prioritise the development of supportive services, focusing on community-based development of person-centred, high-quality services. Supportive services must enable prevention of people's need for 24-hour forms of services and must support the principles of deinstitutionalisation.⁶³

127. The Estonian Regional Development Strategy 2014-2020⁶⁴ sets out the goal of ensuring availability and accessibility of high-quality public services for different social groups and improve satisfaction with availability of public transport all over Estonia. Living independently and being included in the community are cornerstones of the new

⁶¹ The Ministry of Social Affairs Development Plan for 2015-2019 is published at the Ministry of Social Affairs website: http://www.sm.ee/sites/default/files/content-editors/Ministeerium_kontaktid/Ministeeriumi_arengukava_ja_tooplaan/sotsiaalministeeriumi_valitse_misala_arengukava_2015-2018.pdf.

⁶² The Government of the Republic approved the Special Care Development Plan for 2014-2020 in September 2014. The Development Plan's text is published at the Ministry of Social Affairs website: http://www.sm.ee/sites/default/files/content-editors/eesmargid_ja_tegevused/Sotsiaalhoolekanne/Puudega_inimetele/erihooletamise_arengukava_2014-2020_vv_istung.pdf.

⁶³ The basis for the deinstitutionalisation is the Common European Guidelines on the Transition from Institutional to Community Based Care and the Toolkit on the Use of European Union Funds for the Transition from Institutional to Community Based Care prepared by a team of experts.

⁶⁴ The Estonian Regional Development Strategy and its Implementation Plan for 2014-2017 are available at the Government of the Republic website: https://valitsus.ee/sites/default/files/content-editors/arengukavad/eesi_regionaalarengu_strateegia_2014-2020.pdf.

Social protection, inclusion and equal opportunities development plan 2016-2023 which will also include disability policy and an activity plan for Cooperation Agreement for ensuring social protection for persons with disabilities or health damage (signed in 2014). Both documents will be completed in 2015.

Article 20-Personal mobility

128. The personal mobility of disabled people is mostly expanded by technical aids, transportation services for disabled people, accessible public transport and other social services (see also reports on Article 9 and Article 19). The provision of technical aids to children, disabled people of working age (with a certified 40% or higher loss of work capacity or a certified disability) and elderly is regulated by the Social Welfare Act and the Minister of Social Affairs Regulation No. 79 of 14 December 2000 “Requirements and procedure for applying for and favourable provision of technical aids”.

129. The Astangu Centre of Disability Related Information and Assistive Technology⁶⁵ counsels disabled people on their choice of technical aid; issues expert assessments; increases people’s awareness about technical aids and other social and labour market services; and promotes cooperation among suppliers. The Centre assesses clients’ living and working environment and provides recommendations for acquisition of the necessary technical aids corresponding to the clients’ needs. The rate of technical aids being acquired after the counselling is 70-80%.⁶⁶

130. In 2013, a total of 64 420 people received technical aids. Of those, 48 227 people received sold technical aids and 16,143 people received lent technical aids. The number of recipients of technical aids has been increasing constantly since 2008 and the highest increase has occurred among disabled people of working age.⁶⁷ Still, the most numerous group among the recipients of technical aids is people at retirement age (approximately 70% of all recipients of technical aids). The proportion of children among recipients of technical aids was 14%.⁶⁸ A great majority of adult technical aids users used them mainly in their everyday activities — 86% for coping at home, 64% for coping outside the home (including 4% for working).⁶⁹ 62% of all disabled children required some technical aid, whereas the most required technical aids were means of care as well as visual aids.⁷⁰ For disabled people, the main problem with technical aids is their high price and insufficient correspondence to needs, including lack of suitable aids, their low durability and complicated use. Half of the users of technical aids are satisfied with them. Yet 4% of disabled people are not using technical aids although they actually need them.⁷¹

131. A reform of the technical aids system has been initiated together with the work ability reform (please see also report on Article 27). Provision of technical appliances will be linked with the assessment of a person’s capacity to work. The technical appliance granted by an expert with the right competence (family practitioner, medical specialist or rehabilitation team) guarantees that the technical appliance corresponds to the person’s needs and supports the person’s coping. The reform also reassigns the funding of technical aids from county governments to the Estonian National Social Insurance Board, thereby changing the funding principles from the current regional basis to personal basis and enabling people to obtain the technical aids in a region suitable for them. The plans for

⁶⁵ The website of Astangu Centre of Disability Related Information and Assistive Technology: <http://www.abivahendikeskus.astangu.ee/>.

⁶⁶ Source: Astangu Centre of Disability Related Information and Assistive Technology.

⁶⁷ Source: statistics of the Ministry of Social Affairs.

⁶⁸ Source: statistics of the Ministry of Social Affairs.

⁶⁹ *Puuetega inimeste ja nende pereliikmete hoolduskoormuse uuring 2009. Lõppraport.* (Survey on disabled people and care burden of their family members 2009. Final Report). Saar Poll OÜ, University of Tartu.

⁷⁰ Bruns, J. *Puuetega laste perede toimetuleku ja vajaduste uuring 2009.* (Survey on coping and needs of families with disabled children 2009) Tallinn GfK Custom Research Baltic, Estonian branch.

⁷¹ *Puuetega inimeste ja nende pereliikmete hoolduskoormuse uuring 2009. Lõppraport.* (Survey on disabled people and care burden of their family members 2009. Final report). Saar Poll OÜ, University of Tartu.

2016-2020 include the allocation of the European Social Fund resources to improve the availability of technical aids for people of working age by eliminating the waiting list for technical appliances for working age disabled people.

132. In order to facilitate the freedom of movement of disabled people, the Public Transport Act prescribes the right to ride free of charge in railway, road and water transport (including on commercial lines) for a disabled child, a person of 16 years and older having a profound disability and a person accompanying a person with profound or severe visual disability or a guide dog accompanying a person with a visual disability. Within a city, a person accompanying a person with a profound disability or accompanying a disabled child shall have a 50% discount on the full ticket price. Local governments may establish additional discounts on public transport lines from their own budgets as well as increase the discount rate.

133. Public procurements conducted by county governments for public transport include the requirement that the carrier must take into consideration the needs of people with reduced mobility upon using public transport. For example, the carrier must be able to utilise at least one bus having a wheelchair elevator or being adapted in some other manner to be suitable for entry in a wheelchair.

Article 21-Freedom of expression and opinion and access to information

134. Freedoms of expression and opinion and access to information are guaranteed for all persons under the Constitution. Everyone has the right to freely obtain information disseminated for public use that must also be provided in forms and formats that are accessible for persons with disabilities at no extra cost.

135. According to the Social Welfare Act (§26 (1)), local governments are responsible for organising sign language translation services. However, these services are not available on an equal basis throughout the country as the capability of the local governments to provide the services varies greatly due to their different income base and administrative capability. To address this shortcoming, the Government will use the European Social Fund's resources in 2015-2020 to develop, pilot and introduce sign language translation services.

136. The Information Society Development Plan 2020⁷² clearly states that information society is being created for all residents of Estonia, whereby particular attention will be given to the integration of social groups with special needs.

137. The Public Information Act provides that public information is generally free of charge, and as quick and easy access to information as possible must be ensured for all persons (Civil Service Act, §4). All Government ministry websites have recently adopted a common visual and technical standard, which complies with the Web Content Accessibility Guidelines (WCAG) 2.0 recommendations, that make content accessible to a wider range of persons with disabilities, including blindness and low vision, deafness and hearing loss, learning disabilities, cognitive limitations, limited movement, speech disabilities, photosensitivity and combinations of these.⁷³ According to the Interoperability of the State Information System requirements set by the Ministry of Economic Affairs and Communications, all public sector websites must aim to meet the WCAG criteria.

138. The Media Services Act (§23) requires audiovisual media service providers to make their service accessible to persons with visual or hearing disabilities through the use of subtitles, sign language translation, separate audio channels, teletext, etc. As of 2014, all films that are produced with the state support are provided with subtitles and audio description.

139. Estonia follows the principle that the implementation of cultural and literature programmes of public libraries, initiatives promoting lifelong learning, programmes facilitating reading and shaping the reading habits of children and young people, meetings

⁷² The Information Society Development Plan is available at the Government of the Republic website: www.valitsus.ee.

⁷³ <http://www.w3.org/TR/WCAG20/>. Web Content Accessibility Guidelines 2.0.

of writers and other creative persons with readers and activities intended for residents of Estonia whose native language is other than Estonian must also take into account the interests of people with special needs.⁷⁴

Article 22-Respect for privacy

140. The Constitution of the Republic of Estonia (§26) provides that everyone is entitled to inviolability of his or her private and family life. The home is inviolable. Government agencies, local authorities, and their officials may not interfere with any person's private or family life and no one's dwelling, other premises and workplace may be forcibly entered or searched except in the cases and pursuant to a procedure provided by law to protect public health, public morality, public order or the rights and freedoms of others, to prevent a criminal offence, or to apprehend the offender.

141. The Constitution (§43) also provides that everyone has the right to confidentiality of messages sent or received by him or her by post, telegraph, telephone or other commonly used means. Derogations from this right may be made in the cases and pursuant to a procedure provided by law if they are authorised by a court and if they are necessary to prevent a criminal offence, or to ascertain the truth in a criminal case.

142. Protection of personal data is regulated at the national level by the Personal Data Protection Act, the purpose of which is to protect the fundamental rights and freedoms of natural persons upon processing of personal data, above all the right to inviolability of private life. Protection of personal data is also regulated by special acts, for example the Code of Civil Procedure and the Code of Criminal Procedure concerning court adjudications.

143. Pursuant to the Law of Obligations Act (§768), providers of health care services and persons participating in the provision of health care services shall maintain the confidentiality of information regarding the identity of patients and their state of health. They shall also ensure that the information contained in the documentation of the provision of health care services does not become known to other persons unless otherwise prescribed by law or by agreement with the patient.

