

**ADDITIONAL REPORT  
ON THE UN CONVENTION ON THE RIGHTS  
OF THE CHILD**

**ADDITIONS, COMMENTS AND PROPOSALS  
BY NGOs IN ESTONIA**

**TALLINN 2015**

## INTRODUCTION

In 2014, the Republic of Estonia submitted to the UN Committee on the Rights of the Child its third and fourth periodic report on the implementation of the UN Convention on the Rights of the Child based on the activities in 2003–2011 and the statistics on this period.

According to the population census, at the beginning of 2012 there were 246 346 children in Estonia, making up slightly over 18% of the population. Compared to ten years ago, the number of children has decreased by approximately 17% (this fact should also be taken into account with regard to statistical changes covered in this report). Today, family life is faced with several new challenges. People need to cope with new risks in society (unemployment and working far away from home, poverty, social exclusion), dissipation of social support networks, diversification of norms and value systems, overall individualisation of society. According to the Estonian Human Development Report 2012–2013, some unreasonably large disparities in society are hidden behind Estonia's excellent average indicators – be it regional differentiations, gender gaps or differences between Estonians and other ethnic groups.

This report on implementing the UN Convention on the Rights of the Child has been drawn up under the coordination of the Estonian Union for Child Welfare in cooperation with the following larger sectoral NGOs: the Estonian Human Rights Centre, the Estonian Chamber of Disabled People, the Estonian National Youth Council, the Estonian School Students Councils' Union, Together for Children (*Koos Laste Heaks*) (legal successor of UNICEF Estonia National Committee since 2015), the Estonian Children's Fund, the Child Advocacy Chamber (unites different sectoral non-profit associations), the Estonian Patient Advocacy Association, the Estonian LGBT Association, SOS Children's Village Association of Estonia, EAPN Estonia, the Estonian Institute of Human Rights. Various consultations with sectoral experts, including representatives from Tallinn University, Tartu University and the Ombudsman for Children.

The Estonian Union for Child Welfare coordinated drawing up of the report: the substantive analysis was compiled by Helika Saar, and the report was edited by Malle Hallimäe, Marie Tammsaar, Kiira Gornischeff, Helen Karu. Consultations for preparing the report began in 2009, the substantive analysis was carried out from March to September 2015. Various surveys and interviews were carried out in 2013–2015 in Estonian and Russian, involving also vulnerable groups (children in substitute homes, children with disabilities, young offenders, children from less well-off families).

The report was drawn up in line with the handbook published by the Child Rights Connect „The Reporting Cycle of the Committee on the Rights of the Child (a guide for NGOs and NHRIs)“ and follows Estonia's 2014 third and fourth periodic report on the implementation of the UN Convention on the Rights of the Child submitted to the UN Committee on the Rights of the Child. The substantive part of the report is divided in nine chapters, following exactly the numbering of subdivisions in the national report. After each article or a group of articles covering a similar issue, proposals for changing or revising the current situation have been given (the text in *italics*). Attached to the report as a separate document is the bibliography of the literature on which the text as a whole is based.

### **Official contact information:**

Estonian Union for Child Welfare (MTÜ Lastekaitse Liit)

Endla 6-18, 10142, Tallinn, Estonia

Reg no: 80013442

E-post: [liit@lastekaitseliit.ee](mailto:liit@lastekaitseliit.ee); [kiira@lastekaitseliit.ee](mailto:kiira@lastekaitseliit.ee)

[www.lastekaitseliit.ee](http://www.lastekaitseliit.ee)

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## 1. GENERAL MEASURES OF IMPLEMENTATION (Articles 4, 42 and 44 para 6)

### 1.1 Bringing Estonian legislation in conformity with the Convention (Article 4). New laws and amendments to laws

1. The following chapters of the report deal with the sectoral legislative amendments aimed at promoting the welfare of children in the recent years, also pointing out shortcomings in areas in need of more precise regulation and solutions. Regrettably, it should be noted that even though domestic legislation mostly conforms to the Convention, its practical implementation is not always in line<sup>1</sup>.

#### 1.2 Implementation of the Convention in case-law

2. The Convention on the Rights of the Child (hereinafter the CRC) is an inseparable part of the Estonian legal system and directly applicable in courts. Despite slightly increased references to the CRC in the Supreme Court's decisions (14 times in 1997–2015, including 3 times in 1996–2006)<sup>2</sup>, their number is still very low. Lower instance courts also very rarely refer to the CRC. Various studies<sup>3</sup> indicate a continuing need for the training of judges<sup>4</sup> with regard to the principles of international protection of the rights of the child and the CRC.

3. According to the analysis (2013), in terms of taking into account the interests of the child, court decisions often merely noted that they had been taken into account but only in a few of the decisions it was explained how the court did it<sup>5</sup>. A study on assigning the right of custody also showed that the history of violence in a family was not always of decisive importance in assigning the custody of children.

4. One possibility for finding out the interest of the child is to hear the child, regardless of the child's age<sup>6</sup>. The court may dispense with hearing of the child only in case of a good reason. In Estonia there is no lower age limit under which the court could not hear a child. However, the practice among the judges with regard to the age of the child who is heard varies: as a rule, the courts do not hear children under ten years old, on rare occasions the court has also failed to hear children over ten years old, whereas the court ruling did not always contain reasons for failure to hear the child<sup>7</sup>. The practice among judges also varies with regard to whether and which specialists are involved in hearing a child<sup>8</sup>. In 2012, most children were of the opinion that hearing of a child was just as important as hearing of adults<sup>9</sup>.

*- Make the principle of hearing of the child by courts compulsory (including establishing the obligation of being heard in person), except when this is not in the best interests of the child, and remove the age limit under § 552<sup>1</sup>(1) of the Code of Civil Procedure.*

*- Enhance the knowledge about the CRC among judges and other specialists by offering them training on the rights of the child (including hearing of children) and development psychology. Prepare practical guidelines on how to carry out a hearing of a child for specialists who come in contact with children.*

### 1.3 International agreements

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<sup>1</sup> One of the reasons is the fact that many local authorities, which bear the main burden of providing social services, lack both financial and human resources.

<sup>2</sup>Riigi Teataja (State Gazette) electronic database of Supreme Court decisions.

<sup>3</sup>See for more detail Valma 2012, Nauts 2012, Võsu 2015.

<sup>4</sup> In 2013, the training course for judges on „The nature of child welfare” was held, dealing with the hearing of children in civil proceedings in custody disputes between parents.

<sup>5</sup>See for more detail the „Survey on assigning parental custody” [*Vanema hooldusõiguse määramise uuring*] (2013).

<sup>6</sup> Under § 552<sup>1</sup>(1) of the Code of Civil Procedure, *in matters pertaining to a child the court hears a child of at least 10 years of age in person but the court may also hear a younger child.*

<sup>7</sup>See for more detail the „Survey on assigning parental custody” (2013).

<sup>8</sup> If necessary, a child is heard in the presence of a psychiatrist, psychologist or social worker. The court may also permit other persons to be present at the hearing of a child unless the child or child's representative objects to it (§ 552<sup>1</sup>(1) Code of Civil Procedure).

<sup>9</sup>See for more detail the „Monitoring survey on the rights of the child and parenting” [*Lapse õiguste ja vanemluse monitooring*] (2012).

5. Estonia was the last EU member state to adopt the Act on the Ratification of the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict in 2013.

6. Despite the Government's affirmation that Estonia regularly submits reports on implementing the ratified conventions<sup>10</sup>, the Government have problems with timely submission of these reports<sup>11</sup>. With the ratification of the CRC in 1991, Estonia assumed the obligation to submit the relevant report every five years. Regrettably, in 1991–2013 the Government submitted only one report on implementing the CRC. Six years after the deadline, in 2014 the Government submitted the 3rd and 4th periodic report on implementing the CRC. Preparations for compiling the additional report began under the coordination of the Estonian Union for Child Welfare already in 2009, including carrying out various surveys among children in 2008–2015, and repeatedly drawing the attention of the Government to the need to comply with its international obligation.

*- Submit reports on implementing the ratified conventions in time and involve interest groups in the initial stage of drawing up the reports.*

#### 1.4 Coordination of national actions

7. Despite positive developments<sup>12</sup> (including improvement of some statistical indicators reflecting child welfare and the establishment of the institution of the Ombudsman for Children) the support system for children is in need of active further development<sup>13</sup>. Different studies have revealed the following systemic problems: insufficient cross-sectoral cooperation between the authorities in ensuring child welfare, varying capacity of local authorities and insufficient state support to them, too slow reorganisation of the institutions supporting children (e.g. substitute homes, special schools) and expansion of their working methods (e.g. as regards substitute care and juvenile sanctions).

8. Currently, no institutions have set cross-sectoral objectives covering the welfare of children, young people and families, nor taken responsibility for achieving them<sup>14</sup>. The state has not assumed a sufficiently strong role as a coordinator, manager, developer or implementer of the area of child welfare<sup>15</sup>. There is no central coordinating implementing unit to ensure cooperation between the parties and protection of the interests of children in the relevant areas<sup>16</sup>. Development of the relevant areas is largely project-based (e.g. the EU; the EEA; the Norwegian funding mechanism), thus causing a lack of sustainability; there is also a lack of integration, and cooperation between different parties needs improvement<sup>17</sup>.

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<sup>10</sup> Voluntary commitments and obligations under the UN General Assembly Resolution 60/251. Available on the Ministry of Foreign Affairs website: <http://www.vm.ee/?q=node/13056> (in Estonian)

<sup>11</sup> For example, on 21 March 2012 the Riigikogu ratified the UN Convention on the Rights of Persons with Disabilities but has not launched the Convention supervision nor submitted an implementation report.

<sup>12</sup> For example, launching of the European Economic Area grant programme „Children and youth at risk” and revision of the Child Protection Act. Developments in providing systemic assistance to children with behavioural problems (e.g. establishment of mental health centres, implementation of a family-based intervention programme for children with behavioural problems).

<sup>13</sup> See for more detail the „Basic principles for the development of across - sectoral support system for children and youth” [*Laste ja noorte valdkondadeülese tugisüsteemi väljaarendamise lähtealused*] 2014.

<sup>14</sup> The analysis of national development documents reveals fragmentation of objectives between different ministries. Sectoral development plans set overarching objectives for respective sectors as well as related areas but responsibility for their implementation is dispersed.

<sup>15</sup> See for more detail the „Baseline analysis on the revision of the organisation of child protection” [*Lastekaitse korralduse uuendamise alusanalüüs*] 2013.

<sup>16</sup> It is problematic that the area of child protection is organised by the Ministry of Social Affairs, partly through county governments (as subordinate institutions to the Ministry of Internal Affairs), i.e. the Ministry of Social Affairs can only have a limited say in establishing the operating expenses, personnel and additional tasks for the county governments.

<sup>17</sup> Responsibility for establishing the need for intervention can be divided between many different parties, e.g. in case of a child suffering from psychiatric disorders six different parties may be involved in establishing the initial need for intervention.



9. The function of state and administrative supervision over local authorities is performed by county governors, but regardless of what has been established in the legislation the county governors do not perform supervision over the quality of services<sup>18</sup>. There is a lack of service standards based on which supervision should be performed, as well as a lack of skills<sup>19</sup>.

*- Establish a cross-sectoral cooperation format for coordination of specifically targeted and interlinked actions.*

*- Establish a national minimum list of local-level social services and quality standards, as well as improve the relevant supervision.*

### 1.5 Institution exercising supervision over the rights of the child

10. A positive development has been the active work done by the institution of the Ombudsman for Children (established in 2011)<sup>20</sup> in analysing and monitoring compliance with the rights under the CRC. However, 80% of children in 2012 were not aware of the activities of the Ombudsman for Children<sup>21</sup>, and in 2011–2015 children only rarely used the individual right of complaint to the Ombudsman.

*- More actively raise awareness of society about the Ombudsman for Children as the institution supervising the rights of the child, and explain in a child-friendly manner in relevant channels (including among the Russian-speaking population) the possibility for children to exercise their right of complaint.*

### 1.6 Collection of data

11. In the recent years, more surveys concerning children have been carried out<sup>22</sup>, none the less more attention should be given to collection of nationwide data. The state lacks a detailed overview of the area of child protection, including lack of an overview of how many people exactly are dealing with the issues of child protection<sup>23</sup>. Although the number of children has decreased<sup>24</sup>, the number of children in need has increased. Unfortunately, there is no clear overview of how many children (including children in risk groups<sup>25</sup>) in fact need assistance. No information is collected about the reasons why children come under the attention of the child protection system. The data do not always allow obtaining information<sup>26</sup> only about children or about children of certain age<sup>27</sup>. Different problems relating to data collection have been described in the following chapters of this report.

12. The collected data are currently held in at least five<sup>28</sup> different databases, which are not integrated

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<sup>18</sup>See for more detail the National Audit Office audit report (2013) „Organisation of child welfare in rural municipalities and cities”.

<sup>19</sup> In 2008–2012, the operating expenses of county governments dropped by 21% and continue to decline; not all county governments have a full-time child protection worker.

<sup>20</sup>See for more detail <http://lasteombudsman.ee/>.

<sup>21</sup>See for more detail the „Monitoring survey on the rights of the child and parenting” (2012).

<sup>22</sup> Statistics Estonia together with the department of the rights of the child of the Office of the Chancellor of Justice published a compilation „Laste heaolu” [Child welfare] in 2013 covering topics directly affecting the welfare of children. Such a compilation should be published annually to serve as a basis for the existing services and for planning preventive activities.

<sup>23</sup>See for more detail the „Baseline analysis on the revision of the organisation of child protection” (2013).

<sup>24</sup> According to the population and housing census 2011, leaving aside the county centres and the nearest surrounding rural municipalities, the number of children in the remaining local authorities in Estonia today is approximately 30% smaller than ten years ago.

<sup>25</sup> Children in risk groups could also be in need but their need for assistance might not be officially registered.

<sup>26</sup>Terms and definitions are ambiguous and include many different groups – e.g. a child in need without parental care. Data collection is inconsistent – some data appear in the database with a delay, some data are not up-to-date and some data are not collected at all.

<sup>27</sup> In some databases data can be obtained only by age groups but not specifically for all ages.

<sup>28</sup> The Population Register, the social services and benefits information register STAR, the Social Insurance Board information system SKAIS, the education information system EHIS, the Police and Border Guard Board database on families and persons at risk.

and do not allow for a sufficiently quick outlook on child welfare. Data input also causes problems<sup>29</sup>, probably also because maintaining records of cases involving children in the database of social services and benefits is not obligatory<sup>30</sup>. The possibilities for cross-use of the databases are insufficient (e.g. shelters and accident and emergency rooms do not enter data in the same database), and therefore information about children in need does not necessarily reach child protection workers. Specific benchmarks for measuring the effectiveness and efficiency of child protection and of the services aimed at children are also absent.

*- Revise the principles for data collection (including harmonisation of definitions and classifiers in different information systems), improve integration between the databases. Make inputting of data concerning child protection compulsory in one database.*

*- Prepare indicators for monitoring the implementation of the rights of the child, so that the indicators concerning child welfare are targeted and variations in them can be observed. For promoting the rights of the child, annual publication of a compilation including indicators of child welfare is necessary.*

## **1.7 Preparation of the report and cooperation with civil society organisations**

### **1.7.1 Preparation of the report**

This topic is covered in section 1.3 of the report.

### **1.7.2 Cooperation with civil society organisations**

**13.** Over the years, the number of civil society organisations (CSOs) focusing on the welfare of children and families has risen<sup>31</sup> and they have become more active in advocacy activities, the provision of services and in policy-making. However, the funding of CSOs is unclear (e.g. the bases for funding have not been harmonised between the different ministries), it is mostly project-based (including in case of large and long-term sectoral non-profit associations which have been the state's cooperation partners on different levels), and this is not sustainable for the development and achievement of the objectives of the CSOs.

*- Harmonise the funding of CSOs (including revising the principles for grants given by the Gambling Tax Council) and ensure support to assessing the impact of the activities (including dissemination of the assessment tools and funding of the assessment), and funding of the evidence-based programmes.*

## **1.8 Allocation of state funds**

### **1.8.2 Support to child protection work**

**14.** The main burden of organising and funding the area of child protection lies with the local authorities. In a situation where the number of children in need continues to increase, the expenditure of local authorities on social protection of children and families has decreased. While in 2008 the social protection expenditure for children and families made up 22% of the total social protection expenditure, in 2014 it was 19%<sup>32</sup>. Administrative capacity of local authorities varies and local authorities with a lower revenue base do not have sufficient resources to develop and fully implement child protection services.

**15.** The state lacks an overview of the detailed use and efficiency of resources allocated for child protection. There is no information on where and how many resources local authorities precisely

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<sup>29</sup> In 2013, 90% of the child protection workers kept records on assistance to children in paper files, 81% used their personal computer for keeping records, and only slightly more than half (52%) used the STAR register for keeping records.

<sup>30</sup> For example, if a child's place of residence changes, the child protection worker in the local authority of the child's new residence cannot access or process the data relating to the child.

<sup>31</sup> In addition to what was mentioned in the Government's report, since 2013 the NGOs operating in the area of children and families in Estonia are also united under the network of the Chamber for the Protection of the Interests of Children.

<sup>32</sup> Social protection expenditure of local authorities in 2014 was total 123 million euros (the same in 2012), See for more detail: <http://www.fin.ee/kov-eelarved-ulevaated#KOVK> (in Estonian).

allocate<sup>33</sup>. When allocating resources for child protection from the state budget, the state has so far not indicated with sufficient clarity the differences between the tasks of the state and of the local authorities<sup>34</sup>. Similarly, the impact of the money allocated from the state budget for protecting the rights of children has not been assessed, and no gender budgeting is implemented.

16. In 2012, about 60% of children in Estonia lived in local authorities which did not have a separate child protection worker<sup>35</sup> or did not have a sufficient number of them<sup>36</sup> – only in 3 out of the 15 counties the number of children was below the ideal ratio<sup>37</sup>, while in the remaining counties the number of children per one child protection worker was higher. Overload may result in the deterioration of the quality of work and the children might not receive the necessary timely and good-quality assistance<sup>38</sup>. The number of child protection workers with specialist education has increased over the years but still many child protection workers lack special education<sup>39</sup> – therefore the daily practice of child protection work differs between local authorities or even within one local authority. There is a huge shortage of in-service training (including legal training)<sup>40</sup>. The new organisation of child protection<sup>41</sup> somewhat alleviates the situation<sup>42</sup>, but does not offer a final solution to the two problems in this area – the shortage of child protection workers in local authorities and the availability of services being dependent on a particular region.

*- Support and develop consistently the child protection capacity of local authorities (e.g. further trainings, supervision), including promoting cooperation between the local authorities. In order to ensure the functioning of organisational changes, funding of child protection should be stable and targeted both on the national and local level.*

*- Allocate more targeted resources to local authorities for hiring more child protection workers as an increase of the number of child protection workers is a precondition ensuring children's rights.*

*- Increase professionalism (qualifications, competence) of the parties in the area of child protection and the quality of intervention activities. The development of the competencies should be systematic,*

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<sup>33</sup> The funding allocated from the state budget to local authorities is divided in two: non-targeted funding the use of which can be decided by the local authorities themselves, and targeted funding, such as the needs-based family allowance and the subsistence benefit, for which the local authorities act as intermediaries. It is unclear what exactly is included in social protection expenditure for children and families in different statistical presentations.

<sup>34</sup> In terms of the funding of child protection, the Supreme Court *en banc* judgment of 16 March 2010 No 3-4-1-8-09 represents an important milestone, as it obliges the state to establish bases to distinguish between the functions imposed on cities and rural municipalities, and to indicate the distribution of money for performing respectively the functions of the state and of local authorities. The Supreme Court stressed that the constitutional right to sufficient financial means for performing the functions of local authorities requires that the state should establish a regulation to secure funds for local authorities for the performance of local functions at least to the minimum necessary extent.

<sup>35</sup> The decision whether to hire child protection workers depends on a local authority.

<sup>36</sup> The National Audit Office 2013 audit report „The organisation of child welfare in rural municipalities and cities” revealed that only 38% of the local authorities had hired a separate member of staff for child protection work.

<sup>37</sup> According to the „Development plan for children and families 2012–2020”, the optimal ratio of children per one child protection worker is 1000:1.

<sup>38</sup> The survey by the Union for Child Welfare „Assessment of child welfare” (2011), observations by child protection workers: „There is little time, some families would need constant attention but there is no time because we, social welfare workers, cannot be on duty 24/7. Working alone in a rural municipality continuous work is not possible (you have to make choices)“; „First of all the personal resource, because the local authorities do not proceed from the number of children when hiring child protection workers“; „shortage of specialists in the county“.

<sup>39</sup> Child protection workers also include people who have acquired education, for example, in agriculture, merchandising or cybernetics.

<sup>40</sup> The Union for Child Welfare in its opinion of 21 January 2014 on the Draft Child Protection Act proposed to add a module on legal bases for the in-service training of child protection workers. The need primarily for legal training is also revealed in the National Audit Office report „The organisation of child welfare in rural municipalities and cities” (2013). According to the „Baseline analysis on the revision of the organisation of child protection” (2013), 39% of the surveyed child protection workers wanted additional legal training. See for more detail the Health Development Institute's 2015 „Analysis of the training needs of child protection workers”.

<sup>41</sup> The new Child Protection Act enters into force on 1 January 2016.

<sup>42</sup> Inter alia, the child protection workers will be entitled to regular in-service training ensured by the state.

*in cooperation with universities and other research institutions.*

### **1.10 Introducing the Convention (Article 42)**

**17.** Attention to valuing of the child and promoting the rights of the child has been given on the level of the state<sup>43</sup> as well as non-profit associations<sup>44</sup> in Estonia for years, but the awareness of society about the rights of the child is still insufficient. Surveys<sup>45</sup> affirm the continued need to deal with raising awareness and spreading information about the rights of the child and about the relevant institutions (e.g. 23% of adults and 16% of children in 2012<sup>46</sup> had not heard about the rights of the child before). We can witness tendencies like increasing peripheralisation and non-availability of systematic information (in particular in Ida-Viru County)<sup>47</sup>; 25% of the children surveyed in 2012 were not convinced that all children had the same rights. In north-eastern Estonia even 67% held this opinion, and the awareness of children in that region about the possibilities of getting assistance was also below average<sup>48</sup>.

**18.** Estonia ratified the CRC in 1991 and the national basic school curriculum provides for introducing the Convention; yet in 2013 61.3% of the respondents (even 75% of the Russian-speaking children and young people in Ida-Viru County who replied to the questionnaire) had not heard of the Convention<sup>49</sup>.

**19.** None of the higher educational institutions had offered systemic education on the rights of the child until 2014 when Tartu University Institute of Social Sciences in cooperation with the Law Faculty launched a study module (24 ECTS credit points) on the rights of the child as part of the Master's curriculum on social work and social policy, which is aimed at future child protection and social workers, lawyers and other specialists dealing with children<sup>50</sup>.

*- Better inform society about the rights of the child, including introducing the CRC to both adults and children (including in Russian), using channels aimed at different target groups. Carry out regular campaigns covering the whole of Estonia to introduce and explain the rights of the child.*

*- Carry out information activities concerning the rights of the child in cooperation with non-profit associations, and support preparation of information materials introducing the CRC (both in Estonian and Russian), including in child-friendly versions (both as interactive and printed material).*

*- Increase the scope of human rights education on different school levels and in the in-service training of occupations dealing with children. Include in teacher training (including kindergarten teachers)*

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<sup>43</sup> Since 2011, the activities of the Ombudsman for Children can be highlighted ([www.lasteombudsman.ee](http://www.lasteombudsman.ee)).

<sup>44</sup> Inter alia, the Union for Child Welfare ([www.lastekaitseliit.ee](http://www.lastekaitseliit.ee)), which has been active for 26 years in promoting the protection of the rights of the child in Estonia. The awareness about the organisation in society is also affirmed by the Praxis survey from 2012 (62% of children were aware of the Union for Child Welfare). The whole activity proceeds from the principles of the CRC and is aimed at introducing the CRC.

<sup>45</sup> Inter alia, the "Monitoring survey on the rights of the child and parenting" (2012), "Supporting the participation and involvement of children in decision-making processes" (2013); „Participation and involvement of children and young people at school“ (2014).

<sup>46</sup> In the Praxis monitoring survey, the internet (33%) was indicated as the main source of information from which children could learn about their rights, followed by information from the parents (31%). As it appears that children expect their parents to explain the rights of the child to them, the parents' own awareness about the rights of the child is extremely important.

<sup>47</sup> The same tendency was also pointed out in the Estonian Human Capital Report (2010), the Estonian Human Development Report (2010).

<sup>48</sup> Children in north-eastern Estonia had a below average awareness about all the institutions (68% of the children there knew about the children's helpline, 56% about the work of the child protection workers, which is significantly lower than the average in Estonia (78%).

<sup>49</sup> See for more detail the survey „Supporting the participation and involvement of children in decision-making processes“ [*Laste osaluse toetamine ja kaasamine otsustusprotsessides*] (2012/2013; 688 children and young people throughout Estonia participated in the survey).

<sup>50</sup> The module was introduced as part of the Estonian Union for Child Welfare project "Child's voice" [*Lapse hääl*] and it contains subjects on human rights and the rights of the child, child protection and practical work with children and families.

*topics on promoting the rights of the child and participation of children.*

*- Pay more attention to the development of the child and legal training at the universities and applied higher educational institutions within the curricula for child protection and social workers and within in-service training.*

## **2. DEFINITION OF THE CHILD (Article 1)**

**20.** In the Government's report (page 31) it has been mistakenly noted that the Estonian legislation also provides for exceptions where a child is deemed as adult later than 18 years of age. However, under § 8(2) of the General Part of the Civil Code Act, persons who have attained 18 years of age (adults) have full active legal capacity. It is positive that in 2013 subsection 2 was added to § 3 of the Republic of Estonia Child Protection Act – if the age of a person is unknown and there is reason to believe that the person is below the age of eighteen years, the person shall be deemed to be a child until proven otherwise<sup>51</sup>.

