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Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture

Consideration of reports submitted by States parties under article 19 of the Convention

Fifth periodic report of States parties due in 2011, submitted in response to the list of issues (CAT/C/EST/Q/5) transmitted to the State party pursuant to the optional reporting procedure (A/62/44, paras. 23 and 24)

Estonia*, **, ***

[9 August 2011]

* The fourth periodic report submitted by the Government of Estonia is contained in document CAT/C/80/Add.1; it was considered by the Committee at its 793rd and 796th meetings, held on 13 and 14 November 2007 (CAT/C/SR.793 and 796). For its consideration, see CAT/C/EST/CO/4.

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*** Annexes can be consulted in the files of the Secretariat.

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Replies of the Republic of Estonia to the list of issues prior to the submission of the fifth periodic report on implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Articles 1 and 4

Replies to the issues raised in paragraph 1 of the list of issues prior to reporting (CAT/C/EST/Q/5)

1. The Ministry of Justice is preparing to propose an amendment to the Section 122 of the Penal Code which would be circulated for interministerial approval in summer 2011 and submitted to the Parliament in autumn 2011. The condition "physical" would be deleted. According to the amendment continuous abuse or abuse which causes great pain shall be punishable by a pecuniary punishment or up to 5 years' imprisonment. Estonia still claims that under specific circumstances an act of torture in the sense of the Convention would be punishable under other sections of the Code, e.g. as abuse of authority, unlawful interrogation or unlawful treatment of prisoners or persons in detention or custody (sections 291, 312 or 324). According to the amendment, discrimination as purpose of an offence would be considered an aggravating circumstance. Also, there is an ongoing analysis of the penal law in 2011–2012 the results of which may result in further amendments.

Replies to the issues raised in paragraph 2

2. As regards penalties applicable for torture in the sense of the Convention, the provisions of the Penal Code referred to in the observations of the Committee (CAT/CEST/CO/4, para 13), there are no amendments in Estonian law. Nevertheless, it should be noted that if the act of torture results in a health damage or death, other provisions of the Code with more grave penalties apply (e.g. sections 118, 114). Also, the analysis of the penal law mentioned in para 1 may result also in amendments on penalties for torture.

Replies to the issues raised in paragraph 3

3. Though it has not been supported by clear law or known practice, clear and unambiguous provisions of international treaties may be invoked by parties and directly applied by Estonian courts. In addition, clear and unambiguous provisions of international treaties have indirect effect when interpreting domestic law, including the Constitution. Such a method has been used by the National Court on several occasions, the treaty in question usually being the European Convention on Human Rights (ECHR). In particular, in a decision of 13 November 2009 (3-3-1-63-09, re Julin, clause 21) the National Court has referred to both the ECHR and the Convention against Torture when construing the concept of torture, but establishing that in the specific case the alleged offence did not constitute an act of torture in the sense of the Convention. In addition it should be noted that the Constitution provides that "generally recognised principles and rules of international law are an inseparable part of the Estonian legal system" (section 3) and "if laws or other legislation of Estonia are in conflict with international treaties ratified by the Riigikogu [Parliament], the provisions of the international treaty shall apply" (section 123). There is no further information about the occasions of direct application of the Convention against Torture.

Article 2

Replies to the issues raised in paragraph 4

4. The institution of the Chancellor of Justice in Estonia is not part of the legislative, executive or judicial powers, it is not a political or a law enforcement body. The institution of the Chancellor of Justice is established by the Constitution of the Republic of Estonia and therefore the independence of the Chancellor of Justice is guaranteed by the Constitution and by the Chancellor of Justice Act, which stipulates the appointment and release from office procedure, restrictions for his/her activities, requirements for his/her staff and budget. Therefore, the Chancellor of Justice can be considered as completely appropriate and independent mechanism to deal with the possible violations of the Convention. There is no other such institution established in addition to the Chancellor of Justice and there are no plans to create additional institutions. The government has taken note of the recommendations by various international and non-governmental bodies to accredit the Chancellor of Justice with the ICCNHRI; both the government representatives and the Office of the Chancellor of Justice have been in contact with the said Committee with a view to specify the exact procedure and requirements for accreditation. Please refer to the Annex of the current replies to the list of issues for detailed information on the institution and activities of the Chancellor of Justice and the Paris Principles. The overview of the Chancellor of Justice's activities for the prevention of torture and other cruel, inhuman or degrading treatment or punishment in 2008 and 2009 is available online.[1] The 2010 overview, published in June 2010, has not yet been translated.

Replies to the issues raised in paragraph 5

5. The Code of Criminal Procedure has been amended (amendment in force from September 2011) in order to further the defence rights of detainees. If a person has been detained for two months, a lawyer is mandatory (inter alia; section 45 subsection 2). A suspect has the right to have a lawyer (subsection 2) and if he cannot afford one, a lawyer shall be provided by the Bar. A person against whom a prosecutor files an application for detention has the right to demand that his lawyer would be informed about the application before the application is submitted to judge (section 131). A detained suspect shall be informed about his rights and interviewed without delay (section 217 subsection 7). If longer detention is deemed justified and necessary by the prosecutor, the detained suspect shall be taken to the judge during 48 hours (subsection 8). A relative may be informed about the detention of the suspect using the authority as an intermediary; however the right may be denied by the prosecutor, if it would be detrimental to the proceedings (subsection 10). A notice about the detention by the judge shall be given by the judge without delay; however it may be delayed if it would be detrimental to the proceedings.

6. According to section 53 of the Imprisonment Act, the availability of emergency care twenty-four hours a day shall be guaranteed to prisoners. Prisoners who need treatment which cannot be provided in prison shall be referred to treatment at relevant providers of specialised medical care by the medical officer of the prison. The guard of prisoners shall ensure prison services during the time when prisoners are provided with health care services.

7. The provision of health care services for prisoners is financed from the state budget. Health care in prison is organised on the basis of the Health Care Services Organisation Act. Health care services and acquisition of medicinal products and medical supplies

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[1] http://www.oiguskantsler.ee/public/resources/editor/File/INGLISKEELNE_KODULEHT/Ylevaated/Annual_Report_2009.pdf.

required for the provision thereof are funded from the state budget in the amount, on the conditions and according to the procedure established by the Regulation No. 330 of the Government of the Republic of 19 December 2003 a.

8. The health care services for prisoners are financed from the state budget. In a prison, health care shall be arranged pursuant to the Health Services Organisation Act. Health services and the acquisition of medicinal products and medical supplies are financed from the state budget in the scope and pursuant to the conditions and procedures laid down by the Regulation of the Government No 330 of 19 December 2003. A health care professional is independent in his/her professional activities and operates pursuant to the rules of medical science, considering the health of the patient who requires medical attention, the requirements laid down in legal acts as regards the provision of medical care, general medical practices and principles of medical ethics. The health care professional selects the health service and the time, location and manner of providing this service, as well as the medicine and medical supplies based on the needs of the patient and the principle of expedient usage of funds. Health charts shall be kept on inmates pursuant to Regulation No. 76 of the Minister of Social Affairs of 6 May 2002, “List and forms of documents verifying the provision of health services and the procedure for the documentation of health services”. Health charts shall be kept so that they guarantee the integrity, availability and confidentiality of personal data. The medical departments and hospital of prisons are integrated with the health care information system. The Health Board shall carry out national supervision over the fulfilment of health protection requirements established by the Public Health Act and the legal acts enforced pursuant to it, and over the fulfilment of requirements established for the providers of health care services in the prison.

9. Upon arrival to prison, prisoners are obligated to pass a medical examination conducted by a doctor. Female inmates shall be guaranteed the opportunity of a basic gynaecological examination upon their admission. The doctor is obligated to continuously monitor the health of the inmates, treat them in compliance with the possibilities of the prison and, if necessary, refer them for treatment to a provider of respective specialised medical care, and also fulfil all other tasks assigned to him/her. In a detention house the health care professional shall conduct the medical examination of the inmate admitted in the detention house and make inquiries about the health of the inmate. If the inmate falls ill, treatment shall be guaranteed; an ambulance shall be called if necessary, including upon the admission of the inmate to the detention house. If the inmate needs treatment that cannot be provided in the detention house, the inmate shall be sent, based on a referral and under supervision, to be treated by a provider of respective specialised medical care in a health care institution or prison. Medicinal products that need to be administered to the inmate regularly are held by an official assigned by the manager of the detention house and shall be administered to the patient pursuant to the doctor’s prescription. Pursuant to internal procedure rules, a health care professional who has been called to provide medical aid to a person held in the detention house shall be allowed to enter the detention house (to a separate room or, according to the condition of the person in need of medical attention, to the cell).

10. The inmate shall be entitled to turn to the Health Service Quality expert committee to obtain an extra-judicial assessment of the quality of the provided health service. The expert committee is an advisory committee with an aim to evaluate the quality of the health service provided to the patient and, based on the evaluation, make proposals to the Health Board, the Estonian Health Insurance Fund and health care providers. The person is also entitled to turn to court regarding matters related to the provision of health care services.

Replies to the issues raised in paragraph 6

11. According to the penal law system effective in Estonia since 2002, offences are criminal offences and misdemeanours (section 3 subsection 2 of the Penal Code). A misdemeanour is an offence which is provided for in the Penal Code or another Act and for which the principal punishment prescribed is a fine or detention up to 30 days (subsection 4). The procedure of application of punishments for misdemeanours is governed by the Code of Misdemeanour Procedure, not by the Code of Criminal Procedure. In general, the punishments for misdemeanours are applied by competent administrative authorities (e.g. police, customs, local municipalities) but with an available appeal to the court. Procedural methods of the misdemeanour procedure are limited, e.g. detention is not possible for longer period than 48 hours, and period of limitation is restricted as compared to offences. The Code of Misdemeanour Procedure (section 44 subsection 2) requires that upon detention of a person testimony is immediately taken from the person with regard to the commission of the misdemeanour and a report on the detention of the person or a misdemeanour report is prepared; and the person taken into custody is immediately taken to a county court (court of first instance) for the hearing of the matter if the person has committed a misdemeanour and the body conducting extra-judicial proceedings deems it necessary to impose detention, and the corresponding misdemeanour report and other procedural documents have been prepared concerning the misdemeanour matter. In such case, the person subject to proceedings may file an objection to the court. These procedures inevitably presume the registration of the person taken into custody.

