



## International Covenant on Civil and Political Rights

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### Human Rights Committee

#### Ninety-ninth session

#### Summary record of the 2715th meeting

Held at the Palais Wilson, Geneva, on Monday, 12 July 2010, at 3 p.m.

*Chairperson:* Mr. Iwasawa

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*Third periodic report of Estonia*

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*The meeting was called to order at 3 p.m.*

**Consideration of reports submitted by States parties under article 40 of the Covenant**

*Third periodic report of Estonia (CCPR/C/EST/3 and CCPR/C/EST/Q/3 and Add.1)*

1. *At the invitation of the Chairperson, the delegation of Estonia took places at the Committee table.*
2. **Mr. Kokk** (Estonia) said that the delegation would first reply to issues 1 to 14 on the list. With regard to the implementation of the Covenant by national courts, three judgements invoking articles 23, 26 and 15 of the Covenant, respectively, had been handed down by the Supreme Court. The provisions of the Covenant had also been invoked in other cases in lower courts. Most of those cases had involved the denial of a residence permit.
3. The institution of the Chancellor of Justice was a totally independent authority. The Chancellor's legal status and mandate were established in the Chancellor of Justice Act. The Chancellor was appointed by Parliament (*Riigikogu*), at the proposal of the President of the Republic, for a term of seven years and could be removed from office only by a court ruling. Criminal charges could be brought against the Chancellor only at the proposal of the President and with the approval of a parliamentary majority, which made it impossible to remove the Chancellor from office on political grounds. The independence of the Chancellor was further guaranteed by certain restrictions on the incumbent's activities. The Chancellor could not hold another State or local government office and was not authorized to participate in the activities of political parties or to belong to the management or supervisory board of an enterprise. The same restrictions applied to the Chancellor's deputies and advisers.
4. The Office of the Chancellor of Justice had its own budget, which could be freely disposed of within the boundaries set by Parliament. The amounts allocated to that budget were negotiated by representatives of the Ministry of Finance and the Chancellor prior to being recorded in the State budget. The Chancellor then approved the budget of the Office. The Chancellor of Justice performed the function of ombudsman and was responsible for overseeing the constitutionality of legislation. Ombudsman proceedings could be initiated either through a petition submitted by an individual or upon the Chancellor's own initiative. Petitions submitted to the Chancellor would be rejected if they had already been ruled upon by a court or were the subject of legal or administrative proceedings. The Chancellor was not competent to amend decisions handed down by judicial bodies, and the Chancellor's opinions were not legally binding. When examining a petition, the Chancellor not only considered the information provided by the parties, but investigated the facts and circumstances relevant to the matter for him or herself. The Chancellor had free access to all relevant places and documents and could request written information from the parties and, if necessary, call in experts. The Chancellor of Justice's opinions included an assessment of whether the State officials involved had complied with the law and the principles of good administration. The Chancellor could also issue recommendations. If the Chancellor found that a piece of legislation violated the Constitution or the law, the Chancellor could propose to the body that had passed that legislation that it should rectify the situation within 20 days. If not satisfied by the end of that deadline, the Chancellor could propose to the Supreme Court that it should declare the legislation invalid. Given that generally recognized principles and norms of international law formed part of the Estonian legal system, the constitutional review could also address issues related to the Covenant, which had in fact occurred on several occasions.
5. The provisions of the Gender Equality Act had been invoked by Estonian courts at least three times since 2005. None of the cases involved the principle of equal pay for equal

work, and no violation of the Act had been established. A relevant judgement handed down by the Supreme Court had been reported in the written replies to the list of issues. The main purpose of the Equal Treatment Act that entered into force in 2009 was to implement two European Union directives on equal treatment. Its applicability thus depended on the grounds on which a person had been discriminated against, while the Gender Equality Act was applicable to all areas of life, except family and private life. With the entry into force of the Equal Treatment Act of 2009, the Gender Equality Commissioner had been replaced by the Gender Equality and Equal Treatment Commissioner. The Gender Equality and Equal Treatment Commissioner received complaints filed by individuals and formulated opinions on cases of discrimination. Those opinions were not legally binding but could help the person concerned to decide whether to file suit. Sometimes the opinions had resulted in changes being made to legislation. The Gender Equality and Equal Treatment Commissioner and the Chancellor of Justice were separate institutions. Cooperation with other institutions, however, formed part of their mandates. Their proceedings differed in terms of method and outcome. The conciliation proceedings overseen by the Chancellor of Justice were voluntary, but once both parties had agreed to the procedure, the agreement reached was binding. The Gender Equality and Equal Treatment Commissioner, on the other hand, could issue an opinion at the request of one party and without the consent of the other, but such an opinion would not be legally binding.