### **2.1.1. Marriage and consent in sexual relationship**

**21.** In Estonia, children have often been ill-treated by persons belonging to a close family or social network. Penalties for sexual offences against children were toughened in 2013, including penalties for a parent, a person with the rights of a parent, or a grandparent, who engages in sexual intercourse with a descendant; the prohibition to engage in sexual intercourse or committing another act of sexual nature with a person of less than 18 years of age<sup>52</sup>. Commission of the offence against a person who is in a service or dependent relationship with the offender, or if the offender is a family member of the victim, lives with the victim or if the victim is otherwise in a family relationship with the offender, or commission of the offence against a minor with abuse of power or confidence, were established as aggravating circumstances<sup>53</sup>.

### **2.1.3. Child as party to proceedings**

**22.** Recent studies in Estonia and Europe reveal in general that children do not receive sufficient support when participating in criminal or civil proceedings; guaranteeing that the child is notified and understands the proceedings has not yet become a general custom<sup>54</sup>. Although under § 219(2) of the Code of Civil Procedure, in a family matter, the court may appoint a representative (i.e. an advocate in accordance with the procedure under the State Legal Aid Act) to a person without active civil procedural legal capacity in a proceeding which concerns him or her if this is necessary for protection of the interests of the person, the practice in appointing a representative to a person under guardianship varies (in civil proceedings there have been cases where no state legal aid lawyer was appointed)<sup>55</sup>.

### **2.1.4. Succession capacity and capacity in property law**

**23.** One of the forms of supervision exercised by guardians (including parents) is granting of a consent to enter into transactions (e.g. real estate transactions, renunciations of succession, taking a loan, etc) on behalf of the persons under guardianship (including minors)<sup>56</sup>. To improve supervision, under the

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<sup>51</sup> Domestically, the principle was previously established in § 7(10) of the Granting of International Protection to Aliens Act, but it could not be applied in all the potential cases concerning minors (due to the nature and scope of the Act it only applied to aliens).

<sup>52</sup> With the Act on the Amendment of the Penal Code and the related Acts, in 2013 twelve Acts were brought into conformity with the European Parliament and Council Directive 2011/93/EU on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA.

<sup>53</sup> Penal Code § 58 clause 4 expanded the definition of a family relationship and explicitly established that family dependency may also mean a simple fact of living together even without financial support or maintenance.

<sup>54</sup> See for more detail Chapters 1 and 9 of this report.

<sup>55</sup> See for more detail the case-law analysis compiled by the Supreme Court (2011).

<sup>56</sup> The list of transactions for which parents and guardians need to seek a court's consent has been established in § 187 and § 188 of the Family Law Act. For example, without prior consent of a court, a guardian shall not do the following on behalf of a ward (including a minor): dispose of an immovable or a real right in immovable property belonging to the ward; dispose of a claim belonging to the ward and aimed at transfer of immovable property ownership or creation,

new Family Law Act in 2010 granting of consent was transferred from local authorities to the courts. The amendment was, inter alia, explained by the fact that local authorities did not always have staff with legal knowledge<sup>57</sup>. The Supreme Court's analysis (2011) shows that in the majority of the cases the court consented to the transaction requested by the applicants, refusal from consent was mostly an exception<sup>58</sup>.

### 2.1.5 Alcohol, tobacco and illegal substances

24. Consumption of alcohol among young people in Estonia is a serious problem<sup>59</sup>. According to the survey on alcohol and drug use among school students, 15–16-year-olds considered access to alcohol to be easy<sup>60</sup>, although compared to the previous years the accessibility has somewhat decreased. Legal provisions for the prevention of alcohol consumption among minors are difficult to implement<sup>61</sup>; inter alia, the problem is that an identity document as proof of age is seldom asked from minors when buying alcohol – in 2014, the sales staff asked for an identity document from minors wishing to buy light alcoholic drinks only in 24% of the purchases, and in case of strong alcoholic drinks in 36% of the purchases<sup>62</sup>.

25. Stigmatisation of minors by misdemeanour sanctions should be avoided. In 2015, § 72 of the Alcohol Act was repealed under which purchase of alcohol by a minor was punishable. At the same time, sanctions for a misdemeanour offence of a violation of the age restriction in handling alcoholic drinks were toughened (§ 67 Alcohol Act)<sup>63</sup>.

26. With regard to tobacco and illegal substances the overview is available in Chapter 6 of this report.

- *Harmonise the practice of appointing a representative to children in family matters concerning children.*

- *Improve measures to make alcohol, tobacco and drugs inaccessible to minors, including prevention of sale/giving of alcohol to minors: increasing the probability for violators of the prohibition being caught and toughening of consequences in case of violation. Restrict alcohol advertising in general.*

## 3. GENERAL PRINCIPLES

### 3.1 Non-discrimination (Article 2)

#### 3.1.1 Gender equality and equal treatment

27. The Basic Schools and Upper Secondary Schools Act refers to gender equality as one of the principles of organising school life, at the same time for teachers the reduction of gender inequality

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transfer or termination of a real right in immovable property; assume an obligation to perform the above disposals; enter into a contract aimed at acquisition for charge of an immovable or a real right in immovable property on behalf of the ward; grant the use of an immovable belonging to the ward; take a loan; renounce a succession, legacy or compulsory portion or enter into a contract for division of an estate; enter into a contract aimed at acquisition or transfer of an enterprise or an organisationally independent part thereof or a contract of partnership aimed at operation of an enterprise; lease an enterprise; acquire a holding in a legal person or join its membership.

<sup>57</sup> Representatives of local authorities have also noted that social workers are not competent to assess the financial or legal expediency of the transactions performed with a child's property.

<sup>58</sup> E.g. Pärnu County Court ruling of 27 May 2011 in civil case No 2-11-1578. The court refused to consent to a sale of an apartment ownership of a minor for the reason that the eldest child wished to settle in the apartment soon. Therefore, the court found that the transfer of the ownership would harm the interests of the children.

<sup>59</sup> The results of the „Survey on risk behaviour” (2014) show that 23% of 4th-year students, 48% of 6th-year students and 70% of 8th-year students have consumed alcohol.

<sup>60</sup> According to the ESPAD survey from 2011, 54% of 15-16-year-olds considered light alcohol and 76% strong alcohol easily available.

<sup>61</sup> E.g. in 2012, 6282 cases of consumption of alcoholic beverages by minors (§ 71 Alcohol Act) and 28 cases of purchase of alcoholic beverages by minors were registered. At the same time, in 2012, a misdemeanour sanction for violation of the age restriction in handling alcoholic beverages by minors was imposed 60 natural persons (§ 67(1) Alcohol Act) and three legal persons (§ 67(2) Alcohol Act).

<sup>62</sup> Regardless of some differences in the methodology of test purchases (2011, 2012, 2014), the situation has not improved over the years.

<sup>63</sup> Under § 67(1) of the Alcohol Act, a possibility of imposing a sanction of detention was introduced (previously only a fine), and under § 67(2) the maximum fine for legal persons was raised to 10 00 euros (previously up to 3200 euros).

at school is not a priority<sup>64</sup>, there is insufficient awareness<sup>65</sup> about the wider social significance of the topic as well as about the possibilities for cutting gender-stereotyped approaches in the teaching and learning process. Surveys among school students show that they understand and feel that teachers treat boys and girls at school differently. Students believe that boys are punished more often at school. **28.** Despite the legislative provisions, the principle is not sufficiently covered in curricula, textbooks, teacher training or practical study on all levels of education (including vocational education). Gender inequality in education is reflected in the gender composition of the teachers<sup>66</sup>, academic achievement of girls and boys, career choices of young people, and achievements in tertiary education. Gender neutral education of itself does not guarantee *de facto* equal treatment of students of different gender – among basic school drop-outs more than 70% are boys; 2/3 of the girls and only slightly more than half of the boys pass their school-leaving exams with good results; there are 40% of boys among persons with general secondary education; among graduates of higher educational institutions there are 194 women per 100 men (the biggest gap in comparison with other EU member states). The results of PISA 2006/2009/2012 reveal differences between the students in Russian- and Estonian-speaking schools, as well as in the school life and school perception of city and rural students, showing weaker results among children in Russian-speaking and rural schools<sup>67</sup> (see also point 16 of this report). The current Equal Treatment Act does not offer protection on the basis of religion or beliefs, age, disability, or sexual orientation in education.

**29.** In Estonia, the gap between the average hourly wage of men and women is the biggest in the European Union (30.9%), despite the average education level of women being higher. As wage is also an important factor in calculating benefits (unemployment, health insurance and parental benefits) and pensions, the current wage also affects the quality of life in the future. A quarter of children live with a single parent, mostly with mother; hence, the approximately one third lower wage of women also directly affects children and their opportunities.

**30.** In 2014, the Registered Partnership Act was adopted in Estonia<sup>68</sup>, accompanied by a heated debate in society. The Act provides for a possibility to obtain legal protection for all families, including families consisting of two same-sex persons and their children (including the rights of couples to adopt each other's biological children). However, regrettably the Government's inactivity in passing the implementing legislation has to be noted.

### 3.1.2 Penal Code

**31.** The EU framework decision on racism (2008) imposes an obligation to punish for incitement to hatred and denial or justification of certain crimes if it is characterised by incitement to hatred. The wording of § 151 in the current Penal Code does not meet this requirement as the provision requires a link to danger to the life, health or property of a person which is hard to prove in practice. LGBT groups in Estonia have expressed concern that the Estonian legislation does not establish hatred based on sexual orientation and gender identity as separate motives for hate crime<sup>69</sup>.

**32.** The survey on the deviant behaviour of children (2014) revealed that 16% of children had experienced bullying via the internet, e-mail or SMS; 6% of children had experienced threats of violence or use of violence against them based on religion, language, colour, social position order to

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<sup>64</sup>See for more detail „Gender and gender equality: experiences and attitudes among university students and teachers” [Sugu ja sooline võrdõiguslikkus: üliõpilaste ja õpetajate kogemused ning hoiakud] (2014).

<sup>65</sup> *Most of the teachers during their career have not received any gender related training or been exposed to specialist literature on the topic: different ways of studying and coping among boys and girls. ... Most of the teachers do not even consider the gender aspect a sufficient reason to scrutinise it further, the relevant training is considered redundant.* Tiina Pihlak. *Õpetaja tegevus poiste toimetuleku mõjutajana soolisest aspektist lähtuvalt*. [Activities of a teacher as a factor affecting the coping of boys from the gender perspective]

<sup>66</sup>A large majority of the teachers are women while the education systems are run by men.

<sup>67</sup>See for more detail Kerikmäe, T., Remmelg, A., Särav, S. (2014) *Õigus haridusele* [Right to education].

<sup>68</sup>The Act is presumed to enter into force on 1 January 2016.

<sup>69</sup>See for more detail the Human Rights Watch report on the situation of human rights in Estonia (2015).

other similar hate crime during the year prior to the survey<sup>70</sup>. In the opinion of students, they had become a victim of hate crimes or cyber-bullying first and foremost because of „another personality trait” (36.5% of hate crime victims), followed by „social position“ (22.6%) and „language“ (21.9%)<sup>71</sup>. Only 10% of the victims of hate crime reported it to the police<sup>72</sup>.

- *Integrate gender issues to teacher training and implement the topical in-service training. Establish a learning environment and prepare study materials which take into account the needs of both genders.*
- *Expand the scope of protection of the Equal Treatment Act.*
- *Create equal opportunities at the labour market, support reconciliation of work and family life, combat poverty among women, and reduce the gender pay gap.*
- *Draw up the implementing acts for the Registered Partnership Act.*
- *Introduce provisions in the Penal Code to make a motive of hatred (including based on sexual orientation and gender identity) an aggravating circumstance for the crime regardless of whether it resulted in a direct threat to a person’s life, health or property. Implement measures to effectively combat incitement to hatred.*
- *Organise information campaigns to prevent negative racist attitudes in society and combat them. Increase the proportion of human rights in the curricula of different levels of education.*
- *Inform society about the right to have recourse to the Chancellor of Justice for conducting conciliation proceedings if a person finds that a natural or a legal person in private law has discriminated them on grounds of an attribute of discrimination established by law.*

## **3.2 Right to life, survival and development (Article 6)**

### **3.2.1 Suicides**

**33.** In the recent ten years, no significant change in the number of suicides has occurred, the prevention is not coordinated and no authorities have been assigned responsibility. The Government’s report notes that the number of suicides among young people has decreased (page 39), but unfortunately in 2014 the suicide rate in the age group 14–19 rose twofold in comparison with the two previous years<sup>73</sup>. According to the SEYLE<sup>74</sup> 2010 survey, 22% of students had sometimes felt that life was not worth living. 5% of students had had a serious suicide plan (assessment of the last two weeks). At the same time, only 12% of teachers considered their knowledge of the mental health of children sufficient, and only 8% knew that their school had a crisis or action plan for situations when a student becomes suicidal or commits suicide.

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<sup>70</sup> The most frequent place of becoming a victim of hate crime was either school or school yard – as indicated by 48% of the victims of hate crime and 44% of the victims of an attack.

<sup>71</sup> In the case of Russian children, the most frequently mentioned reason for an aggressive attack or a threat was language (34%), followed by ethnicity and religion (both 25%). Estonian children most often pointed out „another reason” (44%) or social position (24%). In comparison to their Russian counterparts, Estonian children more often pointed out „another reason” which often related to appearance.

<sup>72</sup> The police more often receive reports of Russian children becoming victims than reports of Estonian children becoming victims, except robbing. Reports of robbing are twice more frequent in the case of Estonian children (25%) than Russian children (12%).

<sup>73</sup> Suicides in the age group 15–19 (2012:3, 2013:5, 2014: 10).

<sup>74</sup> A health promoting programme for adolescents in European schools.



### 3.2.2 Abortion

34. The number of abortions in Estonia has constantly decreased, including a drop in the abortion rate in the age group 15–19 (1996:49.2 and 2013:19.3 abortion rate per 1000 women aged 15–19). Until 2015, the Termination of Pregnancy and Sterilisation Act did not allow minors to have an abortion without the consent of their legal representative or, in case of disagreement of the legal representative, without the permission of the court. A wider debate with the interest groups was held in 2014–2015 when the Riigikogu abolished this restriction.

- *Improve measures aimed at suicide prevention (including for the prevention of self-injuries) and assign a responsible state agency.*

- *Empower specialists working with children to improve their capability to recognise mental problems of children.*

### 3.3. Right to express one's views (Article 12) and the principle of the best interests of the child

35. In case of decisions concerning children, the legislation provides for hearing of the opinion of a child who is ten years or older<sup>75</sup>, but in practice its implementation is uneven. Support materials on hearing of the child are available for prosecutors, police and border guard officers and judges, but no specific guidelines exist for lawyers, child protection and social workers and bailiffs. Only some child-friendly leaflets have been produced to support explaining of the rights, but they are not available for example to children with special needs and children with the Russian mother tongue<sup>76</sup>. In practice, the protection of the rights of the child is often hampered by the lack of knowledge or insufficient skills of a specialist<sup>77</sup>, e.g. specialists interviewing children have little theoretical knowledge about the rights of the child (including about the best interests of the child, the development of the child) and little practical skill for interviewing of children, establishing contact with children and talking to them<sup>78</sup>.

36. The principle of the best interests of the child<sup>79</sup> has been analysed throughout the report.

#### 3.3.1 Participation of children in decision-making

37. Children often receive information about their participation rights in the relevant subject classes in educational institutions (e.g. civics studies class) and through student representative bodies when they exist<sup>80</sup>. At the same time, introduction of the rights of the child often depends on the discretion and level of awareness of a particular teacher.

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<sup>75</sup> The Family Law Act provides for this requirement in deciding cases of adoption (§ 151). The Social Welfare Act establishes that the child's wish has to be taken into account in matters concerning the child personally (§ 25<sup>1</sup>(2) and § 32). Under the Code of Civil Procedure, the child should be heard in all matters pertaining to the child, e.g. in custody cases (§ 552<sup>1</sup>(1)). In all these cases, also a child younger than ten years old may be heard if its development level so permits. No minimum age limit has been established for hearing of minors in criminal proceedings. General rules, such as the defendant's or victim's right to be heard and express their opinion, apply (§ 34–35 and § 38 Code of Criminal Procedure). In education, the Basic Schools and Upper Secondary Schools Act establishes that proposals by students should be taken into account whenever possible (§ 6 clause 3).

<sup>76</sup> Leaflet *Tunnistajana kohtus* [In court as a witness]; *Riigikohtu infovoldik õpilastele* [Supreme Court's information leaflet for students].

<sup>77</sup> The new Child Protection Act for the first time clearly establishes the obligation to find out the opinion of the child in decisions concerning the child.

<sup>78</sup> See for more detail K. Kask (2009), *Erialaspetsialistide pädevus alaealiste tunnistajate ja kannatanute ülekuulamise kohta kriminaalmenetluses* [The competence of specialists in interviewing juvenile witnesses and victims in criminal proceedings]; K. Kask, (2015), *Alaealiste kannatanute video salvestatud ülekuulamiste analüüs* [Analysis of video recorded interviews with juvenile victims].

<sup>79</sup> Under the coordination of the Union for Child Welfare, the UN Committee on the Rights of the Child general comment No 14 on the right of the child to have his or her best interests taken as a primary consideration was translated into Estonian. To better understand the substance of the articles of the CRC, the Union for Child Welfare will continue translating the Committee's general comments into Estonian.

<sup>80</sup> According to the Ministry of Education and Research, there are 533 schools in Estonia (primary school, basic school, upper secondary school, nursery-primary school, nursery-basic school) and 164 of them have student representative boards, thus having a reach of almost 100 000 school students.

**38.** Involvement of children and young people in decision-making on the local level takes place most actively through youth centres<sup>81</sup> and youth councils (15 county-level youth councils). Children and young people are most often involved in consultative processes through the Estonian National Youth Council<sup>82</sup>, the Estonian School Students Councils' Union<sup>83</sup>, the Estonian Association of Open Youth Centres<sup>84</sup>, the Estonian Union for Child Welfare<sup>85</sup>. A consultative body with the Ombudsman for Children has been established<sup>86</sup>. Since 2014, the Estonian Youth Parliament (*Noorteparlament*) became operational under the coordination of the Union for Child Welfare and in cooperation with other youth organisations<sup>87</sup>, which evolved from a 22-year-old project „101 Last Toompeale“ [101 children to the Parliament]<sup>88</sup>.

**39.** The Union for Child Welfare carried out extensive surveys among children (both with the Estonian and Russian mother tongue) in 2012–2015 to draw attention to the rights of the child and in particular Article 12 of the CRC and to make the opinion of children heard, under the titles „Supporting the participation and involvement of children in decision-making processes“ (2012/2013)<sup>89</sup>; „Participation and involvement of children and young people at school“ (2014)<sup>90</sup> and „Participation of children in family life“ (2015)<sup>91</sup>, which demonstrate the wish of children to participate in decision-making processes in different environments. As an example, the amendment of the Constitution in 2015 under the leadership of the Estonian National Youth Council could be highlighted<sup>92</sup>, by which the voting age in the elections of local government councils was lowered from 18 to 16 years. The problems include: little involvement of children and young people in preparing national reports, insufficient attention to raising awareness of children with the Russian mother tongue and children with special needs about the right of participation and involvement, little practice in giving feedback to children on how their opinion was taken into account<sup>93</sup>, insufficient guidance materials for promoting participation of children on different levels. Regardless of positive developments, children often do not feel that their opinion has any impact on the national level.

*- Ensure involvement of children and young people in decision-making processes on different levels by paying more attention to involvement of socially excluded children and children with fewer opportunities.*

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<sup>81</sup> According to statistics, 22 000 different children and young people visit youth centres every week and 89 000 every month.

<sup>82</sup> The Estonian National Youth Council is an umbrella organisation uniting 43 youth bodies operating in Estonia, 15 county youth assemblies and 70 youth councils.

<sup>83</sup> The Estonian School Students' Councils Union unites student representative boards from 164 different schools, thus representing the opinions and interests of almost 100 000 school students.

<sup>84</sup> The Estonian Association of Open Youth Centres comprises 115 youth centres from local authorities (Estonia has a total of 220 youth centres).

<sup>85</sup> The Estonian Union for Child Welfare unites 34 member organisations, it has established a separate youth council and various consultative bodies under several projects (e.g. youth panel „Targalt Internetis“ [Behaving smartly on the internet], the project „Lapse hääl“ [Voice of the child]), camps for children, etc.

<sup>86</sup> The consultative body includes ten young people with different participation experience and knowledge from the following organisations: youth assembly of the Estonian Guides Association, the Estonian National Youth Council, the Estonian Scouts Association, *Eesti 4H*, Organisation of Home Daughters, youth assembly of the Estonian Union for Child Welfare, Young Eagles, the Assembly of Student Councils, the Estonian School Student Councils' Union, and the association *Ühise Eesmärgi Nimel*.

<sup>87</sup> See for more detail <http://www.lastekaitseliit.ee/noorteparlament/>

<sup>88</sup> Continuation of the initiative is threatened by lack of funding.

<sup>89</sup> 115 local authorities and 688 children and young people from all over Estonia participated in the survey.

<sup>90</sup> 1787 children and young people from all over Estonia participated in the survey (including 404 Russian-speaking children).

<sup>91</sup> Final results of the survey will be published in November 2015; over 500 children aged 13–14 participated.

<sup>92</sup> The Republic of Estonia Constitution Amendment Act on Lowering the Voting Age in the Election of Local Government Councils – RT I, 15 May 2015, 1.

<sup>93</sup> See for more detail „Supporting the participation and involvement of children in decision-making processes“ (2012/2013).

*- Train specialists dealing with children and young people with regard to the right of participation of children and the aspect of the best interests of the child. Prepare supporting guidance materials and intensify information activities.*

*-Ensure sustainable funding for different forms of participation of children and young people, including by paying particular attention to vulnerable target groups.*

## **4. CIVIL RIGHTS AND FREEDOMS**

### **4.1 Registration of birth, name and nationality (Article 7)**

#### **4.1.3 Acquisition of citizenship**

**40.** The Government claim (page 45) that currently the Estonian legislation is, *in general*, in compliance with the requirements provided by international conventions. As the number of stateless children in Estonia is high (936 as at August 2014), the need to amend the Citizenship Act has been pointed out by the Council of Europe Commissioner for Human Rights, Nils Muižnieks<sup>94</sup>, the Chancellor of Justice as well as non-profit associations. The positive development is that under the amendments to the Citizenship Act (entering into force on 1 January 2016), a child born in Estonia who does not acquire citizenship pursuant to his or her parents will receive Estonian citizenship by naturalisation at the time of birth, unless the parents or a parent raising the child alone waive this possibility. Also, persons with undetermined citizenship under 15 years of age who are habitually resident in Estonia at the time of entry into force of the amendment, whose parents with undetermined citizenship have legally lived in Estonia for at least five years, will receive citizenship from the moment of entry into force of the amendment<sup>95</sup>. However, the amendments do not cover 16-18-year-olds and do not apply to children born to stateless Estonian residents outside Estonia<sup>96</sup>.

*- Supplement the Citizenship Act to take into account the situation of 16- to 18-year-old children and children born to stateless Estonian residents outside Estonia.*

*- Accede to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness in order to protect all stateless persons in Estonia.*

### **4.2 Preservation of identity (Article 8)**

**41.** There is a general rule (§ 26 Constitution and § 25(3) Social Welfare Act) that sisters and brothers should be kept together upon arranging substitute care. However, in many substitute homes siblings from the same biological family live in different substitute home families. It is problematic that children have been placed under different forms of substitute care<sup>97</sup>. The main justifications given by the substitute homes were more of an organisational nature<sup>98</sup>, proceeding from the needs of the substitute home<sup>99</sup>. There are several local authorities which believe that communication between

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<sup>94</sup>See for more detail the Report by Nils Muižnieks, Commissioner for Human Rights of the Council of Europe, following his visit to Estonia from 25 to 27 March 2013.

<sup>95</sup> According to this implementing provision, Estonian citizenship by naturalisation is granted to minors under 15 years of age who were born in Estonia before 1 January 2016 and whose parents or a parent raising the child alone, and whom no country under the effective legislation considers to be its citizen, who have lived in Estonia legally for at least five years, and if the minor under 15 years of age is habitually resident in Estonia. This minor is not granted the Estonian citizenship in case of compliance with the above conditions if their parents or a parent raising the child alone submits a request to the authorised Estonian government agency for waiving the child's Estonian citizenship before 1 January 2017.

<sup>96</sup>See for more detail the Human Rights Watch report on the situation of human rights in Estonia (2015).

<sup>97</sup> The Chancellor of Justice 2013 analysis of the substitute home service reveals that, for example, some of the siblings from the same family live in a substitute home while some live in a foster home or guardianship family.

<sup>98</sup> E.g. depending on the availability of free places in substitute home families and rooms.

<sup>99</sup> E.g. after the inspection visit of 13 April 2012 the Chancellor of Justice recommended to the head of Haiba Children's Home and Loksa and Maardu town governments and Anija rural municipality government, in their functions as guardians of children without parental care to support brothers and sisters from the same family in preserving their relationships. According to the explanations of the head of the children's home, siblings from Loksa had been placed separately due to considerations arising from the size of the families. However, both of the families in which the children were placed had eight children (the maximum limit established by law) already before their placement. Thus, in view of the size of the

siblings is up to the children themselves to arrange and do not take an active role in promoting it. Substitute homes also pay different attention to the preservation and development of the mother tongue skills of children with different linguistic and cultural backgrounds or to introducing to children their culture<sup>100</sup>.

#### 4.2.2 Citizenship

42. As the state only randomly receives information about persons who are also citizens of another country, there are no reliable data about minors holding several citizenships. Under § 1(2) of the Citizenship Act, an Estonian citizen may not simultaneously hold the citizenship of another country. As the only exception, temporarily it was allowed to hold the citizenship of another state in addition to Estonian citizenship for a person who had acquired both citizenships by birth<sup>101</sup>. As a positive development, with the amendments to the Citizenship Act in 2015 these groups of minors who had acquired citizenship by birth and by naturalisation<sup>102</sup> were afforded equal treatment in terms of admissibility of multiple citizenships. Also, children who had acquired Estonian citizenship by naturalisation and in case of whom it later appeared that they had also acquired the citizenship of another state, due to which they lost their Estonian citizenship, can now restore their citizenship (200 children in 2014).