Replies to the issues raised in paragraph 7

12. Pursuant to an analysis done in 2009, based on data up to year 2008, the average pre-trial detention period in Estonia was 3.9 months (in addition, 2.9 months during court procedure). The longest period for detention before verdict was applied for suspects for murder (12.9 months), drug-related offences (7.6 months), robbery and extortion (6.7 months). At the same time, it should be noted that in 2008 23% of all those detained were released within one month (13% on the same day). In general, 51% of all persons kept in pre-verdict (pre trial and during trial) detention have been suspects for murder (11%), rape, grave assault or drug-related offences. 29% of persons kept in detention have been suspects for stealth. The study provides detailed analysis of the detention periods, enabling to start planning further measures to curb the need to detain persons. A bail system is already in use in Estonia; starting from 2011, electronic guard equipment can be used as a replacement for actual detention. Also a set of measures is envisaged to deal with the general issue of the length of criminal proceedings.

Article 3

Replies to the issues raised in paragraph 8

13. Each application for asylum in Estonia is reviewed individually and impartially. Also the correctness of provided evidence and information is verified and the credibility of the statements made by the applicant assessed. In addition the existence of circumstances which would lead to granting of international protection or rejection of application for asylum is assessed. When a decision is made to reject the application for asylum, the decision is issued in writing and the person has a right to an effective remedy, thus the decision to reject an application for asylum and to expel an alien may be contested in an administrative court. The contestation of the decision to reject an application for asylum does not postpone expulsion, unless the court has suspended the execution of the precept to leave. In practice the court has always suspended the execution of the precept to leave, if the decision to reject an application for asylum has been contested. It is possible to refuse

entry of the asylum seeker to Estonia on some limited grounds, such as where applicant's country of origin can be considered a safe country of origin or the applicant has arrived to Estonia through a country which can be considered a safe third country. Estonia does not have a set list of "safe countries". The decision is made individually each time, assessing whether a particular country would be safe for the person concerned.

14. Estonia has transposed the directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third country nationals (hereinafter in this clause *directive*) into its national law. The amendments to the Obligation to Leave and Prohibition on Entry Act entered into force on 24 December 2010.

15. In accordance with the Article 5 of the directive and paragraph 17^{1} of the Obligation to Leave and Prohibition on Entry Act the principle of non-refoulement should be taken into account when expelling an alien. An alien may not be expelled to a state to which expulsion may result in consequences specified in Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms or Article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, or the application of death penalty. The expulsion of an alien shall comply with Articles 32 and 33 of the Convention relating to the Status of Refugees (together with the Protocol relating to the Status of Refugees of 31 January 1967).

16. Legal safeguards on decisions related to return have been provided for in the Administrative Procedure Act as well as in the Obligation to Leave and Prohibition on Entry Act. A precept to leave is an administrative act that should be issued in writing and it should be justified. The justification of the precept to leave shall only reveal the legal basis but not the factual basis, related circumstances or relevant considerations if this is necessary to ensure public order or national security.

17. An appeal against issue of a precept, a decision to issue a precept to ensure compliance with a precept or decision to amend the prohibition on entry or the term of its validity applied by the precept may be filed by an alien with an administrative court pursuant to the procedure provided for in the Code of Administrative Court Procedure within ten days as of the date of notification of the precept or decision. Expulsion may also be contested pursuant to the procedure provided for in the Code of Administrative Court Procedure. However, the contestation of expulsion shall not postpone expulsion for the time of judicial proceedings.

18. According to paragraph 6^{6} of the Obligation to Leave and Prohibition on Entry Act an alien has the right to receive legal aid for contestation of the decision to apply a precept to leave, expulsion or prohibition on entry. Legal aid shall be guaranteed in accordance with the State Legal Aid Act.

19. Administrative Procedure Act foresees the linguistic assistance for an alien who is to be expelled. If a participant in proceedings or his or her representative does not know the language of the proceedings, an interpreter or translator shall be involved in the proceedings at the request of the participant in the proceedings.

20. Provision of medical care to persons to be expelled is regulated by paragraph 26^{9} of the Obligation to Leave and Prohibition on Entry Act. In this respect the emergency medical care shall be ensured and expulsion centres shall have permanent treatment facilities for the supervision of the state of health of persons to be expelled.

21. Upon enforcement of the obligation to leave of a minor the best interests of the child shall be taken into account. An unaccompanied minor may only be expelled if the custody of a minor is arranged and the protection of the rights and interests of the minor are ensured in the admitting country.

22. Detention of an alien shall be ordered by an administrative court of judge. With the transposition of the directive the maximum period of detention has been provided for in national legislation. According to paragraph 24 of the Obligation to Leave and Prohibition on Entry Act the person to be expelled shall be released from the expulsion centre or the police detention house or the surveillance of his or her accommodation outside expulsion centre shall be terminated if the expulsion operation has not been completed within 18 months as of the date of taking the decision on placing the alien into the expulsion centre.

Expulsions 2007–30.06.2011

Citizenship	*2007**	*2008*	*2009*	*2010*	*2011 (6 months)*
Afghanistan			13	2	
Armenia		2	1	2	1
Azerbaijan		4	4	1	1
Brazil				1	
Bulgaria			1		
Egypt			1		
Ghana			1		
Georgia		2	2	2	
China		2	2		
India				1	
Iraq				1	
Italy			1	1	
Jordan		3			
Cameroon		1			
Kazakhstan		5	3		
Colombia		4			
Congo			2		
Kosovo		1			
Lithuania		3	6	6	2
Latvia		1	12	9	5
Moldova		4			
Undetermined citizenship		6	15	9	4
Nigeria		1			
Palestine			2		
Peru		2			
Poland		1	4		1
Sweden			1	1	
Romania			1	1	
Somalia			1		
Finland			1	3	

Citizenship	*2007**	*2008*	*2009*	*2010*	*2011 (6 months)*
United Kingdom				2	
Syria			1	4	
Tunisia			1		
Turkey		1		1	
Ukraine		6	3	1	
Uzbek		1			
USA			1		
Belarus		9	4	2	2
Russian Federation		44	19	16	9
Total	**86**	**103**	**103**	**66**	**25**

* Only total number available.

Replies to the issues raised in paragraph 9

Replies to the issues raised in paragraph 9 (a)

23. The Estonian Act on Granting International Protection to Aliens and Obligation to Leave and Prohibition on Entry Act are in compliance with the international norms and standards. The latter Act provides that a person may not be expelled to a state to which expulsion may result in consequences specified in Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms or Article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, or the application of death penalty. Also, the expulsion shall comply with Articles 32 and 33 of the Convention relating to the Status of Refugees (together with the Protocol relating to the Status of Refugees of 31 January 1967).

24. Asylum procedures in Estonia fully comply with Article 3 of the Convention against Torture. Asylum-seeker can submit his/her request at the border and thereafter the request will be processed internally. The body conducting the asylum proceedings shall immediately perform the following acts after the submission of an application for asylum:

(a) Receipt of a standard format application for asylum;

(b) Examination of the person and his or her personal effects;

(c) Admission for deposit of personal effects and documents;

(d) Identification;

(e) Collection of explanations concerning arrival in Estonia or at the Estonian border and concerning the circumstances which constitute the basis for application for asylum;

(f) Photographing and in case of aliens of at least fourteen years of age, fingerprinting;

(g) The forwarding of data concerning asylum seekers of at least fourteen years of age to the Central Unit of the “Eurodac”-system for comparison purposes pursuant to Council Regulation (EC) No 2725/2000 concerning the establishment of “Eurodac” for the comparison of fingerprints for the effective application of the Dublin Convention (OJ L 316, 15.12.2000, pp. 1–10) and pursuant to Council Regulation (EC) No 407/2002 laying

down certain rules to implement Regulation (EC) No 2725/2000 concerning the establishment of ''Eurodac'' for the comparison of fingerprints for the effective application of the Dublin Convention (OJ L 062, 5.03.2002, pp. 1–5);

(h) Arrangement for medical examination, if necessary;

(i) Taking of DNA probes and in case of an alien of less than fourteen years of age, fingerprinting, if the person cannot be identified or his or her filiation cannot be established otherwise. After that asylum-seeker is taken to Illuka Reception Centre for Asylum Seekers where he/she is accommodated.

Replies to the issues raised in paragraph 9 (b)

25. Regarding the number of asylum requests and the number of those that have been granted asylum, we provide the following information:

(a) In year 2007 there were 14 male applicants for asylum (7 in age of 18–30, 4 in age of 31–40, 2 in age of 41–50, 1 in age of 51–60);

(b) In year 2008 there were 10 male (7 in age of 18–34, 3 in age of 35–64) and 4 female (2 in age of 0–13, 2 in age of 18–34) applicants for asylum;

(c) In year 2009 there were 27 male (1 in age of 0–13, 2 in age 14–17, 17 in age of 18–34, 7 in age of 35–64) and 9 female (2 in age of 0–13, 4 in age of 18–34, 2 in age of 35–64, 1 in age of 65 and older) applicants for asylum; and additional 4 repeated applications for asylum;

(d) In year 2010 there were 24 male (4 in age of 0–13, 15 in age of 18–34,5 in age of 35–64) and 6 female (2 in age of 0–13,1 in age of 14–17, 3 in age of 18–34) applicants for asylum; and additional 3 repeated applications for asylum;

(e) In first half of the year 2011 there were 29 male (1 in age of 0–13, 22 in age of 18–34, 6 in age of 35–64) and 4 female (3 in age of 18–34 and 1 in age of 35–64) applicants for asylum;

(f) In 2007 Estonia granted asylum to 2 persons (1 from Belarus and 1 from Russian Federation) and subsidiary protection to 2 persons (2 from Sri Lanka);

(g) In 2008 Estonia granted asylum to 4 persons (1 from Nigeria, 2 from Sri Lanka, 1 from Belarus);

(h) In 2009 Estonia granted asylum to 3 persons (1 from Russian Federation and 2 from Sri Lanka) and subsidiary protection to 1 person (1 from Uganda);

(i) In 2010 Estonia granted asylum to 11 persons (5 from Afghanistan, 3 from Sri Lanka, 1 from Sudan, 1 from Tajikistan and 1 from Belarus) and subsidiary protection to 6 persons (3 from Afghanistan and 3 from Russian Federation);

(j) In the first half of 2011 Estonia granted asylum to 3 persons (1 from Turkey, 1 from Belarus and 1 from Russian Federation).