144. In the electronic health information system (the Patient Portal that gathers and administrates patients health data)⁷⁵ the patient can make a decision of whether to leave all his or her health data disclosed or partly or fully close access of physicians to his or her data. A person has the right to change his or her expressions of intent at any time. The Patient's decision is binding to physicians.

Article 23-Respect for home and the family

145. The Constitution of the Republic of Estonia (§26) provides that everyone is entitled to inviolability of his or her private and family life. Government agencies, local authorities, and their officials may not interfere with any person's private or family life, except in the cases and pursuant to a procedure provided by law to protect public health, public morality, public order or the rights and freedoms of others, to prevent a criminal offence, or to apprehend the offender.

146. Pursuant to the Family Law Act (§1 (1)), a marriage is contracted between a man and a woman. The Registered Partnership Act (adopted in 2014, will enter into force in 2016) regulates matters of property and custody of persons in non-married cohabitation. A person's freedom of transactions, including the freedom to contract a marriage and registered partnership depends on active legal capacity and may be restricted only by a court. An adult with restricted active legal capacity may marry or enter into a registered partnership only if he or she understands sufficiently the legal consequences of marriage or

⁷⁴ General Principles of Cultural Policy until 2020: <https://www.riigiteataja.ee/akt/314022014002>.

⁷⁵ www.digilugu.ee.

registered partnership contract. An adult spouse with restricted active legal capacity may file an action for annulment of marriage with the consent of the guardian.

147. On the basis of the universal principle of equality established in the Constitution, the right to have children is ensured for disabled people on equal grounds with other people. The Constitution also provides that everyone is entitled to inviolability of his or her private and family life (§26). The notion of human dignity set out in the Constitution (§10) presumes freedom of intent and the possibility to decide about one's own life, mind and body.

148. An adult man with restricted active legal capacity may acknowledge paternity with the consent of his legal representative (Family Law Act, §88 2)). An adult mother of a child may give consent for acknowledgement of paternity with the consent of his or her legal representative.

149. The Vital Statistics Registration Act regulates the behaviour of an official in case a deaf, mute, blind or illiterate person wishes to perform a vital statistics procedure. A vital statistics official shall treat disabled people on equal grounds with others, providing explanations about the performance of the procedure and the rights and obligations resulting from the procedure. Person whose active legal capacity is restricted due to his or her disability has to be assisted in performing his or her procedures. The guardian and the local government shall keep in contact with the family where the disabled person lives in order to provide comprehensive help in organising his or her everyday life. Monitoring is conducted to be convinced that children grow in a safe environment.

150. The Constitution (§27) and the Family Law Act (§96) provide the right and obligation of parents to raise their children. The Constitution also provides the protection of parents and children. The Republic of Estonia Child Protection Act (Part VIII) provides that disabled children have the right to grow in a family and to receive assistance and care in accordance with the child's specific needs, equally to other children. The child and his or her caregiver shall have access to multifaceted social, medical and psychological assistance. The objective of child assistance, including the objective of guardianship and custody, is to ensure the child's security, development and well-being, considering the needs and wishes of the child, and to support the child's development into an independent adult. To prevent hiding, abandonment, neglect and exclusion of disabled children, several services and benefits are established at the national and local government level. The child protection system is in place and will be improved with the enforcement of new Child Protection Act in 2016.

151. The Family Law Act provides that a child may be separated from the parents only if the physical, mental or emotional well-being or the property of the child is endangered and damage to the interests of the child cannot be prevented by other supporting measures (§135 (1)). A parent may be deprived of the right of custody over person in full only if other measures have not yielded any results or if there is reason to presume that the application of the measures is not sufficient to prevent danger (§135 (2)). Only a court may separate a child from the parents and deprive someone of the right of custody. Involuntary separation of a child from the parents is not permitted if the only reason is the parent's disability.

152. If the nuclear family is unable to provide for a disabled child, the child shall be provided with alternative care on the basis of the Social Welfare Act. If necessary, the disabled child shall be referred to a family-based care or substitute care. Separation of a child from the family must be the last resort in helping the child, necessarily preceded by comprehensive counselling and supporting of the family with the aim to let the child remain in the family. The Republic of Estonia Child Protection Act obligates everyone to give the highest priority to the child's interests.

Article 24-Education

153. Estonian laws provide disabled people's equal right to education, explicitly stressing the obligation to create the relevant conditions for them. Disabled people, like all others,

have the constitutional right to education (Constitution §37). Every child has the right to an education which develops the child's mental and physical abilities, forms a healthy personality and prepares the child for an independent life (Child Protection Act §39). Teaching must be student-centred, guided by the differences of students and based on recognition of educational progress. The Estonian organisation of education is guided by the principle of inclusive education.

154. Estonian education policy focuses on students with special educational needs (children with physical, speech, sensory and intellectual impairments and children needing specialised help), not on disability. Special educational needs are not related to the existence of a disability. Therefore a child with special educational needs is not necessarily a disabled child, although a large proportion of disabled children also have special educational needs, but not all of them, as the existence of a disability does not necessarily mean special needs in the education system.

155. The state curriculum of preschool children (Preschool Child Care Institutions Act §24) states that to support children with special educational needs, an individual development plan is prepared for each such child, based on his or her individual needs and prepared in cooperation with the relevant parties (a pedagogue, a specialist, a parent). Children attending a general group in a child care institution are provided with individual or small-group speech therapy. In preschool child care institutions, conditions have to be established for special needs children to grow first and foremost in an adaptation group with other children. If an adaptation group cannot be formed, special groups or special kindergartens are established.⁷⁶ In practice, local governments are not able to ensure the placement of all disabled children in an ordinary kindergarten.

156. The team of support specialists, including a speech therapist, special education teacher and other specialists, together with a support person at a child care institution are appointed by the head and the owner of the institution based on the curriculum and the special needs of children. In the 2012-2013 academic year, pre-school child care institutions were attended by 8,503 children with special needs (12.7% of all children attending child care institutions); support systems were available to 7,043 of these children (82.8% of all children with special needs). According to the Preschool Child Care Institutions Act, it is important to use a service-based approach to the services provided by support specialists, i.e. child care institutions are not required to have a certain number of posts and can ensure the availability of services by outsourcing the services or providing the services based on the procedure agreed with the local government. Support services are also provided to child care institutions by the Rajaleidja centres established in the 2014-2015 academic year.

157. Normally, children with special educational needs attend an ordinary class in the school of their region of residence. If the local government cannot establish the necessary conditions in school (e.g. very specific learning arrangement, resource-intensive support services), children are referred to an educational institution intended for disabled children.⁷⁷ The parent retains the freedom to decide whether attending an ordinary or a specialised school suits his or her child better. If education cannot be organised in any other way, the last option is education by home-based learning (Education Act, §8 (4)). To find a suitable form of education, a parent is supported by a counselling committee or regional educational guidance centres, both staffed with relevant specialists.

158. The school may amend study times, content, process and environment. In case of significant change in study load or intensity or in case of reduction in study results, an individual study plan⁷⁸ in one or several subjects is prepared for a student with special

⁷⁶ Three specialised kindergartens for children with profound and severe disability have been established in Estonia.

⁷⁷ There are specialised schools in Estonia, intended for children with visual, hearing and speech disabilities, movement and multiple disabilities, intellectual disabilities, emotional and behavioural disorders and children requiring special treatment due to behavioural problems — a total of 42 schools, of those 23 state schools, 13 municipal schools and 6 private schools.

⁷⁸ Government of the Republic Regulation No. 1 of January 6, 2011 *State curriculum for basic schools*, Government of the Republic Regulation No. 2 of January 6, 2011 *State curriculum for upper*

educational needs. In 2014, a new state curriculum for basic education and a new state curriculum for upper secondary education were adopted.⁷⁹ For better organisation of studies, a school may form special groups and classes. The best access to upper secondary education is ensured for students with sensory impairments and reduced mobility. Special classes are formed for them in national or municipal schools for educational special needs students and they are successfully included in ordinary schools as well.

159. At minimum, free services of a specialised pedagogue (including a speech therapist), a psychologist and a social pedagogue have to be ensured for all students with special educational needs who attend the general education system. Opportunities are established for the use of support measures (for example differentiated learning in a class, help outside classes, catch-up classes, supported learning classes, help of a specialised pedagogue or a speech therapist in a learning assistance group, etc.) and also for the involvement of support person, personal assistant, sign language interpreter, assisting teacher etc. Students, their parents, pedagogues and local government specialists can also obtain psychological counselling and school social work counselling from regional educational guidance centres.

160. Textbooks in Braille are available for visually impaired students. The hearing rehabilitation programme has improved access to education for hearing impaired people. Access to schools is ensured on the basis of the Building Act and its implementation acts⁸⁰ (see also in the report on Article 9). If, upon recommendation of a counselling committee, a student starts attending a school outside the territory of the local government of his or her region of residence, the local government shall organise his or her transport or shall compensate his or her transport expenses pursuant to the prescribed procedure. In terms of school organisation, Estonian general education schools are ready to teach disabled children, but the system as a whole needs further development. Not all teachers are sufficiently prepared to implement the inclusive education policy.

161. The state's goal is to create suitable learning opportunities and conditions that support the development of students with severe and multiple disabilities and thus increase the inclusion of students with special educational needs into educational system. The state has planned to reshape the network of specialised schools, develop the state funding system for education of students with special educational needs, increase the professionalism of teachers (for example conduct in-service training for teachers), support specialists and develop alternative study materials for students and teachers.

162. During the last ten years, significant development has taken place in the field of vocational education for students with special educational needs. As learning opportunities have become more flexible and experience has been gathered in teaching occupational skills, the number of students with special educational needs as well as the number of relevant educational institutions has increased. In the previous academic year, approximately 4% of all vocational students were students with special educational needs,⁸¹ usually studying in practical fields requiring manual activities (construction, household, cooking; etc.).