43. With the amendment of the Citizenship Act in 2015, also the regulation in § 3(2) enter into effect from the 1<sup>st</sup> of January 2016, according to which *in respect of a person wishing to acquire or restore Estonian citizenship, the requirement of release from the current citizenship is not applied if the person has been afforded international protection by the Republic of Estonia or another European Union member state, the situation in their country of origin has not significantly changed and the person cannot therefore renounce their current citizenship.*

*- Ensure that the local authorities and providers of the substitute home service proceed from the preservation of the existing family connections (e.g. children from the same biological family should be placed under substitute care together, except if this is contrary to the interests of the child).*

#### 4.3 Freedom of expression and access to appropriate information (Articles 13 and 17)

44. In the Government's report it is claimed (page 44) that since the Constitution does not provide for a restriction concerning persons in closed institutions, they are guaranteed access to information equally to persons at liberty<sup>103</sup>. In reality, for example in 2014 in the accommodation bloc for minors in Viru Prison<sup>104</sup> there was no internet access to official legislation databases and court decisions<sup>105</sup>. Also, in 2013 in Tapa Special School<sup>106</sup> the possibilities of students to communicate with their next of kin were extremely limited, e.g. the internet could only be used for studying purposes under the supervision of school staff.

*- Ensure that minors in closed institutions have access to the information to the extent proceeding*

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families, these children should not have been admitted to Haiba Children's Home at all. Moreover, children have also not been placed in the same family even after some of the children had left the family and other new children were instead admitted to the family to fill the vacancies.

<sup>100</sup> In case of some children, their limited knowledge of the mother tongue has hindered their communication with the relatives. A family name which is different from the others has raised questions and caused confusion for children.

<sup>101</sup> Under § 3 of the Citizenship Act, *a person who by birth acquires the citizenship of another state in addition to Estonian citizenship must renounce either his or her Estonian citizenship or his or her citizenship of the other state within three years after attaining the age of 18 years.*

<sup>102</sup> According to the population register data, in 2014 there were about 41 500 persons under 18 years of age who had acquired Estonian citizenship by naturalisation.

<sup>103</sup> The right of access to the information disseminated for general use over the internet has been significantly restricted by the legislator to the extent provided for in § 311 of the Imprisonment Act – i.e. prisoners are prohibited to use the internet, except in the computers specially adapted for such purpose by the prison service which enable access under the supervision of the prison service to public legislation databases and the register of judicial decisions.

<sup>104</sup> See for more detail the Chancellor of Justice inspection visit to Viru Prison 2014.

<sup>105</sup> According to the persons detained in the department S17, the computer had been out of order for some time already.

<sup>106</sup> See for more detail the Chancellor of Justice inspection visit to Tapa Special School 2013.

*from the specific nature of the institution and in line with the fundamental rights of the child (including the right to education).*

#### **4.6 Protection of privacy (Article 16)**

**45.** A child who has been separated from the family and is staying in a closed institution must have an opportunity to communicate with his or her parents and next of kin<sup>107</sup>. Although under § 6<sup>1</sup>(4) of the Juvenile Sanctions Act the director or other staff of a school for students who need special treatment due to behavioural problems may not examine the contents of a student's correspondence and messages forwarded by telephone or other public communication channels, in Tapa Special School<sup>108</sup> in 2013 the opportunities of students to communicate with their next of kin were extremely limited. Communication by phone with the next of kin took place only under the supervision of a member of school staff<sup>109</sup>. Problems have also been found at Tallinn Children's Safe House at Nõmme<sup>110</sup>, e.g. interviews with children at the safe house revealed that no precise rules on examining the correspondence existed and the staff did not follow uniform practice. The children also affirmed that it was not possible to call outside the safe house and the teachers were reading children's personal letters and diaries.

*-Organise communication of children in closed institutions with their parents and next of kin in a way that the right of children to the confidentiality of their messages and to privacy is not violated.*

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<sup>107</sup> Under Article 9 para 3 of the CRC and § 28 of the Republic of Estonia Child Protection Act, a child whose liberty has been restricted and who is therefore temporarily separated from his or her parents has the right to maintain personal relations and direct contact with both parents and close relatives, except if it would be harmful for the child.

<sup>108</sup> See for more detail the Chancellor of Justice inspection visit to Tapa Special School 2013.

<sup>109</sup> Whereas students could communicate by phone with their next of kin at fixed times and only if the parent himself or herself called the school, and the allowed maximum duration of the conversation at one time was seven minutes.

<sup>110</sup> See for more detail the inspection visit to Tallinn Children's Safe House department at Nõmme tee 2009.

## 4.7 Right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment (Article 37a)

### 4.7.1 Prohibition of physical punishment of children

46. Estonia has been criticised for the absence of a provision condemning physical punishment of children by the Committee on the Rights of Child<sup>111</sup> as well as the Council of Europe Committee of Social Rights. A positive development is the adoption of the new Child Protection Act in 2014 which explicitly prohibits physical punishment of children<sup>112</sup>.

47. The Ministry of Social Affairs<sup>113</sup>, the Ombudsman for Children and civil society organisations<sup>114</sup> have done consistent explanatory work to emphasise raising of children with positive and proactive methods, without using violence against children. Acceptance of physical punishment of children by parents has somewhat declined over the years but it is still too high: 40% accepted it in 2010<sup>115</sup> and in 2012 about 33% found it acceptable<sup>116</sup>. Children themselves do not support physical punishment<sup>117</sup>. However, 15% of young people in 2013 had been physically punished by parents and 4% had become a victim of physical ill-treatment. Physical punishment is more often used against young Russian people<sup>118</sup>.

48. According to the results of the European Social Survey, 44% of parents in 2010 admitted that during the last year they had felt the need for advice and assistance as a parent but they did not know where to get it, 25% of the parents admitted that they did not dare to approach anyone. Insufficient knowledge is often an obstacle in seeking advice and support in relation to problems of child rearing; first and foremost this applies to families who would most benefit from such assistance and support<sup>119</sup>.

49. The use of physical punishment and physical ill-treatment of children increases the risk of offending by the minors<sup>120</sup>. Children who had been physically punished during the year prior to the survey committed offences twice as often than children who had not been physically punished by their parents. There is also a link between the physical ill-treatment of a child and excessive alcohol consumption (i.e. five or more doses at one time) among children<sup>121</sup>. Children who are physically punished by their parents also become victims of school bullying twice more often.

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<sup>111</sup> Recommendation 31b. The Committee recommended to Estonia to *explicitly prohibit corporal punishment and take all measures to prevent all forms of physical and mental violence, including corporal punishment and sexual abuse of children in the family, in schools and in institutions.*

<sup>112</sup> The Act will enter into force on 1 January 2016.

<sup>113</sup> E.g. in the „Development plan for children and families 2012–2020” approved by the Government, and the activities set out in its implementing plan which are aimed at developing the practice to support parents in raising children and promoting the rights of the child.

<sup>114</sup> First of all the information work and diverse activities to prohibit the physical punishment of children and to support parenting undertaken over many years by the Union for Child Welfare.

<sup>115</sup> According to the European Social Survey (2010), 40% of parents ranked with 5-10 points the statement: In certain situations the physical punishment of children is a necessary and justified educational method (on a 10-point scale 10 points ”completely agree”)

<sup>116</sup> See for more detail the „Monitoring survey on the rights of the child and parenting” 2012.

<sup>117</sup> The opinion poll carried out by the Union for Child Welfare among children in 2008 and the survey on the participation of children in family life 2015.

<sup>118</sup> Within the ISDR-3 survey (2014), 5.6% of the girls (and 3.1% of the boys) answering the questions had experienced physical ill-treatment during the last year and 18% of the girls (13% of the boys) had been physically punished.

<sup>119</sup> Stress and insufficient parenting skills may also be linked to the fact that 40% of the parents in the European Social Survey in 2010 agreed that in certain situations physical punishment of children was a necessary and justified educational method.

<sup>120</sup> ISDR-3 survey (2014) showed that children who are physically punished or ill-treated are also characterised by weaker contact with their parents, they inform parents less about their activities, the awareness of the parents about the activities of their child is lower, and in such families conflicts between the parents are also more frequent.

<sup>121</sup> Excessive alcohol consumption among ill-treated children occurs twice more often than among children whose parents have not heavily beaten them or otherwise injured them. See reference 120.

*- Inform and communicate about the changes arising from the new Child Protection Act (including the prohibition of physical punishment of children) via different media channels (including in Russian). In the following years, also train specialists to ensure effective implementation of the new Child Protection Act.*

*- Develop services on the national and local government level to offer support to families for rearing children without violence (by offering professional assistance on rearing children to those who need it and increasing the availability of information on effective, violence-free rearing methods).*

#### **4.7.2 Protection of the rights of minor victims and witnesses in the course of proceedings**

The topic is covered in Chapter 9 of this report.

### **5. FAMILY ENVIRONMENT AND ALTERNATIVE CARE**

#### **5.1 Parental responsibilities (Article 5 and Article 18 para 1 and 2)**

**50.** The state has not done enough explanatory work to raise awareness of parents with the aim to ensure better understanding of the new Family Law Act (entered into force in 2010) in society (including among the Russian-speaking population). Also on the institutional level (courts, child protection workers and lawyers representing children) there is insufficient knowledge about hearing of children, or recognising violence<sup>122</sup>; and concepts concerning custody rights of parents are unclear<sup>123</sup>.

**51.** The number of families where parents work abroad and children live in Estonia is growing<sup>124</sup>. Many such children therefore lack regular supervision and it is not known how the parents exercise their right of custody in respect of these children. Social workers unfortunately lack information about such families<sup>125</sup>.

**52.** Regulation concerning maintenance of contact between the child and the parent living separately from the child<sup>126</sup> needs specification (i.e. there are no effective measures on how to influence parents to comply with court decisions)<sup>127</sup>. The Chancellor of Justice in her memorandum<sup>128</sup> noted that the enforcement procedure under § 179 of the Code of Enforcement Procedure for ensuring the right of access to the child was contrary to § 14 and § 27(4) of the Constitution.

#### **5.2 Parental guidance and support (Article 5)**

**53.** The main shortcomings that need to be addressed<sup>129</sup>: insufficient number of child protection workers, organisation of preventive work and quality requirements for social services. About 60% of children live in local authorities which do not have a separate child protection worker or do not have

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<sup>122</sup> E.g. to distinguish a violent relationship from staged violence; to recognise also other types of violence, such as psychological violence, besides physical violence. See for more detail the „Survey on assigning custody rights of parents” (2013).

<sup>123</sup> E.g. in practice the distinction between the suspension of the right of custody (Family Law Act § 140) and its restriction (§ 134) raise questions, as well as the distinction between § 119 of the Family Law Act (granting of powers of decision to one parent) and § 137 (partial transfer of the joint right of custody).

<sup>124</sup> According to the population and housing census, 24 907 persons worked abroad in 2011, which is about 4% of all the employed persons.

<sup>125</sup> In the survey „Violence in intimate partner relationships in Estonia through the perspective of the social worker” [Lähisuhtevägivald Eestis sotsiaaltöötaja pilgu läbi] (2014) 41% of social workers found that they had insufficient information about families where children live alone because their parents live outside Estonia.

<sup>126</sup> § 143 of the Family Law Act establishes the right of access to the child.

<sup>127</sup> Tallinn Administrative Court in 2014 ordered the Republic of Estonia to pay 7500 euros to a father because during three years the father had invoked all the possibilities provided under the legislation to have access to his child but without any success.

<sup>128</sup> See the Chancellor of Justice memorandum to the Minister of Justice and the Minister of Social Affairs (27 March 2015 No 6-8/131398/1501356).

<sup>129</sup> See for more detail the National Audit Office reports „Organisation of child welfare in rural municipalities and cities”, „Preconditions for the provision of public services in small and peripheral local authorities”.

a sufficient number of them<sup>130</sup>, and therefore there is not enough time for preventive work, including for counselling of families. Unfortunately, the „Development plan for children and families” does not contain measures for increasing the number of child protection workers on the local level, and no changes will be brought about by the new Child Protection Act either (entering into force in 2016).

**54.** Insufficient funds and human resources in smaller local authorities restrict the development of services and introducing new services (including to support parents)<sup>131</sup>. The level of guarantee of social fundamental rights of children varies regionally<sup>132</sup>. There is little substantive cooperation in developing the services between the local authorities themselves as well as between local authorities and service providers<sup>133</sup>. The state lacks mechanisms which could oblige the primary level to provide counselling to parents.

**55.** Under the new Child Protection Act, counselling competence is created within the Social Insurance Board and the child protection officials of the Board will offer counselling to local government child protection workers in resolving more difficult cases of child protection.

### 5.2.1 Family policy

**56.** In some respects the Estonian family policy lacks a common vision and different participants are too much influenced by party politics<sup>134</sup>. Despite the fact that in 2014 some family benefits increased<sup>135</sup>, family policy in Estonia needs to be changed in order to help families living in poverty<sup>136</sup>.

*- Supplement the social education curricula to raise awareness of young people about the rights and duties involved in marriage and/or becoming a parent.*

*- Raise the awareness of parents and specialists (teachers, school psychologists, social pedagogues, youth workers, juvenile police officers) about parental duties and the possibilities to receive assistance (including when the parents go to work abroad).*

*- Organise training for specialists who deal with children on issues of hearing of children and recognising violence; and training courses to explain the Family Law Act to child protection workers.*

*- Establish an effective regulation for enforcement of judicial decisions concerning custody of parents based on good practices identified in other countries.*

*- Bring the enforcement procedure for ensuring access to the child under § 179 of the Code of Enforcement Procedure into conformity with the Constitution.*

*- Prepare measures and define the duties of the state and local authorities along with the respective financing model to improve the availability of services established by law (including for increasing the number of child protection workers) and to improve cooperation.*

### 5.3 Separation of child from parents (Article 9)

**57.** In 2014, a total 382 children were separated from their biological family, about one fifth of them

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<sup>130</sup> Taking into account the optimum ratio of children per one child protection worker (1:1000) as recommended by the Ministry of Social Affairs.

<sup>131</sup> Ineffectiveness of the provision of services by local authorities, including services in support of families, was underlined by the European Commission in its 2013 country specific recommendations and the relevant justifications.

<sup>132</sup> Also the Supreme Court in its judgment of 16 March 2010 No 3-4-1-8-09 para 67 stressed: „For instance, according to the purpose of § 28 of the Constitution, a situation where the secured main social fundamental rights, to the extent for which the local self-government is responsible, vary substantially in different regions of the state /.../ is unacceptable.“

<sup>133</sup> E.g. the Estonian Children’s Fund has created a network of support groups for parents, carers and teachers of children with attention deficit hyperactivity disorder (ADHD), where psycho-pedagogical counselling is offered once a month.

<sup>134</sup> Universal allowance versus the needs-based family benefit.

<sup>135</sup> E.g. the subsistence level, the needs-based family benefit income level, the maximum cost of the childminding service and the substitute home service. From 1 January 2015, the universal child allowance for all children in the family was raised (it had been unchanged since 2006), as well as the foster care allowance.

<sup>136</sup> In cooperation between Praxis and different Estonian universities several surveys were carried out in 2014 which reveal that the principles of family policy in Estonia are good but they could be better implemented. See for more detail „The green paper on family benefits, services and the leave for parents” [Peretoetuste, teenuste ja vanemapuhkuste roheline raamat] (2015).



were under 3 years old. The number of children separated from the family has dropped<sup>137</sup>. The legislation does not provide for a basis to separate a child from the family for isolated reasons (e.g. poverty, material exclusion, insufficient parenting skills, etc), yet there have been cases where the local authority has not sufficiently reasoned or justified separation of a child from the family, and the decision has been therefore challenged in the administrative court<sup>138</sup>.

**58.** The new Child Protection Act establishes a legal basis for child protection workers of local authority and of the Social Insurance Board, in case of separation of a child from family, to also restrict the right of access to the child if contacts between the child and a parent endanger the child's health or life<sup>139</sup>.

**59.** Statistics collected on children separated from their family does not reflect information about the background of those families so as to assess the combination of risk factors and causes which usually provide a basis for separating a child from the family. There are no data to offer an overview of the extent and effectiveness of the prevention work prior to separation of a child from the family. The current legislation does not provide for any specific intervention measures for supporting and strengthening families and for preventing the separation of children from families<sup>140</sup>. Estonia has not yet acceded to the Council of Europe Convention on Contact concerning Children (2003).

*- Offer necessary services to families (including by ensuring regional availability of services with the support of the nationally coordinated system of counselling and service centres) and benefits which help families to cope independently, and avoid separation of children from families.*

*- Improve supervision in local authorities to ascertain and prevent situations hampering the development of children, including providing guidelines and training courses to local authorities, and ensuring resources for implementing those activities (including for collecting the relevant statistics).*

*- Accede to the Council of Europe Convention on Contact concerning Children.*

#### **5.4 Family reunification (Article 10)**

**60.** According to the Government's report, recommendation 35b has been taken into account (page 62). However the Estonian legislation does not deal with situations where family members of a person who has received international protection have remained in the country of origin, and it is also not established that the family left in the country of origin should receive visas on simplified conditions and in what way the Estonian state would participate in the process<sup>141</sup>.

**61.** § 118 and § 150 of the Aliens Act provide for a legal basis for a child to settle with his or her parent. However, the Act does not establish a legal basis to apply for a residence permit for a person who has a minor child living in Estonia on the basis of a residence permit or the child is an Estonian citizen living in Estonia. The Supreme Court<sup>142</sup> as well as the Chancellor of Justice<sup>143</sup> have both

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<sup>137</sup> At the same time, it should be taken into account that the number of children in the population has decreased over the years.

<sup>138</sup> Also the Supreme Court (see the Supreme Court judgment in civil case No 3-2-1-13-11 or civil case No 3-2-1-121-12) has expressed the opinion that deprivation of a parent's right of custody due to neglecting the child and in case where a parent for some reason is not capable to care for the child without endangering the child, is an exceptional measure which is applied only when it is obvious that supporting measures are not sufficient to eliminate the threat to the child's welfare.

<sup>139</sup> See for more detail the Chancellor of Justice opinion (28 January 2015 No 6-1/141453/1500410).

<sup>140</sup> The European Court of Human Rights has found that the right to family life also includes contacts between the child and the parent even if the child is separated from the parent(s), See for more detail the ECtHR decision of 15 May 1996 in case No 25159/94, *Hokkanen v. Finland*.

<sup>141</sup> In the process of reunification, families have been assisted by Vao accommodation centre, support persons from Johannes Mihkelson Centre and staff of the Estonian Refugee Council. Providing assistance in the process of family reunification has proved to be most complicated in cases where a family lacks the necessary identity documents for travelling to Estonia. Also problematic have been situations where the person afforded international protection and their family do not have financial means to reach Estonia.

<sup>142</sup> The Supreme Court has noted that the absence of such a basis could be contrary to the fundamental right to family protected under the Estonian Constitution and Article 8 of the European Convention on Human Rights.

<sup>143</sup> See for more detail the Chancellor of Justice memorandum to the Minister of Internal Affairs (28 April 2014 No 6-

referred to the topicality of this problem.

*- Regulate clearly the process of applying for family reunification by defining the state's participation in the process.*

*- Bring the Aliens Act into conformity with § 26 and § 27 of the Constitution and provide for a legal basis to apply for a residence permit if a person's minor child is living in Estonia.*

#### **5.6 Recovery of maintenance for the child (Article 27 para 4)**

**62.** In Estonia in 2014 the parents failed to voluntarily comply with the maintenance obligation in respect of 12 138 children<sup>144</sup> (this significantly increases the risk of poverty of the child<sup>145</sup>). In 2013, the court ordered payment of maintenance support only to 10% of children placed under the substitute home service and 14% of children under foster care<sup>146</sup>. Hopefully, the amendments to the Code of Enforcement Procedure entering into force in 2015 will help to increase the number of persons complying with their maintenance obligation in the future<sup>147</sup>.

**63.** The development plan for children and families 2012–2020<sup>148</sup> supports family mediation but the use of such mediation is not widely spread<sup>148</sup>, there is no regulation of responsibility or funding. The family mediation service is expensive and not all local authorities are prepared to finance it, and therefore the service is not available to everyone regardless of their place of residence<sup>149</sup>. The availability of free legal assistance is also a big problem in Estonia (including among the Russian-speaking population)<sup>150</sup>. The number of international legal assistance requests in civil cases is increasing and, inter alia, there has been a significant increase in maintenance proceedings<sup>151</sup>.

*- Improve availability of the family conciliation service (as a nationally funded service) and raise awareness about the existence of such a service. Increase availability of free legal assistance (including in Russian).*

*- Facilitate the participation of the parent living separately in the maintenance of the child and improve the support aimed at single parent families in a situation where the other parent does not comply with the maintenance obligation.*

#### **5.7 Children deprived of a family environment (Article 20)**

**64.** In 2011–2015 the number of children without parental care and children in need has grown year by year in the local authorities<sup>152</sup> reaching 6311 children in 2014<sup>153</sup>. Despite a decrease in the overall

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8/140522/1401859).

<sup>144</sup> Enforcement proceedings initiated in the total sum of 10 766 732.10 euros, it is a growing trend.

<sup>145</sup> Various surveys affirm that persons living in a household of a single parent have an especially high poverty risk in Estonia.

<sup>146</sup> Only 1/10 of the children in the substitute home service for whom payment of maintenance had been ordered received it in the sum that had been awarded.

<sup>147</sup> The right to suspend the following rights of a maintenance debtor: motor vehicle driving right, hunting right, right to drive a recreational craft or personal watercraft, and the validity of a fishing card, weapons permit and a weapons acquisition permit.

<sup>148</sup> Various surveys affirm that child protection workers most often feel the lack of psychological counselling and family conciliation in their work.

<sup>149</sup> E.g. families in Tallinn and Harju County can be sent to a family conciliator free of charge, while no such possibility exists in Pärnu County.

<sup>150</sup> Since 2010, the Union for Child Welfare in cooperation with the Estonian Bar Association provides free legal counselling on family law matters (about 1000 have received counselling). See for more detail: <http://www.lastekaitseliit.ee/vajad-abi/hea-nou-lastega-peredele/> From 2014 to March 2016 the project is supported by the Ministry of Justice.

<sup>151</sup> 52% increase in the number of requests within one year. In comparison with 2011, the number of proceedings has grown almost five-fold.

<sup>152</sup> In comparison – at the beginning of 2006 there were about 800 registered children without parental care and children in need. Since 2006, the statistics also include children in need (i.e. children who have not been separated from the family but whose case the social worker has begun to resolve with the help of measures supporting the family).

<sup>153</sup> The proportion of children registered for the first time among the overall number of children in the respective age

number of children in the population, the workload of child protection and social workers on the whole has rather increased, and therefore intervention often takes place only when the problem has already deteriorated<sup>154</sup>.

**65.** In 2014, 30% of children separated from their family were placed in non-biological families (foster care, guardianship, adoption), 30% in substitute homes, 15% in shelters/safe houses, and about 25% of the children returned to their biological family<sup>155</sup>. A large part of the children separated from their families are still placed in an institution rather than a family. Oppositely to the principle of excluding the institutionalisation of children under three years of age, the proportion of children under three years old who have been placed in a substitute home has even somewhat increased in comparison to the overall proportion of all the placed children<sup>156</sup>.

**66.** According to the National Audit Office (2009), the placement of children in the substitute home service is hindered by the capitation system on which its funding is based, i.e. substitute homes are interested in admitting a possibly large number of children. For the local authorities, it is also easier<sup>157</sup> and economically more profitable (especially if the substitute home is in the ownership of the local authority) to refer children without parental care to a substitute home instead of a foster family (and information about substitute homes is also more easily available)<sup>158</sup>.

**67.** The problem relating to the placement of children in a safe house<sup>159</sup> has also been pointed out by the National Audit Office (2009)<sup>160</sup> as well as the Ombudsman for Children (2013). In 2014, total 1245 children received the shelter service<sup>161</sup>, among them 28% of the children under 7 years old and 30% of 15-17-year-olds spent four or more months in a safe house/shelter. There have been cases where children separated from the family and placed in a safe house/shelter are temporarily transferred to a substitute home family – in a situation where the safe house/shelter service is provided in the same premises as the substitute home service<sup>162</sup>.

**68.** Due to incomplete collection of data, it is not possible to carry out a systematic and complete analysis of the replacement practices prior to and after the placement in the substitute care, nor the reasons or consequences of such practices. This makes it more difficult to assess the impacts of or the necessity of changes in the current organisation of substitute care.

### 5.7.1 Foster care

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group has grown on the whole, despite the decrease of the number of children in the population.

<sup>154</sup> According to the National Audit Office 2013 report „Organisation of child welfare in rural municipalities and cities”, the organisation of child protection work in local authorities does not ensure confidence that children receive assistance in time, i.e. in the early stage of their social problems, or furthermore, that problems can be prevented. There are no uniform principles on how to methodologically organise prevention, i.e. each local authority deals with it at its own discretion.

<sup>155</sup> In 2014, the number of children returning to their biological family increased significantly (in comparison 2012:43, 2014:112).

<sup>156</sup> For example, in 2012, 40% of them were placed in non-biological families, 35% in substitute homes, 13% in safe houses, and 12% returned to their family.

<sup>157</sup> According to the survey carried out in Ida-Viru County in the framework of K. Kaurla's Master's thesis in 2013, child protection officials were not always motivated to place a separated child in foster care due to their previous negative experiences.

<sup>158</sup> There have been several cases where children had been placed in the substitute home service without the relevant local authority decision or without considering other alternatives.

<sup>159</sup> Although the safe house/shelter service are not substantially the same, in practice it is difficult to distinguish between them for various reasons. The law does not regulate the substance of the safe house or shelter service.

<sup>160</sup> According to the data collected by the National Audit Office, children placed in a safe house/shelter spent on average 84 days there, although a child should not spend more than two months in a safe house/shelter.

<sup>161</sup> Unfortunately, based on the collected statistics it is not possible to distinguish how many of them were in a safe house/shelter together with their parent(s) and how many were alone (including children separated from their families).

<sup>162</sup> According to the assessment of the National Audit Office (2009), the state should assume responsibility for children in need not only when the child has been under temporary care for several months while waiting for a decision on his or her future. Children who for some reason cannot live with their biological parents should immediately receive the service suitable for them.