26. The number of rejected asylum-seekers expelled or deported is as follows:

Year	*Citizenship*	*Sex*	*Age*	*Country of return*
Expelled				
2008	Russian Federation	Male	51	Russian Federation
	Georgia	Male	51	Georgia

Year	*Citizenship*	*Sex*	*Age*	*Country of return*
2009	Belarus	Male	34	Belarus
	Georgia	Male	62	Georgia
	USA	Male	57	Canada
	Russian Federation	Male	27	Russian Federation
	Ukraine	Male	32	Ukraine
2010	Syria	Male	20	Syria
	Syria	Male	26	Syria
	Syria	Male	37	Syria
	Syria	Male	23	Syria
2011	Armenia	Male	46	Russian Federation
	Belarus	Male	36	Russian Federation
Dublin procedure				
2009	Syria	Male	34	Norway
2010	Congo	Male	34	Latvia
	Armenia	Male	49	Sweden
	Iraq	Male	25	Netherlands
	Nigeria	Male	22	Norway
	Nigeria	Male	26	Lithuania
	Afghanistan	Male	36	Finland
	Afghanistan	Male	15	Finland
	Afghanistan	Male	7	Finland
	Afghanistan	Male	29	Lithuania
	Afghanistan	Male	24	Lithuania
2011	Libya	Male	30	Malta
	Libya	Male	35	Sweden
	Afghanistan	Male	21	Norway

27. The number of asylum requests submitted at the border is as follows:

Asylum requests 2007–30.06.2011

Citizenship of the applicant	*2007*		*2008*		*2009*		*2010*		*2011 I pa*		***Total***	
	Total number of requests	*Requests submitted at the border*	*Total number of requests*	*Requests submitted at the border*	*Total number of requests*	*Requests submitted at the border*	*Total number of requests*	*Requests submitted at the border*	*Total number of requests*	*Requests submitted at the border*	***Total number of requests***	***Requests submitted at the border***
Afghanistan					9		9		3	1	**21**	**1**
Armenia					1		1				**2**	**0**
Bangladesh									1		**1**	**0**
Gambia							1				**1**	**0**
Georgia			2	1	6						**8**	**1**
Iraq			1		2				1		**4**	**0**
Cameroon									3	3	**3**	**3**
Congo					2				10	10	**12**	**10**
Kyrgyzstan									1		**1**	**0**
Libya									3		**3**	**0**
Mongolia					1						**1**	**0**
Nigeria			1		1		3				**5**	**0**
Pakistan							1	1			**1**	**1**
Palestine Occupied Territory									1		**1**	**0**
Senegal			1								**1**	**0**
Sri Lanka	4				2		3				**9**	**0**
Sudan							1	1			**1**	**1**
Syria					5						**5**	**0**
Tajikistan							1	1			**1**	**1**
Turkey			1				1	1	1		**3**	**1**
Uganda					1						**1**	**0**
Ukraine			1		1	1					**2**	**1**
United States of America					1						**1**	**0**
Uzbekistan									1	1	**1**	**1**
Belarus	7	3	4		1	1	2	1	2		**16**	**5**
Russian Federation	3	1	3	1	5		7	4	3		**21**	**6**
Undefined citizenship					2		2		3		**7**	**0**
Unknown							1	1			**1**	**1**
Total	**14**	**4**	**14**	**2**	**40**	**2**	**33**	**10**	**30**	**15**	**126**	**32**

Replies to the issues raised in paragraph 10

28. Estonia does not have any procedures or practice in place for requesting diplomatic assurances in case of extradition, expulsion or deportation.

Articles 5 and 7

Replies to the issues raised in paragraph 11

29. No requests for extradition by a third State for an individual suspected of having committed an offence of torture have been submitted to Estonia since the consideration of the previous report.

Article 10

Replies to the issues raised in paragraph 12

30. Police behaviour in society is a subject of utmost importance in police training and education. Common international standards are reflected in legal acts and internal documents of the police.

31. A specific Code on Police Ethics has not been adopted. The police follow the Public Service Code of Ethics.[2] In Estonia, the Code of Ethics of a public service official is drawn up as a complementary part of the Public Service Act which extends amongst others onto police officers. In addition, provisions of this act are partly laid down in the internal procedure rules of the Police and Border Guard Board which is enacted by the ruling of the National Police Commissioner.In general, the work of the agency is derived from the following core values: trustworthiness, openness, human-centeredness, safety, professionalism, integrity, humanity, cooperation and principle of equal treatment. The European Code of Police Ethics is being implemented and integrated to the national Code of Best Practice of Police.

32. All Estonian police officers are going through different training programs before and throughout the service. During courses on topics such as legal matters, police tactics, crisis management theoretical as well as practical aspects are covered. Trainings are organized by the Police and Border Guard Board, Estonian Academy of Security Sciences, European Police College and private entrepreneurs. Lawful and un-harmful treatment of persons is a crucial part of the training programmes. International recommendations and the European Code of Conduct are essential source for developing these programmes. Use of force during detention, especially when vulnerable persons (such as minors, persons with disabilities, minority groups) are concerned, receives special attention. These programmes are aimed at fostering knowledge on how to deter and combat danger and it is strongly emphasized that use of force is a last measure to avert danger.

33. The issue of prevention of torture and ill-treatment is included in all law enforcement personnel education curricula in the Estonian Academy of Security Sciences, providing professional education for civil servants in police, border guard, rescue service and prison service. The legal regulations, including human rights and prevention of torture are more specifically addressed under module "Human rights and ethics" in the curricula for police officers; under module "Imprisonment legislation and prison service" for prison guards and under module "Legal Subjects and Prison Organisation" for correction officials; the aim of the modules is to provide the students with the necessary information and skills to conduct practical tasks in full compliance with legal norms and professional ethics.

34. Protection of human rights, including prohibition of torture and ill-treatment (in addition to relevant topic in national criminal legislation), is also part of the professional

[2] In English: http://www.avalikteenistus.ee/index.php?id=10921.

curricula for prosecutors and judges (academic decree in law is required for those positions) in all Estonian law schools.

35. Social workers are trained (as part of their professional curriculum) in order to be able to treat vulnerable persons. Prison doctors have had training on forensic medicine as part of their professional curriculum. The subject includes skills to recognise and describe traces of physical abuse and torture.

36. Since 2008 trainings on prevention of sexual violence have been carried out for prison officers (in every prison once a year, organised by Tartu University and Ministry of Justice). The vocational study programme of a prison officer includes training for responding to any type of abuse. In-service training for prison officers is provided according to need. The Code of Ethics of prison service applies to prison officers and stipulates that a prison officer refrains from promoting violence and hatred in any way. There is no separate procedure for identification of inhuman treatment and torture, as in case the traits of such treatment become evident, a criminal case is initiated on the basis of the respective article of the Penal Code and pre-trial proceedings are conducted by the police in cooperation with the Prosecutor's Office.

37. There also exists a prison official's code of ethics[3] that provides, among other things, for the prision official's commitment to treat prisoners and probationers lawfully and do everything in his or her power to prevent their physical and mental abuse by other officials.

Replies to the issues raised in paragraph 13

38. The health care professionals of penitentiary institutions have received a training equal to that of other health care professionals. The recognition of signs of torture and other forms of violence in live patients and post mortem is covered in the forensic medical specialty studies, and the recognition of mental violence is covered in the psychiatric specialty studies. In addition, the procedure for the forensic identification of personal injuries has been laid down by Regulation No. 266 of the Government of the Republic of 13 August 2002. The additional training of the health care professionals of penitentiary institutions is arranged by the penitentiary institution and, according to jurisdiction, either the Ministry of Justice or the Ministry of the Interior.

Replies to the issues raised in paragraph 14

39. No specific methodologies for evaluating efficiency of training or educational programmes has been elaborated.

Article 11

Replies to the issues raised in paragraph 15

40. Concerning procedure rules for interrogations in criminal matters, no substantial amendmets have been introduced to legal acts. At the same time, the Code of Criminal Procedure in force as of 01.09.2011 shall foresee the possibility of representation to the witness. For protection of his/her rights the witnesses shall thereafter have the right to request that during interrogations he or she would be accompanied by an advocate as a contractual counsel or any other person who meets the educational requirements established for contractual representatives by the Code of Criminal Procedure. The rules, instructions,

[3] In English: http://www.vangla.ee/43915.

methods and practices as well as arrangement for custody are reviewed upon receipt of a respective complaint and on a case by case basis, no regular or periodic reviews are conducted.

Articles 12 and 13

Replies to the issues raised in paragraph 16

41. The data concerning the offences is as follows:

Registered offences	*Charges (offences)*	*Convictions (persons)*						
		2008	*2009*	*2010*	*2008*	*2009*	*2010*	*2010*
§ 122	Torture	77	63	61	67	51	88	40
§ 133	Enslaving	2	2	1	1	2	1	4
§ 138	Illegal conduct of human research	0	0	0	0	0	0	0
§ 139	Illegal removal of organs or tissue	0	0	0	0	0	0	0
§ 140	Inducing person to donate organs or tissue	0	0	0	0	0	0	0
§ 141	Rape	160	124	81	77	62	46	30
§ 142	Satisfaction of sexual desire by violence	49	80	53	30	37	42	19
§ 143	Compelling person to engage in sexual intercourse	4	3	1	4	1	0	2
§ 143[1]	Satisfaction of sexual desire by force	13	6	3	12	6	2	2
§ 144	Sexual intercourse with descendant	3	2	1	3	2	0	2
§ 145	Sexual intercourse with child	11	14	11	8	7	9	6
§ 146	Satisfaction of sexual desire with child	28	25	28	24	13	26	10
§ 151	Incitement of hatred	0	0	0	0	0	0	0
§ 152	Violation of equality	0	0	0	0	0	0	0
§ 154	Violation of freedom of religion	0	0	0	0	0	0	0
§ 172	Child stealing	3	1	2	0	0	2	0
§ 173	Purchase or sale of children	0	0	0	0	0	0	0
§ 175	Disposing minors to engage in prostitution	9	5	1	1	8	5	0
§ 176	Aiding prostitution involving minors	6	2	0	1	6	1	5
§ 177	Use of minors in manufacture of pornographic works	4	1	2	2	0	2	1
§ 178	Manufacture of works involving child pornography or making child pornography available	52	27	76	23	26	16	8
§ 259	Illegal transportation of aliens across state border or temporary border line of Republic of Estonia	1	10	8	0	3	6	6
§ 268[1]	Aiding prostitution	37	15	15	15	44	9	27
§ 291	Abuse of authority	52	36	40	4	1	8	3

Registered offences	Charges (offences)	Convictions (persons)						
		2008	2009	2010	2008	2009	2010	2010
§ 312	Unlawful interrogation	0	0	0	0	0	0	0
§ 324	Unlawful treatment of prisoners or persons in detention or custody	0	4	1	0	2	0	0

42. In Estonia data regarding criminal activities is collected pursuant to the "Establishment of E-File System and Statutes for Maintenance of E-File System", which specifies statistical data collected regarding every criminal offence and the person(s) committing the act and victim(s) thereof (incl. their gender, age, citizenship and mother tongue; data on nationality are not collected). The database enables to provide data on the number of all criminal offences described in the Penal Code and other basic indicators, including crimes related to the violation of the Convention. On the other hand, data are not published regarding all variables included in the database due to their incompleteness (e.g. in case of an unsolved criminal act, data on the offender and crime motifs are missing). In case it is not specified as a separate necessary element of a criminal offence, cases of violence based on nationality, violence against vulnerable groups, family violence, violence between prison inmates and between patients are not statistically differentiated from other cases of violence. It is not necessary to establish a new data base regarding violations of the Convention as the existing information is available in the E-file already today.[4]

Replies to the issues raised in paragraph 17

43. Estonia confirms that the disciplinary, administrative and penal remedies are available for all places where persons are deprived of liberty and it is possible to investigate the occasions of torture or ill-treatment either on complaint or *ex officio*.