6. The legislation criminalizing attempted violations of core human rights or incitement to commit such violations entered into force in 2009. No proceedings had been instituted under that legislation. The use of firearms by the police was regulated by the Police and Border Guard Act that had entered into force in 2010.

7. The Ministry of Justice was drafting an amendment to the Criminal Code to harmonize its definition of torture with that of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Since 2007, the Chancellor of Justice had served as the national preventive mechanism provided for in article 3 of the Optional Protocol to the Convention against Torture. As such, the Chancellor regularly inspected detention centres. During such inspections, the Chancellor would meet with detainees, their relatives and prison staff, and the reports on the inspections, which were made public, contained recommendations and proposals for the centre in question, as well as for other relevant authorities.

8. Victims of torture were entitled to compensation under general victim support mechanisms. However, no statistics were available on the compensation awarded in relation to specific offences.

9. At the end of 2009, the Ministry of Justice had acknowledged the need to amend the Criminal Code to include a separate paragraph on human trafficking. A proposed text would probably be submitted to Parliament in 2010. Also, on 3 February 2010, Estonia had signed the Council of Europe Convention on Action against Trafficking in Human Beings, which Estonia would ratify as soon as its domestic regulations had been brought into line with the provisions of that Convention. Almost 7 million krooni had been allocated to the 2006–2009 anti-human trafficking plan. Shelters had been opened for victims, and a helpline had been set up. Activities to raise public awareness of the issue and improve cooperation among the various agencies involved in combating human trafficking had been carried out. It was difficult to estimate their impact on the number of human trafficking cases, as there were relatively few such cases each year. A new plan to reduce violence had been adopted for 2010–2014. The plan focused on violence committed by and against minors, domestic violence and human trafficking. The activities envisaged in the plan were designed to build on the measures taken under the preceding one. Victims of human trafficking were entitled to medical, psychological, social and legal assistance, which was provided by NGOs but financed by the Ministry of Social Affairs. In addition, all persons

who had fallen victim to negligence, mistreatment or physical, mental or sexual abuse were entitled to support as provided for in the Victim Support Act. Compensation was also available for victims of crime. Under new legislation introduced in 2007, victims of human trafficking originating from a foreign country could obtain a special temporary residence permit, which was different from other resident permits, to stay in Estonia for the duration of the criminal proceedings. The procedure stemmed from a Council Framework Decision of the European Union aimed at bringing to justice the perpetrators of crimes of human trafficking in European Union countries.

10. All the legal safeguards for detainees, including access to a doctor and a lawyer, the possibility of informing a relative, the right to be informed about the charges brought against them and the right to appear before a judge in the shortest possible time, were set out in the Constitution and the Code of Criminal Procedure. When apprehended, people were immediately informed of the reasons for their detention, as well as of their rights and obligations. Nobody could be detained without a court order for more than 48 hours.

11. Living conditions in prisons had improved significantly under the penal reforms. Two of the five prisons operating in Estonia in 2010 were new. A sixth prison was due to open in 2013. The number of prison inmates had decreased since 2007 as a result of changes in the grounds for granting release on parole and the introduction of electronic monitoring. As of 2015, the Minister of Justice would set a maximum number of inmates for each prison facility.

12. The Chancellor of Justice regularly visited mental health facilities and had concluded that the living conditions in them were generally satisfactory, although there was room for improvement, especially with regard to psychiatric services. However, there did appear to be a lack of regulatory norms and standards.