**69.** Contrary to the strategic objective set by the state, the proportion of foster care in substitute care has decreased (more than 50% in 2006–2014), the number of foster families has also decreased. There is no complete overview of the applicant foster families and practices for assessing their suitability<sup>163</sup>. There is also no mechanism for assessing the needs of the child (inter alia, local authorities do not have an obligation to visit the family), no guidelines for local authorities and no uniform template for the foster care contract exist.

**70.** According to the Government's report (page 64), caregivers receive state funded PRIDE training, however in practice the preparation is incomplete<sup>164</sup>: the training programme and the methodology have not been adapted to Estonia nor validated in view of the relevant conditions; the training is not uniformly available in different regions, etc. Under the current regulation it is not ruled out that the child is placed in foster care before the person (the family) have completed the preparatory training programme.

### 5.7.2 Substitute home services

**71.** The number of children receiving the substitute home service has constantly decreased in 2006–2014<sup>165</sup>, inter alia due to the decline in the total number of children in the population. At the end of 2014, 1056 children were receiving the substitute home service<sup>166</sup>. At the same time, the number of places in substitute homes is higher than the number of children receiving the service, which may induce local authorities to place children separated from families first and foremost in the substitute home service, in view of the fact that it is a state-funded service and the so-called capitation system applies in funding the service<sup>167</sup>.

**72.** Children with disabilities make up a very large proportion of children receiving the substitute home service – in 2014, 42% of the children had a disability (87% of them had a severe or profound disability)<sup>168</sup>. On the whole, in 2006–2014 the proportion of children with disabilities increased<sup>169</sup>, which might show that the counselling, support and assistance for parents and families raising children with disabilities has not been sufficient to ensure that the children are raised in the family, or designation of disability financially simplifies facility costs (financial support is higher when disability is designated).

**73.** As regards resolving of problems of children without parental care, the trend towards decentralisation and delegation of responsibility to local authorities exists in Estonia<sup>170</sup>, whereas the quality and extent of the social services provided by local authorities varies to a very large degree<sup>171</sup>. By 2013, the majority of state-owned substitute homes had been transferred to local authorities after

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<sup>163</sup> I.e. how exactly is the conformity with the requirements (as required by the law) assessed; how different are the practices of different local authorities in this respect; how often and for which reasons have the applicant foster families found to be unsuitable, etc.

<sup>164</sup> For example, in 2012 only 75% of all the foster families had undergone PRIDE training, and only 26% follow-up training.

<sup>165</sup> E.g. in comparison with 2006 the number of children in the state-funded substitute home service has decreased by 30% and the number of children with a severe or profound disability placed in the substitute home service by more than 50%.

<sup>166</sup> Of these, 1009 received the state-funded substitute home service and 47 children with a severe or profound disability received the service on the basis of a request by a parent, for the cost of whose service the parent himself or herself partially pays. See for more detail the Ministry of Social Affairs statistics database (s-veeb).

<sup>167</sup> I.e. from the point of view of economic operation of a substitute home service it is more profitable if more children are receiving the service.

<sup>168</sup> The majority of the children with disabilities receiving the substitute home service are in need of daily or 24-hour assistance and supervision depending on severity and nature of their disability.

<sup>169</sup> In 2006, children with disabilities made up 30% of the children and young people receiving the substitute home service.

<sup>170</sup> For the organisation of the substitute care, including for the provision of both foster care as well as the substitute home service.

<sup>171</sup> See for more detail „Analysis of the situation of children without parental care or in danger of being deprived of parental care, based on the rights of the child“ [*Laste õigustel põhinev vanemliku hoolitsuseta laste või vanemliku hoolitsuseta jäämise ohus olevate laste olukorra analüüs*] (2009).

their renovation and completion of family houses<sup>172</sup>.

74. The ratio of children and teachers in substitute homes does not comply with the requirements established by the law<sup>173</sup>. Due to the organisation of work of the substitute home staff in shifts, it is difficult for children to establish lasting, trust-based relationships with the persons who take daily care of them. By disregarding the statutory ratio of teachers and children, substitute homes cannot always guarantee the right to safety and all-round development<sup>174</sup>. The capitation money allocated by the state is not in fact sufficient for complying with all the requirements established under the legislation to satisfy the basic needs of the child, and therefore the institutions meeting the minimum staff requirements cannot ensure all the other needs of the children (e.g. hobby activities)<sup>175</sup>. There are no incentive measures for substitute homes to implement the system of family elders living together with children.

75. The quality of work of county governors who perform state supervision over the quality of the substitute home service is different, e.g. county governors have interpreted differently the statutory requirements for the substitute home service, and shortcoming can be found in the preliminary and follow-up supervision performed by the county governors<sup>176</sup>.

76. The current legislation does not regulate in more detail the preparation for withdrawal from substitute care and the follow-up care after the withdrawal, including the related duties of the providers of substitute care, local authorities and the state.

*- Take measures for reducing the need and demand for substitute care, and transferring to the family-centred approach of substitute care and child protection work including conscious work with a child's parent(s)/family before and after the child's separation from the family and placement in substitute care.*

*- Ensure collection of case-based data, the precondition for which is uniform electronic handling of the cases concerning children separated from the family, their families and placement. Allocate sufficient resources for the development of STAR and make its use compulsory for child protection workers.*

*- Set specific objectives for deinstitutionalisation of substitute care and prepare solutions to support and promote the placement of separated children in family-based forms of substitute care (foster family or placement under care, adoption). Thereby exclude placement of children under three years old in institutional care, except when this is the only possible solution in view of the needs of the child.*

*- Organise the regulatory framework concerning shelter and safe house services (the objective of the services, their substance, target group, requirements, etc) and the bases for the collection of departmental statistics.*

*- Establish a uniform electronically administered nationwide overview of the persons applying to be*

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<sup>172</sup> This has brought along, inter alia, an increase in an unjustified transfer of children either inside one substitute home or between substitute homes.

<sup>173</sup> For example, in case of new family houses an activity licence has been granted for the provision of the service to maximum 8 children, although under the Social Welfare Act the maximum size of the family since 2015 should be up to 6 children. However, the Ministry of Social Affairs requested the postponement of this deadline (1 January 2015) until 1 January 2017.

<sup>174</sup> Examples of situations where teachers have not been able to prevent violence between children, cope with children having behavioural problems or teach sufficient skills for becoming independent in life (e.g. cooking, independent management of affairs) or where children lack the motivation of learning or engage in hobbies, characterise rather those substitute homes where teachers work in shifts and where the number of children per one teacher is higher than allowed (based on the 2013 analysis of substitute homes by the Ombudsman for Children / the Chancellor of Justice).

<sup>175</sup> However, the institutions which invest more in creating possibilities essential for the development of children, such as hobby activities, camps, school excursions, do not have a sufficient number of teachers to ensure individual attention to and supervision of children. See for more detail the „Substitute home service analysis” 2013.

<sup>176</sup> County governors often fail to make use of the possibilities in connection with the granting of activity licences and concluding administrative contracts to ensure that no more children are sent to live in a substitute home family than the limit admissible under the law, or that local authorities draw up a case management plan for each child. County governors do not always monitor that substitute homes in fact comply with the recommendations issued in the course of supervision.

*caregivers or adoptive parents and of their background (including reasons why they were found to be unsuitable), establish a procedure for the collection and use of legally required data.*

*- Ensure support for children with specific needs and the development of specialised services for them. In developing the services, take into account more than previously the special needs of the target group for the substitute home service (including children and young people having a severe or profound disability or psychosocial special needs).*

*- Establish the description and standard for the substitute home service in order to be able to assess the substantive quality of the service. Draw up a cost-based financing model of the substitute home service based on the substance and objectives of the service and the requirements established for the service. Use this as a basis in the funding of the service from the state budget. Continue the development of the family-based substitute home service in addition to reorganising the physical environment of the provision of the service and also in terms of substance and organisation (including the working time organisation of the staff). Ensure relevant in-service training for specialists working with children in substitute care (including children with disability).*

*- Ensure support and follow-up care (including legal regulation) for young people in transferring to independent life from substitute home service.*

## **5.8 Adoption (Article 21)**

**77.** In 2006–2014, about 90–160 children per year have been adopted either domestically in Estonia or internationally, whereas the total number of adopted children has dropped (94 children were adopted in 2014<sup>177</sup>). There are problems with data collection: there are no complete data with regard to persons wishing to adopt<sup>178</sup>; how many parents agreeing to adoption have received counselling by the county governments<sup>179</sup> or how many of them have subsequently withdrawn their consent to adopt. The law does not establish a general obligation for adoptive parents to undergo a relevant training programme prior to adoption; and also does not specify what requirements such a training programme should meet or what it should contain; and the bases for financing are also unclear<sup>180</sup>.

### **5.8.1 International adoption**

**78.** International adoption has significantly declined over the years in Estonia (2010:28, 2014:5 children). The procedure and requirements for international adoption, including the tasks and responsibility of the different parties in the process (Ministry of Social Affairs<sup>181</sup>, county government, local authority, child's guardian, substitute home) are regulated in general terms<sup>182</sup>, there is no single body responsible for the process<sup>183</sup> (causing a possibility of different interpretations of the law). There is no statistical overview of the number of failed international adoptions (i.e. the child was subsequently separated from the adoptive family)<sup>184</sup>, and information on how long it was tried to find

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<sup>177</sup>Including 46 children inside the family, 59 children to a new family, and 5 children internationally.

<sup>178</sup> It is problematic that the same family may submit an application for adoption simultaneously to several county governments, because the Family Law Act does not establish specifically to which county government the person wishing to adopt should submit their application.

<sup>179</sup> The assessment of suitability of the person wishing to adopt depends to a large extent on the professionalism of the official in a particular county government as well as various (subjective) considerations.

<sup>180</sup>In practice, some of the potential adoptive parents have completed (voluntarily) the PRIDE training programme intended for substitute families. No statistics on participation exist, it is also unclear who should pay for the training for persons wishing to adopt – whether the state, which pays for the relevant training of substitute families, or the person wishing to adopt.

<sup>181</sup>With the entry into force of the new Child Protection Act on 1 January 2016, the Social Insurance Board.

<sup>182</sup>Inter alia, it is not clear in the Family Law Act who is responsible for preparing an international adoptive parent and for the collection of necessary documents concerning the adoptive parent in order to decide the adoption. The Act also fails to establish the procedure for communication between the international adoptive parent and the Estonian Ministry of Social Affairs.

<sup>183</sup>In practice, there have also been various shortcomings and problems in connection with data protection.

<sup>184</sup>In 2013, the partnership contract between Estonia and the United States ended because in the previous adoption cases the US did not give sufficient feedback on the life and well-being of the child and the US did not sufficiently comply with

an adoptive parent in Estonia and which steps were taken for this.

*- Prepare solutions for improving the work of county governments and/or alternatives for institutional reorganisation so as to ensure that the preparation of adoption and data collection are based on uniform grounds as much as possible.*

*- Establish specific requirements for preparing adoptive parents (including their training) and ensure the necessary conditions and resources for implementing them. Ensure consistent provision of services prior to and after the adoption as well as availability of the services to those who wish to become or have already become adoptive parents.*

*- Regulate more clearly the process of international adoption along with the tasks and responsibility of the different parties and the establishment of the principles for data collection and preservation.*

### **5.9 Right of child placed in care to periodic review of placement (Article 25)**

**79.** The number of children initially separated from the family and later returned to their biological family is growing<sup>185</sup>. Unfortunately, there are no overall statistics on how many of the children placed in one or another form of substitute care eventually (and permanently) return to the family, also whether and how work with the family continues after the child's separation from or also return to the family. Social workers often see substitute care as a final solution in the child's life arrangements and after referral of the child to substitute care the work with the family is mostly considered as completed<sup>186</sup>.

**80.** Many local authorities of the child's residence have not complied with the statutory duty to visit the substitute family in which the child has been placed, at least twice a year. Local authorities have also not demonstrated sufficient interest in the development and situation of the children under their guardianship in substitute homes<sup>187</sup>.

*- Draw up methodological assessment guidelines for local authorities to support their cooperation with families and help to plan the process of family reunification.*

### **5.10 Abused and neglected child (Article 19) and psychological and physical recovery of the child and re-socialisation (Article 39)**

See Chapter 9 of this report.

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the confidentiality requirement important for Estonia.

<sup>185</sup>E.g. 43 children in 2012 and 112 children in 2014 were returned to their biological family.

<sup>186</sup>The return of children to the biological family is hindered in practice, inter alia, because social workers lack the motivation and resources to support the parent(s) after the child's separation from the family, as well as lack of the belief that the child's return to the family is necessary and possible and in the interests of the child. See the summary of the survey „Reunification of families – a void on the social work landscape in Estonia” [*Perekondade taasühendamine – tühimik Eesti sotsiaaltöö maastikul*].

<sup>187</sup>This is proved by the cases where children placed in a substitute home have either not been drawn up a case management plan taking into account the child's needs and guiding the child's development and/or such a plan has not been regularly updated, although under the Social Welfare Act the individual case management plan of a child should form an appendix to the administrative contract concluded upon a child's placement in a substitute home. There are also children in substitute homes who have not been visited periodically by a representative of the local authority of their residence. Therefore, the child's right to be involved in the decision-making concerning him or her has not been ensured.

## 6. PROTECTION OF HEALTH AND SOCIAL WELFARE

### 6.1 Children with disabilities (Article 23)

**81.** People with disabilities make up 10.7% of the Estonian population<sup>188</sup>. The number of children with disabilities is constantly growing – while in 2009 about 6400 children received the state benefit, in 2014 the number was over 9000, and 60% of them had a severe or profound disability. In 2012, the Riigikogu ratified the UN Convention on the Rights of Persons with Disabilities<sup>189</sup> but has not launched the Convention supervision. Although domestic legislation is mostly in conformity with the Convention, its practical implementation is not – limited or ineffective use of financial resources; insufficient assistance to families of children with disabilities; insufficient protection against discrimination based on disability; limited involvement of children with disabilities; limited access to education. Large regional disparities in the availability of the service as well as in the amount of the benefit paid to children with disabilities<sup>190</sup>.

**82.** Unlike in the case of services mostly financed from the state budget (e.g. rehabilitation services, special social welfare services), statutory minimum requirements do not apply to the services offered by local authorities and instead only advisory guidelines have been issued. Almost half of the parents of children with disabilities have had problems with accessing social services intended for children with disabilities<sup>191</sup>, one third of the parents of such children have experienced problems with obtaining the benefit (including due to the complicated application process). Services aimed at children with an intellectual disability or mental disorder are not sufficiently ensured<sup>192</sup>.

**83.** Local authorities are unable to guarantee for all children with disabilities a place in an ordinary kindergarten and in a school at their place of residence, there is insufficient support to teachers for teaching children with disabilities<sup>193</sup>. For the implementation of inclusive education<sup>194</sup> on different education levels the following problems need to be resolved: early recognition of a child's special educational needs, timely intervention by use of special pedagogy measures, teacher training and study aids, special needs support and physical access<sup>195</sup>. The proportion of school leavers among children with disabilities is significantly small in comparison with the remaining students.

*- Ensure on the state level services for children with a severe or profound disability based on the needs of the child and the family.*

*- Improve access of children with disabilities (as well as families) to public services (including education and social welfare services). Increase general awareness about the available services (including in Russian).*

*- Take diverse measures to prevent exclusion of children with an intellectual disability (including raise the awareness of society, train specialists working with children). Amend the Equal Protection*

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<sup>188</sup>See for more detail <https://statistikaamet.wordpress.com/tag/puudega-inimesed/>

<sup>189</sup>The President of Estonia had signed it already in 2007.

<sup>190</sup>See for more detail the report concerning Estonia with regard to the study „Member States' Policies for Children with Disabilities” 2013.

<sup>191</sup>The service is offered too far from home (54%); receipt of the service involves too much bureaucracy (62%); long queues for access to the service (57%); parents of a child with disability are not aware of the available services (50%) or are not aware of their entitlement to the service (48%). See for more detail the „Survey on the coping and needs of families with children with disabilities” [Puudega lastega perede toimetuleku ja vajaduste uuring] (2009).

<sup>192</sup>Such children need services which local authorities are often unable to provide or provide only to a limited extent (e.g. family support person, assistant teacher, adapted curriculum, small class size, assistance with learning, etc).

<sup>193</sup>In 2013, only 53% of kindergartens had created a position of a support specialist.

<sup>194</sup>Under § 14(1) of the Preschool Child Care Institutions Act, rural municipality and city governments shall provide children with physical disabilities, speech disorders, sensory disabilities or intellectual disabilities or children who need special support or special care with the opportunity to develop and grow in the preschool institution of their residence. Under § 2(4) of the Basic Schools and Upper Secondary Schools Act, it is States obligation to provide persons with physical disabilities, speech impairments or sensory or intellectual disabilities and persons who need special support with the opportunity to study at the school.

<sup>195</sup>About 20% of schools are accessible to children with disabilities, the remaining schools are either partially accessible or not accessible at all.



*Act to provide a clear basis for protecting people against discrimination based on disability also in the social and education sector and in the provision of services.*

*- Ensure necessary support services for children with disabilities in educational institutions (including hiring mental health nurses at schools) as well as availability of study aids, and revise teacher training respectively.*

## **6.2 Health and healthcare services (Article 24)**

**84.** The mortality of children and young people in Estonia has decreased constantly. Since 2000, the mortality of children under one year old per one thousand live births has decreased significantly (2013: 2.1%). According to the results of prophylactic examination of school students, in 2013 the main health problems of school aged children were visual disorders (20%), posture problems (17%) and being overweight (11%). Mental health problems among children and young people have increased<sup>196</sup>, as reflected also in the rise of suicides<sup>197</sup>. Although recently there have been several positive developments, the focus is rather on dealing with the consequences (treatment and rehabilitation) than on the prevention of problems (universal prevention, early noticing and intervention)<sup>198</sup>.

**85.** Social services and healthcare (both primary level and psychiatric assistance) are not sufficiently well integrated, the information exchange does not often function and therefore local authorities do not always receive information about a child in need or how to assist the child and the family. Also according to the assessment of the Police and Border Guard Board several incidents of violence are not notified by the health care institutions<sup>199</sup>. Some children remain lost for the healthcare system – children who are not registered in the practice list of a general practitioner<sup>200</sup> are also deprived of a required health examination (and therefore several cases of ill-treatment may remain undetected).

### **6.2.2 Medical assistance**

**86.** Estonia needs to deal more with bringing specialised medical care services more to the regional level (e.g. mental health services are ensured primarily in the larger centres). Even in case of services provided free of charge the persons in need of assistance do not necessarily have access to the service because the service provider is physically too far<sup>201</sup>.

### **6.2.5 Disease prevention and health promotion**

**87.** Up to 25% of children do not visit a dentist even once every three years<sup>202</sup>. The reason is first and foremost low health awareness and shortcomings in consistent prevention activities<sup>203</sup>. The prevalence of caries is 83.3% among 12-year-olds (while the same indicator among Danish children

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<sup>196</sup>According to health statistics, mental disorders and behavioural problems caused by mental health problems were diagnosed in 5861 cases in 2013; at the age of 1–4 years – 7.5%; 5–9 years – 36.1%; 10–14 years – 20.9% and 15–19 years – 25.5%.

<sup>197</sup>In 2014, two children at the age of 10–14 and ten children at the age of 15–19 committed suicide.

<sup>198</sup>Today, the state relies too much on informal noticing and no universal screening on the primary level has been implemented for timely detection of possible problems.

<sup>199</sup>The following case is an example of the fact that information is not forwarded, is not forwarded sufficiently fast or that specialists coming in contact with children lack clear guidelines: in Ida-Viru County a ten-year-old boy had recourse to the doctor four times in 2010 due to an ill-treatment related syndrome (physical abuse– sexual abuse – torture – mental violence).

<sup>200</sup>As no clear supervision is performed over the persons' obligation to ensure that the address of their place of residence in the population register is correct, the regulation does not in practice ensure correctness of personal data in the register, which makes the work of child protection, juvenile, social and other child mental health specialists considerably more difficult, in particular in situations where families move or are evicted from their apartment.

<sup>201</sup>For example, persons from Kohtla-Järve and Saaremaa come to a specialist doctor's reception in Viljandi, or a child in need of a speech therapist is referred from Tapa to Rakvere, Haljala or Tartu, and persons from Narva are often referred to Tallinn or Tartu.

<sup>202</sup>The number is growing– in 2010–2012 the indicator was 22%. See for more detail the „Analysis of the use of dentist's services by children” [*Laste hambaraviteenuse kasutuse analüüs*] (2014).

<sup>203</sup>This was also shown by a considerable under-execution of contracted volumes for the prevention of children's dental diseases by service providers in 2013.

is 62.1%). It is necessary to increase referral of children to a dentist's check-up by family and school nurses<sup>204</sup>.

### 6.2.6 School health care

**88.** Self-perceived health among the 11-15-year-old students has somewhat improved, but at the same time the occurrence of depressive moods has increased<sup>205</sup>. According to the SEYLE survey (2010), 2/3 of the teachers believe that they could assist children with mental problems but they know too little about this topic<sup>206</sup>.

**89.** The results of the Health Board's ad hoc survey in 2009 reveal shortcomings in the daily schedules and organisation of work of schools<sup>207</sup>: the curricula are overburdened, resulting in students' lack of enthusiasm to learn, a high level of school stress and school fatigue<sup>208</sup>. The positive aspect is the possibility of receiving hot school meals free of charge both in the basic school and the upper secondary school. In addition, many schools have started distributing hot morning porridge to students to avoid setting in of the feeling of fatigue.

**90.** The availability of equipment on playgrounds and sports grounds of some schools<sup>209</sup> is insufficient, the equipment is often depreciated<sup>210</sup>, increasing the risk of injuries<sup>211</sup>. Parallel textbooks are seldom used, causing the problem of too heavy school bags, especially for primary school students<sup>212</sup>.

### 6.2.9 Immunisation

**91.** Despite active awareness raising about the importance of vaccination, vaccination coverage for several infections remains below the 95% target set by the WHO<sup>213</sup>. Often, the necessary revaccinations are not done in later age, primarily due to refusal by parents. Because of the lack of funding, vaccination against HPV to prevent cervical cancer has not been launched.

### 6.2.10 Counselling of young people concerning reproductive health and the prevention of sexually transmitted diseases

**92.** Since the age of 15, 13% of women have experienced sexual violence, whereas about 50% of the women having suffered sexual violence during the past 12 months were 16–17 years of age<sup>214</sup>. In Estonia the risk factor for sexual violence is being teenage (so-called dating violence); sexual violence occurs more often among the Russian-speaking population. Intimate partner violence is not sufficiently covered in legislation and the healthcare system does not deal with it systematically<sup>215</sup>.

**93.** The implementing plan of the population health development plan 2009–2020 covers measures for raising the general awareness among young people about reproductive and sexual health, but there

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<sup>204</sup>Family and school nurses have the obligation of referral of children and students to preventive dental check-ups – this is regulated in the work instructions of the general practitioners and nurses working with them, as well as in the regulation regulating the work of school nurses.

<sup>205</sup>See for more detail the WHO Health Behaviour in School-aged Children, HBSC4 (2014).

<sup>206</sup>However, the readiness of teachers to assist children with mental problems also depends on their own level of subjective well-being and general satisfaction with the school environment.

<sup>207</sup>For example, in 36% of the studied classes, tests were scheduled also to take place in the first and last lesson of the day.

<sup>208</sup>The SEYLE survey (2010) shows that more than half of the 14-15-year-olds are often tired already when going to school in the morning.

<sup>209</sup>The playground, gym, sports hall or a possibility to use public gyms, sports halls and playgrounds exists in pre-school child care institutions and 97% of schools.

<sup>210</sup>Owners of pre-school child care institutions have not always ensured regular professional inspection and maintenance of playing and sporting equipment and facilities.

<sup>211</sup>In 2011, a 3-year-old child died on a kindergarten's depreciated playground due to suffocation.

<sup>212</sup>According to the results of the Health Board 2009 ad hoc survey, satchels of 30% of 1st-year students, 72% of 2nd-year students and 86% of 3rd-year students are heavier than the admissible weight.

<sup>213</sup>For example, in 2014 94.5% of 2-year-old children were covered by vaccination against diphtheria-tetanus-pertussis, 93.4% against measles-mumps-rubella, 94.5% against polio, 94.1% against hepatitis B virus.

<sup>214</sup>See for more detail the Survey of the Health of Estonian Women (2014).

<sup>215</sup>From total 1966 women aged 16–44 with an experience of sexual intercourse, 17.2% had experienced physical violence, 4.1% sexual violence and 1.8% both. See for more detail, M. Laanpere: „Factors influencing women's sexual health and reproductive choices in Estonia”.

is no separate reproductive health programme aimed at girls with disabilities. In the case of young people who have grown up in substitute care, the problem is also awareness about sexual behaviour as well as about couple and family relationships with regard to different risks<sup>216</sup>. In many cases, substitute homes do not see a role in offering sexual and family education, believing it to be primarily the task of the school or other specialists<sup>217</sup>.

**94.** In 2014, 291 persons were diagnosed with HIV in Estonia, of whom seven were at the age of 0–19 years (including newborns who got infected in the course of pregnancy or birth).

#### **6.2.11 Prevention of tobacco consumption**

**95.** The first experience of trying a cigarette comes at an increasingly later age in Estonia<sup>218</sup>, the number of daily smokers is decreasing<sup>219</sup> and accessibility of tobacco for young people has decreased. Unfortunately, minors try different tobacco products at an early age (half of 13-year-olds have tried a tobacco product); trying an e-cigarette is just as spread as trying a cigarette<sup>220</sup>. It is positive that in 2015 amendments to the Tobacco Act entered into force prohibiting the consumption and owning of hookahs, e-cigarettes and tobacco-free moist snuff for minors, and it was also prohibited to offer these products for sale, or to sell and advertise them to minors.

#### **6.2.12 Healthy nutrition**

**96.** Child-age obesity is a growing problem in Estonia<sup>221</sup>, in 2014 16.6% of the boys and 13.6% of the girls aged 11–15 were overweight or obese. The proportion of overweight/obese children is higher in rural areas, in families in a poor economic situation and families with one biological parent. Some families have problems to afford fully nutritional food for their children<sup>222</sup>, in one out of eight families the child does not get to eat fresh fruit and vegetables every day, and in one out eleven families children do not get a daily portion of meat or fish<sup>223</sup>.