44. Pursuant to § 71 (1) of the Administrative Procedure Act and § 1-1 (5) of the Imprisonment Act, a prisoner has the right to file a challenge against an act or measure of a prison with an administrative court on the basis of and pursuant to the procedure provided for by the Code of Administrative Court Procedure on the condition that the prisoner has previously filed a challenge to the director of the prison or Ministry of Justice and the director of the prison or the Ministry of Justice has returned the challenge, satisfied the challenge in part, denied the challenge or failed to adjudicate the challenge during the term. In case traits of breach of discipline appear in the activity of a prison officer, disciplinary proceedings shall be conducted pursuant to §§ 148–150 of the Imprisonment Act. In case traits of a criminal offence or misdemeanour become evident in an act of a prisoner or prison officer, the issue shall be referred to the police for proceedings.

45. Part of a complaint system is a possibility to submit a complaint of ill-treatment to Chancellor of Justice. Chancellor of Justice may supervise the activities of state agencies (e.g. boards, inspectorates), local government agencies and bodies (e.g. city authorities, municipal schools), legal persons in public law (e.g. the Bar Association), as well as private persons performing public functions (e.g. bailiffs, non-profit associations operating on the basis of an administrative agreement). Individuals may contact the Chancellor of Justice if they believe that an agency or a person performing public functions has acted unlawfully. Chancellor of Justice expresses an opinion, assessing whether a person performing public

[4] The statutes for founding the system of the E-file and maintaining the e-file system are available in Estonian at: https://www.riigiteataja.ee/akt/13268331; English translation: http://www.legaltext.ee/et/andmebaas/tekst.asp?loc=text&dok=XXXXX36&keel=en&pg=1&ptyyp=RT&tyyp=X&query=e%2Dtoimik.

functions had complied with the law. Acts of ill-treatment can also be detected and investigated during the regular visits to places of detention. From 2007 onward the Chancellor of Justice has received a total of 2750 complaints from detainees (757 complaints in 2010). Please refer to para 4 and Annex of the current report for further information on the activities of the Chancellor of Justice.

Replies to the issues raised in paragraph 18

Replies to the issues raised in paragraph number 18 (a)

46. Since 2008 there have been nineteen occasions of death in custody: in 2008 five (two for health reasons, three for drug abuse), in 2009 four (health reasons), in 2010 eight (seven for health reasons, one suicide), in 2011 two (one for health reasons, one suicide).

Replies to the issues raised in paragraph number 18 (b)

47. All cases of violent deaths and violent incidents are investigated under penal law, mostly under section 121 of Penal Code (physical abuse): in 2008 48 cases, in 2009 52, in 2010 87, in 2011 39. Under section 122 (torture) there have been three cases in 2008, one in 2009, two in 2010 and two in 2011.

48. As to the methods of investigation, in case there are grounds to commence criminal proceedings for investigation of death or violence, i.e there is a possibility of an offence, the successive proceedings after commencing proceedings are regulated by criminal procedure law. If the respective event takes place in a prison, the prison authorities shall promptly inform police authorities of the case. If there are grounds for criminal proceedings, the criminal procedure is commenced by the prison authorities or by the police authorities who have arrived at the scene.

49. If criminal proceedings have been commenced or there are grounds for commencing criminal proceedings, the prison deaths or acts of violence are investigated by the police authorities, who constitute the investigative body according to the Code of criminal Procedure (§ 31(1)). In addition to the investigative bodies, according to the Code of Criminal Procedure, only urgent procedural acts may be performed by the prisons and the Ministry of Justice Prisons Department (§ 31(2)). Procedural actions are regulated by the Code of Criminal Procedure.

50. In cases of death criminal proceedings are commenced when there is clear motive and basis, i.e on the occasion of violent death. In case the body of the deceased person refers to a violent death, the police forms an order and the body is sent to forensic medical examination where the circumstances of death shall be examined. If it is obvious that the death of the prisoner was caused by suicide or health failure and there are no signs implying violent death, the criminal procedure is not commencd, because there are no grounds for commencing criminal proceedings.

51. When it is found during the initial inspection of the scene of the event that the death has not been violent, the body is sent to a pathoanatomic autopsy. In case there are subsequent references to or doubt of the occurrence of a violent death found during the autopsy, the body is sent to forensic medical examination. The police authorities, and, if necessary, the prison authorities are promptly informed of this.

52. If the prison authorities have commenced and performed urgent procedural actions, the investigation and materials are handed over to the police authorities promptly after performing of the acts. Urgent procedural acts may be performed also by the police authorities only, if this is reasonable resulting from the circumstances or the complexity of the case. The decision which authority performs the initial acts of procedures after the arrival of the police authorities to the scene is made at the site.

53. The pre-trial procedure is run by the Prosecutor's Office, who exercises its authority independently by the prosecutor. If, pursuant to criminal proceedings, there are grounds for drawing up a statement of charges, it is performed by the prosecutor. The public prosecution is represented in courts by the prosecutor.

Replies to the issues raised in paragraph number 18 (c)

54. The case concerning the incident in Murru prison 2006 is under court proceedings. One officer has been finally acquitted, two officers partially acquitted (concerning section 306 Penal Code – non-disclosure of criminal offence); two inmates have been convicted for torture and murder, one for murder, one for aiding murder, one for abetting murder, and two finally acquitted.

Replies to the issues raised in paragraph 19

55. Abuse of authority is punishable under Penal Code by a pecuniary punishment or 1 to 5 years' imprisonment. Under the Code of Criminal Procedure, the Prosecutor's Office shall direct pre-trial proceedings and ensure the legality and efficiency thereof and represent public prosecution in court. The police authorities, Security Police Board, Tax and Customs Board, Competition Board and Military Police are investigative bodies within the limits of their competence. There is no special unit or body to investigate specifically all acts of ill-treatment and/or excessive use of force; in case of abuse of authority by police, border guard or migration officials, this would fall under Internal Control Bureau of the Police and Border Guard Board. See also paragraph 17 for complaint mechanisms in prison system.

Table
Abuse of authority (Penal Code, Art. 291), registered crimes from 2003–2010

2003	*2004*	*2005*	*2006*	*2007*	*2008*	*2009*	*2010*
78	131	133	108	67	52	36	40

Replies to the issues raised in paragraph 20

56. The Code of Criminal Procedure (section 141) provides that a suspect or accused shall be excluded from office at the request of a Prosecutor's Office on the basis of an order of a preliminary investigation judge or on the basis of a court ruling if he or she may continue to commit criminal offences in case he or she remains in the office; his or her remaining in the office may prejudice the criminal proceeding. Similarly, suspension is possible in disciplinary proceedings for law enforcement personnel. The remedy has been frequently applied.

Replies to the issues raised in paragraph 21

Replies to the issues raised in paragraph 21 (a)

57. Estonia applies adversarial criminal procedure, i.e the functions of accusation, defence and adjudication of the criminal matter are performed by different persons subject to the proceeding. Therefore it is not possible for a court to continue proceedings against a suspect or accused if the prosecutor has dropped charges.

Replies to the issues raised in paragraph 21 (b)

58. As previously, the prosecutor has to justify the prolongation of pre-trial detention period and it is possible only under certain circumstances. It is also possible to contest the detention or its prolongation and the court has the duty to analyse periodically (every two

months) whether the grounds of detention are still there. Estonia has changed the procedural code in order to avoid undue prolongation of criminal procedure, inter alia detention, and to establish both preventive and compensatory remedies for the occasions where the proceedings have been unduly long. In addition to the compensation for detention, provided by a special act for acquitted persons, the National Court has recently ruled for compensation for a person who had not been kept in detention during lengthy criminal proceedings.

Article 14

Replies to the issues raised in paragraph 22

59. The Victim Support Act entered into force on 1 January 2004; the part covering victim support services entered into force on 1 January 2005. The law provides for the establishment of a network of victim support centres in all counties.

60. A task of victim support workers is to form a regional network for rendering victim support services comprising: police, emergency medical aid, medical professionals, social workers, rescue service, neighbour watch, various non-governmental organizations etc. Victim support workers are able to evaluate the situation and send the victim after the primary interview to a regional family centre, psychologist, support group, self-assistance group or other organizations that are competent to render qualified assistance to the victim.

61. A priority of the state victim support system has been to deal with victims to domestic violence in order to reveal the serious nature of this problem. On 1 January 2007, the Victim Support Act Amendment Act entered into force with one of its objectives being that the government would compensate to the victims and their family members for the cost of psychological care where necessary.

62. Where appropriate the victim is entitled to compensation for the cost of psychological care in an amount of up to one minimum monthly wage (from 01.01.2011 278.02 euro), and his/her family members in an amount of up to three times the minimum monthly wage if their ability to cope has decreased due to an offence committed with regard to the victim. The members of a family requiring psychological care are entitled to a compensation for the cost of such care in a total amount of up to three times the minimum monthly wage.

63. The regulatory framework of compensating for the cost of psychological care was designed mainly for expediting the psychological rehabilitation of victims of minor crimes and misdemeanours (e.g. cases of family violence) and for enhancing the coping ability of the family members of persons who have fallen victim to acts of violence or other crimes.

64. The precondition for receiving compensation for the cost of psychological care is the institution of misdemeanour or criminal procedure with regard to the offence. The cost of psychological care will be compensated to the entitled person within one year of the commission of the offence. According to the Act, psychological care includes psychological counselling, psychotherapy or support group services.

65. In order to receive compensation for the cost of psychological care, a corresponding application must be submitted to a victim support worker. The cost of psychological care will be reimbursed by the Social Insurance Board.