13. Supreme Court decisions on violations of prisoners' rights had resulted in several amendments being made to the Imprisonment Act. With regard to telephone calls, the prison administration was authorized to record the name of the person or the institution that the prisoner called, as well as the time and duration of the call. The prison administration was also authorized to register the name of the person or institution that the prisoner wrote to, as well as the address and date of dispatch. However, the prison administration was not entitled to listen to prisoners' telephone calls or to read the contents of their letters. Prisoners were permitted access to the Internet via computers set up especially by the prison to allow access to official juridical databases, such as the database of the decisions of the European Court of Human Rights. Detainees had easy access to complaints mechanisms and could file complaints through an administrative court procedure or with the Chancellor of Justice in his or her capacity as the ombudsman. Prisoners could claim material and non-material damages under the State Responsibility Act. In 2008, 40 per cent of all the cases before the Tartu Administrative Court had been brought by prisoners. As specified in the written replies, several legal actions had been brought against State officials for the violation of prisoners' rights. In 2009, 21 officials had been cautioned, 5 had been removed from office, and 4 had received salary downgrades. Also in 2009, five criminal complaints against prison officers had been brought under paragraph 291 of the Criminal Code: one had been dropped owing to insufficient evidence; another had concluded with a conviction and prison sentence for the officer involved; and the three others were ongoing. The principle of holding accused persons separately from convicted criminals, and juvenile detainees separately from adult ones, was respected in all prisons, in accordance with the Imprisonment Act.

14. **The Chairperson** thanked the Estonian delegation and invited the members of the Committee to ask further questions.

15. **Mr. Thelin** requested more information on the three cases mentioned in the written replies as involving the implementation of the Covenant by national courts, specifically on the contents of the judgements handed down by the Supreme Court in each case. As Estonia was a monist State, which meant that the instruments to which it became party were immediately incorporated into domestic legislation, he wondered to what extent the national courts actually invoked the provisions of the Covenant. Could it be that the European Convention was invoked more easily and hence more often? The notion of a “joint criminal offence”, which had been introduced into the Criminal Code, considerably expanded the range of acts punishable under criminal law. He wished to know the reasons behind the amendment and whether it responded to a clearly identified need or the desire to bring Estonia’s legal system into line with those of its neighbours. He asked whether the Imprisonment Act covered detention, both before and after sentencing, in which case he would like to know more about its contents.

16. Given that article 217, paragraph 10, of the Code of Criminal Procedure provided for the possibility of denying a detainee the right to contact a relative, it was important to know whether that decision was solely up to the public prosecutor and whether it could be appealed. He also wished to know how often the provision was applied. Had any of the complaints examined by the Chancellor of Justice involved the application of that provision and had the Chancellor ever ruled that the public prosecutor’s decision had been unfounded?

17. He requested information on the circumstances under which a defendant could be judged in absentia as well as information on the right to appeal a judgement in absentia.

18. The written replies showed that the State party aimed to sentence those convicted of certain offences to community service instead of prison. He wished to know whether such sentences were already available and, if so, how often they were imposed and what the results of their use had been. The increased use of measures other than imprisonment, such as probation and electronic monitoring, had helped reduce the prison population, but other factors could also explain the decline, such as a drop in crime or greater leniency in the courts. The Committee would like to hear the delegation’s comments on the subject.

19. With regard to the placement of people in psychiatric facilities, the Estonian Patient Advocacy Association had told the Committee that Estonia had still not implemented the amicable settlement reached in 2008 in the case of *M.V. v. Estonia*, which had been handled by the European Court of Human Rights and according to which Estonia was obliged to pay compensation to a patient unlawfully deprived of her liberty. Updated information on the follow-up to that case would be appreciated. The Estonian Patient Advocacy Association had also reported that detainees with disabilities had problems accessing health services; the Committee would like to hear what the delegation had to say on that matter and what measures had been taken to address the problem.

20. The amendments made to the Imprisonment Act as a result of the Supreme Court’s decisions in certain cases of violations of prisoners’ rights marked real progress in detainees’ rights. Judging by the relatively high number of cases of complaints filed by detainees with the administrative courts, it seemed that prisoners were fairly well informed of the remedies available to them and of how to make effective use of them. He wished to know the total number of complaints that had been brought by detainees and how many had resulted in compensation being offered. Encouraging progress had also been made regarding living conditions in police detention facilities, but the fact that the law did not set a maximum limit for time spent in custody prior to indictment was still cause for concern. Legislative measures had been taken to expedite both civil and criminal proceedings, but that was not enough. Figures on the number of people in police custody who had been charged would be useful.