#### **6.2.13 Promotion of mental health**

**97.** Estonia lacks a clear concept and cross-sectoral regulation for the provision of mental health services that would establish, in addition to treatment, rehabilitation and support services, also activities for promoting mental health and for preventing mental health problems<sup>224</sup>.

**98.** In 2013, mental and behavioural disorders were diagnosed in 5861 cases and mood disorders in 481 cases in children and young people. In comparison to 2010, occurrence of depressive moods had become more frequent among school students in 2014<sup>225</sup>, prevalence of depression in this age group is about 10%, subliminal depression about 30%<sup>226</sup>. The number newly diagnosed mental and behavioural disorders among children and young people has been on the increase since 2009. The prevalence of mental disorders related to the use of narcotic substances is above the European

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<sup>216</sup>E.g. early sexual life and (unwanted) pregnancy; becoming a parent in an early age and difficulties with fulfilling one's parental role and responsibility; difficulties with establishing a couple relationship /family and maintaining it, etc. See for more detail the „Baseline analysis of the concept of substitute care” (2013).

<sup>217</sup> See the Ombudsman for Children (2013). Analysis of substitute homes.

<sup>218</sup>While in 2006 62% of 11-year-old boys had not tried a cigarette, in 2014 it was 85%.

<sup>219</sup>The proportion of daily smokers among the 11–15-year-olds in the period 2002–2014 was on decline. In 2014, 4% of boys and 3% of girls were daily smokers, and in 2002 respectively 10% of boys and 5% of girls.

<sup>220</sup> 33% of 11–15-year-olds have tried an e-cigarette, 36% have tried a cigarette.

<sup>221</sup> In 2013, one in ten school-aged children was overweight, whereas since 2008 the number of overweight children had increased by 5000.

<sup>222</sup> Estonian social survey – material welfare of children in Estonia 2014.

<sup>223</sup>To a large extent, the welfare of children in a family depends on the family's income, which is connected to the number of income earners in the family.

<sup>224</sup>See for more detail the „Baseline analysis of the concept of integrated child mental health services” [*Laste vaimse tervise integreeritud teenuste kontseptsiooni alusanalüüs*] (2015).

<sup>225</sup> See for more detail the „Survey of the health behaviour of school students in Estonia” [*Eesti Kooliõpilaste Tervisekäitumise Uuring*] (2014).

<sup>226</sup>Pre-disease symptoms of depression do not enable diagnosing of clinical depression, but it is extremely important to notice the signs of the pre-disease condition in an early stage and offer necessary assistance to the child with problems even when he or she does not yet need immediate treatment.

average<sup>227</sup>. Mental health problems of children deteriorate upon separation of children from the family – 62% of children studying in closed institutions (special schools) have symptoms of the attention deficit hyperactive disorder<sup>228</sup>. In Estonia, 5% of school students have developed internet addiction<sup>229</sup>. A common mental health problem among students is the infliction of intentional self-injuries, 1/3 of the students have at least once in their life intentionally injured themselves in one or another way (whereas this is more common among girls).

**99.** Primary level psychological assistance<sup>230</sup> is not sufficient (lack of mental health nurses in family health centres and schools, as well as limited coverage by support specialists – psychologists in kindergartens/schools, special education teachers<sup>231</sup>) and accessible, causing long queues for appointment with psychiatrists/psychologists, speech therapists and other providers of mental health services<sup>232</sup>. At the same time, the assistance of child psychiatrists is not available in most county centres<sup>233</sup>, whereas the development of child psychiatry has been hindered for years by the shortage of specialists<sup>234</sup>.

**100.** A positive development is the recent creation of regional mental health centres for children and young people<sup>235</sup>. However, again this is a project-based initiative<sup>236</sup>, the future funding for which is unclear, i.e. the whole development activity could remain a single event and the positive impact on the relevant area as a whole could be temporary.

#### 6.2.14 Prevention of injuries and poisonings

**101.** Estonia is a country with a high mortality caused by injuries<sup>237</sup>. Child mortality as a result of injuries has decreased since 1989<sup>238</sup>. In 2013, most deaths of children under 14 years of age occurred as a result of drowning<sup>239</sup>, up to 14-year-old children most often needed treatment as a result of

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<sup>227</sup>Taking into account the „Survey of the health behaviour of school students in Estonia” (2014) and the ESPAD trends over several years.

<sup>228</sup>See for more detail „Study of the cognitive and personality traits and mental health, addictive behaviour and social background of children in closed institutions” [Kinnistes asutuste viibivate laste kognitiivsete ja isikuslike omaduste ning vaimse tervise, sõltuvuskäitumise ja sotsiaalse tausta uurimus] (2014).

<sup>229</sup>In boys, pathological internet addiction appears more often, while girls belong more often in the group on the verge of internet addiction. See for more detail the SEYLE survey (2010).

<sup>230</sup>The state has imposed on local authorities statutory obligations to provide several mental health support services but there is no central overview of the organisation, extent, continuity and quality of the provision of the services.

<sup>231</sup>In case of an initial appointment, queues can be up to two months long although, according to specialists, in case of mood disorders the waiting time should not exceed four weeks, and in case of unstable patients admission to an appointment with a psychiatrist should be ensured even quicker.

<sup>232</sup>Specialists and parents have both pointed out the shortage of specialists (speech therapists, special pedagogy teachers, psychologists, social pedagogues) at schools, which could be alleviated by an additional team of such specialists in kindergartens where early attention to a child’s problem could help to prevent problems in the future.

<sup>233</sup>Assistance is guaranteed only in larger centres, in practice it is impossible to further develop priority out-patient assistance or equivalent regional accessibility on the level of central and regional hospitals. The limited number of specialists does not allow ensuring consultative assistance on the primary level healthcare.

<sup>234</sup>Both with regard to child psychiatrists as well as clinical child psychologists, speech therapists and psychiatric nurses who are indispensable for treatment teams.

<sup>235</sup>Mental health centres are located in Tallinn, Tartu, Pärnu and Kohtla-Järve and their regional branches are also represented in Narva, Võru, Valga and Põlva. However, although the mental health centres were established on the basis of the principle of coordinated provision of services, they are essentially separate units, i.e. it has not been harmonised which services and under which principles are provided, it is also not clear whether the centres have similar or different aims.

<sup>236</sup>The project is funded from the Norwegian grant programme „Public Health”, the Ministry of Social Affairs.

<sup>237</sup>In 2013, there were 958 deaths caused by injuries, which is approximately twice higher than the European average.

<sup>238</sup>While in 1989 deaths caused by injuries made up 53–57% of all the deaths of children aged 1–14, in 2012 the cause of 29–31% of the deaths of 1–9-year-olds was an injury (data by the Ministry of Social Affairs).

<sup>239</sup>Every year several children drown and tens of children sustain health damage due to getting in danger of drowning or suffocation. The proportion of children successfully completing the basic swimming course (90% of children are able to cover a 25-metre distance independently in a pool after the completion of the course), yet every year about 800 children from the total 12 000 fail to complete the course either partially or fully for various reasons (e.g. illness, injury,

injuries caused by falling or mechanical force<sup>240</sup>. Due to poisonings, medical assistance was needed most often for children aged 0–4 (203 children)<sup>241</sup>. In the avoidance of risk behaviour and in the prevention of injuries, parents and the school both play an important role. Although the new curriculum supports integrated topic coverage no assessment of its implementation has been undertaken.

**102.** Alongside alcohol, the second important risk factor for injuries are drugs; in 2014 it appeared that 39% of 12th-year students had tried drugs<sup>242</sup>. In view of the number of drug addicts, the treatment volume is disproportionately small<sup>243</sup>, there is also no clearly defined treatment system for alcohol addicts.

*- Ensure quality of treatment data concerning children, the movement of the data into the healthcare information system and access of the specialists dealing with children to the data.*

*- Establish a legislative obligation for families to undergo primary level health screening to ensure early noticing and relevant response to problems (including mental health problems). Ensure assistance to risk groups which, as a result of the screening, are found to be in need of most attention and assistance.*

*- Increase awareness of parents about the necessity of immunisation, dental treatment and other health promotion. Offer to breast-feeding mothers counselling based on contemporary knowledge.*

*- Prepare and implement sexual education training programmes for vulnerable groups (e.g. children with disabilities, children in substitute homes).*

*- Prepare a strategy for the promotion and improvement of sexual health which includes prevention of violence against women, including intimate partner violence.*

*- More effectively reduce prevalence of smoking among minors.*

*- Prepare a strategy for the prevention of obesity among children, and integrate the topic in the health education programme in kindergartens and schools.*

*- Establish uniform mental health policy on the national level, assign a coordinator of the field along with the specific responsibilities. Organise clearly defined state funding (including coverage of specialised medical care and local level services), increase prevention, by channelling most of the primary and second-level intervention funding to the child's daily environment.*

*- Increase the mental health component in all the in-service training programmes for primary level specialists (including kindergarten teachers, school teachers, family nurses and general practitioners).*

*- More prevention work by the primary level treatment network (general practitioners and family nurses) for raising awareness of the parents about the causes of accidents. Increase the treatment volumes of juvenile drug addicts.*

## **6.3 Standard of living (Article 27 para 1–3)**

### **6.3.1 State measures for reducing poverty risk**

**103.** In 2013, 22.1% of the Estonian population lived in relative poverty and 8% in absolute poverty. Over the years, the level of poverty in society has grown<sup>244</sup>. The relative poverty level of children (aged 0–17) was 20.2%. The higher the number of children in family, the more severe the poverty – among families with one child 21% lived in relative poverty and 9% in absolute poverty, and among

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absenteeism, little financial contribution by local authorities).

<sup>240</sup>See for more detail the „Taskforce on the policy for the prevention of injuries and deaths caused by injuries” [Vigastuste ja vigastussurmade ennetamise poliitika rakkerühm] 2014.

<sup>241</sup>Direct possibility for distributing information to parents: general practitioners and family nurses, as well as midwives.

<sup>242</sup>The „Survey on the awareness of risk behaviour in three target groups” (2014).

<sup>243</sup>Currently 45 beds are available for adult drug addicts in Estonia (20 beds in Viljandi hospital and 25 in Sillamäe) and 28 beds for juveniles (24 in Jõhvi and currently 4 in Tallinn). In Tallinn Children's Safe House the treatment of young addicts is combined with education.

<sup>244</sup> The initial level of relative poverty in 2010 was 17.5%; Estonia's objective 2015 – 16.5%.

families with three children respectively 28% and 16%<sup>245</sup>. Children with a single parent or non-employed parent are in a significantly higher poverty risk. Living conditions of children have slightly improved over the years, yet one fifth of children live in poor conditions<sup>246</sup>.

**104.** The unemployment rate of young people (aged 15–24) rose from 12% in 2008 to 18.7% in 2013; the problem is the growth of the number of young people not in education, employment or training (NEET)<sup>247</sup>. As the success of young people on the labour market depends on the quality of their studies, the acquired level of education and skills, one of the main reasons for the increase in youth unemployment could be considered their insufficient preparation for entering the labour market and staying on the market. As a positive development, in the framework of the ESF period (2014–2020) Estonia has planned additional measures for the prevention and reduction of youth unemployment.

**105.** The state has decided to invest in children<sup>248</sup>, raising family benefits<sup>249</sup>, including the child allowance, and has set an objective to raise employment of parents. Preparation of the strategy for combating poverty „The development plan for social security, inclusion and equal opportunities 2016–2023” can also be highlighted as a positive example with one of its aims being reduction of child poverty.

*- Harmonise the system of family benefits, increase its flexibility for improving the opportunities for reconciliation of work and family life of parents. Improve the system of support for single parent families.*

*- Establish indexation of the subsistence benefit and link the subsistence level to the minimum means of subsistence and to the consumer price index.*

*- Implement effectively the measures under the Youth Guarantee (preventive activities, the first job measure).*

*- Raise the minimum tax exempt income in order to reduce the poverty risk of low-income families.*

## **6.4 Social security, childcare services and childcare institutions (Articles 26 and 18 para 3)**

### **6.4.2 Family benefits**

**106.** The Estonian state invests approximately 782 million euros a year in children and families<sup>250</sup>. Since 2009, expenditure on national family benefits has dropped<sup>251</sup>. Since 2015, the expenditure on family benefits will increase by approximately 78 million euros per year<sup>252</sup>. Universal child allowance is mostly not sufficient for alleviating poverty, and families suffering from more severe poverty also need additional support.

**107.** Guarantee of the social fundamental rights of the child varies significantly between different regions, because both the provision of social services and the payment of various supplementary benefits depend on the capacity of each particular local authority<sup>253</sup>. Since 2009, school allowance is no longer paid under the State Family Benefits Act, which has led to unequal treatment of children – the amounts of benefits paid by local authorities differ several times and there are also local authorities

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<sup>245</sup>Statistics Yearbook of Estonia 2015. See for more detail <http://www.stat.ee/90732>.

<sup>246</sup>See for more detail „Child welfare”. Statistics Estonia.

<sup>247</sup> NEET young people made up on average 12.5% of all the young people in Estonia in 2013.

<sup>248</sup>In 2016, the subsistence level will rise from 90 euros to 130 euros.

<sup>249</sup>Since 1 July 2013, needs-based family benefit is available which is paid to families living below the needs-based family benefit income level, as well as to families with children receiving the subsistence benefit. From the aspect of reducing child poverty, it is positive that the universal child allowance has risen from 19 euros to 45 euros. By 2019, the universal child allowance will rise to 60 euros.

<sup>250</sup>See for more detail the „Green paper on family benefits, services and leave for parents” 2015.

<sup>251</sup>The decline in the expenditure for family benefits has been affected by the decrease in the number of recipients of child benefits, which is due to the decrease of the number of children in the relevant age group in the population.

<sup>252</sup>Since 2015, the amount of the needs-based family benefit rose to 45 euros per month for a family with one child, and to 90 euros per month for a family with two or more children. In the period from 1 July 2013 to 31 December 2014 the amount of the needs-based family benefit was 9.59 euros per month for a family with one child and 19.18 euros per month for a family with two or more children.

<sup>253</sup>Throughout Estonia there are huge disparities with regard to the provision of the services as well as payment of benefits.

which do not pay such benefit to children at all<sup>254</sup>.

#### 6.4.3 Parental benefit

**108.** The Estonian system of the leave for parents is a positive example of length of the period of payment of the substitute income guaranteed to parents of an infant and of the generosity of such compensation<sup>255</sup>, but still more attention should be paid to increasing the participation of fathers and better reconciliation of work and family life<sup>256</sup>. State-guaranteed protection of income decreases sharply, at the latest when the child attains 1.5 years of age, regardless of the fact that many parents cannot hand over the burden of care and fully return to work, because the childcare service affordable for most households usually becomes available only once the child has attained three years of age.

#### 6.4.4 Benefits for persons with disabilities

**109.** In 2014, total 9000 children received the benefit for children with disabilities, whereas 60% of them had either a severe or profound disability<sup>257</sup>. Unfortunately, instead of offering a wider selection of support services to people with disabilities, various social security benefits are paid with the main aim to compensate for the additional expenses incurred due to disability. The basis for the calculation of different benefits is the rate of disability allowance (25.57 euros) which has been unchanged since 2005.

#### 6.4.5 Childcare service

**110.** In 2013 in Estonia, 12 700 working-age persons (aged 15–69) did not work due to the need to take care of children or other family members, 5800 of them were parents (93% women) of pre-school aged children<sup>258</sup>. Almost all children aged 4–6 have a kindergarten place while only three fourths of 1.5–3-year olds have it<sup>259</sup>, in 2013 almost 5400 children aged 1.5 to 3 years were waiting for a place in a kindergarten<sup>260</sup>.

**111.** An important measure to support reconciliation of work and family life is an accessible and good - quality childcare service<sup>261</sup>. Since 2015, at the request and with consent of a parent the local authority may enable the use of the childcare service for infants instead of a kindergarten place, whereas the parent's participation fee for the service may not exceed 20% of the minimum wage<sup>262</sup>. Problems that need to be resolved include the following: the existence of unjustifiably different

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<sup>254</sup>For example, in 2013 Kärkla rural municipality in Saare County supported 1st-year students with 160 euros, followed by Kihelkonna, Kaarma, Mustjala and Valjala municipality with 130 euros. In Orissaare rural municipality the school allowance was 120 euros, while in Laimjala rural municipality it was 35 euros.

<sup>255</sup>The expenditure for parental benefits decreased significantly in 2013 when the expenditure reached slightly more than 157 million euros. In connection with increased income, the expenditure on parental benefits can be expected to increase in the nearest years.

<sup>256</sup>Also the relatively low birth rate and low employment rate of mothers with infants are a sign of difficulties with reconciling work and family life.

<sup>257</sup>Since 2009, the number of recipients of the benefit has increased by approximately 2700 persons.

<sup>258</sup>Statistics Estonia 2013 workforce survey.

<sup>259</sup>In 2013, 91% of children aged 3–6 years attended pre-school child-care institutions, and 95.5% of children from 4 years old to school-entry age participated in pre-school education. According to the European Social Survey (Statistics Estonia 2013), 23% of children under 3 years old participated in formal childcare, which is 10 percentage points below the EU target. Shortage of kindergarten places is experienced mostly in larger cities – in Tartu and Tallinn, to a smaller extent in Pärnu and in several rural municipalities in the vicinity of these cities.

<sup>260</sup>Under § 10(1) of the Preschool Child Care Institutions Act, a rural municipality or city government shall, at the request of the parents, provide all children from eighteen months to seven years of age whose residence is in the territory of the given rural municipality or city and whose residence coincides with the residence of at least one parent the opportunity to attend a preschool institution in the catchment area. A rural municipality or city government may, with the parent's consent, substitute the place of a child from eighteen months to three years of age in a preschool institution with childcare service, the financing of which shall be based on the provisions of § 27(3) and (4) of this Act.

<sup>261</sup>The availability of childcare possibilities enables parents to participate in the labour market and thus also reduce the family's poverty risk, good-quality and available childcare is also one of the most effective policy measures for increasing the birth rate. Good-quality pre-school education and childcare support the social and emotional development and further educational progress of children (in particular children in vulnerable groups).

<sup>262</sup>The results of the analysis show that the higher the kindergarten fee, the higher the absolute poverty of children.

requirements for pre-school education and the childcare service; absence of the quality assessment system for providers of the childcare service; limited possibilities for degree courses and in-service training for child-carers along with methodological support; problem of childcare for children with disabilities<sup>263</sup>.

*- Maintain the universal system of child benefits, targeting the benefits to families in a higher risk of poverty. Establish indexation of the child benefit in line with the consumer price index and the dynamics of tax revenues.*

*- Reduce inflexibility of the vacation and compensation schemes to increase possibilities for reconciliation of work and family life and improve the freedom of choice.*

*- Increase availability of pre-school education and childcare, thereby promoting the participation of the least well-off families in pre-school education. Establish a uniform system of pre-school education and childcare which supports quality and availability, belongs in the area of administration of one ministry, corresponds to uniform quality requirements and is regulated within one law; revise personnel training.*

## **7. EDUCATION, LEISURE AND CULTURAL ACTIVITIES (Articles 28, 29 and 31)**

### **7.1 Education, including vocational training (Article 28)**

#### **7.1.1 Pre-school education**

**112.** Participation of children in pre-school education is high<sup>264</sup>, creating good preconditions for a smooth transfer to school. It is positive that in the recent years more focus has been placed on value education<sup>265</sup>. According to the forecast of the number of children, an increased need for the number of kindergarten places can be expected in the nearest years<sup>266</sup> (see also point 6.4.5 of the report). In 2014, households with children at the age of 1.5–7 years were mostly satisfied (85%) with the availability of the kindergarten or nursery service, the level of dissatisfaction varies significantly between centres and rural areas<sup>267</sup>. There are also large discrepancies between different counties as regards conformity of kindergarten teachers to qualification requirements<sup>268</sup>. The problem is also that in Russian-speaking kindergartens only 36% of the teachers have higher-level proficiency in the Estonian language.

**113.** In practice, local authorities are unable to ensure a place in an ordinary kindergarten for all children with disabilities, there is also not enough support for teachers in teaching children with special needs (e.g. in 2013 only 53% of kindergartens had a position of a support specialist<sup>269</sup>). Not all teachers have enough preparation for implementing inclusive education policy and there is scarcity of resources for creating the necessary learning environment.

#### **7.1.2 Compulsory school attendance**

**114.** The number of children in Estonia not complying with the compulsory school attendance is relatively small. Since 2015, the Basic Schools and Upper Secondary Schools Act was repealed which provided for a possibility to impose a fine on a parent in case of the child's failure to comply with the compulsory school attendance<sup>270</sup>.

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<sup>263</sup>The sum of 402 euros a year allocated for the state-funded childcare service (intended for children with a severe and profound disability) is only sufficient to purchase the service for a child in the target group for only five days a year.

<sup>264</sup>In Estonia 91.7% of children aged 4–6 years participated in pre-school education in 2013, which is slightly below the EU average level.

<sup>265</sup>See for more detail point 128 of the report.

<sup>266</sup>Whereas 78% of the respondent with Russian as their home language prefer an Estonian-speaking kindergarten for their children or grandchildren. See for more detail the „Integration monitoring survey” 2011.

<sup>267</sup>See for more detail „Satisfaction of inhabitants with local public services“ [Elanike rahulolu kohalike avalike teenustega] 2014.

<sup>268</sup>From the total 8081 kindergarten teachers in 2014, 6698 or 83% met the qualification requirements, but for example in Harju and Valga County 79% and in Hiiu County 96% of kindergarten teachers met the qualification requirements.

<sup>269</sup>See for more detail „Laste heaolu. Child Well-Being.” Statistics Estonia 2013.

<sup>270</sup>In the explanatory memorandum, it was explained that the wording of the norm was unfortunate – it did not meet the



### 7.1.3 Alternative options for acquiring education

**115.** Of the students in general education schools in 2013, 17% had a special educational need (SEN), about 3.2% needed special organisation of studies, and 74% of children with special needs attended a special school (i.e. approximately 3000 students). In the school year 2014/2015, 38 schools for children with special educational and behavioural needs operate in Estonia, among them 20 state schools, 13 municipal schools and 5 private schools<sup>271</sup>. Nationally, student places are distributed unequally, also students with different special educational needs are distributed unequally between the state, municipal or private schools. Under the new concept for teaching SEN children, the orientation is towards inclusive education and it is planned to revise the existing network of SEN schools. Shortcomings that need to be addressed include the following: SEN students attending regular schools do not receive sufficient support<sup>272</sup>, school managers and teachers lack readiness and knowledge to implement inclusive learning; SEN students have not been ensured equal opportunities for access to the services of support specialists because different local authorities have very different capacity for implementing the services of support specialists.

### 7.1.4 Repetition of grade and dropping out of school

**116.** The problem of dropping out of school before the acquisition of basic education or being sidelined after leaving the basic school without continuing the studies<sup>273</sup> or without acquiring vocational education. The drop-out rate from daytime study in general education schools declined in 2011–2014 and stabilised at 0.5–0.6% on stage III of the basic school (i.e. grades 7–9) and at 1.0–1.1% in the first year of the upper secondary school, but is still too high. The problem is also the large proportion of drop-outs in the distance study of general education and in vocational education<sup>274</sup>. Dropping out of boys in stage III of school is twice higher than among girls, and poorer results at the end of basic education are also reflected in a higher drop-out rate in the next stage. According to the assessment of students, the main reasons for interruption of studies in vocational education are first and foremost related to a wrong choice of speciality<sup>275</sup>, little study motivation of a student, conflicts with teachers or other students, and financial difficulties.

**117.** In the context of the inclusive education policy, the problem is the quality of teaching the so-called borderline children with normal intellect but with behavioural problems or learning difficulties<sup>276</sup> and the shortage of classes/schools and competent teachers for them. In practice, these children often change schools, their educational life is unstable and their skills might not find suitable application.

**118.** Schools can choose whether to organise the services of the special pedagogy teachers and school psychologists independently locally or whether to outsource the service from the *Rajaleidja* centre<sup>277</sup>. People working at school daily claim that counselling committees (there is one advisory centre per

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structure of a liability norm and its content was also in conflict with the General Part of the Penal Code (e.g. imposition of community work).

<sup>271</sup>The number of students in schools for children with special educational and behavioural needs has declined over the last ten years, in the state SEN schools the number has declined by approximately 1000 students, i.e. 40%.

<sup>272</sup>Inclusion of SEN students in regular schools in comparison with Europe and the Nordic countries is smallest in Estonia.

<sup>273</sup>The total number of students not continuing their studies after the acquisition of basic education has declined. Yet it is a problem – they drop out of the education system as a whole, i.e. due to their low level of education and lack of a profession they may also encounter difficulties in finding work and may turn into NEED youth who are not engaged in education, employment or training.

<sup>274</sup>In the school year 2013/2014, 21.8% of all the vocational education students interrupted their studies, see for more detail the 2014 annual analysis by the Ministry of Education and Research.

<sup>275</sup>This is an indication of the weakness of career education and career counselling at the basic school, which the vocational education institutions are unable to compensate for (Espenberg et al 2013: 40).

<sup>276</sup>Regular schools do not often wish or are unable to teach them and they are not in the target group for special schools either.

<sup>277</sup>In all the counties in September 2014 the *Rajaleidja* centres managed by the Innove Foundation began to operate, organising the work of counselling committees in the respective counties. However, the problem is availability of the service, including distance.

each county) alone are not sufficient, the work of support specialists on the spot at school is also necessary<sup>278</sup>. For example, the need for the service of a school psychologist is affirmed by the fact that at least 40% of 11–15-year-old girls and 22% of the boys of the same age feel sadness/depression at least once a week.

**119.** The existence of support specialists at school again depends on the financial capacity of a particular local authority and varies considerably between different local authorities (large city schools<sup>279</sup> versus small rural schools<sup>280</sup>), there are also schools which do not have any support specialists at all. Problems are also caused by the shortage of specialists: it is difficult for schools to find a replacement for specialists who have left school to go and work at *Rajaleidja* centres. The shortage of specialists is also not alleviated by the current state-commissioned education<sup>281</sup>. Particularly critical is the shortage of specialists with the knowledge of Russian, the impact of which can be felt first and foremost in Ida-Viru County.