163. The Minister of Education and Research Regulation No. 14 of 9 May 2014 "Requirements and procedure for persons with special needs studying in vocational educational institutions" provides support systems and services (e.g. e-learning, involving an assisting teacher in auditorium work, support service by a social pedagogue, learning assistance service by a specialised pedagogue, psychological counselling, speech therapist service, opportunity to use sign language in studies, etc.) and emphasizes the need to adapt the physical environment of students according to their needs. Preparatory study modules

secondary schools and Government of the Republic Regulation No. 182 of December 16, 2010 *Simplified state curriculum for basic schools*.

⁷⁹ Government of the Republic Regulation No. 141 of August 28, 2014 *Amending the Government of the Republic Regulation No. 1 of January 6, 2011 State curriculum for basic schools and Government of the Republic Regulation No. 2 of January 6, 2011 State curriculum for upper secondary schools*.

⁸⁰ Minister of Economic Affairs and Communications Regulation No. 14 of 28 November 2002 *Requirements for ensuring movement opportunities for people with movement, hearing and visual disabilities in public buildings*.

⁸¹ Source: Estonian Education Information System.

and transition plans before starting with vocational studies and entering the labour market shall be implemented for students with special educational needs.

164. To support the obtaining of higher education, more favourable conditions have been established for students with special educational needs in terms of university entry requirements, requirements for completion of study load, payment of the related study services and academic leave. A university or an institution of professional higher education is not entitled to demand the reimbursement of study costs from a student who has not complied with the requirements established for full-time studies and study load from students with moderate, severe or profound disability (the Universities Act and the Institutions of Professional Higher Education Act).

165. Students with a moderate, severe or profound disability are also entitled to complete the curriculum during the period of their academic leave. The Government of the Republic Regulation No. 178 of 20 December 2013 “Types, amounts and general requirements for granting of higher education student scholarships” establishes scholarship for higher education students with special needs with the purpose to support students with special needs in obtaining higher education. The scholarship amounts from EUR 50-510 per month, depending on the degree of disability and functional impairment.

166. If a disabled person studies in an upper secondary school, a vocational educational institution or an institution of higher education and has additional expenses due to his or her disability, a social allowance (Study Allowances and Study Loans Act §2(4)) is paid as a partial compensation of the additional expenses (in 2014, the allowance was 6.39-25.57 EUR per month). An employed disabled person is paid an in-service training allowance for partial compensation of the factual expenses related to in-service training and formal education acquired within the adult education system.

167. Estonia has used the Primus 2008-2015 programme to address the improvement of quality of higher education studies of young people with special educational needs. The support network, infrastructure and services for students with special needs have been improved and trainings and information days have been carried out. The guiding material “Unhindered higher education studies. Supporting students with special needs and adapting their learning environment. Guide for higher education institutions, students, lecturers and support personnel” was prepared.⁸²

168. In order to improve access for students with special needs, movement opportunities for disabled people in study buildings of universities have been improved and rooms at the dormitories of the Tallinn University of Technology, Tallinn University, University of Tartu and Estonian University of Life Sciences have been adapted. The service of audio recording of study materials has been launched in the University of Tartu and in Tallinn University. Visually impaired higher education students can order audio recordings of needed study materials from university libraries and from the Estonian Library for the Blind.

169. One of the objectives of the Estonian Lifelong Learning Strategy 2020⁸³ is to establish equal opportunities of lifelong learning by developing more favourable conditions (e.g. offering flexible training courses based on their needs; supportive social services and benefits to services supporting career studies and studies for returning to the labour market) for participating in studies and proving qualification and opportunities for self-realisation for all (including disabled people).

Article 25-Health

170. The Constitution grants all persons the right to the protection of their health (§28 (1)). Estonia has a solidarity-based health insurance scheme. All persons entered in the list

⁸² The guidelines are published at:

http://primus.archimedes.ee/takistusteta/avaleht_files/Primus_Archimedes.pdf.

⁸³ The Estonian Lifelong Learning Strategy 2020 is available at the Government of the Republic website: https://valitsus.ee/sites/default/files/content-editors/arengukavad/eesti_elukestva_oppe_strateegia_2020.pdf and the translation into English: https://www.hm.ee/sites/default/files/estonian_lifelong_strategy.pdf.

of insured persons have equal rights and equal opportunities to receive health insurance benefits, including medical rehabilitation. As health insurance is funded through earmarked social tax contributions, health insurance is also provided for all persons with disabilities who receive a state work incapacity pension (Health Insurance Act, §5(4)3)) and all children in Estonia up to the age of 19 or until they complete or terminate their studies (Health Insurance Act, §5 (4)).

171. As a general rule, health care providers are required to inform patients of the state of their health, the results of any examinations or tests, and of the availability, nature, purpose, consequences and risks associated with any proposed health care services. If a patient has restricted active legal capacity (see also report on Article 12), the legal representative of the patient has the right to be informed and to give consent, but only in so far as the patient is unable to consider the potential benefits and negative consequences responsibly. If the decision of the legal representative appears to damage the interests of the patient, the health care provider is obliged not to comply with the decision.

172. Disabled people have equal access to high-quality sexual and reproductive health services. Termination of the pregnancy of a woman with restricted active legal capacity is permitted only at her own request. A health care specialist is obligated to inform a person with restricted active legal capacity about the importance of involving a legal representative or another person with full active legal capacity trusted by the person with restricted active legal capacity. If the patient is not able to responsibly assess the potential benefits and negative consequences and refuses to involve a legal representative or another person with full active legal capacity trusted by the person with restricted active legal capacity in the decision-making process, the health care employee shall be obligated to inform the local government as the guardianship authority about the person in need of help.⁸⁴

173. Disabled people are entitled to medical rehabilitation and nursing care. Medical rehabilitation is intended to restore or preserve disturbed functionality, restore work capacity or coping, or adapt to a disability. Nursing care is provided to patients unable to cope independently due to various disturbances or disabilities resulting from chronic diseases with the aim to achieve or preserve the best possible living quality and coping for the patient. The objectives of the Estonian Nursing Care Network Development Plan 2015⁸⁵ are to improve the availability and quality of nursing care services and to provide more varied, including home-based nursing care services. In addition to independent in-patient nursing care, the development of home-based nursing care services is considered especially important as these are more convenient for the person, enable him or her to keep living at his or her home and are also financially less burdening for the society and the person (or his or her relatives).

174. In terms of availability of medical care, disabled people experience problems with specialised medical care and dental care like the entire population.⁸⁶ Parents of disabled children have indicated that they have experienced insufficient competence of family physicians in providing medical treatment to disabled children and are facing difficulties to get an appointment at a specialised physician and the waiting lists are long.⁸⁷ Approximately 90% of adult disabled people have always received the health care services and consultations they have needed (8% have not received the needed help and the rest did not need it). The most common reasons for not obtaining medical care are lack of a necessary medical treatment (32% of those who had not received medical care), not knowing a good physician (20%), not knowing how to find a suitable physician (18%), too long waiting lists (16%) and lack of economic resources (15%). A specialised physician or a family physician is the most important source of information for parents of disabled children and for adult disabled people about services and benefits intended for disabled

⁸⁴ Draft Act No. 731 SE Amending the Termination of Pregnancy and Sterilisation Act, currently in processing by the Parliament.

⁸⁵ Estonian Nursing Care Network Development Plan 2015 is available at: <http://rahvatervis.ut.ee/bitstream/1/2048/1/Sotsiaalministeerium2001.pdf>.

⁸⁶ Statistics Estonia. Estonian Social Survey 2014.

⁸⁷ Bruns, J. *Puudega lastega perede toimetuleku ja vajaduste uuring 2009* (Survey on coping and needs of families with disabled children 2009). Tallinn. GfK Custom Research Baltic, Estonian branch.

people — 39% of disabled people received necessary information from their physicians, while 17% of disabled people received information from social workers.⁸⁸

175. The aim of the Estonian public health policy is to extend the healthy life expectancy to an average of 60 years for men and 65 years for women by 2020 and to extend the average life expectancy to 75 years for men and 84 years for women. The Estonian Public Health Development Plan 2009-2020⁸⁹ includes activities to improve the availability of health related information for socially sensitive groups. The most attention is paid to prevention of injuries, violence, chronic diseases and their risk factors, as well as psychological and behavioural disorders among children and youths. A health-promoting learning and work environment is also being developed and risks stemming from learning and work environments are being reduced. For example, activities of schools to support the development of students with special needs and their coping with their health disorders are promoted. As the population is aging and the demand for nursing care/social welfare services is increasing, measures are implemented to increase the proportion of day care and home-based services and to take the opportunities of modern ICT (including telemedicine) into use.

Article 26-Habilitation and rehabilitation

176. In Estonia, the international concept of rehabilitation is divided between social welfare and health insurance schemes. Rehabilitation is a social service targeted to disabled people with the aim to improve their independent coping and employment. For disabled children, the purpose is to support the child's development and education. Currently there are 114 rehabilitation service providers in Estonia. Medical rehabilitation (that is internationally medical part of rehabilitation service) is a health care service that is appointed by a medical doctor and provided to all patients in case of certain disease condition. A person has the right to choose the rehabilitation institution he or she attends to receive the service.

177. In addition to rehabilitation, working with a support person, adaptation of premises and equipment, free use of special aids and equipment necessary for working and assistance in job interviews are provided to disabled people. Educational institutions provide disabled students with support and rehabilitation services based on their needs (e.g. the services of support persons, speech therapists, psychologists, and activity therapy). Local governments provide personal assistant and support person services.