66. In 2010, 189 applications were submitted for the compensation of psychological treatment. In 2010, 138 persons visited a psychologist. The costs of psychological treatment were compensated in the amount of 356,448.50 Estonian kroons. The average compensation sum per one application was 2,582.96 Estonian kroons.

67. Pursuant to the Victim Support Act, crime victims are entitled to apply for compensation from the state. Compensation shall be paid in case of serious damage to health, a health disorder that lasts at least six months or the victim's death caused by intentionally committed criminal offences or crimes committed due to negligence. The degree of the criminal offence (for instance, whether it is a serious damage to health or not) shall be ascertained by a forensic expert assessment.

68. The Victim Support Act also applies to the citizens of the European Union, regardless of their permanent place of residence (e.g. tourists) and the citizens of countries that have joined the European Convention on the Compensation of Victims of Violent Crimes. The size of the state compensations for crime victims is determined by the following material damage caused by the violent crime:

(a) Damage arising from incapacity for work;

The part of the income encumbered by social tax that has not been received due to temporary or permanent incapacity for work;

(b) Treatment expenses of the victim – essential expenses related to the medical treatment of the victim and the acquisition of medicinal products and appliances substituting for bodily functions, alleviation of post-traumatic complications, teaching him or her a new speciality suitable for his or her state of health; expenses on psychological counselling (up to 10 sessions) and psychotherapy (up to 15 sessions) and essential travel expenses related to the usage of the service;

(c) Damage resulting from the death of the victim, including compensation for the dependants: 75 per cent to one dependant, 85 per cent to two dependants; a total of 100% per cent to three or more dependants;

(d) Damage caused to spectacles, dentures, contact lenses and other aids that substitute for bodily functions, and to clothes;

(e) The victim's funeral costs.

69. The funeral costs shall be compensated to the person who incurred them up to the sum of 448 euros. Pursuant to the Victims' Support Act, 80% of the aforementioned material damage shall be compensated for, but not over 9,590 euros. The compensation shall be paid to the persons who actually incurred those costs. Any amounts which the applicant for the compensation receives or is entitled to receive as compensation for damage resulting from a crime of violence from a source other than the person liable for the damage caused by the crime shall be deducted from the damage serving as the basis for determining the amount of compensation (e.g. Health Insurance Board – compensation for temporary incapacity for work; Social Insurance Board – pension for incapacity for work, etc.). In 2010, 266 crime victims received compensations from the state in the total sum of 2,731,900 Estonian kroons.

Article 16

Replies to the issues raised in paragraph 23

Replies to the issues raised in paragraph 23 (a)

70. In order to approve conditions of imprisonment, preparations for construction of a new Tallinn Prison are still ongoing (agreements with municipalities, planning). Following the decrease of prison population, detainment sections have been closed in both Harku and Murru (Murru Unit) prisons, in the old Tallinn Prison repairments have been taken place in order to approve the conditions.

Replies to the issues raised in paragraph 23 (b)

71. The regulations concerning food and treatment of prisoners have not been amended. The catering of inmates is arranged in accordance with the general dietary habits of the population and considering the nutritional requirements necessary for life. The catering of inmates has to be regular and comply with the requirements of food hygiene. The compilation of the menu and catering in the prison shall be monitored by a doctor. According to a precept from the doctor an inmate shall be provided dietetic food. If possible, the inmate shall be allowed to follow their religious dietary customs. Food norms in penitentiary institutions have been established by Regulation No. 150 of the Minister of Social Affairs of 31 December 2002.

72. The regulation establishes daily food norms in penitentiary institutions for inmates, detained and arrested persons and children up to 3 years old living together with female inmates. Upon determining the food norm the daily nutritional needs and health of the inmates, general dietary habits of the population and, if possible, the religious dietary habits of the inmates are taken into account. At the precept of the health care professional an inmate with special needs shall be guaranteed dietetic food or given daily additional food. In addition to food provided by the prison the inmates may buy food from the prison shop.

73. If the inmate needs medical treatment, which the prison is unable to provide, he or she shall be sent based on the doctor's referral for treatment to a provider of specialised medical care in another prison or health care institution. The physical and mental health of the inmate is examined according to need. The prison shall arrange clinical examinations of inmates to ascertain their need for treatment and capacity for work, as well as outpatient and inpatient general and specialised medical care, including dental care. The inmate shall be guaranteed a voluntary counselling and testing service for HIV and other infectious diseases. Pursuant to valid legal acts, the first obligatory radiographic examination of the lungs of the arrested person or inmate shall be made within five working days as of the admission of the person into the prison. Additional obligatory radiographic examinations shall be conducted on arrested persons and inmates once a year. A person admitted to prison with clear signs of illness or a person regarding whom the health care professional has data that they are suffering from active tuberculosis is immediately separated from others without waiting for the results of the radiographic examination. Further placement shall depend on the results of the examination.

74. The inmates infected with tuberculosis are treated in the special department of the Tallinn Prison in Maardu Unit. Inmates infected with HIV are supervised and treated under due cure according to treatment directions, their living conditions are the same as for general prison population. In 2009 there have been 607 HIV-positive inmates (195 being treated), in 2010 diminished to 491 HIV-positive inmates (230 treated).

Replies to the issues raised in paragraph 24

Replies to the issues raised in paragraph 24 (a)

75. Final report of the Government Development plan for combating trafficking in human beings 2006–2009 was accepted by the Government in spring 2010.

76. Several studies were completed in 2006–2009. In the framework of prevention activities, lectures and workshops for victim support officials, child protection officials, youth workers, teachers of social education and history, schoolchildren, students, (youth) police officers, prosecutors, officials, workers of non-profit associations were continued, the development and distribution of educational materials (incl. through consular services and employment mediation) was continued, the crime prevention website was updated. The development of a national study programme and subject syllabuses for basic schools was

commenced, which is aimed for increasing social skills of the students. Additional lesson allocated for the national human study curricula will create a possibility to deal with the topic of crime prevention in the 8th grade.

77. The helpline for the prevention of human trafficking and counselling continued its work through which 643 persons received help in 2010, 639 in 2009 and 416 in 2008. The helpline is run by the NGO Living for Tomorrow and is financed by the Ministry of Social Affairs.

78. In 2008, 2 international projects ended: the ESF EQUAL project "Integration of Women Involved in Prostitution Including Victims of Human Trafficking into Legal Labour Market" and the Nordic-Baltic Pilot Project "Support, Protection and Rehabilitation of Women Victims of Trafficking in Human Beings for Sexual Exploitation". The participation in other international networks like the Council of Baltic Sea States Working Group for Cooperation on Children at Risk and the Council of Baltic Sea States Task Force Against Human Trafficking and in the implementation of the action plan of the European Union for combating trafficking in human beings and in other projects was also continued. An important development in connection with the Nordic-Baltic Pilot Project (which was mostly financed by the Nordic countries, and the ESF EQUAL project), is the fact that as a result of preliminary work done in 2008, the shelters for the victims of trafficking were established in the project framework. The further rehabilitation centre ATOLL will receive activity support from the social protection allocations of the Ministry of Social Affairs. In 2009, 78 trafficking victims were identified and in 2010, 57 by NGOs Eluliin (rehabilitation centre ATOLL for trafficked and prostituted women) and Ida-Virumaa Women's Support Centre-Shelter. All were women, who were sexually exploited. Services were financed by the state.

79. A nationwide helpline for children 116 111 has continued work for the purpose of increasing the children's sense of security and possibilities to get help and support.

80. A new Advertising Act entered into force in 2008 that prohibits advertising of services offered for satisfaction of sexual desire, including advertising of prostitution or advertising referring to such services, advertising of works which contain pornography or promote violence or cruelty and advertising contributing to mediation of prostitution is prohibited.

81. The complete report of the Development plan, its aims and results is available at http://www.just.ee/18886 (unfortunately, the final report covering all years is available in Estonian only).

82. The amendment to the Penal Code mentioned hereafter contains also an amendment regarding the offence of human trafficking. The section 133 concerning enslaving will be renamed and amended to cover all the cases of human trafficking as defined in international treaties and EU law; a separate section will be added to cover trafficking with child victims. Adoption of the proposed amendments could also improve the availability of statistics on incidents of trafficking, which has been until now aggravated due to the lack of an equivalent offence in the Penal Code. Until now the human trafficking cases have been covered by several offences, none of which corresponds exactly to the human trafficking in the sense of the international treaties.

Replies to the issues raised in paragraph 24 (b)

83. For the activities listed in the Development plan for combating human trafficking 2006–2009, approximately 7 million Estonian kroons (approximately 500 000 euro) was used. For the new development plan for reducing violence 2010–2014, the operating costs are approximately 36 million Estonian kroons, out of this approximately 5 million Estonian kroons (around 950 000 euro) for reducing trafficking and supporting victims of human

trafficking. These sums are indicative and will be supplemented in the course of updating of the development plan in the following years.

Replies to the issues raised in paragraph 24 (c)

84. See the following table.

Table 1
Registered offences related to trafficking in human beings, 2009

Type of criminal offence according to the corresponding section in the Penal Code	*Penal Code*	*Criminal cases*	***Total***
Enslaving	Subsection 133 (1)	2	**2**
Unlawful abduction of liberty	Subsection 136 (1)	34	**43**
	Subsection 136 (2)	9	
Illegal conduct of human research	Subsection 138 (1)	1	**1**
Compelling person to engage in sexual intercourse	Clause 143 (2) (1)	1	**3**
	Clause 143 (2) (2)	2	
	Subsection 1431 (1)	1	**6**
	Clause 1431 (2) (1)	5	
Child stealing	Section 172	1	**1**
Disposing minors to engage in prostitution	Subsection 175 (1)	5	**5**
Aiding prostitution involving minors	Subsection 176 (1)	2	**2**
Use of minors in manufacture of pornographic works	Subsection 177 (1)	1	**1**
Manufacture of works involving child pornography or making child pornography available	Subsection 178 (1)	27	**27**
Illegal transportation of aliens across state border or temporary border line of Republic of Estonia	Subsection 259 (1)	2	**10**
	Clause 259 (2) (1)	8	
Aiding prostitution	Clause 2681 (1) (1)	6	**15**
	Clause 2681 (2) (1)	8	
	Clause 2681 (2) (2)	1	
Total		**116**	**116**

Table 2
Data on the prosecution of offences related to trafficking in human beings

Type of criminal offence according to the corresponding section in the Penal Code	*Penal Code*	*Reg. offences*	*Pre-trial procedures*	*Criminal cases terminated and sent to court*	*200*	*2001*	*202*	*203*	*Terminated (except 200, 200/202, 203) and sent to court*
Enslaving	133	2	5	2					2
Abduction	136	43	99	56	16	3	1		34
Illegal conduct of human research	138	1		1					1

Type of criminal offence according to the corresponding section in the Penal Code	*Penal Code*	*Reg. offences*	*Pre-trial procedures*	*Criminal cases terminated and sent to court*	*200*	*2001*	*202*	*203*	*Terminated (except 200, 200/202, 203) and sent to court*
Compelling person to engage in sexual intercourse	143	3	6	3	2				1
Compelling person to satisfy sexual desire	1 431	6	11	7	1				6
Child stealing	172	1	6	1	1				1
Disposing minors to engage in prostitution	175	5	47	8					8
Aiding prostitution involving minors	176	2	21	8	2				6
Use of minors in manufacture of pornographic works	177	1	2	1					
Manufacture of works involving child pornography or making child pornography available	178	27	47	49	17	2	1		26
Illegal transportation of aliens across state border or temporary border line of Republic of Estonia	259	10	5	4		1			3
Aiding prostitution	2 681	15	96	52	5			1	44
Total		**116**	**345**	**192**	**44**	**6**	**1**	**1**	**132**

Code of Criminal Procedure: § 200. Termination of criminal proceedings upon occurrence of circumstances precluding criminal proceedings.