**120.** The readiness of students to pull themselves together also depends on whether the teacher is using cognitive activation strategies. Unfortunately, alternative teaching strategies, diverse assessment strategies and helping students to think critically are implemented less frequently in the classroom in Estonia than in other countries<sup>282</sup>.

**121.** Society sees the quality of education and schools too much in terms of the results of national examinations. Surveys show that the choice of a school on the basis of a market principle reproduces the phenomenon of so-called good and not so good schools, by uniting children on the basis of background characteristics of their parents and their registered address and pre-schooling<sup>283</sup>, and weaker results of students in the Russian-speaking schools are partly due to the lower social background of the students attending those schools.

#### **7.1.6 Boarding school programme**

**122.** The availability of the boarding school service is restricted due to the small number of boarding school facilities and limited places in them (boarding school facility 2014:42 schools; 2015:39 schools, including the diminished number of places), difference in the availability of support services in counties and weak networking and insufficient readiness of boarding school facilities to deal with students' behavioural problems<sup>284</sup>.

*- Specify funding of pre-school education, the responsibility of local authorities and the creation of flexible forms of pre-school education and childcare based on the needs of children and families.*

*- Develop teacher education (including paying more attention to alternative teaching strategies based on the individual abilities of students), study aids (including digital), early language learning of students and a system for early recognition and support of special needs of children.*

*- Prepare measures for the organisation of studies with the aim to increase efficiency of studying and reduce dropping out. Ensure the availability and quality of necessary support services for students, regardless of the child's place of residence and existence of a special educational need, and develop the system for supporting students.*

*- Give schools the right to shape their ways to implement national curriculum and evaluation system*

*- Involve more frequently SEN students in their local school, ensure funding for the adaptation of the learning environment to suit their needs.*

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<sup>278</sup>See for more detail „Taskforce on the policy for the prevention of injuries and deaths caused by injuries” (2014).

<sup>279</sup>In many larger schools support specialists work full-time, sometimes part-time, depending on the needs and possibilities of a school and students. See for more detail „Satisfaction with and availability of the academic advisory services“[*Õppenõustamisteenustega rahulolu ja nende kättesaadavus*] (2011).

<sup>280</sup>Rural schools can only rarely afford to hire psychologists and social pedagogues – their tasks must be performed by other members of school staff according to the situation and their abilities.

<sup>281</sup>For example, every year 3–4 qualified speech therapists are added although the need for them is considerably higher.

<sup>282</sup> See for more detail the results of the TALIS survey 2013.

<sup>283</sup>See for more detail „The stratifying effect of school choices in Tallinn” [*Tallinna koolivaliku kihistav mõju*] (2013).

<sup>284</sup> Increasingly more children with behavioural problems attend boarding school facilities. See for more detail „Support measures concerning organisation of study for children with behavioural problems” (2010).

- Ensure miscellaneous support services in boarding school facilities, raise the competence of specialists. Analyse the reasons why students stay at these facilities in order to avoid that referral to a boarding school facility would become a substitute for dealing with the actual need of assistance of the family on the local level.

## 7.2 Objectives of education (Article 29)

**123.** The issues concerning the implementation of this article have been covered throughout the report under the relevant areas.

### 7.2.1 Development plan for the general education system 2007–2013

**124.** International comparative surveys show that the majority of learners in Estonia acquire good basic skills and the impact of the socio-economic background of learners on the learning results is small. However, the learning approach which has been theoretically adopted and also approved in documents, as well as appreciation of giftedness and recognition of special needs<sup>285</sup> have not become an inseparable part of the learning process: the upper secondary school network does not take into account the large decrease in the number of learners, small upper secondary schools are unable to offer diverse and good-quality learning opportunities; access of learners to the digital infrastructure and digital study aids is insufficient and uneven, and society sees the quality of education and schools too much in terms of the results of national examinations<sup>286</sup>.

**125.** For the implementation of the „Estonian lifelong education strategy 2020“ the state has promised to adjust the number of educational institutions and the student places<sup>287</sup>, although currently there is no clarity about the future of the school network<sup>288</sup>. If no resources are allocated for the reorganisation of the network of general education schools, the availability of good-quality and diverse general education in rural areas will deteriorate and the movement of children to schools in larger centres will accelerate. The objective of the strategy is to have motivated and competent teachers and school managers. Good-quality education presumes better appreciation of the work of teachers<sup>289</sup>, The satisfaction of Estonian teachers with their work is lower than in other OECD countries<sup>290</sup>, the reason: low wage, little recognition by society, unstable education policy, low position of teachers in society, overburdened curriculum and excessive workload. The average age of teachers in general education schools has constantly grown in the period 2007–2014<sup>291</sup> and the interest of young people in teacher training is declining.

### 7.2.2 Reduction of school violence

**126.** Estonia has a high level of school bullying. The survey on the deviant behaviour of children (2014) revealed that 22% of children had been victims of school bullying<sup>292</sup>, whereas the indicator was somewhat higher in Estonian-speaking schools in comparison to the Russian-speaking schools (22.4% and 19.8% respectively). In the opinion of children, it is most important that teachers should

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<sup>285</sup>According to the PISA survey, in comparison with many other countries we have a low proportion of students with low or very good skills.

<sup>286</sup>See for more detail the „Estonian lifelong education strategy 2020“.

<sup>287</sup>According to the National Audit Office assessment, the state should quickly agree not only on the principles of reorganisation of the upper secondary schools network but it should be done for the whole school network.

<sup>288</sup>According to the latest school network analysis by Praxis, instead of the current 484 schools providing basic education and 194 schools providing upper secondary education in Estonia, respectively 352 and 58 schools would suffice in 2020.

<sup>289</sup>Several national and voluntary initiatives have been launched to popularise the profession of the teacher and teaching. For example, the programme *Noored kooli* [Young people to school] offering the experience of being a teacher for gifted university graduates; the initiative *Tagasikooli* [Back to school] in the framework of which everyone can have a try at teaching a class; the campaign *Õpi õpetajaks* [Learn to be a teacher]; month of a good teacher; the start-up subsidy for teachers.

<sup>290</sup>Particularly poor is the satisfaction with the status of the profession of the teacher in society – only 14% of the surveyed teachers and 12% of school managers believe that the teacher's profession is valued in society.

<sup>291</sup>While in the school year 2007/2008 there were 33% of teachers under 40 years old, in 2013/2014 it was 27%.

<sup>292</sup>Also the 2009/2010 survey on the Health Behaviour in School-aged Children (HBSC) showed that 41% of 11-15-year-olds had experienced school bullying at least once in the past couple of months before the survey.

notice and react to bullying, whereas 29.4% of the victims in Estonian-speaking schools and 44.7% in Russian-speaking schools had never told anyone about the bullying. The victims of bullying are often children who have been growing in socially difficult conditions while the bullies are often neglected children<sup>293</sup>.

**127.** In the recent years, the state has taken important steps to reduce school violence: the Ministry of Justice strategy for the prevention of violence 2015–2020 focuses first and foremost on violence related to children (including with the active help of the so-called internet constables), the Ministry of Social Affairs launched in 2015 the parenting programme Incredible Years<sup>294</sup>, also in the education system increasingly more attention is given to the prevention of bullying behaviour. Under the leadership of the Estonian Union for Child Welfare, Tartu University ethics centre, the Foundation Bullying-Free School<sup>295</sup> and the Youth Association TORE, in 2014 the movement *Kiusamisvaba Haridustee Eest* [For Bullying-Free Education] was established which is aimed at creating a safe growing and educational environment for all children and young people beginning from the kindergarten to the end of the upper secondary school.

**128.** As of 2015, 439 kindergartens (from 524) and 81 schools (from 544) have joined the Union for Child Welfare project *Kiusamisest vaba lasteaed ja kool* [Bullying-free kindergarten and school]. With support from the methodology centres, the nationwide effective programme for the prevention of bullying has developed since 2010, and the coordination of its activities is also supported by county-level education specialists<sup>296</sup>. *Kiusamisest vabaks!* [Freedom from bullying!] methodology provides an effective way for promoting a positive communication network; but in the opinion of the teachers the factors hampering its implementation are shortage of time and the lower than expected support by the school management and colleagues<sup>297</sup>.

### 7.2.3 Small schools

**129.** The Government's report (page 96) contains a reference to the new general education financing model, which was implemented in 2008 and supports the preservation of an elementary school near home. Despite the opposition by the local communities<sup>298</sup>, in practice many small schools have been closed down. In 40% of local authorities in Estonia, the number of students in the basic school is below 100<sup>299</sup>. The necessity to reorganise the school network has been topical for more than ten years, school operators (local authorities) have unequal capacity to ensure the quality of study because the school network has not adapted to the change in the number of children<sup>300</sup>. In schools with a small number of children, it is difficult to ensure full workload for teachers, and upper secondary schools are unable to offer sufficient options for students.

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<sup>293</sup>In the ISDR-3 survey 2014, it was found that the victims of school violence most often tell not the school psychologist or social pedagogue but their friends (27%) or parents (25%) about the problem.

<sup>294</sup>Aimed at the parents of children with behavioural problems and parents who wish to prevent the development of possible behavioural problems in their children.

<sup>295</sup>The programme of the Bullying-Free School (Estonian abbreviation KiVa) operates since 2012, in the school year 2014/2015 17 schools all over Estonia used the KiVa programme and 14 schools were preparing to join it.

<sup>296</sup>See for more detail [www.kiusamisestvabaks.ee](http://www.kiusamisestvabaks.ee) For further expansion of the programme the Union for Child Welfare cooperates with Tallinn University and Tartu University ethics centre, the Association of Estonian Cities, the Association of Municipalities of Estonia, the Estonian Childhood Education Managers Association and the Innove Foundation's *Rajaleidja* centres in all counties; also involved in the project are supervisors from the non-profit association Moreno Centre and trainers from Tartu Children's Support Centre with the training on early recognition.

<sup>297</sup>The information is based on the results of the survey carried out among the teachers of classes which joined the methodology *Kiusamisest vabaks!* in the project's pilot schools in the school year 2014/2015. The survey revealed that as a result of practising the methodology the proportion of bullying in the relationships between the children declined and at the same time caring and attentiveness among the children increased; the children had learned to better understand social situations, recognise emotions and express empathy, and the courage and initiative of children themselves to intervene in bullying increased.

<sup>298</sup>See for more detail Tartu Administrative Court judgment in administrative case No 3-11-2982.

<sup>299</sup>Data from the Estonian Education Information System (EHIS).

<sup>300</sup>The number of school-aged children has dropped by about 40% in the last 16 years.

- Define the tasks of the state and local authorities, as well as the funding, in ensuring preschool, basic and upper secondary school education in order to improve the quality of education, its availability and sufficient wage level of the teachers. In reorganising the school network, take into account the regional specificities arising from the small number of students.
- Develop the school system as a whole to ensure a more effective implementation of an inclusive education policy aimed at increasing tolerance (including training for teachers, adaptation of the necessary learning environment, support to expansion of programmes to prevent bullying (including in Russian-speaking schools)).
- Increase the volume of teaching human rights (including the rights of the child) social skills on different school levels and in the degree courses and in-service training for occupations dealing with children.
- Ensure in all educational institutions and boarding school facilities a position of a support specialist whose main job is to provide primary counselling in the institution (for students, teachers, parents) in planning and implementing psychosocial support (including with the aim to prevent bullying).

### 7.3 Leisure, recreation and cultural activities (Article 31)

**131.** As a positive trend, the participation of children and young people in recreational activities and the work of youth centres can be highlighted (2010:37%; 2014:47%)<sup>301</sup>. Even though the availability of youth work has increasingly improved<sup>302</sup>, regional disparities do exist as the organisation of recreational activities is within the competence of local authorities<sup>303</sup>: in 2014/2015 more than half of the 215 local authorities in Estonia do not have a single hobby school registered in the Estonian Education Information System (EHIS)<sup>304</sup>, 61 local authorities do not have open youth centres<sup>305</sup>. Participation in recreational activities is often hindered by the difficult economic situation of the parents<sup>306</sup>. The Estonian School Student Councils' Union is of the opinion that participation in one hobby group free of charge should be guaranteed to each student<sup>307</sup>.

#### 7.3.2 Youth and project camps programme

**132.** The number of children attending camps has decreased in the recent years (2012:29 611; 2014:27 915), which is related to the decline in the overall number of children as well as to the economic situation of families. It is positive that the support of the Ministry of Education and Research to camps has increased year by year<sup>308</sup> and the number of participation vouchers to children from disadvantaged families and young people living in social welfare institutions has increased (2012:2185 children; 2014:2377 children)<sup>309</sup>.

- Support participation of children in hobby education and recreational activities, camp programmes

<sup>301</sup>In the school year 2014/2015, 56 848 general education school students attend a hobby school (i.e. 42% of all the students in daytime study of general education schools), in addition approximately 74 000 students (i.e. about 52%) participate in hobby groups in general education schools.

<sup>302</sup>By the school year 2014/2015, there will be 246 open youth centres and 591 hobby schools, the number of sports schools has increased

<sup>303</sup>Based on the index of capacity of local government units, local authorities which have a hobby school are considerably more capable. In comparison of the local authorities in 2012, the difference in the relative poverty of children was approximately six and a half times (Harju County versus border regions in the north-eastern and southern Estonia).

<sup>304</sup>As of 2014, 13% of all the young people aged 7–26 years live in these local authorities.

<sup>305</sup>See for more detail the 2014 annual analysis by the Ministry of Education and Research.

<sup>306</sup>In 22% of households in relative poverty with children under 14 years old in 2010, the lack of money was a factor hampering access of children to hobby education. 16% of parents in 2011 were able to ensure participation of their child in youth work with regard to all the child's wishes. Slightly less than one tenth of the parents were unable to support the participation of their child in activities for a fee. See for more detail the Estonian Social Survey.

<sup>307</sup>See for more detail the „Concept of social guarantees for students” [Õpilaste sotsiaalsete garantiide kontseptsioon] 2013.

<sup>308</sup>In 2010, the project „A healthy and developing holiday for young people” [Noorte tervistav ja arendav puhkus] was supported with 733 194 euros and in 2014 with 871 248 euros.

<sup>309</sup>See for more detail <http://www.entk.ee/laagridand> aggregated annual reports of the projects.

*and extended-day groups (with a focus on families with coping difficulties). Increase the scope and availability of youth work services and competencies of the staff.*

## **8. SPECIAL CHILD PROTECTION MEASURES**

### **8.1 Children in refugee status (Article 22)**

**133.** Although in comparison to the rest of the European Union member states there are not many asylum seekers or refugees in Estonia, in the survey carried out in 2014<sup>310</sup> 16% of the respondents found the current number of refugees to be too high, wishing to see an even stricter policy. Estonian refugee organisations have indicated that the services and reception conditions offered to asylum seekers and refugees are inadequately organised (including a non-existent support system). The Granting International Protection to Aliens Act does not establish a process for ascertaining special needs of asylum seekers as required by the EU directive on reception conditions (2013/33/EU)<sup>311</sup>, and there is also no functioning system for ascertaining these needs<sup>312</sup>.

**134.** In 2014, no asylum applications were submitted by unaccompanied minors<sup>313</sup>, according to the available information in 2014 there was one unaccompanied minor in Estonia who subsequently left the country. Since 2014, the partner for the Social Insurance Board<sup>314</sup> is SOS Children's Village Association of Estonia with whom an administrative contract has been concluded for the provision of the substitute home service to aliens who are unaccompanied minors<sup>315</sup>. A local authority appoints a representative for the minor – usually the local authority's social worker who lacks more comprehensive knowledge about migration policy, asylum law, cultural specificities of the child, etc.

**135.** Guardianship is one of the most important factors in protecting the child. Unfortunately, the call announced by the Police and Border Guard Board in 2014 for concluding a contract of representation for unaccompanied minors with a natural or legal person failed, and currently there is no network of representatives to represent aliens who are unaccompanied minors within the procedures carried out by the Police and Border Guard Board under the Granting International Protection to Aliens Act and the Obligation to Leave and Prohibition on Entry Act. The regulation of guardianship/representation in respect of unaccompanied minors is inadequate, in particular with regard to ensuring independence of representation<sup>316</sup>.

**136.** Compulsory school attendance also applies to minors enjoying international protection during

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<sup>310</sup>Such a view is more frequent among 60-74-year-old people who are ethnic Estonians, live in rural areas, have a lower education and lower income. See for more detail the „Survey on the awareness and attitudes of the Estonian population with regard to refugee issues” [*Eesti elanike teadlikkus ja hoiakud pagulasküsimustes*] 2014.

<sup>311</sup>As of 1 September 2015, Estonia has not transposed the directive on common procedures for granting and withdrawing international protection(2013/32/EU), which deals with the procedural conditions, and the directive laying down standards or the reception of applicants for international protection (2013/33/EU), which deals with the reception conditions.

<sup>312</sup>This is particularly important, for example, in case of torture or rape victims who might not themselves immediately reveal what has happened to them.

<sup>313</sup>In 2009–2013, total nine unaccompanied minors applied for asylum in Estonia. Together with parents, 28 children applied for asylum in Estonia in the same period.

<sup>314</sup>After detection/identification (on the border or inland) of an unaccompanied minor who is an alien, the Police and Border Guard Board will take the minor to a substitute home. The Social Insurance Board is notified of the child and at first opportunity will contact the substitute home of the SOS Children's Village, and the substitute home in turn will contact the local authority of its location and prepare the necessary documentation for referral of the child to receive the service.

<sup>315</sup>The content of the substitute home service has been described in the Social Welfare Act. In addition to what is provided in the Act, unaccompanied minors who are aliens are ensured the essential translation and interpreting service and access to health care services.

<sup>316</sup>On 28 April 2013, amendments to the Victim Support Act and other related Acts entered into effect, as a result of which it was possible the Police and Border Guard Board was given the right and possibility to conclude a contract (for the representation of unaccompanied minors) with a natural or legal person to ensure representation of unaccompanied minors during the proceedings under the Granting International Protection to Aliens Act and the Obligation to Leave and Prohibition on Entry Act, i.e. no independent representative through the court is appointed.

their stay in Estonia under § 75 of the Granting International Protection to Aliens Act. Similarly to the children of new immigrants, they are treated as children with special linguistic needs. As a rule, studying takes place in a regular class on the basis of an individual curriculum<sup>317</sup>. So far less attention has been given to supporting opportunities for studying outside the compulsory education (e.g. in kindergarten, upper secondary school, vocational or higher educational institution).

**137.** Children who have been deprived of their liberty (see also point 9.2.4 of the report) should be ensured opportunities for leisure activities suitable for their age and ensured access to education. There are no provisions regulating practical leisure activities and access to education for aliens who are minors under detention and subject to expulsion. In practice, ensuring access to education for aliens who are minors subject to expulsion has proved to be complicated, in particular due to the language barrier and gaps in their previous education.

**138.** Minors should not be detained during any of the stages of applying for international protection, yet in 2012 in expulsion centres<sup>318</sup> total 17 minors who were citizens of third countries were detained<sup>319</sup>. There are few provisions regulating the specificities of detaining minors and the current regulation does not provide enough support to practical detention of minors. Under the current regulation the same maximum deadline as provided under the general regulation also applies to minors.

**139.** In view of the absence of accessibility to organised regular legal assistance for asylum seekers, in the period from 2011 to June 2015 the Estonian Human Rights Centre provided legal assistance to asylum seekers within the project *Pagulaste õiguskliinik* [Legal clinic for refugees]<sup>320</sup> (e.g. in the period January–June 2015 counselling was provided to 102 asylum seekers<sup>321</sup>). Since July 2015, no possibility to receive such organised legal assistance exists for asylum seekers, although they can still apply for state legal aid (low awareness).

*- Create special conditions for the accommodation of unaccompanied minors (create conditions for the detention of citizens of third countries who are minors in a separate establishment or create special conditions for accommodating minors in the expulsion centre).*

*- Supplement the current regulation with specific provisions concerning the detention of minors (i.e. as regards the organisation of detention, special conditions of detention, including the term of detention).*

*- Train the staff dealing with unaccompanied minors (including law enforcement authorities, interviewers, interpreters, social and youth workers, health care specialists, guardians, persons conducting the proceedings) with regard to issues concerning the protection of the rights of the child.*

*- Supplement the current regulation so as to ensure access of detained minors to education and leisure activities suitable for their age).*

*- Ascertain the services necessary for asylum seekers with special needs, including unaccompanied minors, and specify on the level of legislation access of asylum seekers to services free of charge.*

*- Change the current organisation of representation/guardianship of unaccompanied minors because under the current arrangement the independence of representation is not guaranteed, thus also compromising the conduct of proceedings in line with the interests of the minor.*

### 8.3 Criminal liability and administration of justice over children (Article 40)

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<sup>317</sup>In the national curriculum it is recommended to teach these children also Estonian as second language, and in case of opportunity and wish also their mother tongue and, if possible, waive the teaching of the second foreign language.

<sup>318</sup>The expulsion centre is a general detention establishment for aliens and it is not specialised to the detention of minors. Under the law, the expulsion centre is not obliged to ensure that it has the staff specifically trained to work with minors. In case of high occupancy of the expulsion centre, it lacks sufficient possibilities to separate minors from adults.

<sup>319</sup>Persons who claimed to be minors although within the subsequent proceedings 14 of them turned out to be adults.

<sup>320</sup> See for more detail: <http://humanrights.ee/pagulased-2/projektid/pagulaste-oguskliinik/>

<sup>321</sup>Out of 102 persons 5 decided not to apply for asylum after having received counselling, 11 were afforded international protection (7 were granted the refugee status and 4 subsidiary protection).

**140.** The number of offences committed by children has been on the decline since 2012<sup>322</sup>. In 2014, 1342 offences committed by minors were registered (19% less in comparison to 2013 and 2.5 times less in comparison to 2006). However, offences among minors are in fact considerably more widespread than reflected in the crime statistics. According to the 2014 survey on the deviant behaviour of children, 12% of the children<sup>323</sup> had committed an offence during the past year<sup>324</sup>. In comparison with Estonian children, children with Russian as their mother tongue commit offences more frequently almost with regard to all the categories of offences included in the survey (except the sale and intermediation of drugs). Two criminal offences against life were registered in 2014, among them the incident of school shooting in Viljandi in which a teacher was shot, which was the first of its kind in Estonia.

**141.** This topic is covered in more detail in Chapter 9 of the report.

## 9. GENERAL STRATEGIC CHANGES IN CRIMINAL POLICY

**142.** Society has become increasingly aware of the importance of the topics of violence. Family violence, violence related to children and human trafficking have been set as priorities in the fight against crime<sup>325</sup>. It is positive that during the past five years a better overview of the spread and nature of violence has been obtained, although some shortcomings still persist<sup>326</sup>. A systemic change in preventing violence is needed<sup>327</sup>: there have been few long-term and evidence-based prevention programmes; there is little information and prevention activity aimed at the non-Estonian speaking population; healthcare and educational institutions have been insufficiently involved in the prevention of violence. There are not enough extrajudicial measures (including social and educational programmes) available for child offenders. Measures of restorative justice are also too rarely used in case of children.

**143.** Despite the training, specialists are not always able to recognise signs of violence, which hampers offering the necessary support to victims. Approximately 2/3 of the specialists (child protection and social workers, teachers, law enforcement workers, etc) have failed to notify about a child who may have experienced ill-treatment. The most frequent reason is uncertainty of a specialist as regards the severity of the problem (45%) or lack of knowledge about whom to notify (29%)<sup>328</sup>.

**144.** In 2011, non-profit associations<sup>329</sup> raised the issue of the protection of the rights of the child in

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<sup>322</sup>See in more detail „Criminality in Estonia” [*Kuritegevus Eestis*] 2014, the chapter on juvenile crime [*Alaealiste kuritegevus*].

<sup>323</sup>Students in grades 7–9 were interviewed in the course of the survey.

<sup>324</sup>Over the period of eight years, there has been a decline in the proportion of children taking part in gang fights from 7% to 4% as well as children carrying cut-and-thrust weapons. While in 2006 10% of children replied that they had been carrying a weapon like object (knife, chain, baseball bat, etc), in 2014 the indicator had dropped to 6%.

<sup>325</sup>The strategy for the prevention of violence 2015–2020 includes violence between children, ill-treatment of children, family violence (intimate partner violence), sexual violence, human trafficking. Regular statistics available at <http://www.kriminaalpoliitika.ee/>

<sup>326</sup>Inter alia, there no overview of the prevalence of sexual and other physical ill-treatment of children; there have been few studies on the need for special services to assist victims; there are not enough surveys to help assess the changes; statistics on victims of violence and offenders are patchy and are not easily accessible or comparable. There is insufficient information about the more precise characteristics of victims. There is also no systemic case-based overview of the more serious cases of violence.

<sup>327</sup>As a positive example, the joint programme for children and young people at risk implemented jointly by the Ministry of Education and Research, the Ministry of Social Affairs and the Ministry of Justice can be highlighted. The programme is funded from the Norwegian and European Economic Area support fund. In the framework of the programme, projects and horizontal activities for reducing risks to children and young people through education, youth work, child welfare and the legal system are implemented. See for more detail <http://eeagrants.fin.ee/et/riskilapsed-ja-noored>.

<sup>328</sup>See Soo, K., Ilves, K., Strömpl, J. (2009). *Laste väärkohtlemise juhtumitest teavitamine ja võrgustikutöö*. [Notification of the cases of ill-treatment of children and networking]

<sup>329</sup>Based on the topics raised at roundtable discussions, in 2013 the Union for Child Welfare submitted to the Minister of Justice a proposal for analysing the situation with a view to ensuring the best interests of the child in cases of intimate partner violence (the letter of 8 May 2013 K-2/26).



cases of intimate partner violence, with a focus on the problem that a child as witness of violence between the parents cannot independently use the compensatory measures established under the Victim Support Act (e.g. psychological counselling, safe accommodation, assistance to the victim in communicating with different state and local government bodies, etc) and that treating as victim of a child who has witnessed violence depends on the preparation and skills of the particular person conducting the proceedings.