178. Rehabilitation service can be provided to all people whose degree of disability has been determined, all children in the process of applying for a determination of their degree of disability, some of the adults applying for a determination of their degree of disability, people of working age⁹⁰ having intellectual special needs and at least 40% loss of work capacity, and children referred to services by a resolution of the juvenile committee. Starting from 2016, the rehabilitation service will be provided to all people who have been certified as incapable of work and the existence of a determined disability is not required anymore.

179. Estonian current rehabilitation system is not sufficiently efficient and purposeful. It can be characterised by a complicated financing scheme, low fixed costs per person in a calendar year (up to EUR 1295 to disabled children and for up to EUR 448 to disabled adults) and too high costs for needs assessment and drafting of rehabilitation plan. The quality of rehabilitation service may be deteriorated by long waiting lists (for example 9000 persons as of 1. January 2015) that prolongs the delivery of rehabilitation service, causes the increase of planning costs and decreases the results of the service. The practice so far

⁸⁸ Soo, K. *Puudega inimeste ja nende pereliikmete hoolduskoormuse uuring 2009. Lõppraport.* (Survey on disabled people and care burden of their family members 2009. Final Report). Saar Poll OÜ, University of Tartu.

⁸⁹ National Health Development Plan is available at: https://valitsus.ee/sites/default/files/content-editors/arengukavad/rahvastiku_tervise_arengukava_2009-2020_taiendatud_2012.pdf.

⁹⁰ A person of 16 years to the retirement age.

has shown that rehabilitation (often together with other social services, for example assistive technology) has been directed to increase social coping instead of work capacity.

180. Rehabilitation system reform is one of the cornerstones of the success of work ability reform (see also report on Article 27). In order to improve the quality and purposefulness of rehabilitation service, it will be divided into two: 1) vocational rehabilitation is a labour market service that enables individual job seeking, employment and vocational development and 2) social rehabilitation is a social welfare service that supports everyday coping like independent living, education, participation in society and the development of preconditions for employment. Such division enables to offer better targeted services that result in higher effectiveness. Persons with partial capability of work will receive rehabilitation services that are linked with their (possible) employment. The maximum amount of services will increase (up to 1500€) compared to current budget and thus enables clients to receive services with shorter waiting list and in greater amount. Children, elderly and people incapable to work will receive services that increase their social coping.

181. Further, establishment of pre-evaluation enables to assess a person's needs independently from the service provider, helps to decrease the number of rehabilitation plans and advise people with disabilities to apply for other services than rehabilitation (for example social services provided by local governments) and use rehabilitation programmes. In addition to the current rehabilitation plan, the service will be provided also on the basis of rehabilitation programme — a set of targeted individual and group rehabilitation activities for certain target group within fixed timeframe. Widening the number of components in rehabilitation service adds to the current physiotherapist, social worker, special pedagogue, psychologist and speech therapist services, the experience advisor and medical doctor and nurse's services to the service components list. Changes in the financing system will introduce framework agreements with service providers instead of current contracts under public law. Finances for the service provision will be linked to service recipients. Obligation for rehabilitation service providers to implement quality management system will be established from 2019.

182. The resources of the European Social Fund for the financial period 2014-2020 will be used for developing competence centres for the rehabilitation service. Whereas the rehabilitation programme will be provided to people with high care need, the implementation of the work capacity assessment method Hamet will be continued, the method of supported employment will be disseminated and, in cooperation with employers, a workplace-based professional rehabilitation programme will be developed.

183. To improve the children's rehabilitation system, a proposal to implement an integrated model of education, health care, rehabilitation and social services⁹¹ has been elaborated. The model helps to improve and optimise the existing system of services with a view to preventing duplication, reducing bureaucracy and ensuring the availability of services corresponding to the child's individual and previously assessed needs. The implementation of the model is intended to provide a family with support starting immediately after the birth of a disabled child as near to the family as possible and with uniform quality across Estonia.

Article 27-Work and employment

184. The right to freely choose an area of activity, profession and place of work is guaranteed by the Constitution (§29 (1)). No restrictions apply due to disability and this Constitutional provision is interpreted to include a positive obligation to provide equal

⁹¹ Rääk, R (2014) *Ettepanek: Mõõduka, raske ja sügava intellektipuudega ning raske ja sügava psüühikahäirega arenguliste ja hariduslike erivajadustega lastele osutatavate haridus-, tervishoiu-, rehabilitatsiooni- ja sotsiaalteenuste sidustatud mudel* (Proposal for integrated educational, healthcare, rehabilitation and social welfare services model for children with severe and profound intellectual disabilities and psychological disorders) http://www.sm.ee/sites/default/files/content-editors/Lapsed_ja_pered/Puudega_laps/teenuste_sidustatud_mudeli_ettepanek.pdf.

opportunities for professional self-realisation, which includes the elimination of barriers to employment for disabled people.⁹²

185. The Equal Treatment Act prohibits discrimination on the grounds of disability in the area of employment upon: 1) the establishment of conditions for access to employment, to self-employment or to occupation, including selection criteria and recruitment conditions, as well as upon promotion; 2) entry into employment contracts or contracts for the provision of services, appointment or election to office, establishment of working conditions, giving instructions, remuneration, termination or cancellation of employment contracts or contracts for the provision of services, release from office; 3) access to vocational guidance, vocational training, advanced vocational training and retraining, practical work experience; 4) membership in an organisation of employees or employers, including a professional organisation, and grant of benefits by such organisations.

186. The Act further provides that employers provide reasonable accommodation (see also report on Articles 3 and 4) in workplaces. The obligation of all employers to observe the principle of equality is also reiterated in the Employment Contracts Act (§3). Under the Equal Treatment Act (§12), this means that employers must actively promote the principle of equal treatment by taking measures to protect employees from discrimination and informing all employees of the rights and obligations provided for under the Equal Treatment Act.

187. In addition to general occupation health and safety measures, the Estonian legislation includes several special provisions to ensure the well-being and productive employment of disabled people. For example, §101 of the Occupational Health and Safety Act provides that an employer shall create suitable working and rest conditions for disabled employees. The work, work equipment and workplace of a disabled employee and commonly used routes and non-workrooms used by disabled employees shall be adapted to his or her physical and mental abilities.

188. Consultations (free of charge) regarding adaptation of work environment are provided by the Astangu Centre of Disability Related Information and Assistive Technology⁹³ in cooperation with the Estonian Unemployment Insurance Fund. The Unemployment Insurance Fund partly or fully compensates the cost of workplace adaptation if a disabled person is employed with an employment contract for indefinite term or for a term of at least three years. The cost of adaptation is also compensated for a sole proprietor. The Unemployment Insurance Fund provides technical aids necessary for the performance of work duties free of charge.

189. The employment rate of disabled people is low in Estonia. The data of the Estonian Labour Force Survey indicate that in 2014, 25,1% of people of 16-64 years of age with a valid decision of a degree of disability were working (estimably over 12,700 persons). According to the Social Insurance Board data register, 14,591 disabled persons were working as of 1 January 2014. Estimated 5.3% of disabled people were actively looking for work and were ready to start working within the next 2 weeks, and 72.2% (approximately 39 400 people) were inactive.⁹⁴ 63% of recipients of incapacity for work pension would like to work if possible. The unemployment rate of disabled people was 17.4% in 2014. Disabled unemployed people form less than 10% of all registered unemployed people.⁹⁵

190. The factors hindering disabled people from starting work do not only stem from the people themselves (for example, low confidence of coping successfully with work duties, fear of their own mental and physical health not holding up to the work load, lack of persistence and energy concerning the document management entailed in seeking work) but also include difficulties with finding part-time work, poor outlooks of receiving a dignifying salary and the fact that employers prefer to hire psychologically healthy people

⁹² The Constitution of the Republic of Estonia: commented edition, 2012 www.pohiseadus.ee.

⁹³ <http://abivahendikeskus.astangu.ee/>.

⁹⁴ Source: Statistics Estonia, Labour Force Survey 2013.

⁹⁵ Source: Estonian Unemployment Insurance Fund.

who they can rely on with higher probability.⁹⁶ Yet 71% of working disabled people have not encountered any problems related to working or attending the workplace. The biggest problems are considered to be expensive and insufficiently available transport (11% of working disabled people) and difficulties with accessing or entering the workplace (10% of working disabled people). To attend work, disabled people need transport assistance (41% of the respondents on the survey) and flexible starting and ending times of work hours (23%), a possibility to distribute their work load across days as needed (20%) or a possibility to take rest breaks during the work at the time they need it (19%).⁹⁷

191. Labour Market Services and Benefits Act provides services intended for ensuring factual equality of disabled people by eliminating disability-related obstacles to participation in the labour market. Pursuant to the Act, a disabled unemployed person is an unemployed person who suffers from a disability and has been declared permanently incapacitated for work (see also report on Article 2). Disabled people have equal right to all twenty labour market services⁹⁸ provided by the Unemployment Insurance Fund, including some labour market services (working with a support person, adaptation of premises and equipment, free use of special aids and equipment necessary for working and assistance in job interviews) that are specially designed for people with disabilities. Wage subsidy is granted to the employers who employ persons with reduced competitiveness, including disabled people.