Code of Criminal Procedure: § 2001. Termination of criminal proceedings due to failure to identify person who committed criminal offence.

Code of Criminal Procedure § 203. Termination of criminal proceedings due to lack of proportionality of punishment.

Table 3

Registered offences related to trafficking in human beings, 2010

Type of criminal offence according to the corresponding section in the Penal Code	*Penal Code*	*Criminal cases*
Enslaving	Subsection 133 (1)	1
Unlawful abduction of liberty	Subsection 136 (1)	29
	Subsection 136 (2)	15
Compelling person to engage in sexual intercourse	Subsection 143 (1)	1
Compelling person to satisfy sexual desire	Clause 1431 (2) (1)	2
	Clause 1431 (2) (2)	1

Type of criminal offence according to the corresponding section in the Penal Code	*Penal Code*	*Criminal cases*
Child stealing	Subsection 172 (1)	2
Disposing minors to engage in prostitution	Subsection 175 (1)	1
Use of minors in manufacture of pornographic works	Subsection 177 (1)	2
Use of minors in manufacture of pornographic works	Section 1771	1
	Subsection 1771 (1)	3
Manufacture of works involving child pornography or making child pornography available	Subsection 178 (1)	76
Grooming	Subsection 1781 (1)	1
Illegal transportation of aliens across state border or temporary border line of Republic of Estonia	Clause 259 (2) (1)	8
Aiding prostitution	Subsection 2681 (1)	9
	Clause 2681 (2) (1)	5
	Clause 2681 (2) (2)	1
Total		**158**

177^1 and 178^1 entered into force on 15.03.2010.

85. In 2009, 57 persons and in 2010, 85 persons were convicted of the offences of trafficking listed above in table 1/ table 3.

Replies to the issues raised in paragraph 24 (d)

86. In 2010, four 2-day trainings took place on how to identify victims of human trafficking and how to support them. Law enforcement officials participated together with social workers and victim support personnel to improve also cooperation among these target groups. The outcome of these programmes is that several law enforcement officials have better knowledge of the identification of victims and how to cooperate with the social sector to guarantee proper help and support to victims.

Replies to the issues raised in paragraph 25

Replies to the issues raised in paragraph 25 (a)

87. Until now there is no special law on domestic violence. However, there is a debate going on regarding the topic. 28 % of cases of physical abuse have been of domestic character. In total there have been 4320 registered cases of physical abuse (section 121 Penal Code) in 2010.

88. Also, there is no separation between sexual offences done committed by partners at home or in public places and between strangers. Therefore, legislation does not distinguish between domestic violence and all other cases of violence. Estonia has also not enacted any special legislation on domestic violence. Domestic violence falls into the category of ordinary violence, i.e. crimes against the person. For example, causing damage to the health of another person, or beating, battery or other physical abuse which causes pain, is punishable; causing health damage, which results in a danger to life, a severe physical

illness, a severe mental disorder, miscarriage, a permanent mutilating facial injury, or the loss or cessation of functioning of an organ, is punishable; and so on.

89. Victims of domestic violence receive help from women's shelters (there are 11 in Estonia), where they receive flexible and tailored support, including psychological, social, legal counseling and accommodation. These shelters are mostly run by NGOs and financed mostly by the State through the Gambling Tax Foundation. Victims can also use the national Victim Support system. The Victim Support Act entered into force on 1 January 2004; the part covering victim support services entered into force on 1 January 2005. The law provides for the establishment of a network of victim support centres in all counties. The main duty of regional victim support services is to create and employ a network of organizations in the region which offer assistance and services to victims of crime, and to develop and strengthen this network where possible. All persons who have fallen victim to negligence, mistreatment or physical, mental or sexual abuse, i.e. all those to whom suffering or injury have been caused, are entitled to victim support. Compensation is also available for victims of crime.

Replies to the issues raised in paragraph 25 (b)

90. Cases of domestic violence are investigated as any other (violent) crime, as Estonia has not enacted any special legislation on domestic violence.

91. Law enforcement personnel have received training in the past, and in the framework of the new development plan for reducing violence they will receive training again. Police officials have a new regulation on how to treat victims of domestic violence and how to investigate and record cases of domestic violence since autumn 2010. Also, guidance material is currently being produced on how to identify domestic violence and how to support victims, with the target group being social workers and law enforcement personnel.

Replies to the issues raised in paragraph 25 (c)

92. In April 2010, the Estonian government adopted the Development plan for violence reduction 2010–2014 which includes domestic violence as one of its activity areas. Implementation of the development plan is coordinated by the Ministry of Justice. Cooperation between different sectors is important for the achievement of the objectives of the development plan upon the prevention and dealing with the consequences of violence. The Ministry of Education and Research, Ministry of the Interior, Ministry of Social Affairs, Ministry of Foreign Affairs together with the agencies within the area of their government, local governments, and non-profit associations participate in the implementation of the development plan besides the Ministry of Justice. In addition, private undertakings and the general public as a whole shall be involved in combating violence.

93. The government development plan covers four areas: violence against children; violence committed by minors; domestic violence and violence against women, and trafficking in human beings, including prostitution. For each area, a special network was created consisting of officials and NGOs representing relevant institutions responsible for the issue. Under the theme violence against children, bullying in school, violence in institutions for children, Internet bullying, and sexual violence against children are being dealt with. Also, noticing victims of violence and providing help for them are important topics. We have a 3-year program called "Safe school". The Ministry of Education has identified 6 areas on which the work must concentrate. These are prevention of bullying, fire and road safety, health, school attendance and usage of media. Guidance materials are being produced for schools on how to deal with cases of violence. Violence prevention programmes will be implemented in boarding schools and child care institutions. Internet safety is a very important topic for us, as Estonians tend to use the Internet a lot. Awareness rising on the risks continues, and we have already had campaigns on safe Internet. A

helpline will be created especially for counselling youth. There is also a children's help line in Estonia to provide the possibility to report problems regarding children. The obligation to report of children in need of help will be included in the Child Protection Act in 2012. Trainings of specialists have a crucial role in development plan; several trainings for local government officials are being planned.

94. Prevention of violence committed by minors concentrates on preventing risk behaviour among youth, and prompt reactions to crimes committed by minors. An early detection and intervention model will be implemented; a guide book for local governments has been produced and at the moment, about a dozen local governments are involved in a project that helps them to implement early detection and intervention. Reducing alcohol usage among minors is also touched upon in the plan; campaigns and other awareness rising activities will take place.

95. Under the domestic violence chapter, measures for preventing domestic violence and violence against women and support for victims are being dealt with. Prevention includes improving dissemination of information on domestic violence and ways to prevent it. School textbooks will be analysed and changed as needed, and teachers are expected to discuss topics such as human rights and gender equality in the classroom. Such materials will be produced and disseminated in schools. Also, websites of different ministries and youth centres will be updated, so they will provide materials on violence prevention and victim support. In 2010, the first empowerment training for 2 pilot groups of girls took place, which we will continue in 2011. Research will be conducted on the reasons for domestic violence and victim's needs, and we want to improve the collection of statistics from women's shelters. Training of teachers, social and youth workers, and medical practitioners have an important role in the development plan, both from a prevention point of view and from the victim support aspect.

96. Under the human trafficking chapter we do not deal with violence prevention separately, as trafficking is a phenomenon we want to reduce, regardless of whether violence was used in gaining control over the victim or not. The development plan sets aims and goals for the following years in trafficking prevention and victim support, as well as national and international cooperation. The development of rehabilitation work is one of the essential issues covered in the plan and also the development of investigation systems. For example attention is focused on developing referral and assistance guidance materials for child victims of trafficking and for unaccompanied children. There are special activities for working out the rules of procedure/memoranda of understanding for the referral and assistance of victims of THB in multiagency cooperation (this clarifies the guidance material already produced in 2009). Training for social and youth workers, child protection specialists, prosecutors and judges are planned for each year. As our previous anti-trafficking development plan from 2006–2009 dealt mainly with sexual exploitation, we have now started to work more on labour exploitation. At the moment, we are trying to map out the situation in Estonia regarding labour exploitation.

97. The national Development Plan for reducing violence has a budget of 2,283,448 EUR, plus additional costs from the ministries' own budgets. In addition, shelters receive money from government from the Gambling Tax Foundation; in the first five months of 2011 they have received approximately 221,000 EUR.

98. Regarding statistics, women's shelters in Estonia supported 1024 women in 2010. The police registered 2,456 cases of domestic violence, and in 2009 the police registered 2,423 cases, of which 264 qualified as crimes. The number of calls to the police has decreased (31% less than in 2009 and 37% less than in 2008). Shelters are mostly funded by the state, through the Gambling Tax Foundation.

99. The Ministry of Justice has analysed the criminal cases of bodily harm, of which a remarkable amount are domestic violence cases (28%). Such violence is mostly perpetrated by the partner or ex-partner, and the victim is usually a woman. Another large group of victims is children, who suffer from violence mostly perpetrated by foster parents. The perpetrator is usually a man.