21. **Mr. Bouzid** said that according to several observers, the functions conferred upon the Chancellor of Justice by the pertinent legislation and the Constitution did not cover all the responsibilities corresponding to a national human rights institution as prescribed in the Principles relating to the Status of National Institutions for the Promotion and Protection of Human Rights (the Paris Principles). For example, the Chancellor was not actively engaged in the promotion of human rights, did not issue reports on the status of human rights in the country and did not coordinate the efforts of the State and civil society. He wished to know what the delegation thought of those observations and whether the State party intended to amend the law regarding the Chancellor of Justice to bring them completely into line with the Paris Principles. In the written replies, the State party stated that by 1 February 2010 the Chancellor had reviewed almost 2,000 cases. Given that the Chancellor's decisions were not binding, it would be interesting to have information on what had actually ensued in those cases and on the number of recommendations that had been fully implemented.

22. In paragraph 121 of its report, the State party acknowledged that article 122 of the Criminal Code did not fully comply with the definition provided in the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, but claimed that the Criminal Code taken as a whole fully covered that definition. Some observers, however, said that the Criminal Code, even considering article 122 together with articles 291, 312 and 321, did not cover certain elements of the definition set forth in article 1 of the Convention against Torture, such as mental suffering and discrimination. It would be useful to hear the delegation's position on the matter. In the written replies, the State party said that after each visit to a detention centre, the Chancellor of Justice issued a report containing recommendations and proposals for the management of the establishment in question or other competent authorities. The Committee wished to know how many of those recommendations and proposals had been implemented. The State party had not provided the data requested on the Chancellor of Justice's competence to receive complaints from detainees regarding torture or ill-treatment or on the measures taken to guarantee the independence of the Police Control Department. Any information on the subject would be most welcome. He also wished to know whether the Chancellor of Justice had received complaints from detainees during visits to detention centres.

23. **Ms. Keller** asked what measures the State party intended to take to raise awareness of the provisions that protected the right to equal pay for equal work, particularly among people exposed to inequality, as well as to help those whose right to equal pay had been violated to seek and obtain compensation. The table presented in paragraph 56 of the State party's written replies showed that the wage bill at the Office of the Gender Equality Commissioner had almost quadrupled between 2005 and 2010 while the funds allocated to operating expenses had fallen by almost two thirds over the same period. Insufficient funding of the Commissioner's activities would undermine capacity to fulfil the Commissioner's mandate. She wished to know what the State party intended to do to resolve that situation and asked when the gender equality council might be set up.

24. Over and above the explanation given in the written replies of the relationship between the Gender Equality and Equal Treatment Commissioner and the Chancellor of Justice, she wished to know how each of the two institutions exercised its authority when discrimination stemmed from the law itself or was perpetrated by a State agency. She asked whether the State party intended to establish an institution other than the Chancellor of Justice as a national human rights institution in keeping with the Paris Principles. If not, would all the responsibilities set out in the Paris Principles, including the obligation to cooperate with civil society, be assigned to the Chancellor of Justice?

25. **Mr. O'Flaherty** said that the new firearms regulations were a welcome development. Several governmental, non-governmental, national and international sources had said that human trafficking was a serious problem in Estonia. The head of delegation

had said that a proposed amendment to the Criminal Code to include a new article on trafficking was under consideration and would probably be submitted to Parliament in 2010. He wished to have a more precise indication of when that new article would be adopted. The fact that the State party had signed the Council of Europe Convention on Action against Trafficking in Human Beings and undertaken to amend its legislation in order to ratify that Convention was good news. He wished to know when the State party would complete the process and be ready to ratify the Convention.

26. Highly useful data had been provided on the 2006–2009 anti-human trafficking plan. He wished to know how the State party was planning to pursue action in that area. The head of delegation had mentioned a new plan to reduce violence in the period 2010–2014. Human trafficking was certainly one form of violence, but a very specific one that called for targeted measures. Were such measures contemplated in the plan to reduce violence or had other anti-trafficking programmes been put in place? It seemed that the Ministry of Justice was primarily responsible for the fight against trafficking. What was being done to make sure that the issue was tackled not solely from a law enforcement perspective and that the various aspects of social protection were also taken into account? According to a 2008 report published by the European Union Agency for Fundamental Rights, Estonia did not take the rights and specific needs of child victims sufficiently into account in its measures to combat human trafficking. What was the delegation's opinion on the matter and how would the State party address the specific problem of child trafficking?