192. The number of disabled people having used services of the Unemployment Insurance Fund has significantly increased over the recent years, yet the use of labour market services designed for disabled people is low. In 2014, 72 people used the assistance in job interview, 167 people used the service of working with a support person, technical aids needed for working were given for free use to 39 disabled unemployed people and 31 workplaces were adapted. 14 disabled unemployed people received aid to start a business and 116 disabled unemployed people were hired with a salary subsidy. The labour market services most used by disabled people are work training and career counselling, practical training, work exercises and work club services.⁹⁹

193. In addition to the labour market services, a number of other incentives to support disabled people's employment are in effect. 1) In accordance with the Social Benefits for Disabled People Act, payment of disability allowance continues to disabled people who have found employment, to help cover expenses related to their work. 2) The state covers part of the cost of the social tax paid for employees who receive a pension for incapacity for work (State Pension Insurance Act). 3) Another exception to the Social Tax Act applies to sole proprietors who are incapable of working and who are consequently not required to meet the minimum obligation of payment of social tax if they do not receive any income. 4) Any benefits given by employers in the form of technical aids, expenses for treatment of occupational accidents or illnesses and compensation for use of a personal vehicle for employees whose incapacity for work has been designated as at least 40% or have a certified disability are exempt from income tax. 5) Persons who receive an incapacity for work pension have the right to 35 days of paid holidays per year instead of the standard 28, and these extra days are paid for from the state budget and therefore do not lead to any additional direct costs for employers. 6) In accordance with the Social Benefits for Disabled Persons Act, disabled persons who are employed may also apply for an in-service training allowance. 7) The Employment Contracts Act also provides for additional paid and unpaid child care leave for parents of children with disabilities. 8) The law also provides the conditions under which an employer is required to enable an employee who has become partially incapacitated for work in the employer's enterprise as a result of an occupational accident or occupational disease to continue work suitable for him or her in the enterprise (Occupational Health and Safety Act, §10 (3)).

⁹⁶ Survey *Puuetega inimeste töötamist toetavad meetmed*. (Measures supporting employment of disabled people) GfK Custom Research Baltic, Estonian branch, 2008.

⁹⁷ *Puuetega inimeste ja nende pereliikmete hoolduskoormuse uuring 2009*. (Survey on disabled people and care burden of their family members 2009) University of Tartu, RAKE.

⁹⁸ The list of labour market services offered by Unemployment Insurance Fund is available at: <https://www.tootukassa.ee/content/teenused>.

⁹⁹ Source: statistics of Estonian Unemployment Insurance Fund.

194. Regardless of whether an employee has a disability or not, the employer may extraordinarily terminate the employment contract if the employee has not coped with his or her work duties for a long period of time due to his or her state of health which makes it impossible to continue the employment relationship. A reduction of work capacity due to state of health is presumed to exist if the state of health does not enable the employee to perform his or her work duties for four months. Where possible, the employer must nevertheless first offer the employee alternative employment, including the necessary training, workplace accommodation or amended working conditions if the costs for the employer are not disproportionately large and the offer of another position is reasonable under the circumstances.

195. In 2013, the Gender Equality and Equal Treatment Commissioner organised a survey among Estonian ministries to determine whether and to what extent the ministries fulfil their obligation to promote equal treatment and ensure that disabled people have equal opportunities for employment and career. Based on the observations made, the Commissioner issued a list of recommendations, including the recommendations to prepare a more structured plan for hiring disabled people in the public sector, to train personnel management employees, to ensure better access to workplaces and services, to use universal design more widely and to send a clear message to disabled people that they are welcome to apply for all vacant positions announced.¹⁰⁰ In the framework of work ability reform the Government has set an objective to employ 1,000 disabled people in the public sector by 2020.

196. In 2012 Estonia launched a major reform of incapacity for work scheme with the objectives to increase the supply of workforce, reduce the health risks faced by employees, preserve working capacity and prevent unemployment as well as raise the competitiveness of the risk groups on labour markets. The target has been set to include 50% of the people with partial work capacity in the labour market by 2021. The Cooperation Agreement for Ensuring Social Protection for Persons with Disabilities or Health Damage signed in November 2014 between 12 organisations (please see also reports on Articles 3 and 4) directly contributes to the smooth implementation of work ability reform.

197. Under the current system, a work incapacity pension is paid to persons with disabilities based on a recognised category of disability determined solely based on a person's diagnosis and not on their actual ability to do work or hold a job. The pension is paid regardless of whether the person is employed or not, which means that there is no incentive for a disabled person to actively seek employment or training or education for employment. The new system will no longer look at work incapacity by category as the criteria for allocation of the benefit will be an individual's capacity to work. The capacity to work will be evaluated by medical professionals using a new methodology developed by the Occupational Health Doctors' Association in line with the EUMASS (European Union of Medicine in Assurance and Social Security) core set. The work incapacity pension will be replaced by a work capacity allowance for persons with partial or no work capacity. Persons with partial work capacity must fulfil an activity requirement in the labour market to qualify for a benefit and will have access to an increased number of improved labour market services and social services.

198. Active labour market services that help people with reduced working ability back into the labour market are an important cornerstone of the reform. Existing labour market measures (for example labour market training, career counselling, work practice, coaching for working life, wage subsidy, business start-up subsidy, adaptation of premises and equipment of working place, providing special aids and equipment, communication support at interviews and working with support person) will be made available to work capacity benefit receivers who are looking for work. New measures are designed to respond to the need of people with reduced work ability: temporary sheltered employment, transportation support, work-related rehabilitation, mobile counselling and experience based counselling.

¹⁰⁰ The Commissioner's report is available at: http://www.svv.ee/failid/Puuetega%20inimeste%20t%C3%B6%20v%C3%B5imalused%20mini%20steeriumides_k%C3%BCsitlus%20ja%20soovitused.pdf.

199. Another important cornerstone of the reform is the provision of social welfare services. In order to guarantee the quality of rehabilitation service, it will be divided into two: vocational rehabilitation and social rehabilitation. Provision of technical appliances will be linked to the assessment of a person's working capacity. Draft Social Welfare Act that aims to improve the quality of local government welfare services by setting minimum requirements will be submitted to the Government in 2015.

200. It has also been recognised that the reform programme will need to focus significant attention on providing information and training for companies on equality and non-discrimination, the rights of disabled persons and the services, benefits, tax concessions and subsidies available upon employment of disabled persons, which will be offered to enhance the success of the reform. For that purpose, the resources of the European Social Fund for the new 2014-2020 period are planned for organising trainings, counselling and financial incentives for employers about the opportunities to support the employment of people with reduced work capacity and to support the employer upon adapting and reorganising the work duties of a person with reduced work capacity in correspondence with his or her work capacity.

201. The freedom to join associations and unions of employees and employers is guaranteed by the Constitution and the Trade Unions Act (§29 (5)).¹⁰¹ The Employees' Trustee Act, regulating an alternative form of representing employees besides a trade union, does not restrict the representation of disabled people by a trustee of employees either, nor does it restrict the election of a disabled employee as a trustee of employees.

202. Members of the Defence Forces who have been seriously injured in the line of duty receive special care and attention. They are assured medical treatment, rehabilitation and support to promote their independent living. The Defence Forces are generally obliged to offer suitable employment to injured servicemen and -women who wish to continue to serve, including to those who have a certified degree of disability and work incapacity. This means employment in a position which is in line with the skills and qualification of the person in question, for which training is provided if necessary.

Article 28-Adequate standard of living and social protection

203. Pursuant to the Constitution of the Republic of Estonia (§28), every citizen of Estonia is entitled to government assistance in the case of old age, incapacity for work, loss of provider, or need. The categories and extent of the assistance, and the conditions and procedure for allocation thereof are provided by law. Unless otherwise provided by law, citizens of foreign states and stateless persons in Estonia enjoy this right equally with citizens of Estonia.

204. The purpose of social welfare is to provide disabled persons and their families with assistance to prevent, eliminate or alleviate coping difficulties and to foster disabled people's security, development and adaptation to the society. The state pays social benefits, depending on the degree of disability, to disabled people if the disabled person incurs additional expenses due to his or her disability, for example in order to obtain necessary technical aids, care, rehabilitation or if the expenses are related to transport, work or studies. Social benefits paid to disabled people of working age are related to the person's activeness. A special benefit is paid to disabled children.¹⁰² Disabled people can also apply for various additional social benefits from local governments, but the types and amounts of those benefits as well as their provision depend on the possibilities and established procedures of each local government. The social welfare services intended for disabled people are detailed in the reports on Articles 19, 20 and 26.

¹⁰¹ See also §4 of the Trade Unions Act. Restrictions are only made for members of the Defence Forces in active service. English translation available at: www.riigiteataja.ee/en (October 17, 2014).

¹⁰² The list and amounts of social benefits paid to disabled people are available at the Estonian National Social Insurance Board website: <http://www.sotsiaalkindlustusamet.ee/sotsiaaltoetus-puuetega-inimestele/>.

205. Persons of at least 16 years of age who are declared permanently incapacitated for work with 40-100% loss of the capacity for work, and who have earned required pension qualifying period in Estonia by the commencement date of establishment of permanent incapacity for work are entitled to pension for incapacity for work¹⁰³ with minimum amount of 148,98 EUR per month and no maximum in 2015. The average pension for incapacity for work in 2014 was 197 EUR per month.¹⁰⁴ The various social protection benefits for disabled people are relatively low, depending on the degree of disability and ranging, for example from 69,04 to 80,55 EUR per month for disabled children and from 16,62 EUR to 53,70 EUR per month for working age disabled people.

206. The government expenditure on social benefits for persons with disabilities has increased each year. It was approximately 57 million EUR in 2009, and by 2013 the amount had increased by 7 million EUR. The biggest expenditure is state social insurance benefits (excluding pension for incapacity for work), such as the disability allowances for adults (persons in retirement age or in working age) and the disabled child allowance.

207. Disabled people themselves assess that the various social protection benefits do not cover their disability-related additional expenses and that the amount of social benefits and allowances is not always sufficient to cover the general living expenses if they have no disability-related additional expenses but also no other income (e.g. income from work).