**145.** Currently treatment of child offenders often focuses too much on the offence itself and less attention is paid to the child's actual need for assistance. The current legal framework and the format of juvenile committees is not suitable for supporting children who have committed an unlawful act. Availability of specific and effective services to support children is not sufficiently guaranteed throughout Estonia.

### **9.1.1 Proceedings concerning juvenile crime**

**146.** Significant progress with regard to procedural time-limits has been made, thus ensuring better protection of the rights of children participating in justice proceedings. However, children do not get enough support when participating in criminal<sup>330</sup> or civil proceedings<sup>331</sup>. Also, court proceedings which may intimidate children are not always adapted to the needs of children. Specific measures, for example prevention of direct confrontation of a child and the opposing party or witnesses in court, or ensuring that the child is informed and understands the proceedings, have not yet become a general custom. Also courtrooms are not child-friendly.

**147.** In order to ensure a child-friendly legal environment, the legal system needs modernisation (taking into account the interests of the child, finding out the child's opinion). Until now, little attention has been given to a supportive approach to victims in criminal proceedings<sup>332</sup> and to training the persons conducting the proceedings specifically with a view to this objective. There are considerably fewer judges than the available positions for judges<sup>333</sup> and in the recent years the number of police officers has also been significantly cut, which in turn places a heavier burden on the specialists. Since 2014, only one of the four prefectures has a separate child protection service for handling all the offences related to children<sup>334</sup>. The other prefectures have a separate service only for handling serious offences related to children. Lesser offences related to minors are dealt with by regular police officers who do not all have the necessary special knowledge to conduct proceedings in respect of children.

#### **9.1.1.1 Legal aid and the right of appeal of children**

**148.** On 11 December 2012, the Supreme Court Constitutional Review Chamber issued a judgment<sup>335</sup> by which it granted the request of Tartu County Court to declare § 407 of the Code of Criminal Procedure unconstitutional. Since 29 March 2015<sup>336</sup> minors have the right to being heard and to

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<sup>330</sup>In total, the criminal proceedings in 2012 concerned approximately 1500 and in 2013 approximately 1400 suspects who were minors.

<sup>331</sup>„Child-friendly administration of justice – the opinions and experiences of specialists. Summary.” [*Lapsesõbralik õiguse mõistmine – spetsialistide seisukohad ja kogemused. Kokkuvõte.*] (2015).

<sup>332</sup>For example, organisational shortcomings in interviewing children can be found, such as unclear role of the specialists involved in the interview, regional differences in practice, limited use of free and guided recollection in interviewing children. See for more detail the „Analysis of interviews with child victims in cases of violent crime” [*Vägivallakuritegudes lapskannatanute ülekuulamise analüüs*] (2014).

<sup>333</sup>As of summer 2015, 14 positions were permanently vacant.

<sup>334</sup>In 2010, separate child protection divisions were created in all the prefectures of the Police and Border Guard Board, employing staff conducting the proceedings as well as operative staff who had received training on the rights of the child (including interviewing of sexually abused children), however today there is only one prefecture that has separate child protection division.

<sup>335</sup>Case No 3-4-1-20-12.

<sup>336</sup>§ 407 Code of Criminal Procedure. Contestation of grant of permission or refusal to grant permission. The juvenile committee, a minor or the legal representative of a minor may file an appeal against a ruling specified in § 406(3) of this Code pursuant to the procedure provided for in Chapter 15 of this Code.

protection<sup>337</sup> within the proceedings on deciding the authorisation for placement of a minor in a school for students with special educational needs.

**149.** It is positive that the Ministry of Justice is currently preparing a Draft Act to ensure the possibility of appointing a legal representative for minor victims under the non-repayable state legal aid arrangement. The necessity of specialisation of lawyers and supplementing of the state legal aid information system has been raised repeatedly in the course of free counselling provided within the project *Hea nõu lastega peredele* [Good advice to families with children] implemented by the Union for Child Welfare and the Estonian Bar Association<sup>338</sup>. During the counselling, the clients have described their previous negative experiences with incompetent representatives of children.

**150.** The domestic legislation does not establish that asylum seekers who are unaccompanied minor should be automatically given legal assistance<sup>339</sup>. In the case of an unaccompanied minor, even if the minor has been assigned guardianship (see Chapter 8 of the report), legal protection may prove to be insufficient<sup>340</sup>.

#### 9.1.1.2 Influencing juvenile delinquents

**151.** Perpetrators of violence are mostly treated with the help of punitive measures. Although in the recent years there has been a decrease in the number of children in special schools (2005:143; 2014:46) and prisons (2005:90; 2014:33), the number of children in closed institutions is still too high. The National Audit Office has pointed out<sup>341</sup> that the state has not had success in dealing with problematic young people. Punitive measures (the prison and special school) are too expensive in case of minors, and at the same time ineffective – the rate of repeat offending is the highest among persons imprisoned as juveniles; in two years after release from prison 2/3 of juvenile prisoners committed a new offence<sup>342</sup>. The strategy for the prevention of violence 2015–2020 foresees, as one of the sub-objectives, that the ways of treating perpetrators of violence become more efficient and repeat offending by them declines<sup>343</sup>, including support to children in community, e.g. through multidimensional family therapy<sup>344</sup>.

**152.** Estonia lacks alternative intervention measures alongside closed institutions for children with behavioural, mental and addiction problems; almost completely absent are family-based and multidimensional intervention measures offered in the community. Children or young people with a somatic disease, let alone young people with mental disorders, should not stay in the current conditions of closed institutions<sup>345</sup>. As a rule, these institutions currently lack the relevant conditions and specialists who could offer sufficient assistance (diagnostics, treatment and rehabilitation) on the spot<sup>346</sup>. The content, timing and quality of the assistance offered to children in closed institutions is

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<sup>337</sup>I.e. the minor could not request review of the correctness of the County Court's decision by a higher instance court.

<sup>338</sup>In the framework of the project, from 2010 to autumn 2015 the lawyers participating in the project have provided counselling free of charge to a total of more than 1000 persons.

<sup>339</sup>Under the Directive 2013/33/EU Article 24 para 1 and Article 26 para 2, legal assistance to unaccompanied minors must be ensured if their application for asylum is rejected and it is in their best interests to appeal this decision.

<sup>340</sup>See for more detail the „Analysis of the access of asylum seekers to legal assistance” [*Varjupaigataotlejate õigusabile ligipääsuanalüüs*] (2014).

<sup>341</sup>The aim of the National Audit Office follow-up audit of special schools and juvenile committees (2010) was to assess whether the proposals made during the previous audits had been implemented and the work of special schools and juvenile committees become more productive.

<sup>342</sup>See for more detail „Repeat offending in Estonia” [*Retsidiivsus Eestis*] (2010).

<sup>343</sup>Currently there are not enough voluntary treatment and counselling opportunities for persons in need of timely and needs-based assistance to prevent a violent act. There are not enough counselling services for risk groups, e.g. minors with problems of sexual behaviour, persons committing situational family violence, persons with special needs and their next of kin.

<sup>344</sup>Multidimensional Family Therapy (<http://www.mdf.org/>) was launched in 2015 under the Social Insurance Board when five supervisors began to work throughout Estonia, but unfortunately the activity is project-based.

<sup>345</sup>See for more detail „Study of the cognitive and personality traits and mental health, addictive behaviour and social background of children in closed institutions” (2014).

<sup>346</sup>As a rule, the adolescents currently staying in closed institutions have mental disorders, sometimes also undiagnosed

also negatively affected by insufficient coordination between different agencies and by the diffusion of responsibility.

**153.** In case of children with serious behavioural and addiction problems, there may be a need to assist the child regardless of his or her will and/or provide a service assisting the child. The Chancellor of Justice has repeatedly drawn the attention to the fact that the lack of grounds established in legislation has led, in practice, to an unconstitutional situation persisting over the years where at least two child care institutions have restricted the freedom of movement of children without a legal basis<sup>347</sup>.

### 9.1.1.3 Juvenile committees

**154.** For years, there has been a problem of inefficiency of the regulation under the Juvenile Sanctions Act, and also currently the law-making process needed for resolving the situation has again come to a halt due to the lack of cooperation between different agencies. Various surveys affirm that young people who have been before the juvenile committee felt that the committee did not touch upon the issues of real importance for them, it drew premature conclusions and did not ask for their opinion<sup>348</sup>. The current regulation of the Juvenile Sanctions Act and the format of juvenile committees does not support the implementation of the principle of restorative justice, the sanctions applied tend to be on a one-off basis and punitive. It is also problematic that before the child's problem reaches the committee too much time has passed from the commission of the offence<sup>349</sup>.

*- Deepen the knowledge and skills of the persons conducting the proceedings, judges and other specialists (including lawyers) who work with children, by offering them in-service training on interviewing children (including interrogations), development psychology and the best interests of the child (including their assessment), and prepare topical guidance materials.*

*- Establish separate institution(s) for detaining minors in an environment which serves the rehabilitative aims and ensures the physical and mental well-being of the minors. As a rule, the current closed institutions are not suitable for children with serious mental disorders and serious somatic diseases or children with disabilities, and their placement in such institutions should be avoided.*

*- Develop the system for assisting ill-treated children in a way that the child victim can receive the necessary assistance prior to, during, as well as after the proceedings. To improve the skills for assessing the victims' needs for protection, the training programmes and study aids should be supplemented.*

*- Prepare the concept of the institution intended for young people with addiction problems, along with the necessary regulation, in cooperation between the Ministry of Education and Research, the Ministry of Justice and the Ministry of Social Affairs.*

*- Ensure timely and child-friendly assistance to child offenders by replacing the system of juvenile committees of a punitive nature with the child protection system focused on supporting the child's need for assistance.*

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disorders, and are in need of a thorough diagnosis with regard to accompanying disorders, complex treatment in line with their disorders as well as rehabilitation measures, which they currently receive insufficiently, if at all.

<sup>347</sup>Inspection visit to Tallinn Children's Safe House department at Nõmme tee <http://lasteombudsman.ee/et/kontrollkaik-tallinna-laste-turvakeskuse-nomme-tee-osakondand> the inspection visit to Jõhvi Youth Treatment and Rehabilitation Centre [http://oiguskantsler.ee/sites/default/files/field\\_document2/kontrollkaigu\\_kokkuvote\\_johvi\\_noorukite\\_ravi\\_ja\\_rehabilitatsioonikeskus\\_0.pdf](http://oiguskantsler.ee/sites/default/files/field_document2/kontrollkaigu_kokkuvote_johvi_noorukite_ravi_ja_rehabilitatsioonikeskus_0.pdf)

<sup>348</sup>See for more detail „Young people with behavioural problems and the application of sanctions imposed on them by the juvenile committees” [Käitumisraskustega noored ja neile määratud mõjutusvahendite kohaldamine alaealiste komisjonides].

<sup>349</sup>In 2014, the proportion of discussions lasting for more than 30 days has significantly decreased but still continues to be noticeable. See the „Overview of the speed of proceedings in juvenile committees in the first half of 2014” [Alaealiste komisjonide menetluskiiruste ülevaade 2014. aasta I poolaastal].

## 9.2 Deprivation of liberty (Article 37)

### 9.2.1 Alternatives to imprisonment

**155.** Schools for children in need of special educational measures lack the necessary individual approach to students (including sufficient consideration of their special needs). It is necessary to establish different levels of regime (including ensuring of safety) in the special schools<sup>350</sup>. The nature and accessibility of services offered to children differs significantly between different institutions, e.g. while Kaagvere Special School is fairly close to Tartu and the necessary specialists (e.g. psychiatrists, rehabilitation service) are available in Tartu, Tapa Special School must seek a psychiatrist in Tallinn or Viljandi and no rehabilitation service can be used in Tapa<sup>351</sup>.

**156.** In the state report (page 112) it is said that *teaching and educating is integrated in the [special] schools. Teaching is organised based on the special needs of the young person, and services of support specialists are offered (special educator, psychologist, and social educator). The schools also offer versatile hobby activities, intense leisure activities and creative therapies.* In 2014, the position of psychologist at Tapa Special School was vacant and the school had no special pedagogy teacher. The selection of hobby groups is poor and does not proceed from the needs of the children. Kaagvere Special School needs a psychologist because the majority of the students have mental disorders and 2/3 of them also received treatment<sup>352</sup>.

### 9.2.3 Young prisoner

**157.** In 2014, there were 33 minors in prison in Estonia<sup>353</sup>, of them 20 convicted prisoners and 13 remand prisoners. The number of prisoners who are minors has stayed on the same level for the last three years regardless of a considerable decline in the overall number of 14–18-year-old children in the population. The number of minors in prison is still too high.

**158.** After the acquisition of basic education<sup>354</sup> Viru Prison<sup>355</sup> also offers an opportunity for vocational training. However, in 2008<sup>356</sup> there were infringements concerning the right to education<sup>357</sup>, as all the school-aged convicted and remand prisoners (1 month <) must have an opportunity to comply with the compulsory school attendance during their stay in the penal institution.

**159.** Both the CPT<sup>358</sup> and the Chancellor of Justice (2008 and 2014<sup>359</sup>) have pointed out various violations and shortcomings in Viru Prison in connection with minors: in case of minors some incidents of solitary confinement exceeding 30 days were found (the maximum limit being 20 days); unreasonably limited opportunities to use the phone<sup>360</sup>; limited access to information<sup>361</sup>; clothing not appropriate in view of the movement opportunities and the health condition; unreasonable periods for

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<sup>350</sup>See for more detail, the Chancellor of Justice inspection visit to Tapa Special School 2014.

<sup>351</sup>Even when a rehabilitation plan for a young person at Tapa Special School has been prepared, the institution is unable to ensure the service because both the school and Tapa town lack the competence to provide it. The only locally available treatment is with pills.

<sup>352</sup>See for more detail „Study of the cognitive and personality traits and mental health, addictive behaviour and social background of children in closed institutions” (2014).

<sup>353</sup>Similarly to 2013, juvenile prisoners included 31 boys and 2 girls. By age distribution, there was one 14-year-old, 6 15-year-olds, 9 16-year-olds and 17 17-year-olds.

<sup>354</sup> Under § 84(1) of the Imprisonment Act, *young prisoners of up to 18 years of age are required to acquire basic education to the extent prescribed by law.*

<sup>355</sup> Viru Prison has a special department for convicted minors (aged 14–18) and young offenders (aged 18–21) which has been planned to hold all such prisoners in Estonia.

<sup>356</sup>See for more detail the Chancellor of Justice inspection visit to Viru Prison, 2–3 December 2008.

<sup>357</sup> § 37(1) (first sentence) of the Constitution establishes everyone’s right to education.

<sup>358</sup>See the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) report to the Estonian Government (2012). Available online: <http://www.cpt.coe.int/documents/est/2014-01-inf-est.pdf>

<sup>359</sup>See for more detail the Chancellor of Justice inspection visit to Viru Prison, 19–21 November 2014.

<sup>360</sup>Following the inspection visit in 2011, the Chancellor of Justice made a recommendation to Viru Prison to increase the weekly opportunities for the use of phone by minors and long-term remand prisoners or to extend the time of using the phone by them. During the Chancellor’s 2014 visit, it was found that unfortunately the prison still applied the practice under which remand prisoners (including minors) could use the phone once a week for up to ten minutes.

<sup>361</sup>See point 44 of the report.

minors to stay outdoors and the problem of sufficiency of the provided food and its diversity and appropriateness in view of the person's age<sup>362</sup>; the quality of healthcare services, in particular the situation of minors and young people with mental disorders<sup>363</sup>. The prison staff are of the opinion that Viru Prison has sufficient opportunities to provide the necessary services and no additional services need to be outsourced. However, for example, the prisoners usually do not get the rehabilitation service assigned to them.

#### 9.2.4 Restriction of liberty in connection with entry into and leaving the country

**160.** This topic is covered additionally in Chapter 8 of the report. Currently, Estonia does not have an institution specially adapted for the detention of minors within the expulsion proceedings. The law does not establish the prohibition of detention of unaccompanied minors. In 2013, it was found that in the expulsion centre<sup>364</sup> unaccompanied minors had been detained for a long time<sup>365</sup>. One of the minors had even been detained in the centre for more than six months<sup>366</sup> although the person had all the necessary documents for return. Also in 2013<sup>367</sup> there were problems found concerning the use of handcuffs<sup>368</sup>, detention of unaccompanied minors (including in connection with access to education, leisure time activities), availability of translation and interpreting and calculation of standard food portions. Since 2014, in practice, no unaccompanied minors are placed in the detention centre<sup>369</sup>, although on the legislative level the problem has not been resolved.

- *Prepare the regulation to allow for an individual approach to students referred to a school for children in need of special educational measures due to behavioural problems, and take into account their special needs, as well as the establishment of different levels of regime in special schools.*
- *Integrate psychiatrists, psychologists, social pedagogues, teachers and rehabilitation service providers to work as a united team within the structure of closed institutions working with children.*
- *Reduce the number of children in closed institutions and ensure the necessary services and programmes for re-socialisation (both during and after the detention, including work with the family).*
- *Supplement the current regulation with specific provisions concerning the detention of unaccompanied minors (i.e. with regard to the organisation of detention, special conditions of detention, including time-limits).*

#### 9.4 Abuse of narcotic drugs (Article 33)

**161.** Abuse of narcotic drugs is a serious problem in Estonia. The availability of narcotic drugs for young people has somewhat declined<sup>370</sup>. However, the proportion of 15–16-years-olds having tried

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<sup>362</sup>In its report the CPT noted: „the food provided to prisoners should be sufficient to ensure their well-being“. The medical expert accompanying the Chancellor of Justice advisers on 19 November 2014 also noted that the term ‘juvenile diet’ was consistently used in the records of the medical department of the prison – upon further enquiry it was found that in practice this meant an additional piece of white or black bread.

<sup>363</sup>According to the expert, practically all the minors and young people in Viru Prison have been diagnosed with the attention deficit hyperactive disorder and they would need a clinical psychologist with the aim of rehabilitation, but no such service is available in Viru Prison.

<sup>364</sup>The expulsion centre is a structural unit of the Police and Border Guard Board under the area of government of the Ministry of Internal Affairs with the task of executing detention of persons subject to expulsion. In addition, asylum seekers who have submitted their asylum application during their stay in the expulsion centre are also detained there.

<sup>365</sup>Although upon an age expert assessment most of them were eventually found to be adults, as a rule in case of unaccompanied minors the underlying presumption should be that they are minors.

<sup>366</sup>16 years old upon placement in the centre, stayed in the centre from September 2012 to March 2013.

<sup>367</sup>See for more detail the Chancellor of Justice inspection visit to the expulsion centre of the Police and Border Guard Board, 2013.

<sup>368</sup>During the inspection on 12 March 2013 it was found that handcuffs had been used for escorting (allegedly) minors and young persons, e.g. when taking them for medical procedures, to the court or to the age assessment expert examination.

<sup>369</sup>I.e. when the person has been proved to be a minor or the Police and Border Guard Board have a reasoned suspicion that the person is an unaccompanied minor, detaining the person is refrained from, and at the first opportunity a child protection specialist is involved in the procedural steps and the person is referred to the substitute home service.

<sup>370</sup>A smaller number of young people in 2011 than in 2007 considered tranquillizers/opiates, ecstasy, amphetamine easily accessible.

an illegal drug is growing<sup>371</sup> and poly-drug use begins at an earlier age. The high proportion of those trying cannabis (in 2002 12% of girls and 23% of boys among 15-year-olds had tried cannabis, in 2014 20% of girls and 29% of boys); half of those trying cannabis continued to use it<sup>372</sup>. An important risk factor is accessibility of drugs (in 2011 32% of 15–16-year-old students considered it easy to get cannabis), and the entry into the market of ever new addictive substances (e.g. synthetic cannabis). In 2014, the number of drug-related offences rose, in particular the number of offences against minors: Penal Code § 185<sup>373</sup> (2013:61; 2014:121) and § 187<sup>374</sup> (2013:5; 2014:19). According to the survey on the deviant behaviour of children (2014), 3.1% of children had been engaged in the sale or intermediation of narcotic drugs in their life. It is positive that recently the state has started to pay more attention to raising the awareness among children about addiction disorders also in the internet environment.

*-Prepare effective measures for the prevention of drug use among young people relying on international experience. Develop the necessary healthcare and social services to overcome addiction and ensure their availability (including funding of the services).*

### 9.5 Sexual exploitation and sexual abuse (Article 34)

**162.** The prevalence of sexual abuse of children in Estonia is high. A significant proportion of young people in closed institutions have been victims of sexual violence (e.g. according to the psychologists in Tallinn Children's Safe House more than half of the children staying there)<sup>375</sup>. Out of the 199 criminal offences against sexual self-determination registered in 2014, 142 had been committed against a victim who was a minor; the number of registered cases of rape (Penal Code § 141) was 147, of these 92 had been committed against minors<sup>376</sup>. The level of detection of sexual abuse of minors is low. Since 2013, special services through the victim support system are offered to victims of human trafficking and juvenile victims of sexual offences<sup>377</sup>. However, the existence and accessibility of support services is insufficient<sup>378</sup>.

*- Ensure nationwide availability of good-quality and efficient services (i.e. integrated assistance) to support children, by increasing the funding from the state budget for implementing different measures of intervention.*

*- Revise the current regulation of rehabilitation services provided by the state, in order to expand the number of interventions corresponding to the particular need for assistance and to ensure their better availability.*

### 9.6 The abduction, sale of or traffic in children (Article 35)

**163.** The number of human trafficking related offences has dropped in comparison to 2013<sup>379</sup>, but the number of such offences in cases of exploitation of minors is still high (2014:15; 2013:18). In 2014,

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<sup>371</sup>The indicator was 7%, in 1995, 15% in 1999, 24% in 2003, 30% in 2007 and 32% in 2011– ESPAD2011.

<sup>372</sup>At least half of the young people having tried cannabis had used it two or more times in their life–HBSC2014.

<sup>373</sup> § 185 Penal Code. Providing of narcotic drugs or psychotropic substances to persons of less than 18 years of age.

<sup>374</sup> § 187 Penal Code. Inducing minors to illegally consume narcotic drugs or psychotropic substances or other narcotic substances.

<sup>375</sup>See for more detail „Study of the cognitive and personality traits and mental health, addictive behaviour and social background of children in closed institutions”2014.

<sup>376</sup>The youngest victims, whose abuse may have started several years ago, were 2 to 3 years old when the abuse started. In case of all the offences against sexual self-determination involving a minor victim, the average age of the victim was ten years. See for more detail „Criminality in Estonia” 2014.

<sup>377</sup>In 2011, the Union for Child Welfare opened the service [www.vihjeliin.ee](http://www.vihjeliin.ee), which offers internet users the opportunity to notify about online environments containing materials concerning sexual exploitation of children. The Estonian hotline is a member of the INHOPE network of international hotlines. INHOPE currently unites 44 networks from 40 countries.

<sup>378</sup>The Ministry of Social Affairs wishes to implement in Estonia the Nordic system of so-called children's houses which has proved its effectiveness in different countries in providing integrated assistance to the child and in avoiding secondary victimisation.

<sup>379</sup> 42 cases were registered in 2013 and 28 cases in 2014.

5 cases of human trafficking were registered (8 cases in 2013), 8 cases of pimping (13 in 2014), 15 cases of disposing minors to engage in prostitution (18 cases in 2013)<sup>380</sup>, 5 cases of buying sex from minors<sup>381</sup>. Involvement in prostitution often begins as a minor<sup>382</sup> and the majority uses for this purpose the environment that the law enforcement authorities cannot thoroughly control<sup>383</sup>. The prohibition of buying sex from a minor<sup>384</sup> applies, but in practice the detection of the offences is complicated. The number of victims of human trafficking is higher than the number of those receiving assistance, victims are not often noticed.

- *Criminalise the buying of sexual services in Estonia. Reduce the number of minors involved in and enticed to prostitution, first and foremost by reducing the demand for the use of such a service.*
- *Increase the awareness of persons conducting the proceedings as well as other specialists about the issues of recognising human trafficking related offences.*
- *Take measures to prevent involvement of minors in the prostitution business.*

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<sup>380</sup>According to the HEUNI survey, human trafficking in Estonia also exists for purposes of work-related exploitation; people have experienced it but the cases of forced labour are not yet reflected in crime statistics. By giving more attention to work-related exploitation, it is possible to prevent, for example, persons going to work abroad from falling victim to human trafficking.

<sup>381</sup>In one of the cases, a minor staying in a children's home repeatedly performed acts of sexual nature for a man she knew. In another case, a 16-year-old girl repeatedly had a sexual intercourse with an adult man for monetary compensation.

<sup>382</sup>According to the survey organised by the Estonian Institute for Open Society Research in 2006 – „Prostitution in Estonia: an overview of the situation of women involved in prostitution” [*Prostitutsioon Eestis: Ülevaade prostitutsiooni kaasatud naiste olukorrast*] approximately 50% of women became involved in prostitution as minors. Among the 600 women interviewed by the non-profit association *Eluliin* [Lifeline] in 2010–2011 the number was even higher (70 %).

<sup>383</sup>For example, through the online environment [www.kodutud.com](http://www.kodutud.com) and *Noorte Hää* minors were offered accommodation free of charge in return for acts of sexual nature; in one case two girls (aged 13 and 15) were each offered 40 euros.

<sup>384</sup> § 145<sup>1</sup> of the Penal Code („Buying sex from minors”) entered into force on 13 December 2013.

## 9.7 Children belonging to ethnic minority or who are indigenous (Article 30)

### 9.7.1 Priorities of the organisation of education of students belonging to an ethnic minority

**164.** Educational equality (including between ethnic groups) in Estonia is facilitated by widespread participation of children in pre-school educational activities and by the fact that the division of education into an academic versus vocational branch takes place only in the later stage. The application of the language immersion methodology has increased the integration of Russian-speaking young people in Estonian society<sup>385</sup>. However, the Russian-speaking schools do not ensure good proficiency in Estonian for all the students<sup>386</sup> and by the end of the basic school the basic skills of learners are weaker than in the Estonian-speaking schools.