27. He asked the delegation to confirm that victims of trafficking could not obtain residence permits unless they agreed to cooperate with the authorities. If that were the case, he wondered how such an obligation fitted into an anti-trafficking strategy based on respect for fundamental rights. The Council of Europe Convention on Action against Trafficking in Human Beings recommended not making assistance to victims conditional on their willingness to serve as witnesses. Given that the State party was preparing to ratify that Convention, he wished to know whether it intended to eliminate that condition for obtaining a residence permit. He also requested sex- and age-disaggregated data on the residence permits granted to trafficking victims.

28. **Ms. Motoc** said that the issues of gender equality and human trafficking were particularly difficult in a country with a large minority population. The Government and most of the population could well be anxious to achieve greater equality — as was undoubtedly the case in Estonia — but the same might not apply among minority groups. It was therefore important to involve minorities in all awareness-raising and dissemination efforts.

29. Like all Eastern European countries, Estonia was generally seen as a major centre of human trafficking; but the situation was far more complex than it might appear at first glance. To effectively fight trafficking, the root causes of the phenomenon and the complex networks at work in it needed to be tackled. What means did the State party have to launch such a far-reaching campaign?

30. **Mr. Bhagwati** asked what the average time spent in pretrial detention was in Estonia. He also wished to know whether the enforcement of the Chancellor of Justice's decision could be petitioned for in court and, if not, how the decisions were enforced. In the light of article 14 of the Covenant, he wished to know whether the law established a procedure for removing judges on account of misconduct and, if so, which authority was empowered to investigate the matter and instigate that procedure.

31. **Mr. Amor** said that the information provided in the State party's report on the status, budget and activities of the Chancellor of Justice was useful, but that the Committee would be better able to appreciate the Chancellor's role and action if it had data, including statistics, on the complaints examined and the enquiries opened by the Chancellor, as well

as the results of those enquiries, together with data on the execution of the Chancellor's decisions.

32. **Mr. Salvioli** wished to know what measures had been taken to ensure that the judiciary implemented the provisions of the Covenant more systematically. Examples of cases in which judges had based their rulings on the Covenant would be welcome. He also wished to know whether candidates' knowledge of international human rights law was taken into account in the appointment of judges.

33. The delegation had said that Estonia intended to harmonize the definition of torture in the Criminal Code with the provisions of the Convention against Torture. He wished to know when that amendment would be made. He also requested confirmation that victims of acts of torture were eligible for effective compensation.

34. **Mr. El-Haiba** said that although both the way in which the Chancellor of Justice was appointed and the Chancellor's mandate to investigate complied with the Paris Principles, he wondered, as did other Committee members, about the role of the Chancellor as a link between the State and its various institutions on the one hand and civil society on the other, especially the NGOS working with the most vulnerable groups, such as detainees, women, minors or migrants. He wished to know whether the Chancellor of Justice was accredited by the Subcommittee on Accreditation of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights, and to which network of national human rights institutions the Chancellor belonged. He asked whether NGOs were authorized by law to make prison visits. As the Chancellor of Justice had been designated as the national preventive mechanism, it was very important for NGOs to be involved in that procedure.

*The meeting was adjourned at 4.30 p.m. and resumed at 4.50 p.m.*

35. **Mr. Kokk** (Estonia), in reply to the questions posed by the Committee, said that the analysis of the case law of the European Court of Human Rights was widely integrated into the university syllabuses and in training programmes for judges. The authorities were interested in also introducing training on the provisions of the Covenant, but that would take some time.

36. **Ms. Hannust** (Estonia) referred to two cases in which the Covenant had been invoked by the plaintiffs. The court's ruling on one of the cases, on the granting of a residence permit under international law, had not made any reference to the Covenant. In the other case, on respect for the principle of equality before the law, the court, while recognizing the validity of the principle, had ruled that it had not been violated. In other cases it had been the case law of the European Court of Human Rights, which was better known by the judges, that had been cited.