208. In 2013, the at-risk-of-poverty rate of disabled people (32.2%) exceeded the at-risk-of-poverty rate of the total population by 1.5 times on average. Social transfers help more than half of disabled people to get out of poverty, as the at-risk-of-poverty rate before social transfers was nearly 80%. In 2013, 5.6% of persons with disabilities lived below the absolute poverty line (the absolute poverty rate of the total population was 8% at the same time) because various disability allowances and pensions help disabled people to avoid severe poverty. In 2013, 13% of disabled persons lived in severe material deprivation, which is nearly 6 percentage points higher than the total population.¹⁰⁵

209. The group most affected by poverty are disabled children; their poverty indicators have deteriorated compared to the previous decade and are higher compared to poverty rates of all children. In 2013, 12.7% of disabled children lived in absolute poverty and 26.2% of disabled children (0-17 years old) were at risk of poverty. Since it is often impossible to work while taking care of a disabled child, families with disabled children are inevitably one of the most vulnerable risk groups in the society. Almost a quarter (24.2%) of disabled children lives with a lone parent, which further complicates the financial situation of families with a disabled child.¹⁰⁶

210. One of the main factors explaining the higher poverty risk of disabled people is the low employment rate of disabled people (see the causes and indicators in Article 27) as well as lower salary from part-time work and limited opportunities of family members of disabled children and adults to work due to the care burden. Over 50 000 persons are engaged in taking everyday care of their family members¹⁰⁷ and 13 500 persons were inactive in the labour market due to the care burden.¹⁰⁸ Over one quarter of the families with disabled children (28%) are single parent families and this also affects the employment possibilities, ratio of income, poverty rates and expenditure of those families. To address the problem, a high-level committee with the aim of proposing solutions to alleviate the care burden of family members will be established in the end of 2015.

211. The income of disabled people is generally lower than the average income of the population. While the 2012 Statistics Estonia data indicated that the population's annual

¹⁰³ For more detailed information, please see the Estonian National Social Insurance Board website: <http://www.sotsiaalkindlustusamet.ee/pension-for-incapacity-for-work/>.

¹⁰⁴ Source: Estonian National Social Insurance Board.

¹⁰⁵ Source: Statistics Estonia.

¹⁰⁶ Statistics Estonia. (2014). The income and poverty of persons with disabilities in collection "*Social integration of disabled persons.*".

¹⁰⁷ *Puuetega inimeste ja nende pereliikmete hoolduskoormuse uuring 2009.* (Survey on disabled people and care burden of their family members 2009) University of Tartu, RAKE.

¹⁰⁸ Source: Statistics Estonia.

equalised income was 7847.20 EUR, in case of disabled people the corresponding income was 5562.57 EUR. The average monthly disposable income per household member was 353 EUR for disabled people (77% of Estonia's average). Pensions and benefits are often the only or a major income source for many disabled people. In 2012, pensions and benefits formed 67% of total income of persons with disabilities.

212. The improvement of the living standard and social protection depends on the success of the work ability reform to be implemented from 2016 (see also reports on Articles 3, 4 and 27), improvements in the quality and provision of social welfare services (see also reports on Articles 19, 20 and 26). The improvement of the living standard of disabled people will be further supported with the new Social Protection, Inclusion and Equal Opportunities Development Plan (currently under preparation). The Cooperation Agreement for Ensuring Social Protection for Persons with Disabilities or Health Damage that was signed in 2014 also contributes to the rise of living standard of disabled people (see also reports on Articles 3 and 4).

Article 29-Participation in political and public life

213. According to §48 of the Constitution, all persons have the right of association and to form non-profit organisations and unions. Disabled persons thus have the right to join any such organisation and also to form organisations with the specific purpose of promoting and protecting the interests of disabled persons and participating in the political process. To promote political inclusion for all, Estonia publishes the drafts of all legislation and related documents from public authorities for public access via the Internet in the Information System for Draft Legislation (EIS).

214. Organisations representing disabled persons and other civil society organisations are regularly consulted in the elaboration of policies and legislation. An impact assessment including impact on the rights and equal opportunities of disabled people is required for all strategic documents, programmes and legislation. The Government Communication Handbook¹⁰⁹ obliges government authorities to include interest groups in the political process. In order to ensure effective participation, a Memorandum on Principles of Cooperation was signed in 2012 between the Estonian Government and the Estonian Chamber of Disabled People, an umbrella organisation representing the majority of associations uniting the interests of disabled people in Estonia.¹¹⁰

215. Estonian Public Broadcasting broadcasts daily national news in sign language. Subtitles are provided for talk-shows and investigative topical tele-magazines. Some broadcasts in foreign language and Estonian broadcasts with foreign language sections are equipped with audio description. Astangu Vocational Rehabilitation Centre together with the Estonian Association of the Deaf has created a web-based video portal — Sign Language TV — that brings together sign language videos from various areas.¹¹¹

216. The right to belong to a political party, to participate in a referendum and to vote and stand as candidate in presidential elections and elections to the national parliament (*Riigikogu*), the European Parliament and local government councils is based on an age requirement, citizenship, residency and active legal capacity. A person who due to mental illness, mental disability or other mental disorder is permanently unable to understand or direct his or her actions, may be found by a court to have restricted active legal capacity, which depending on the specific case may or may not relate to the person's voting rights.

¹⁰⁹ The Government Communication Handbook is available at:
https://riigikantselei.ee/sites/default/files/content-editors/Failid/valitsuskommunikatsiooni_kasiraamat_eng.pdf.

¹¹⁰ Memorandum of cooperation principles between Estonian Government and representative bodies of disabled people (*Vabariigi valitsuse ja puuetega inimeste esindusorganisatsioonide koostööpõhimõtete memorandum*) (2012), 30.03.2012, Tallinn, available at:
<http://www.sm.ee/nc/sinule/puudega-inimesele.html?cid=2065&did=7138&sechash=55104536> and
<http://www.epnu.ee/vabariigi-valitsuse-ja-puudega-inimeste>.

¹¹¹ More information about the Sign Language TV can be obtained from: <http://videoportaal.ead.ee/us>.

(Code of Civil Procedure, §526). Any loss of active legal capacity with respect to voting rights must be expressly stated in the court order.

217. Electoral procedure allows for anyone who, due to a physical disability is not able to participate in elections without assistance, to use the help of an assistant of their choice when they vote. Online voting is well developed and popular in Estonia.¹¹² All voters can vote electronically in any election from any location worldwide. The electronic voting website provides support for the blind and visually impaired, as it complies with W3C WAI guidelines and is compatible for use with a JAWS screen reader. Traditional, non-electronic voting can also be organised in a person's home, as well as in correctional facilities, hospitals and care facilities. This possibility is actively promoted by the National Electoral Committee prior to all elections.

Article 30-Participation in cultural life, recreation, leisure and sport

218. Pursuant to the Language Act (§1), disabled people have a right to their own cultural or linguistic identity on equal grounds with other people, including recognition of and support to the sign language and the culture of deaf people. Since 2007, sign language is legally recognised in Estonia as an independent language.

219. The Estonian Language Development Plan 2011-2017¹¹³ sets the goal to support the sign language and the language use by people with linguistic special needs, by developing the sign language interpretation service (including written translation service) and using the full potential of the opportunities of digital television. The targets are set to interpret at least 10% of Estonian TV programmes into the Estonian sign language, to provide at least 10% of Estonian-language original TV programming with Estonian subtitles and to supplement part of the public TV programming with condensed subtitles of the announcer's text. The Estonian National Broadcasting Development Plan 2013-2016¹¹⁴ supports the aims of the Language Development Plan and Estonian Cultural Policy (see below) by stressing that Estonian National Broadcasting promotes creativity which helps integrate different generations and people from different backgrounds in Estonia and increase the level of tolerance in the society. ETV2 broadcasts news in sign language and subtitles are added to reruns.

220. The construction of new and the renovation of old cultural buildings takes maximally into consideration the needs of wheelchair users. Mobility impaired people have the best possible access to all state established performance facilities. If access to some halls is hindered due to absence of elevators, the staff in theatres is trained to help with lifting the wheelchairs. Several theatres have implemented or are considering implementing a discount ticket system for people with special needs and persons accompanying them.

221. Theatres are making use of text strips and sign language interpretation (e.g. for the children's performance *Koerahaldjas Mia* (Mia the Dog Fairy)). A pilot project has been launched to install special devices under spectator chairs in theatres, helping hearing impaired people to listen to the spectacles. In some theatres, sound frequency loop amplifiers have been installed, enabling people with hearing aids to hear the spectacle better and clearer. The audio can also be listened to via earphones.

222. Projects for closed captioning of Estonian films and theatre performances have been launched in cooperation with the North and South Estonian Associations of the Blind and Tallinn, Harju County and Tartu County Associations of the Deaf. Since 2014, full-length feature films, animated films and over 50 minute long documentaries financed by the Estonian Film Institute are supplied with subtitles for hearing and visually impaired people. A roundtable "Cultural access of people with special needs" took place within the tARTuFF

¹¹² In the 2015 Estonian Parliament elections, 30.5% of all votes were cast online.

¹¹³ The Development Plan is published at the following address:

<https://valitsus.ee/sites/default/files/content->

[editors/arengukavad/eesti_keelee_arengukava_2011_2017.pdf](https://valitsus.ee/sites/default/files/content-editors/arengukavad/eesti_keelee_arengukava_2011_2017.pdf).

¹¹⁴ The Estonian National Broadcasting Development Plan 2013-2016 is published at:

http://err.ee/files/ERR_arengukava_2013-2016.pdf.

film festival, addressing disabled people's participation in culture and their biggest hindrances encountered in real life.

223. The Museums Act (§2) provides that upon the performance of its functions, a museum shall take account of the needs of disabled people. Visiting a state museum is free of charge for a disabled child under 16 years of age and his or her accompanying person, and a person of 16 years of age and older who has a profound disability and his or her accompanying person.

224. Visual arts have become more accessible for disabled people. The accessibility of the Art Museum of Estonia for mobility, visual, hearing and intellectually impaired people has been improved. For years, the Museum Education Department of the Museum Council of the Ministry of Culture has been addressing the issue of how to include people with special needs in museum activities. The Art Museum of Estonia accompanies its exhibitions with special programmes for visually impaired people and conducts education programmes adapted to intellectually impaired people.