**165.** Transfer of the upper secondary school level of the Russian-speaking schools to the teaching of subjects in Estonian took place in 2007–2012<sup>387</sup> (60% of the subjects are taught in Estonian and 40% in Russian), but in practice this often tends to be rather a formal activity<sup>388</sup>. The reforms of the language of instruction should have started rather on the primary level of the system, i.e. child care institutions<sup>389</sup>. There is a need for study aids specifically intended for studying in second language<sup>390</sup>, less than half of the language teachers are mother tongue speakers of the language they teach<sup>391</sup>. School managers generally have a supportive attitude to transfer to the instruction in Estonian and to language teaching<sup>392</sup>, while on the other hand the attitude of students and parents tends to be negative<sup>393</sup>, both students<sup>394</sup> and teachers are critical towards the timeline and the obligatory nature of the transfer of the upper secondary school level to instruction in Estonian<sup>395</sup>.

*- Prepare and ensure basic subject related and language training and study materials (integrated with the standardised uniform training curriculum) for all the subject teachers teaching in Estonian. Develop the substance and scope of further training for Estonian language teachers, prepare study aids for Estonian as second language.*

*- Develop subject teaching in Estonian in basic schools and expand the language immersion programme, taking into account the recommendations contained in the „Estonian language development plan 2011–2017“.*

*- Organise good-quality Estonian language teaching in pre-school child care institutions by using methods appropriate in view of the learner's age, and support the study of non-Estonian speaking children in Estonian kindergartens.*

*- In the new national integration plan, allocate resources to provide different forms of communication*

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<sup>385</sup>See for more detail the „Estonian lifelong education strategy 2020“.

<sup>386</sup>The proportion of basic school leavers of Russian-speaking schools who have acquired the Estonian language proficiency on level B1 (63.2%) has somewhat increased in 2014, but the target for 2020 is 90%.

<sup>387</sup>According to the data from the Estonian Education Information System (EHIS), in 57 upper secondary schools 60% of the subjects were taught in Estonian and 40% in Russian in 2013/2014.

<sup>388</sup>The objectives and criteria for acquiring Estonian are not sufficiently specific or clear for the schools.

<sup>389</sup>The mutual social integration of the language-based instruction streams into a unified educational system promoting common democratic values, however, was neglected. See for more detail the Estonian Human Development Report 2014/2015.

<sup>390</sup>44% of subject teachers are not satisfied with the current textbooks, 60% of the students found that the textbooks were not interesting (2013).

<sup>391</sup>A 2013 survey by Tallinn University and the Institute of the Estonian Language and Culture, in which only 39% of the respondent teachers marked Estonian as their mother tongue.

<sup>392</sup>See for more detail „Bilingual instruction in Russian-speaking schools“ [*Kakskeelne õpe vene õppekeelega koolis*] (2013).

<sup>393</sup>Students have identified the following problems: increased workload, Estonian language proficiency of the teachers, varying language proficiency of the students.

<sup>394</sup>Also the upper secondary school students participating in the 2013 survey of social groups in the field of integration felt rather pessimistic about the equality of opportunities of ethnic groups. By contrast to the objectives of the reform, they saw the transfer to the instruction in Estonian as increasing the inequality of opportunities and limiting their competitiveness.

<sup>395</sup>Teachers and students are not satisfied with the current study materials in Estonian which have been written for students with Estonian as their mother tongue.



*opportunities in the Estonian-speaking environment for students of Russian-speaking schools (student exchange, language camps, hobby activities, etc).*

## **ANNEX 1: LIST OF KEY RECOMMENDATIONS:**

### **1. GENERAL MEASURES OF IMPLEMENTATION (Articles 4, 42 and 44 para 6)**

- Make the principle of hearing of the child by courts compulsory (including establishing the obligation of being heard in person), except when this is not in the best interests of the child, and remove the age limit under § 552<sup>1</sup>(1) of the Code of Civil Procedure.
- Enhance the knowledge about the CRC among judges and other specialists by offering them training on the rights of the child (including hearing of children) and development psychology. Prepare practical guidelines on how to carry out a hearing of a child for specialists who come in contact with children.
- Submit reports on implementing the ratified conventions in time and involve interest groups in the initial stage of drawing up the reports.
- Establish a cross-sectoral cooperation format for coordination of specifically targeted and interlinked actions.
- Establish a national minimum list of local-level social services and quality standards, as well as improve the relevant supervision.
- More actively raise awareness of society about the Ombudsman for Children as the institution supervising the rights of the child, and explain in a child-friendly manner in relevant channels (including among the Russian-speaking population) the possibility for children to exercise their right of complaint.
- Revise the principles for data collection (including harmonisation of definitions and classifiers in different information systems), improve integration between the databases. Make inputting of data concerning child protection compulsory in one database.
- Prepare indicators for monitoring the implementation of the rights of the child, so that the indicators concerning child welfare are targeted and variations in them can be observed. For promoting the rights of the child, annual publication of a compilation including indicators of child welfare is necessary.
- Harmonise the funding of CSOs (including revising the principles for grants given by the Gambling Tax Council) and ensure support to assessing the impact of the activities (including dissemination of the assessment tools and funding of the assessment), and funding of the evidence-based programmes.
- Support and develop consistently the child protection capacity of local authorities (e.g. further trainings, supervision), including promoting cooperation between the local authorities. In order to ensure the functioning of organisational changes, funding of child protection should be stable and targeted both on the national and local level.
- Allocate more targeted resources to local authorities for hiring more child protection workers as an increase of the number of child protection workers is a precondition ensuring children's rights.
- Increase professionalism (qualifications, competence) of the parties in the area of child protection and the quality of intervention activities. The development of the competencies should be systematic, in cooperation with universities and other research institutions.
- Better inform society about the rights of the child, including introducing the CRC to both adults and children (including in Russian), using channels aimed at different target groups. Carry out regular campaigns covering the whole of Estonia to introduce and explain the rights of the child.
- Carry out information activities concerning the rights of the child in cooperation with non-profit associations, and support preparation of information materials introducing the CRC (both in Estonian and Russian), including in child-friendly versions (both as interactive and printed material).
- Increase the scope of human rights education on different school levels and in the in-service

training of occupations dealing with children. Include in teacher training (including kindergarten teachers) topics on promoting the rights of the child and participation of children.

- Pay more attention to the development of the child and legal training at the universities and applied higher educational institutions within the curricula for child protection and social workers and within in-service training.

## **2. DEFINITION OF THE CHILD (Article 1)**

- Harmonise the practice of appointing a representative to children in family matters concerning children.
- Improve measures to make alcohol, tobacco and drugs inaccessible to minors, including prevention of sale/giving of alcohol to minors: increasing the probability for violators of the prohibition being caught and toughening of consequences in case of violation. Restrict alcohol advertising in general.

## **3. GENERAL PRINCIPLES**

- Integrate gender issues to teacher training and implement the topical in-service training. Establish a learning environment and prepare study materials which take into account the needs of both genders.
- Expand the scope of protection of the Equal Treatment Act.
- Create equal opportunities at the labour market, support reconciliation of work and family life, combat poverty among women, and reduce the gender pay gap.
- Draw up the implementing acts for the Registered Partnership Act.
- Introduce provisions in the Penal Code to make a motive of hatred (including based on sexual orientation and gender identity) an aggravating circumstance for the crime regardless of whether it resulted in a direct threat to a person's life, health or property. Implement measures to effectively combat incitement to hatred.
- Organise information campaigns to prevent negative racist attitudes in society and combat them. Increase the proportion of human rights in the curricula of different levels of education.
- Inform society about the right to have recourse to the Chancellor of Justice for conducting conciliation proceedings if a person finds that a natural or a legal person in private law has discriminated them on grounds of an attribute of discrimination established by law.
- Improve measures aimed at suicide prevention (including for the prevention of self-injuries) and assign a responsible state agency.
- Empower specialists working with children to improve their capability to recognise mental problems of children.
- Ensure involvement of children and young people in decision-making processes on different levels by paying more attention to involvement of socially excluded children and children with fewer opportunities.
- Train specialists dealing with children and young people with regard to the right of participation of children and the aspect of the best interests of the child. Prepare supporting guidance materials and intensify information activities.
- Ensure sustainable funding for different forms of participation of children and young people, including by paying particular attention to vulnerable target groups.

## **4. CIVIL RIGHTS AND FREEDOMS**

- Supplement the Citizenship Act to take into account the situation of 16- to 18-year-old children and children born to stateless Estonian residents outside Estonia.
- Accede to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness in order to protect all stateless persons in Estonia.
- Ensure that the local authorities and providers of the substitute home service proceed from the preservation of the existing family connections (e.g. children from the same biological family should be placed under substitute care together, except if this is contrary to the interests of the

- child).
- Ensure that minors in closed institutions have access to the information to the extent proceeding from the specific nature of the institution and in line with the fundamental rights of the child (including the right to education).
- Organise communication of children in closed institutions with their parents and next of kin in a way that the right of children to the confidentiality of their messages and to privacy is not violated.
- Inform and communicate about the changes arising from the new Child Protection Act (including the prohibition of physical punishment of children) via different media channels (including in Russian). In the following years, also train specialists to ensure effective implementation of the new Child Protection Act.
- Develop services on the national and local government level to offer support to families for rearing children without violence (by offering professional assistance on rearing children to those who need it and increasing the availability of information on effective, violence-free rearing methods).

## **5. FAMILY ENVIRONMENT AND ALTERNATIVE CARE**

- Supplement the social education curricula to raise awareness of young people about the rights and duties involved in marriage and/or becoming a parent.
- Raise the awareness of parents and specialists (teachers, school psychologists, social pedagogues, youth workers, juvenile police officers) about parental duties and the possibilities to receive assistance (including when the parents go to work abroad).
- Organise training for specialists who deal with children on issues of hearing of children and recognising violence; and training courses to explain the Family Law Act to child protection workers.
- Establish an effective regulation for enforcement of judicial decisions concerning custody of parents based on good practices identified in other countries.
- Bring the enforcement procedure for ensuring access to the child under § 179 of the Code of Enforcement Procedure into conformity with the Constitution.
- Prepare measures and define the duties of the state and local authorities along with the respective financing model to improve the availability of services established by law (including for increasing the number of child protection workers) and to improve cooperation.
- Offer necessary services to families (including by ensuring regional availability of services with the support of the nationally coordinated system of counselling and service centres) and benefits which help families to cope independently, and avoid separation of children from families.
- Improve supervision in local authorities to ascertain and prevent situations hampering the development of children, including providing guidelines and training courses to local authorities, and ensuring resources for implementing those activities (including for collecting the relevant statistics).
- Accede to the Council of Europe Convention on Contact concerning Children.
- Regulate clearly the process of applying for family reunification by defining the state's participation in the process.
- Bring the Aliens Act into conformity with § 26 and § 27 of the Constitution and provide for a legal basis to apply for a residence permit if a person's minor child is living in Estonia.
- Improve availability of the family conciliation service (as a nationally funded service) and raise awareness about the existence of such a service. Increase availability of free legal assistance (including in Russian).
- Facilitate the participation of the parent living separately in the maintenance of the child and improve the support aimed at single parent families in a situation where the other parent does not comply with the maintenance obligation.

- Take measures for reducing the need and demand for substitute care, and transferring to the family-centred approach of substitute care and child protection work (including conscious work with a child's parent(s)/family before and after the child's separation from the family and placement in substitute care).
- Ensure collection of case-based data, the precondition for which is uniform electronic handling of the cases concerning children separated from the family, their families and placement. Allocate sufficient resources for the development of STAR and make its use compulsory for child protection workers.
- Set specific objectives for deinstitutionalisation of substitute care and prepare solutions to support and promote the placement of separated children in family-based forms of substitute care (foster family or placement under care, adoption). Thereby exclude placement of children under three years old in institutional care, except when this is the only possible solution in view of the needs of the child.
- Organise the regulatory framework concerning shelter and safe house services (the objective of the services, their substance, target group, requirements, etc) and the bases for the collection of departmental statistics.
- Establish a uniform electronically administered nationwide overview of the persons applying to be caregivers or adoptive parents and of their background (including reasons why they were found to be unsuitable), establish a procedure for the collection and use of legally required data.
- Ensure support for children with specific needs and the development of specialised services for them. In developing the services, take into account more than previously the special needs of the target group for the substitute home service (including children and young people having a severe or profound disability or psychosocial special needs).
- Establish the description and standard for the substitute home service in order to be able to assess the substantive quality of the service. Draw up a cost-based financing model of the substitute home service based on the substance and objectives of the service and the requirements established for the service. Use this as a basis in the funding of the service from the state budget. Continue the development of the family-based substitute home service in addition to reorganising the physical environment of the provision of the service and also in terms of substance and organisation (including the working time organisation of the staff). Ensure relevant in-service training for specialists working with children in substitute care (including children with disability).
- Ensure support and follow-up care (including legal regulation) for young people in transferring to independent life from substitute home service.
- Prepare solutions for improving the work of county governments and/or alternatives for institutional reorganisation so as to ensure that the preparation of adoption and data collection are based on uniform grounds as much possible.
- Establish specific requirements for preparing adoptive parents (including their training) and ensure the necessary conditions and resources for implementing them. Ensure consistent provision of services prior to and after the adoption as well as availability of the services to those who wish to become or have already become adoptive parents.
- Regulate more clearly the process of international adoption along with the tasks and responsibility of the different parties and the establishment of the principles for data collection and preservation.
- Draw up methodological assessment guidelines for local authorities to support their cooperation with families and help to plan the process of family reunification.

## **6. PROTECTION OF HEALTH AND SOCIAL WELFARE**

- Ensure on the state level services for children with a severe or profound disability based on the needs of the child and the family.

- Improve access of children with disabilities (as well as families) to public services (including education and social welfare services). Increase general awareness about the available services (including in Russian).
- Take diverse measures to prevent exclusion of children with an intellectual disability (including raise the awareness of society, train specialists working with children). Amend the Equal Protection Act to provide a clear basis for protecting people against discrimination based on disability also in the social and education sector and in the provision of services.
- Ensure necessary support services for children with disabilities in educational institutions (including hiring mental health nurses at schools) as well as availability of study aids, and revise teacher training respectively.
- Ensure quality of treatment data concerning children, the movement of the data into the healthcare information system and access of the specialists dealing with children to the data.
- Establish a legislative obligation for families to undergo primary level health screening to ensure early noticing and relevant response to problems (including mental health problems). Ensure assistance to risk groups which, as a result of the screening, are found to be in need of most attention and assistance.
- Increase awareness of parents about the necessity of immunisation, dental treatment and other health promotion. Offer to breast-feeding mothers counselling based on contemporary knowledge.
- Prepare and implement sexual education training programmes for vulnerable groups (e.g. children with disabilities, children in substitute homes).
- Prepare a strategy for the promotion and improvement of sexual health which includes prevention of violence against women, including intimate partner violence.
- More effectively reduce prevalence of smoking among minors.
- Prepare a strategy for the prevention of obesity among children, and integrate the topic in the health education programme in kindergartens and schools.
- Establish uniform mental health policy on the national level, assign a coordinator of the field along with the specific responsibilities. Organise clearly defined state funding (including coverage of specialised medical care and local level services), increase prevention, by channelling most of the primary and second-level intervention funding to the child's daily environment.
- Increase the mental health component in all the in-service training programmes for primary level specialists (including kindergarten teachers, school teachers, family nurses and general practitioners).
- More prevention work by the primary level treatment network (general practitioners and family nurses) for raising awareness of the parents about the causes of accidents. Increase the treatment volumes of juvenile drug addicts.
- Harmonise the system of family benefits, increase its flexibility for improving the opportunities for reconciliation of work and family life of parents. Improve the system of support for single parent families.
- Establish indexation of the subsistence benefit and link the subsistence level to the minimum means of subsistence and to the consumer price index.
- Implement effectively the measures under the Youth Guarantee (preventive activities, the first job measure).
- Raise the minimum tax exempt income in order to reduce the poverty risk of low-income families.
- Maintain the universal system of child benefits, targeting the benefits to families in a higher risk of poverty. Establish indexation of the child benefit in line with the consumer price index and the dynamics of tax revenues.
- Reduce inflexibility of the vacation and compensation schemes to increase possibilities for

reconciliation of work and family life and improve the freedom of choice.

- Increase availability of pre-school education and childcare, thereby promoting the participation of the least well-off families in pre-school education. Establish a uniform system of pre-school education and childcare which supports quality and availability, belongs in the area of administration of one ministry, corresponds to uniform quality requirements and is regulated within one law; revise personnel training.

## **7. EDUCATION, LEISURE AND CULTURAL ACTIVITIES (Articles 28, 29 and 31)**

- Specify funding of pre-school education, the responsibility of local authorities and the creation of flexible forms of pre-school education and childcare based on the needs of children and families.
- Develop teacher education (including paying more attention to alternative teaching strategies based on the individual abilities of students), study aids (including digital), early language learning of students and a system for early recognition and support of special needs of children.
- Prepare measures for the organisation of studies with the aim to increase efficiency of studying and reduce dropping out. Ensure the availability and quality of necessary support services for students, regardless of the child's place of residence and existence of a special educational need, and develop the system for supporting students.
- Give schools the right to shape their ways to implement national curriculum and evaluation system
- Involve more frequently SEN students in their local school, ensure funding for the adaptation of the learning environment to suit their needs.
- Ensure miscellaneous support services in boarding school facilities, raise the competence of specialists. Analyse the reasons why students stay at these facilities in order to avoid that referral to a boarding school facility would become a substitute for dealing with the actual need of assistance of the family on the local level.
- Define the tasks of the state and local authorities, as well as the funding, in ensuring preschool, basic and upper secondary school education in order to improve the quality of education, its availability and sufficient wage level of the teachers. In reorganising the school network, take into account the regional specificities arising from the small number of students.
- Develop the school system as a whole to ensure a more effective implementation of an inclusive education policy aimed at increasing tolerance (including training for teachers, adaptation of the necessary learning environment, support to expansion of programmes to prevent bullying (including in Russian-speaking schools)).
- Increase the volume of teaching human rights (including the rights of the child) social skills on different school levels and in the degree courses and in-service training for occupations dealing with children.
- Ensure in all educational institutions and boarding school facilities a position of a support specialist whose main job is to provide primary counselling in the institution (for students, teachers, parents) in planning and implementing psychosocial support (including with the aim to prevent bullying).
- Support participation of children in hobby education and recreational activities, camp programmes and extended-day groups (with a focus on families with coping difficulties). Increase the scope and availability of youth work services and competencies of the staff.

## **8. SPECIAL CHILD PROTECTION MEASURES**

- Create special conditions for the accommodation of unaccompanied minors (create conditions for the detention of citizens of third countries who are minors in a separate establishment or create special conditions for accommodating minors in the expulsion centre).
- Supplement the current regulation with specific provisions concerning the detention of minors (i.e. as regards the organisation of detention, special conditions of detention, including the term of detention).

- Train the staff dealing with unaccompanied minors (including law enforcement authorities, interviewers, interpreters, social and youth workers, health care specialists, guardians, persons conducting the proceedings) with regard to issues concerning the protection of the rights of the child.
- Supplement the current regulation so as to ensure access of detained minors to education and leisure activities suitable for their age).
- Ascertain the services necessary for asylum seekers with special needs, including unaccompanied minors, and specify on the level of legislation access of asylum seekers to services free of charge.
- Change the current organisation of representation/guardianship of unaccompanied minors because under the current arrangement the independence of representation is not guaranteed, thus also compromising the conduct of proceedings in line with the interests of the minor.

## **9. GENERAL STRATEGIC CHANGES IN CRIMINAL POLICY**

- Deepen the knowledge and skills of the persons conducting the proceedings, judges and other specialists (including lawyers) who work with children, by offering them in-service training on interviewing children (including interrogations), development psychology and the best interests of the child (including their assessment), and prepare topical guidance materials.
- Establish separate institution(s) for detaining minors in an environment which serves the rehabilitative aims and ensures the physical and mental well-being of the minors. As a rule, the current closed institutions are not suitable for children with serious mental disorders and serious somatic diseases or children with disabilities, and their placement in such institutions should be avoided.
- Develop the system for assisting ill-treated children in a way that the child victim can receive the necessary assistance prior to, during, as well as after the proceedings. To improve the skills for assessing the victims' needs for protection, the training programmes and study aids should be supplemented.
- Prepare the concept of the institution intended for young people with addiction problems, along with the necessary regulation, in cooperation between the Ministry of Education and Research, the Ministry of Justice and the Ministry of Social Affairs.
- Ensure timely and child-friendly assistance to child offenders by replacing the system of juvenile committees of a punitive nature with the child protection system focused on supporting the child's need for assistance.
- Prepare the regulation to allow for an individual approach to students referred to a school for children in need of special educational measures due to behavioural problems, and take into account their special needs, as well as the establishment of different levels of regime in special schools.
- Integrate psychiatrists, psychologists, social pedagogues, teachers and rehabilitation service providers to work as a united team within the structure of closed institutions working with children.
- Reduce the number of children in closed institutions and ensure the necessary services and programmes for re-socialisation (both during and after the detention, including work with the family).
- Supplement the current regulation with specific provisions concerning the detention of unaccompanied minors (i.e. with regard to the organisation of detention, special conditions of detention, including time-limits).
- Prepare effective measures for the prevention of drug use among young people relying on international experience. Develop the necessary healthcare and social services to overcome addiction and ensure their availability (including funding of the services).
- Ensure nationwide availability of good-quality and efficient services (i.e. integrated assistance) to support children, by increasing the funding from the state budget for implementing different



- measures of intervention.
- Revise the current regulation of rehabilitation services provided by the state, in order to expand the number of interventions corresponding to the particular need for assistance and to ensure their better availability.
  - Criminalise the buying of sexual services in Estonia. Reduce the number of minors involved in and enticed to prostitution, first and foremost by reducing the demand for the use of such a service.
  - Increase the awareness of persons conducting the proceedings as well as other specialists about the issues of recognising human trafficking related offences.
  - Take measures to prevent involvement of minors in the prostitution business.
  - Prepare and ensure basic subject related and language training and study materials (integrated with the standardised uniform training curriculum) for all the subject teachers teaching in Estonian. Develop the substance and scope of further training for Estonian language teachers, prepare study aids for Estonian as second language.
  - Develop subject teaching in Estonian in basic schools and expand the language immersion programme, taking into account the recommendations contained in the „Estonian language development plan 2011–2017“.
  - Organise good-quality Estonian language teaching in pre-school child care institutions by using methods appropriate in view of the learner’s age, and support the study of non-Estonian speaking children in Estonian kindergartens.
  - In the new national integration plan, allocate resources to provide different forms of communication opportunities in the Estonian-speaking environment for students of Russian-speaking schools (student exchange, language camps, hobby activities, etc).

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### ANNEX 3: SUPPLEMENTARY OPINION OF THE ESTONIAN LGBT ASSOCIATION AND THE HUMAN RIGHTS CENTRE

This shadow report does not tackle the issue of children growing up with same-sex parents in as much detail as is needed in order to guarantee that children with same-sex parents receive equal attention and protection. Therefore the Estonian LGBT Association and Estonian Human Rights Centre would like to point out that although the gender neutral Registered Partnership Act was passed in 2014 and it would solve some of the problems facing children with same-sex parents, implementation provisions regulating many details of the Registered Partnership Act still need to be passed in 2015 for the law to be effective from 2016.

General comment No 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration explains that “the term “family” must be interpreted in a broad sense to include biological, adoptive or foster parents or, where applicable, the members of the extended family or community as provided for by local custom (art. 5).”<sup>396</sup>

According to the concluding observations<sup>397</sup> of the Committee on the Rights of the Child with regard to reports submitted by states the Committee recommends that, in the light of articles 20 and 21 of the Convention, the State Party: a) establish a comprehensive national policy and guidelines governing foster care and adoption; b) establish a central monitoring mechanism in this regard.

Until today such a policy and guidelines have not been established fully and do not include the possibility for same-sex couples to adopt a child, hence same-sex couples are treated unequally as compared to different-sex couples. Single parents may adopt alone, hence single gays and lesbians may adopt as well, but not a same-sex couple together since only married couples are allowed to adopt in Estonia and only different-sex couples can get married.

The gender neutral Registered Partnership Act that was passed in 2014 allows adoption within the family under the following terms: “A registered partner may adopt a child if: 1) the other registered partner is a biological parent of the child; or 2) the other registered partner was a parent of the child before entry into the registered partnership contract.”<sup>398</sup> However, since implementation provisions of this law still need to be passed by the parliament, it is not clear today whether the law will enter fully into force as of 1 January 2016. Furthermore, the Registered Partnership Act will not end the

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<sup>396</sup> Committee on the Rights of the Children. General comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1). [http://www2.ohchr.org/English/bodies/crc/docs/GC/CRC\\_C\\_GC\\_14\\_ENG.pdf](http://www2.ohchr.org/English/bodies/crc/docs/GC/CRC_C_GC_14_ENG.pdf)

<sup>397</sup> Committee on the Rights of the Children. CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES

UNDER ARTICLE 44 OF THE CONVENTION. Concluding observations: Estonia (2003)

[http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRC/C/15/Add.196&Lang=En](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC/C/15/Add.196&Lang=En)

<sup>398</sup> Registered Partnership Act. <https://www.riigiteataja.ee/en/eli/527112014001/consolide>

inequality between same-sex and different-sex couples as regards adoption and foster care of a child from outside the family.

**Recommendation:**

1. Complement custodial and adoption regulations in light of the broad definition of family as outlined above, including adoption of the biological child of a partner, adoption of the adopted child of a partner and adoption or foster care of a child from outside family into a new family and expanding this to same-sex couples.

On behalf of the Estonian LGBT Association and Estonian Human Rights Centre

Helen Talalaev  
President of Estonian LGBT Association  
[helen@lgbt.ee](mailto:helen@lgbt.ee)

**Estonian LGBT Association  
(Eesti LGBT Ühing)**

Address: Kaarli pst 5-1  
Tallinn 10119  
Reg no: 80275811  
+372 5551 5817  
e-mail: [info@lgbt.ee](mailto:info@lgbt.ee)  
[www.lgbt.ee](http://www.lgbt.ee)

**Estonian Human Rights Centre  
(Eesti Inimõiguste Keskus)**

Narva mnt. 9j  
Tallinn 10117  
Reg no: 90012202  
phone: +372 644 5148  
e-mail: [info@humanrights.ee](mailto:info@humanrights.ee)  
[www.humanrights.ee](http://www.humanrights.ee)