37. **Ms. Parrest** (Estonia), returning to the questions on the status and mandate of the Chancellor of Justice, said that the institution of the Chancellor of Justice was an independent constitutional mechanism. The Chancellor was appointed by Parliament, and the Chancellor's activities were governed by law. The status of the Chancellor fully complied with the Paris Principles. The Chancellor performed the usual functions of an ombudsman, and the Chancellor's recommendations, though not binding, could be enforced through a court order. When the Chancellor's recommendations were not followed, the matter could be publicized through the media, which might facilitate their implementation. In general, the Chancellor was held in high esteem by the population, and the Chancellor's recommendations therefore carried considerable weight.

38. The Chancellor of Justice reviewed the constitutionality of laws and other legal and regulatory provisions and examined their compatibility with the international instruments to which Estonia was party. The Chancellor could thus raise matters before the Supreme Court

and request the repeal of the offending provisions, and in fact had already done so. The Chancellor of Justice had, for example, reviewed the compatibility of certain laws with the principle of equal treatment and found the instruments to be wanting.

39. The Chancellor of Justice had been designated the national preventive mechanism referred to in article 3 of the Optional Protocol to the Convention against Torture. As such, the Office of the Chancellor carried out its activities in cooperation with NGOs, as described in paragraphs 82 to 89 of the written replies. The Chancellor had called upon experts from NGOs to carry out some of the prison inspections.

40. Statistics on the petitions lodged by detainees with the Chancellor of Justice were provided in paragraphs 43 and 44 of the written replies. The right to notify a relative of one's detention was a basic right of all detainees and was guaranteed both by article 21 of the Constitution and by article 217 of the Code of Criminal Procedure. The regulations governing detention centres established that those in charge of such establishments had to grant all persons placed in their custody the opportunity to notify a relative of their situation, unless the law stated otherwise. The exercise of the right to notify a relative could only be denied with the authorization of the public prosecutor. The detainee's notification of a relative had to be recorded in the detainee's case file, and the details of the procedure were carefully checked during inspections. Admittedly, there had been some occasions when the procedure had not been followed, but the authorities regularly reminded prison management of the need to abide by the pertinent regulations. There had been cases when a public prosecutor had objected to the detainee's exercise of the right to notify a relative. In that kind of situation, the Chancellor of Justice generally advised the detainee on the procedure to follow, which was to address a complaint to the public prosecutor before taking any court action.

41. Judges were appointed for life and could only be removed in three instances: if they had reached retirement age; if they were found guilty of committing an offence; or if they were the object of disciplinary action. Disciplinary proceedings against judges could be instigated by the Chancellor of Justice or the president of the Supreme Court or a lower court. A panel of experienced judges with different levels of jurisdiction decided, with the authorization of the Supreme Court, on the measures to be taken. In the past 20 years, however, not a single judge had been removed from office in Estonia as the result of disciplinary proceedings.

42. **Ms. Hannust** (Estonia), in reply to the questions on the legislation on human trafficking, said that following the recommendations made by several international bodies to incorporate a definition of human trafficking in the Criminal Code, the Ministry of Justice had confirmed its intention to submit a bill proposing such an amendment to the Government by the end of 2010. Getting the bill passed could take some time, however, because of the 2011 parliamentary elections. Nevertheless, the authorities were determined to do their utmost to ensure that a definition of human trafficking was drawn up and incorporated into the Criminal Code as soon as possible and, essentially, prior to the country's ratification of the Council of Europe Convention on Action against Trafficking in Human Beings.

43. The anti-trafficking programmes implemented so far had mainly focused on trafficking for the purpose of sexual exploitation and did not address the needs of specific population groups such as children. In the past few years, only three cases of child trafficking had been officially registered. The true figure was, however, higher than that, and the authorities were aware of the need to improve the collection of statistics on trafficking, as well as to boost the action of those who had direct contact with trafficking victims, such as social workers, medical personnel and teachers. Studies had shown that young Estonians, for example, were insufficiently aware that trafficking could affect them directly, and plans were under way to organize awareness-raising programmes in schools.

for teachers and pupils alike. The authorities were also planning to issue information to tourists warning them of the risk of trafficking. Anti-trafficking programmes were basically the responsibility of the Ministry of Justice, which was in charge of coordinating and supervising their implementation and reported annually on the matter to the Government, but many of the activities involved were conducted by the Ministry of Social Affairs.