225. A project "Young people with special needs in Art Museum", co-initiated by the Education Centre of the Art Museum of Estonia and the social institutions of Tallinn, creates opportunities for young people with special needs to discover art through active learning methods. Also, art created by disabled people has been introduced. For example in 2014, an international exhibition "From Eye to Eye" was organised, exhibiting works of art created by people suffering from mental disorders.

226. Trainings and seminars have been organised for museums. For example the Summer School of Estonian Museum Pedagogues and the Summer Courses of the Baltic Museology School have discussed opportunities to include people with special needs in museum activities. The principles of development aid for museums contain a clause enabling allocation of support funds to museums for the purpose of improving their accessibility for disabled people. Several disabled people have acquired the qualification of a data entry clerk in museums of Pärnu and Tartu counties.

227. Opportunities have been established to include disabled people (e.g. guides using sign language) into cultural activities, but the institutions themselves report that the opportunities are used rather rarely. More than a half (54.1%) of the persons with disabilities do not participate in any cultural activities,¹¹⁵ compared to 35.5% of persons without disabilities. Only 5.6% of the disabled population participate in cultural activities at least three times a month, compared to 20.8% of persons without disabilities. The main obstacles to participation in cultural activities are low incomes, poor health conditions, poor physical accessibility to venues and lack of supportive services (transportation, personal assistance service). 9.6% of persons with disabilities and 36.1% of persons without disabilities engage in physical exercise.¹¹⁶ Therefore, more contribution is needed for information activities, mapping the opportunities provided by cultural institutions and sharing that information with the Estonian Chamber of Disabled People and its member organisations. Also, promotion of culture clubs and activities (like the theatre club at the North Estonian Association of the Blind that provides people with special needs with the opportunity to participate in performances) is needed.

228. The General Principles of Estonian Cultural Policy until 2020 set out the state obligation to support the improvement of the opportunities of people with special needs to participate in culture, by taking into account the needs of people with reduced mobility upon constructing the cultural infrastructure and by supporting initiatives and programmes implemented in cultural institutions for the purpose of inclusion of hearing and visually impaired people.

229. The Estonian Library for the Blind, acting as a department of the Repository Library of Estonia, prepares, collects, preserves and lends audio and Braille materials to visually impaired people. Materials in ordinary text that contain information on activities,

¹¹⁵ In this context, cultural activities are defined as going to the theatre or cinema, to a concert or a museum, visiting cultural monuments and attending sports events.

¹¹⁶ Source: *Puudega inimeste sotsiaalne lõimumine*. Social Integration of Disabled Persons, 2014. <http://www.stat.ee/72564>.

rehabilitation and teaching of visually impaired people are being lent to all interested people. The number of home loans in 2013 was approximately 17,000.

230. Pursuant to the Public Libraries Act (§15), a public library shall organise home delivery free of charge for inhabitants who are not able to visit the library due to health reasons. The National Library of Estonia and the libraries of public universities have ensured access and availability of library services for disabled people.

231. General Principles of Estonian Sports Policy until 2030¹¹⁷ that determine the vision of, a national goal and priority developments for the Estonian sports policy, taking into account the disability mainstreaming, were adopted by the Parliament in February 2015. The National Health Development Plan 2009-2020¹¹⁸ sets out the task of creating opportunities of and supporting the engagement of people with special needs in rehabilitative sport.

232. There are 17 sports organisations for disabled people in Estonia, with roughly 450 hobby athletes. The Estonian Paralympic Committee includes five umbrella organisations (the Estonian Union of Sports for the Disabled, the Estonian Deaf Sports Union, the Estonian Blind Sports Association, the Estonian Swimming Union for the Disabled, and the Estonian Sports Union for the Intellectually Disabled), active at both professional and hobby level. Sports federations, other sports organisations and sub-organisations of the Estonian Chamber of Disabled People provide increasingly more training camps for disabled people and opportunities to engage in rehabilitative sport together with trainers. At the national level, the sport of disabled people is co-ordinated and funded by the Ministry of Culture and the Ministry of Social Affairs.

233. In recent years, the organisers of sports events have paid ever more attention to the inclusion of disabled people. For example, Jüri Jaanson's Two Bridges Run keeps separate account of those who complete the distance in a wheelchair. 2014 was announced the Year of Exercise in Estonia, also entailing several events that were organised for disabled people (for example, a cross-country run for intellectually impaired people). According to the Sports Register data, there are 2500 sports facilities in Estonia, 223 of which have infrastructure for disabled people.

III. The situation for boys, girls and women with disabilities

Article 6-Women with disabilities

234. The principle of gender equality and the prohibition of discrimination on the basis of sex are enshrined in §12 of the Constitution of the Republic of Estonia. The most important legislative development has been the adoption of the Gender Equality Act in 2004 with the purpose to ensure gender equality and to promote equal treatment for men and women as a fundamental human right and a public good in all areas of social life. The Act prohibits discrimination based on sex in private and public sectors and provides for the right to claim compensation for damage. The Act obliges all administrative levels to mainstream gender equality into policies, strategies and action plans. It also obliges educational and research institutions and employers to promote gender equality. The Act defines direct and indirect discrimination, gender equality, equal treatment of men and women, gender-based and sexual harassment and establishes the rule of shared burden of proof. A special emphasis is put on discrimination in working life. The Act also allows certain positive measures in order to promote gender equality.

235. The importance of gender mainstreaming continues to grow in Estonia. A Gender Mainstreaming Working Group, composed of representatives from government ministries and co-ordinated by the Ministry of Social Affairs, has the aim of providing training on

¹¹⁷ General Principles of Estonian Sport Policy until 2030 are available at: http://www.kul.ee/sites/default/files/150318_spordipoliitika_alused_aastani_2030_en.pdf.

¹¹⁸ The Development Plan is published at: https://valitsus.ee/sites/default/files/content-editors/arengukavad/rahvastiku_tervise_arengukava_2009-2020_taiendatud_2012.pdf.

gender mainstreaming for a broad range of government employees and drafting gender mainstreaming strategies for various policy areas. Additionally, a Gender Equality Council was established in 2013 as an advisory body to the Government which provides civil society organisations an opportunity to raise issues of concern and to point out important areas of intervention beyond initiatives taken by the Government. Minister of Social Protection appoints the Gender Equality and Equal Treatment Commissioner as an independent and impartial expert who acts independently, monitors compliance with the requirements of the Gender Equality Act and the Equal Treatment Act.

236. In the past years, the Gender Equality and Equal Treatment Commissioner has been increasingly active in promoting the rights and interests of disabled girls and women. Since 2013, the commissioner has been implementing a project to increase the effectiveness of legal protection against discrimination by raising awareness about rights and helping victims of discrimination directly through strategic litigation, and by increasing the capacity of officials who provide aid to discrimination victims. Information materials will be published with special focus on minority groups and vulnerable social groups who are more likely to be victims of gender discrimination and multiple discrimination.

237. A first set of information materials will be targeted to disabled women who are more likely to become victims of (multiple) discrimination in the labour market than disabled men. Considering the high unemployment rate of disabled people and in particular of disabled women (only 25% of women with a severe disability and 44% of women with a moderate disability work), special attention will be focused on how to overcome barriers to their active participation in working life. The brochure will also address the issue of women who are most often the principal carers of disabled family members and the burden of care and domestic responsibilities as barriers to participation in the labour market. A second set of activities will promote gender equality and enhance gender mainstreaming into policies and practises by various actors, especially in the public sector.

238. Within civil society, the rights of women and girls with disabilities are championed by a number of organisations, including the Estonian Human Rights Centre and the Estonian Chamber of Disabled People. More specifically, the Estonian Association of Disabled Women has since 1998 helped women and girls with special needs integrate into society by raising their awareness and social activeness. The Association raises awareness among the general public about the rights, duties and needs of disabled women to help foster a tolerant and inclusive environment for women with special needs. The Association also monitors adherence to internationally accepted human rights for women with special needs, and makes proposals to both state and local authorities for measures to increase the ability of disabled women to cope independently as active members of society.

Article 7-Children with disabilities

239. Estonia has ratified the UN Convention on the Rights of the Child, which is considered an integral part of the domestic legal order. In all matters relating to the implementation of European Union law, Estonia is also bound by Article 24 of the Charter of Fundamental Rights of the European Union, which prescribes that children have the right to express their views freely and that such views must be taken into consideration on matters which concern them in accordance with their age and maturity. Further, in all actions relating to children, whether taken by public authorities or private institutions, the child's best interests must be a primary consideration. These principles are also set out clearly in the new Child Protection Act, which was adopted on 19 November 2014 and will enter into force in 2016.

240. Already the current (and also the one to be implemented from 2016) Child Protection Act gives priority to the interests of the child and obliges all persons to treat children as individuals, with due consideration for their unique qualities, age and sex. The Act clearly states that all children have equal rights to assistance, care and development, regardless of their sex, health or disability. Under the child protection system, the Social Welfare Act, the Family Law Act and procedural law, all children, regardless of disability,

are free to express their views, and the views of a child who is at least 10 years of age or whose level of maturity allows, must be taken into account in matters that affect him or her.

241. All national strategies regarding children are based on the Children and Families Development Plan 2012-2020, which is based on the conviction that every child is valuable. This means that in all decisions and policies regarding children and families, the state places the interests, needs and wellbeing of the child and the family at the forefront, to ensure that all children living in Estonia have equal rights and equal opportunities.

242. In addition to the state and local allowances, rehabilitation and other social services (see also reports on Articles 19 and 28) there are special services targeted to children with disabilities and their families. In order to enable normal daily life for families with disabled children, the Ministry of Social Affairs has set the objective for years 2014-2020 to support local municipalities in developing and offering services (transportation service, childcare and support persons for children with severe and profound disabilities) for children with disabilities. Planned reforms deriving from the implementation of the new Child Protection Act aim to restructure the current system and ensure that children with disabilities receive the support required, access to education and everyday activities.