Replies to the issues raised in paragraph 26

Replies to the issues raised in paragraph 26 (a)

100. Estonia has taken several measures to promote naturalisation and further reduce the number of persons with undetermined citizenship. Particular attention is paid to minors under 15 years old for whom parents can apply for Estonian citizenship by simplified procedure. The active information campaign launched in 2007 is targeted primarily for parents of such children. As a result of the information campaign, children under 15 years old make up the majority of all the citizenship applicants and practically no cases of refusal of citizenship to them occur.

101. As the requirement of the Estonian language proficiency has been indicated as one of the obstacles in applying for citizenship, opportunities for studying Estonian free of charge have also been expanded. In addition to the procedure for compensation of the costs of language learning under the Citizenship Act, according to which language learning costs were compensated in case the person successfully passed the examination of the knowledge of the Constitution and the citizenship examination, in autumn 2009 a programme funded from the European Fund for the Integration of Third-Country Nationals was launched. This enables to offer Estonian language courses for all persons with undetermined citizenship or citizens of third countries, regardless of whether they subsequently sit the citizenship examination or not.

102. The population data as of 1 June 2011 are:

(a) Total number of registered population of Estonia: 1,364,092

(b) The number of Estonian citizens: 1,149,178;

(c) In addition, 66,049 Estonian citizens live abroad;

(d) The number of residents of undetermined citizenship: 96,175;

(e) The number of residents with the citizenship of another state: 118,739 (of them 95,424 citizens of the Russian Federation, 5 087 Ukrainian citizens, 3,915 Finnish citizens, 2,392 Latvian citizens, 1,725 Lithuanian citizens, 1,462 Byelorussian citizens).

(Source: Ministry of the Interior, Population Register.)

Replies to the issues raised in paragraph 26 (b)

103. Since 2007 participation in the Estonian language courses in prisons have been remunerated in order to motivate the inmates to learn the language. From the same time the quality of language learning has also been improved, the service has been partly provided by outsourced specialists under the coordination of a language integration development officer (Tartu, Viru and Tallinn prisons have such officers since 2010; the officer is also responsible for introductory courses and evaluation of language teaching needs). The number of learners has been increasing. In 2010–2011 a total of 227 inmates have participated in the courses, 78 of whom have finished and 149 still participating. In 2010 a total 259 inmates have finished the courses. The planned number of participants is 330. If they wish, the inmates may take the langue level exam in prison. In February 2011, twelve inmates have taken the exam with good results (in 2010 – 87 inmates on levels A1 and B1).

104. No later than on the day following the date on which a prisoner arrived in a prison, he/she shall meet with a prison service officer who shall explain to the prisoner, in a comprehensible language, his rights and obligations as a prisoner. A prisoner shall be given written information concerning the Acts which regulate the application of his or her imprisonment, the internal rules of the prison and the submission of complaints (section 14 (2) Prisons Act). All prisons have foreign inmate coordinators whose responsibility is to evaluate the special needs for rehabilitation of the foreign prisoners, to establish the intensity of their link to Estonian society, to organise their applications and documents and initiate extradition or return procedures if needed.

105. Concerning inmates with undetermined nationality, the prisons have, analogically as concerns foreign inmates, the duty to establish the needs and perspective for their resocialisation. This is done in cooperation with the specialists of the Citizenship and Migration Department of the Police and Border Guard Board (application for or cancelling of residence permits). If, according to the Department, the inmate should be expelled, upon their release they are transferred to the Department. As regards these persons, it is possible under 426 (3) of the Criminal Procedure Code to apply for early release from prison without supervision of conduct.

Replies to the issues raised in paragraph 26 (c)

106. Such statistics is not specifically collected. Information may be provided on the basis of administrative complaints submitted to administrative courts and complaints submitted to prisons. In complaints submitted to administrative court regarding prisons or to prison authorities, no references have been made to the Convention against Torture.

107. At the same time, prisoners have often referred in their complaints to the European Prison Rules by the Committee of Ministers of the Council of Europe, the European Convention for the Protection of Human Rights and Fundamental Freedoms, and to a lesser extent to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and to the case-law of the European Court of Human Rights. Also the Constitution of the Republic of Estonia stipulates the prohibition of torture, of cruel or degrading treatment or punishment (§ 18). Thus, the prisoners are aware of such prohibitions and of the possibility of claiming compensation for violation of such rights from the prison or other authority.

108. The claims of prisoners often include the notion of being humiliated and abused. These cases will be assessed by courts in criminal or administrative proceedings depending on whether a particular person has been prosecuted or the prisoner himself/herself has claimed his/her treatment as unlawful and has claimed compensation for damages, i.e. has himself/herself filed an application with the administrative court.

109. In case of violation of his/her rights the prisoner has the possibility to draw attention of the prison, the Ministry of Justice Prisons Department to this or file a respective application to the administrative court. It is also possible for the prisoner to turn to the Chancellor of Justice (ombudsman). The Chancellor of Justice is also the national preventive mechanism for prevention of torture in Estonia.

110. The prison service takes very seriously all possible abuse cases of prisoners in prisons. Every known individual case of possible maltreatment is controlled by the Ministry of Justice Prisons Department Internal Control Division official as to the possible verification of the complaint and upon existence of respective grounds criminal proceedings are commenced to investigate the case and the case is submitted to police authorities.

Replies to the issues raised in paragraph 26 (d)

111. No studies to determine the causes for the relatively high number of persons with undetermined citizenship in prisons have been carried out. It is likely that one of the reasons may be that, in accordance with the Citizenship Act, Estonian citizenship can not be granted to a person who has committed a criminal offence for which a punishment of imprisonment of more than one year was imposed and whose criminal record has not expired or who has been repeatedly punished under criminal procedure for intentionally committed criminal offences.

112. In June 2011, there have been inmates in prisons of the following nationalities:

Estonian	*2,064*	*60%*
Undetermined	1 120	33%
EU	38	1%
Russia	204	6%
Other states	12	0%

Replies to the issues raised in paragraph 26 (e)

113. Today, Estonia provides more rights to persons with undetermined citizenship than required by the 1954 Convention relating to the Status of Stateless Persons; it should be therefore further analysed whether accession to the convention would negatively affect those rights. The accession to the 1961 Convention on the Reduction of Statelessness would require extensive changes in Estonian citizenship legislation that are currently not envisaged.

Replies to the issues raised in paragraph 27

Replies to the issues raised in paragraph 27 (a)

114. In the aforementioned amendments to the Penal Code, the provisions concerning incitement of hatred and violation of equality (151, 152) will be harmonised with international requirements and the hate motive will be introduced for all offences among aggravating circumstances. Only after the amendments have been adopted there will be more possibilities to gather information concerning penal cases of hate speech, discrimination and hate crime. Though it is also now possible to mark hate motivated offences in penal statistics, the output may not be reliable due to inconsistence and the lack of requirement to take into account the hate motive of offences. After the adoption of the amendments it is also more practical to have special trainings for law enforcement personnel concerning hate crimes and related topics.

Replies to the issues raised in paragraph 27 (b)

115. The Ministry of Social Affairs has mandated Human Rights Centre at Tallinn University of Technology to carry out the project “Diversity Enriches" (“*Erinevus rikastab*”). During the project two trainings (one in Tallinn and one in Jõhvi) on equal treatment targeted to the civil servants have been carried out. In addition the project team has published a handbook on Equal Treatment Act (published in 2010).

Replies to the issues raised in paragraph 28

116. Since 18 February 2007, the Chancellor of Justice performs the functions of the national preventive mechanism in Estonia. According to the § 27.2 of the Chancellor of Justice Act the Chancellor of Justice may pay verification visits also to psychiatric hospital. Verification visits may be paid without giving prior notice and specialists, interpreters and translators may be involved in the visits.

117. There are altogether 13 health care service providers who can also render involuntary or coercive psychiatric treatment. Since taking up NPM tasks the Chancellor of Justice has performed following visits to the providers of pscyhiatric care:

Name of the institution	*Type of visit*
Year 2007	
Narva Hospital	Planned
Pärnu Hospital	Planned
Kuressaare Hospital	Planned
Tartu University Clinic	Planned
Year 2008	
Wismari Hospital	Planned
Ahtme Hospital	Planned
Läänemaa Hospital	Planned
Rapla Hospital	Planned
Year 2009	
Northern-Estonian Regional Hospital	Unannounced
Northern-Estonian Regional Hospital psychogèriatric department	Planned
Kuressaare Hospital	Unannounced
Southern-Estonian Hospital	Planned
Year 2010	
Northern-Estonian Regional Hospital	Unannounced
Narva Hospital	Planned
Läänemaa Hospital	Unannounced
Pärnu Hospital	Unannounced
Rapla Hospital	Unannounced
Tartu University Clinic	Planned
Vili andi Hospital	Planned

Name of the institution	*Type of visit*
Year 2011 (until April)	
Ahtme Hospital	Unannounced
Rapla Hospital	Unannounced
Tartu Prison psychiatric department	Unannounced
Viljandi Hospital	Unannounced

Visit reports together with recommendations and proposals made are available in English at: http://www.oiguskantsler.ee/?menuID=331.

118. Overview of the main issues discovered during the inspection visits to the psychiatric care providers performed by the Chancellor of Justice as the national preventive mechanism (NPM) are summarised in NPM annual reports.[5]

Other issues

Replies to the issues raised in paragraph 29

119. The issue is still under consideration.

Replies to the issues raised in paragraph 30

120. There are no specific anti-terrorist laws that would threaten human rights. The Anti Money Laundering and Terrorist Financing Act of 2008 fully complies with international standards, as does the recent International Sanctions Act.

121. The International Sanctions Act (hereinafter the ISA) is an act that regulates the enforcement of international sanctions, their imposition in Estonia and the supervision of their imposition. An international sanction in legal terms is a foreign policy measure taken to influence the behaviour and policy of a country, person, unit or organisation. An international sanction does not mean the usage of armed forces or military measures. The sanctions are either economic or diplomatic (goods embargo, freezing assets, interruption of relations and cooperation).

122. The ISA entered into force in 2003; the new redaction of the act entered into force on 5 October 2010, amending approximately one-third of the previous version. With the new redaction:

(a) The regulation of international sanctions is brought into compliance with international standards;

(b) The obligations of the imposers of the sanctions are specified and regulated;

(c) The obligations of the state agencies that are responsible for the imposition of the international sanction are specified and regulated;

[5] NPM annual report for year 2008 is electronically available at h1^://wu^.oiguskantsler.ee/public/resources/editor/File/Aasta_ulevaated/2008/Overview_2008.pdf (for psychiatric care providers see page 9). NPM annual report for year 2009 is electronically available at http://ww.oiguskantsler.ee/public/resourc^2009.pdf (for psychiatric care providers see page 37).