44. The new programmes that had been developed addressed three issues: domestic violence, violence committed by and against minors and human trafficking.

45. Efforts to bring down trafficking networks basically involved sharing information and passing it on to law enforcement agencies.

46. With regard to the residence permits granted to trafficking victims, measures had been taken to comply with a European Council directive, but they were indeed too restrictive. Once the Council of Europe Convention on Action against Trafficking in Human Beings had been ratified, the authorities would loosen the restrictions to make it possible for trafficking victims to obtain a residence permit. The Committee could rest assured that the Government was keen to include minorities in the information campaigns on human trafficking, which were also directed towards non-Estonian speakers.

47. **Ms. Sepper** (Estonia), in reply to the questions on gender equality, said that in the analysis of the factors underpinning inequality, studies had shown that women from ethnic minorities were more often the victims of discrimination. The Office of the Gender Equality and Equal Treatment Commissioner had already handled cases of multiple discrimination. The Government did not set priorities in its fight against discrimination and tackled both discrimination against minorities and discrimination against women.

48. Estonia was one of the European Union countries where the difference between men's and women's pay was the greatest, at almost 30 per cent, largely on account of the marked segregation of the labour market. The Government had launched a campaign to raise awareness of the problem among both men and women and to end stereotypes about men's and women's occupations. Anyone whose right to equal pay for equal work was violated had four possible recourses: they could turn to the Gender Equality and Equal Treatment Commissioner, who would give them a non-binding opinion that could be helpful if they wished to take legal action; they could raise the matter with a labour dispute settlement commission, which would determine reparation, including financial compensation; they could bring the matter to the attention of the courts; and they could start voluntary conciliation proceedings through the Office of the Legal Chancellor. Only two wage discrimination cases had been brought to court, and both were still pending.

49. With regard to funding, the budget of the Office of the Gender Equality and Equal Treatment Commissioner was very small, but the institution had only recently been created, in 2005, and its activities for the time being mainly consisted of providing support to victims of discrimination. The Office's realm of action was due to expand as of 2011, when it would gradually become involved in training and raising awareness among public sector workers. Owing to budget constraints, there were currently no plans to set up the gender equality council that had been planned. The Ministry of Social Affairs was coordinating action in that area in the meantime. Details of the relationship between the Office of the Gender Equality and Equal Treatment Commissioner and the Chancellor of Justice had been requested. If a case involving a public body was brought before the Office of the Commissioner, it was generally referred to the Chancellor of Justice, or the interested party was notified of the possibility of taking it to the Chancellor of Justice. Both institutions were authorized to examine laws and statutes and verify their conformity with the principle of equal treatment.

50. **Mr. Kokk** (Estonia) said, with regard to the funding issue, that Estonia, which was due to join the Eurozone on 1 January 2011, had had to cut all ministerial budgets by

between 15 per cent and 20 per cent to meet the economic convergence criteria set by the European Union. It was nevertheless clear that the budget allocated to the Office of the Gender Equality and Equal Treatment Commissioner needed to be increased.

51. **Ms. Parrest** (Estonia) said that, with regard to the duration of detention on remand, a distinction needed to be drawn between pretrial detention and detention during trial. The maximum duration of the former was six months, and that term could only be extended in exceptional cases and under strict conditions. Detention during the trial was unlimited in duration, it being understood that it should be as short as possible. As for trials in absentia, such proceedings were provided for under extremely specific circumstances in the Code of Criminal Procedure. Details would be provided in writing.

52. **Ms. Hannust** (Estonia) said that, with regard to the definition of acts of torture, the articles of the Criminal Code referred to in paragraphs 120 and 121 of the State party's report were not the only provisions criminalizing torture, as noted in the fourth periodic report submitted to the Committee against Torture (CAT/C/80/Add.1, para. 139). However, the Committee against Torture had concluded that the notion of torture needed to be more precisely defined, and the Ministry of Justice was therefore going to study the issue and the Criminal Code would be amended to cover all the elements of the definition contained in the Convention against Torture.