243. In addition to supportive services for families, alternative care is usually implemented in a situation where a disabled child cannot live with their biological families. 22.7% of children who are living in different alternative care forms are with disabilities (by the end of 2014, 580 children with disabilities were in alternative care; the total number of children in alternative care is 2556). Most of them (73.3%, i.e. 425 children) live in substitute homes. However the existence of disability is not a legal ground for placing a child in alternative care.

244. Since 2011, the Chancellor of Justice has been active as a Children's Ombudsman. As the Children's Ombudsman, the Chancellor of Justice verifies the activities of institutions and persons fulfilling public duties, either on the basis of petitions received or on its own initiative, acting as a supervisor of the lawfulness of the activities of executive and legislative powers and drawing attention to shortcomings. The Chancellor of Justice as the Children's Ombudsman can have a say in the development of strategies and can point to possible conflicts with the UN Convention on the Rights of the Child and the Constitution of the Republic of Estonia.

245. The Chancellor of Justice as the Children's Ombudsman visits schools for children with special needs, their substitute homes and safe homes, doing so on the basis of a work schedule and the priorities set.¹¹⁹ Other child care institutions are visited by the Children's Ombudsman if the need results from a person's petition or stems from a specific case. In that case, the duties of the Chancellor of Justice are limited to institutions fulfilling public duties.

246. The situation of disabled children and measures directed to them are also described in the reports on Articles 18, 23, 24, 26, 28 and 30.

IV. Specific obligations

Article 31-Statistics and data collection

247. Protection of personal data and collection of statistics are regulated by the Personal Data Protection Act, the Official Statistics Act and the Civil Service Act.

248. The Personal Data Protection Act (§1) establishes that upon processing personal data, the fundamental rights and freedoms of natural persons, above all the right to inviolability of private life must be protected. Personal data may be processed without the person's consent only for the needs of scientific research or official statistics only in coded form. Exemptions established by law allow personal identification only in predominant public

¹¹⁹ The Chancellor of Justice's opinions and verification visit reports are available at the Chancellor of Justice website: www.oiguskantsler.ee.

interest (in scientific research) and in case the person's rights are not excessively damaged. Health status and disability data are considered sensitive personal data that can be processed only with the person's consent.

249. Statistics about the situation of disabled people is gathered by Statistics Estonia with the Estonian Social Survey, the Estonian Labour Force Survey, the Working Life Survey and the Household Budget Survey. Data concerning health status, retirement and aging is gathered with the SHARE (Survey on Health, Ageing and Retirement in Europe) survey.¹²⁰ In 2014, a large-scale Estonian Health Survey was conducted. Data regarding disabled people (including general statistics, household characteristics, employment, poverty, coping and time use) is available in the special section of Statistics Estonia database.¹²¹ Statistics Estonia prepares regular statistical overviews, keeps a weblog¹²² and annually publishes the Statistical Yearbook of Estonia¹²³ as well as thematic publications. In December 2014, a collection of articles on social integration of disabled people was published.¹²⁴

250. In addition to the national statistics collected pursuant to the Official Statistics Act, the Ministry of Social Affairs collects,¹²⁵ analyses and publishes¹²⁶ regular social welfare statistics. Social services data register STAR¹²⁷ that is an everyday working tool for social workers, provides also statistics on local government social services and benefits. Annual reporting, studies and analyses of the health sector are conducted by the National Institute for Health Development.¹²⁸ Monthly overviews of the labour market situation in Estonia, prepared by the Ministry of Social Affairs, are published on the Ministry of Social Affairs website.¹²⁹ Labour market services statistics is published on the Unemployment Insurance Fund website.¹³⁰ Data about the education students with special needs (except about disabilities and preschool children at home and under childcare services) is collected and published by the Estonian Education Information System EHIS.¹³¹

251. In addition to official statistics, regular surveys are conducted about the situation of disabled people and their family members. In 2005, the first 5-year interval survey (the next survey is due in 2015) about disabled people's and their family members coping and needs was conducted by the Ministry of Social Affairs. The first survey about the coping and needs of families with disabled children was conducted in 2009 with a repeat survey planned for 2016.

Article 32-International cooperation

252. Estonia has been engaged in development cooperation as a donor state since 1998. Estonia is a member of the UN Human Rights Council and is dedicated to protecting and promoting human rights and fundamental freedoms through international organisations. Most official development aid reaches developing countries through the budget of the European Union and through international organisations such as the EU, UN and the World Bank.

¹²⁰ SHARE survey's website: <http://www.share-estonia.ee>.

¹²¹ <http://pub.stat.ee/px-web.2001/Database/Sotsiaalelu/13TERVISHOID/13TERVISHOID.asp>.

¹²² The Statistics Estonia weblog is available at: <http://statistikaamet.wordpress.com>.

¹²³ The Statistical Yearbook of Estonia for 2014 is available at: <http://www.stat.ee/72570>.

¹²⁴ Puudega inimeste sotsiaalne lõimumine. Social Integration of Disabled Persons, 2014. <http://www.stat.ee/72564>.

¹²⁵ Social welfare statistics collected by the Ministry of Social Affairs is published on the website of the Ministry as S-Web (data submitted by local governments) and H-Web (data submitted by social welfare institutions).

¹²⁶ The social sphere's statistics are published at: <http://www.sm.ee/et/sotsiaalvaldkond>.

¹²⁷ <http://www.sm.ee/et/sotsiaalteenuste-ja-toetuste-andmeregister-star>.

¹²⁸ The statistics gathered by the National Institute for Health Development are available at: <http://pxweb.tai.ee/esf/pxweb2008/dialog/statfile2.asp>.

¹²⁹ The labour market overview is published at: <http://www.sm.ee/et/toovaldkond>.

¹³⁰ The Unemployment Insurance Fund's statistics are published at: <https://www.tootukassa.ee/content/tootukassast/statistika-ja-uuringud>.

¹³¹ Estonian Education Information System is available at: <http://www.ehis.ee/>.

253. Development Cooperation is currently based on the Principles of Estonian Development Cooperation (approved by the Parliament in January 2003) and on the Estonian Strategy for Development Cooperation and Humanitarian Aid 2011-2015.¹³² The Strategy is based on general international development agreements and goals, including the UN Millennium Development Goals, as well as the development policy decisions and guidelines of the EU. While the rights of persons with disabilities are not expressly noted, human rights, gender equality and environmental friendliness are addressed in all development cooperation. Focus in 2011-2015 is on communication of Estonia's social state governance and reform experience to Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine as prioritised partner countries. Special attention is on promoting the availability of information and communication technologies and health care to the general public. In Moldova, development cooperation has included support for a project aimed at promoting the inclusion of persons with disabilities in active social life, including in the labour market, through training and rehabilitation.

254. The Government also supports the efforts of the Estonian Roundtable for Development Cooperation, a non-governmental umbrella organisation uniting NGOs engaged in international development, humanitarian aid and global education, and its members, including in bilateral cooperation projects. The Estonian Chamber of Disabled People, an umbrella organisation uniting disabled people's organisations, has also participated in several development cooperation projects. Members of the Estonian Chamber of Disabled People have shared their knowledge in Kazakhstan, Latvia and Lithuania and hosted study visits for delegations from Kazakhstan, Uzbekistan and Latvia.

Article 33-National implementation and monitoring

255. The Ministry of Social Affairs has been designated as the focal point of the CPRD in Estonia. The Ministry of Social Affairs is responsible for implementation of the Convention within its area and facilitate the related activities in different areas of government as well as in areas within the responsibility of local governments. Each government ministry is responsible for implementation of the Convention within its area of government. Cooperation between the ministries is facilitated through a Cooperation Assembly (see below).

256. In March 2012, the Government and the representative organisations of disabled people signed a Memorandum of Cooperation Principles and formed a consultative Cooperation Assembly to mainstream disability issues and coordinate activities to ensure protection of the rights of persons with disabilities (please see also reports on Article 3 and 4).

257. Since ratification, Estonia has worked to designate or establish a framework, including an independent mechanism, to promote, protect and monitor implementation of the Convention. In 2014, the Praxis Centre for Policy Studies, an independent research centre, was tasked with providing an analysis of whether and which body should be entrusted with the task of serving as a monitoring mechanism. The study culminated in the formation of a committee to act in accordance with Article 33 of the Convention. The committee is composed of individual experts who have drawn up principles and indicators for monitoring the implementation of the Convention.

258. At the beginning of 2015, preparations to nominate the Gender Equality and Equal Treatment Commissioner as the independent monitoring mechanism of the Convention started, including necessary amendments in legislation and allocating necessary resources to complete the task.

259. As noted in the report on Article 4, the Ministry of Social Affairs is in the process of drafting a Social Protection, Inclusion and Equal Opportunities Development Plan for 2016-2023, which will set out a clear strategy for disability policy, including promotion and protection of equality, for respect for the requirement of non-discrimination on the basis of

¹³² The Estonian Strategy for Development Cooperation and Humanitarian Aid 2011-2015 is available at the Government of the Republic website: www.valitsus.ee.

disability, the provision of reasonable accommodation and fulfilment of other obligations under the CRPD.

260. This report has been drafted by the Ministry of Social Affairs in cooperation with other ministries and government agencies. Starting from the preliminary stage of drafting, the Estonian Human Rights Centre, the Estonian Human Rights Institute, the Estonian Patient Advocacy Association and the Estonian Chamber of Disabled People and all of its member organisations were invited to submit observations regarding implementation of the Convention. The draft report was submitted to these organisations for written comments. In addition, a seminar for stakeholders to voice their opinion was organised before submission of the final version of the draft report.