(d) A detailed regulation on the implementation of international financial sanctions is created; the supervision of the imposition of international financial sanctions is regulated and the rights and obligations of the supervisor are established in law;

(e) A legal basis shall be created for applying for exemption from the international sanction; opportunities of legal protection are established for persons on whom international financial sanctions have been imposed.

123. Upon drafting this act, the requirements and best practices of the European Union and the United Nations as well as the international standards regarding money laundering and terrorism funding were taken into account. The practices of other countries were also studied. With the enforcement of the act the Estonian Financial Intelligence Unit of the Police and Border Guard Board became a full-fledged supervisory institution of financial sanctions.

124. Pursuant to the act Estonia shall enforce the implementation of the sanctions enforced by international organisations (UN, EU) in Estonia. Although the act also deals with the implementation of sanctions imposed by the Government of the Republic of Estonia, Estonia has currently not enforced any sanctions unilaterally.

125. The first Money Laundering and Terrorist Financing Prevention Act was adopted in 1999;[6] it was most recently amended significantly in 2007 and the amended act entered into force on 28 January 2008.

126. The goal of the last amendments was primarily to consider developments in information technology and harmonise with the Estonian legal system the Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing (hereinafter Directive III), which declared the Council Directive 91/308/EC null and void, and the Commission Directive 2006/70/EC laying down implementing measures for Directive III as regards the definition of 'politically exposed person' and the technical criteria for simplified customer due diligence procedures and for exemption on grounds of a financial activity conducted on an occasional or very limited basis.

127. The Act regulates:

(a) The circle of persons who are obligated to implement the requirements of the act in their economic, professional or official operations, and key definitions;

(b) The application of due diligence measures by obligated persons for the prevention of money laundering and terrorist financing, primarily as regards the verification of the identity of the other party of the transaction or the person or client participating in the procedure;

(c) The principles of data collection and preservation;

(d) Conditions for the transfer of the operations related to the economic or professional operations of obligated persons, refusal to perform a transaction and the grounds for terminating business relationships; requirements regarding the internal security measures of obligated persons, including internal procedural rules and the operations of contact persons;

(e) The obligation to notify the Estonian Financial Intelligence Unit about the activity or circumstances that give reason to suspect money laundering or terrorist

[6] In English – http://www.politsei.ee/dotAsset/39464.pdf.

financing; the confidentiality obligation of the notifying person and the foundations for the notifying person's release from responsibility;

(f) The tasks, rights and obligations of the Estonian Financial Intelligence Unit as regards preventing money laundering and terrorist financing;

(g) Foundations for the organisation of supervision over the fulfilment of legal provisions;

(h) The registration obligation of entrepreneurs in the register of economic activities;

(i) Necessary elements of misdemeanours in case of breach of the requirements to prevent money laundering and terrorist financing and the organisation of legislative proceedings.

128. Estonian Financial Intelligence Unit (FIU) is an independent structural unit of the Estonian Police and Border Board. The Financial Intelligence Unit analyses and verifies information about suspicions of money laundering or terrorist financing, takes measures for preservation of property where necessary and immediately forwards materials to the competent authorities upon detection of elements of a criminal offence. All persons who suspect that a transaction may be connected with either money laundering or terrorist financing are encouraged to notify of suspicious transactions. Since January 2008 it is possible to send the notification to FIU electronically by using the digital format on the website of the Financial Intelligence Unit.

General information on the national human rights situation, including new measures and developments relating to the implementation of the Convention

Replies to the issues raised in paragraph 31

129. The Equal Treatment Act entered into force on 1 January 2009. This marked an important step towards ensuring the rights of victims of discrimination to effective remedies, as the Act serves to provide specific provisions for the interpretation and application of the general equality clause and general prohibition on discrimination provided for in § 12 of the Constitution with regard to all protected grounds except sex.

130. This provides everyone with the information they need on how to proceed if they believe that they have been discriminated against. The Act provides the definition of the principle of equal treatment, direct discrimination, indirect discrimination and harassment, and establishes that both instructing others to discriminate and victimization are forms of prohibited discrimination. The law further allows for the use of positive action under specific circumstances and establishes a shared burden of proof in cases of prima facie discrimination.

131. Pursuant to the Equal Treatment Act, discrimination disputes shall be resolved by a court or a labour dispute committee, and discrimination disputes may also be resolved by the Chancellor of Justice by way of conciliation proceedings. The Act clearly states the legal remedies available in cases of discrimination: the right to demand termination of the violation and to claim compensation for both patrimonial and non-patrimonial damage. The Act in English is also available online.[7]

[7] http://www.legaltext.ee/et/andmebaas/tekst.asp?loc=text&dok=XXXX006K1&keel=en&pg=1&ptyyp=RT&tyyp=X&query=v%F5rdse+kohtlemise.

132. With regard to jurisprudential decisions, judgment No 3-4-1-12-10 of the Supreme Court *en banc* of 7 June 2011 merits attention. In this decision, the Supreme Court confirmed that the list of prohibited grounds of discrimination set out in § 12 of the Estonian Constitution is indeed non-exhaustive, which will allow for better and clearer protection from discrimination on grounds that are not expressly listed in the Constitution. The Supreme Court also clarified that all cases of unequal treatment are to be subject to the proportionality test set out in § 11 of the Constitution, which will facilitate the uniform interpretation and application of equality law in Estonia, which has previously been problematic.

Replies to the issues raised in paragraph 32

133. In addition to the development plan for reducing violence (in para. 25), and the integration programme, described above, we would also like to mention some other policy documents pertaining to development of human rights:

1. Main guidelines of Estonia's security policy until 2015, decision of the Riigikogu 10.06.2008.[8]

134. The Estonian security policy is based on the principle that prevention and combating of threats and extensive involvement of citizens in the process are a far more effective measure for ensuring internal stability in Estonia and saving and protecting human lives than penal measures. The goal of this policy document is to provide guidelines for development, improvement and implementation of legal acts, development plans and activity plans with the aim of preventing threats to public order; and in case of a suspected threat, ascertaining and eliminating them. According to the vision of the security policy guidelines, Estonia in the year 2015 will be a secure society, manifested by a safe living environment and an increase in personal safety as well as a decrease in fatalities and injuries.

2. National Security Concept of Estonia, decision of the Riigikogu 12.05.2010.[9]

135. Estonia views its national security as an integral part of international security. Estonia seeks and supports solutions that have a favourable effect both on Estonia and other countries. Estonia's approach is based on the conviction that security serves to enforce human rights, fundamental freedoms and core human values. These are the values that govern our way of life, and that are pursued in Estonia and beyond. Estonia's security policy is aimed at preventing threats as well as responding to them in a swift and flexible manner; at the same time adhering to the fundamental rights and freedoms, and protecting constitutional values. In four chapters of the National Security Concept — foreign policy, defence policy, internal security policy, cohesion and resilience of society — the main directions are elaborated for ensuring the security of the state as a whole. The broad concept of security entails enhancement of the mutual co-operation of state authorities as well as international co-operation, and the involvement of other members of society in reinforcing security.

3. Guidelines for development of Criminal Policy until 2018, decision of the Riigikogu 23.02.2011.[10]

136. The policy documents described above set the goals for the society; the specific activities and financial resources for implementation are set by the development plans and implementation plans that are approved by the Government, such as:

8 The policy and implementation documents in English: http://www.siseministeerium.ee/29744/.
9 In English: http://www.vm.ee/sites/default/files/JPA_2010_ENG.pdf.
10 Available in English at: http://www.just.ee/arengusuunad2018.

4. Civil Society Development Plan 2011–2014; approved by the Government of Estonia on 10.02.2011.[11]

137. A strong and democratic civil society keeps its members socially active so that the members and their associations and the public authorities could work together towards the basic values established in the Constitution of the Republic of Estonia, such as liberty, justice and law, internal and external peace, social progress and welfare and the preservation of the Estonian nation and culture. The Civil Society Development Plan addresses the role of civic initiative carried out in public interests in the entire civil society and establishes strategic objectives for 2014 as well as measures for public authorities to create favourable conditions for the development of the civil society and for supporting civic initiative. The Development Plan comprises five topics: civil education, the operational capability and sustainability of citizens' associations, the partnership of citizens' associations and public authorities in providing public services, involvement, and charity and philanthropy, which are all strongly intertwined. The Ministry of Interior has envisaged 3.493 million Euros for the implementation of the Development Plan in 2011.

5. National Priorities for non-discrimination framework document

138. Ministry of Social Affairs has been drafting the National Priorities for non-discrimination framework document (hereafter framework document) since 2009. To adopt the document various human rights organisations and governmental bodies are included in the process. The framework document is base for a yearly project plan on non-discrimination. Ministry of Social Affairs has for the past three years mandated Human Rights Centre at Tallinn Technical University to carry out the activities that correspond to national priorities set in the framework document. These activities are funded by the Ministry of Social Affairs and European Commission's PROGRESS programme.

139. Also, the mandate of following institutions involved in promotion and protection of human rights have been extended:

(a) Pursuant to the Equal Treatment Act, the competence of the Gender Equality Commissioner was expanded and the commissioner is now known as the Gender Equality and Equal Treatment Commissioner. The Commissioner is an independent and impartial expert who acts independently, monitors compliance with the requirements of the Equal Treatment Act and the Gender Equality Act, and performs other functions imposed by law. These include advising and assisting persons in submitting complaints and claims regarding discrimination, and providing an expert opinion regarding possible cases of discrimination, at the request of any person or on his or her own initiative. The Commissioner also analyses the situation of men and women and all other groups in society with regard to equal treatment, and can make recommendations to the Government of the Republic, government agencies and local government agencies regarding the implementation of the Gender Equality Act and Equal Treatment Act, and take measures to promote equality in society as a whole. The activities of the Commissioner are financed from the state budget, including the work of the Office of the Gender Equality and Equal Treatment Commissioner;

(b) As of March 2011 the Chancellor of Justice Act was amended and the Chancellor of Justice assumed also the functions of Children's Ombudmsan. Already on 1 January 2011, a new division in the Office of the Chancellor of Justice was formed dealing only with children's rights. The tasks of this department are as follows: dealing with complaints concerning children's rights in areas of constitutional review and ombudsman activities; preparation and carrying out of inspection visits; preparation of applications and

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[11] The Development Plan and implementation documents in English: http://www.siseministeerium.ee/29949/.

opinions in constitutional review cases; providing education about children's rights and informing about the Convention on the Rights of the Child; conducting research and analyses in questions of promotion and protection of children's rights; co-operation with children and youth organizations, third sector, professional unions, state and scientific authorities.