53. **Mr. Kokk** (Estonia) said that, with regard to prison overcrowding, under the Soviet regime the number of people in prison had been very high. The Government had made great efforts to reduce the number of inmates and to reintegrate former inmates into society. Several measures had been taken including the implementation of release on parole and the use of electronic bracelets. The firm implementation of that policy had made it possible to reduce the prison population to less than half the level it had been at 20 years earlier.

54. **Ms. Parrest** (Estonia) said that the Chancellor of Justice complied with all the conditions set forth in the Paris Principles with regard to status, independence and budget. The Chancellor's accreditation as a human rights institution, however, had not been requested because the Chancellor did not carry out all the functions listed in the Paris Principles, such as publishing reports. The Chancellor did, however, work closely with the NGOs engaged in the tasks set forth in the Paris Principles. At that moment, however, no Estonian institution was accredited as a human rights institution.

55. **The Chairperson** thanked the delegation for its explanations and invited the Committee members to make their comments or ask for further clarification.

56. **Mr. O'Flaherty** said that although he understood the reasons given for not applying for the accreditation of the Chancellor of Justice, there were several types of status, and the Chancellor could certainly obtain, if not A status, then at least B or C status. Accreditation was very useful as it opened up many possibilities for cooperation and exchange.

57. With regard to human trafficking, he asked for confirmation that the new anti-trafficking plan incorporated in the development plan to reduce violence not only addressed the violence involved in human trafficking, but also victim assistance.

58. The delegation had said that, in anticipation of Estonia's ratification of the Council of Europe Convention on Action against Trafficking in Human Beings, the country's legislation would be revised and the obligation of victims to cooperate with authorities in order to obtain a residence permit would definitely be eliminated. Excellent as that news was, it was disappointing that Estonia had waited for the imminent ratification of a European instrument to address the issue, when several United Nations treaty bodies had already highlighted its importance. The same applied to data collection, which was still inadequate even though for years the United Nations treaty bodies had drawn attention to the need to establish a solid data system. Estonia had also been asked by several treaty

bodies to investigate the root causes of human trafficking, and he asked the delegation to inform the Committee of the conclusions of any studies conducted on the subject.

59. **Mr. Thelin** requested clarification as to whether the bill replacing prison sentences with community service had already been passed and, if not, whether the delegation could indicate the date set for its passage. He had been pleased to learn that compensation was offered to people unlawfully placed in psychiatric facilities, but had not received a reply to the question on the measures taken by the Government to ensure that persons with disabilities had access to health care and services. As to detention on remand, given the distinction between pretrial detention and detention during trial, he wished to know if figures were available for the number of detainees in each category.

60. **Mr. Kokk** (Estonia) replied that the delegation would make every effort to obtain statistics, including on the number of people in detention pending trial or during trial, and to make them available at the next meeting.

61. **Ms. Parrest** (Estonia), returning to the possible accreditation of the Office of the Chancellor of Justice, said that Estonia was seriously considering the possibility and had undertaken to study all the criteria that needed to be met before deciding whether to apply for A, B or C status.

62. **Ms. Hannust** (Estonia) said that under the new anti-trafficking plan included in the development plan to reduce violence, prevention took priority over repression. All the activities scheduled in the preceding plan were being continued in the new one. She would try to arrange for the results of the studies on human trafficking to be sent to the Committee members. The Government was aware that much still remained to be done before it had complete, harmonized and comparable statistics and would make every effort to achieve that goal.

63. **Ms. Parrest** (Estonia) said that, to her knowledge, all prisons had a full medical service, and the State was striving to respond to all the sanitary and medical needs of detainees with disabilities, including the provision of devices, such as wheelchairs, and access to external services.

64. **Mr. Kokk** (Estonia) added that two penitentiaries were new and therefore well-equipped; the other, older ones were in need of State investment.

65. **Ms. Hannust** (Estonia) said that the legislation on community service would enter into force on 19 July 2010.

66. **The Chairperson** invited the delegation and the members of the Committee to complete the consideration of the third period report of Estonia at the next meeting.

*The meeting rose at 6 p.m.*