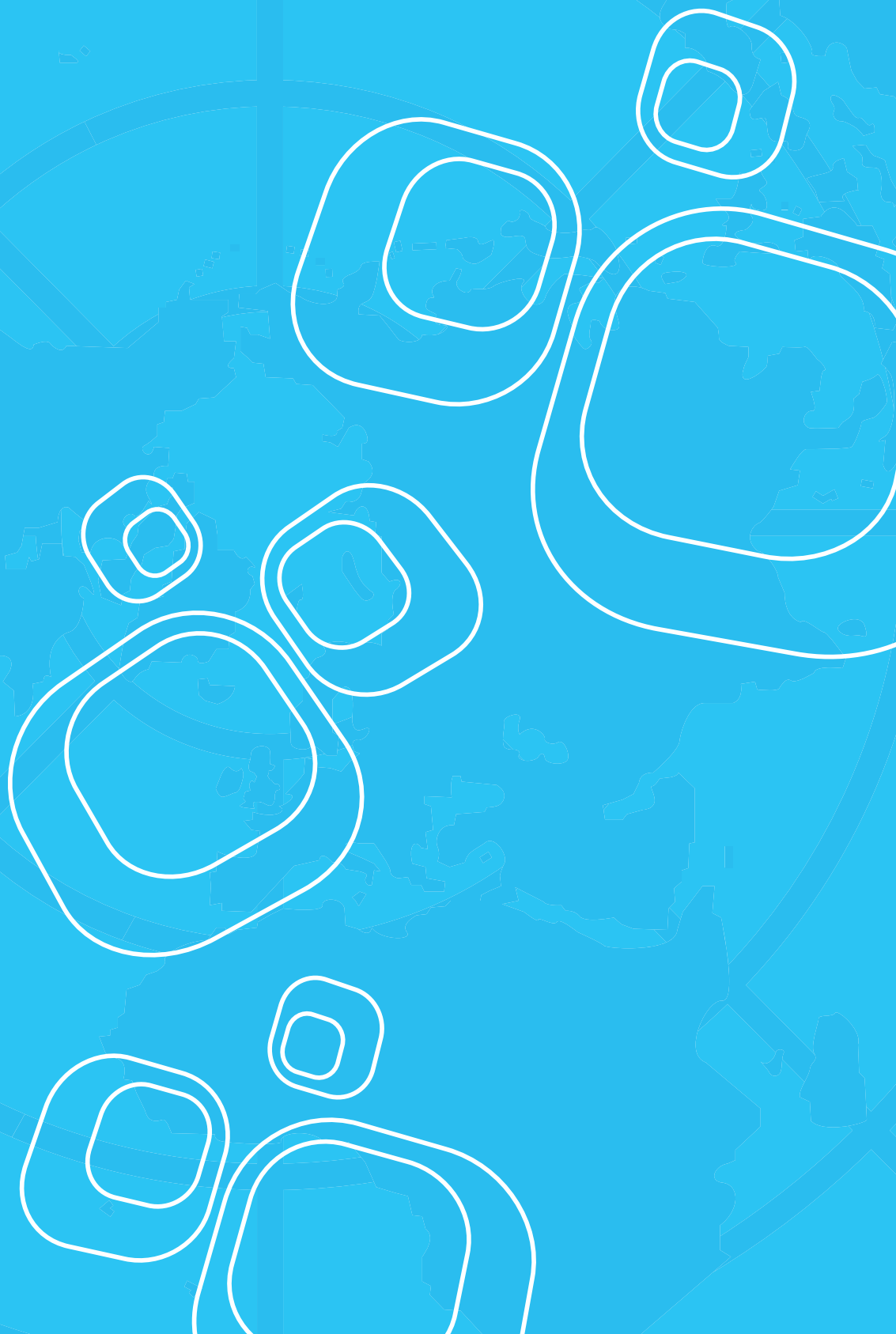


Joint Submission to the Third Periodic Review of Estonia



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38th UPR Session 2021

By the Equal Treatment Network in Estonia. The Equal Treatment Network was established in 2013 by Estonian Human Rights Centre and brings together NGOs involved in promoting the equal rights of their representative groups.

The following organisations are members of the Network and have contributed to this joint submission: the Estonian Human Rights Centre, the Estonian Union for Child Welfare, the Estonian Centre of Disabled Persons, Oma Tuba NGO, the Estonian LGBT Association, the Estonian Vegan Association, the Estonian National Youth Council and the Estonian Student Unions. The report focuses on the areas of competence of the organisations in the reporting group.

In the preparation process of this Joint Submission, the reporting group involved Estonian residents. The Equal Treatment Network visited Rapla, Narva, Kuressaare, Pärnu and Tapa and held consultative meetings with both local residents and local government representatives. In addition, information was collected through an online survey, which participants could respond to in Estonian, Russian or English.

The reporting group welcomes the opportunity to submit its views to the UPR on Estonia.



Hate Speech, Incitement to Hatred and Hate Crimes

1. Although Estonia has stated in its interim report that the implementation of the recommendations regarding the criminalisation of hate speech, incitement to hatred and hate crimes (122.61-122.72, 123.37) are in progress and a review procedure has been initiated¹, there has in fact been no progress at all. In 2019, the Minister of Justice stated that he “has not considered it necessary to do anything” regarding the criminalisation of hate speech². The current Government has not addressed the issue and there is no political will to criminalise hate speech. There is no specific law prohibiting or defining hate crimes, nor any hate motive that constitutes an aggravating circumstance. Hate-motivated criminal incidents are investigated and prosecuted under the general provisions of the Penal Code. Despite the lack of a specific law regarding hate crimes, in 2016 the state added the possibility for police officers to register reported hate crime cases. In 2019, only 10 hate crimes were recorded³. However, the Penal Code includes a provision prohibiting the incitement of hatred. In practice, the provision is rarely used because, according to the wording, only incitement to hatred that endangers a person’s life, health or property is punishable. Demonstrating the existence of such a threat has proved difficult and hinders the implementation of the provision⁴. The provision was last used in 2016, and in 2017–2019 it was never used.
2. Recommendations
 - a. To criminalise hate speech.
 - b. To adopt provisions of the Penal Code that would make hate motivation an aggravating circumstance when committing a crime and effectively combat incitement to hatred, regardless of whether the person’s life, health or property is endangered.

Discrimination

3. The anti-discrimination legislation is insufficient and the implementation weak. While discrimination is generally prohibited in the Constitution, the sectoral laws differentiate between grounds. Gender-based discrimination is prohibited in all areas of social life according to the Gender Equality Act (GEA)⁵. Discrimination on the grounds of nationality (ethnicity), race or colour is prohibited in almost all areas of life, but on the basis of religion or belief, age, disability or sexual orientation, it is prohibited only in the field of employment according to the Equal Treatment Act (ETA)⁶. ETA offers no protection for these groups in areas such as the provision of housing, healthcare, social welfare, education, goods and services. As a consequence, such discrimination cases

¹ [Mid-term report of Estonia on the implementation of the UPR recommendations](#) 2018.

² [Interview for newspaper Postimees](#) 8.2.2019.

³ [Official Crime Statistics 2019](#).

⁴ European Commission Against Racism and Intolerance (2015). [ECRI report on Estonia](#) (fifth monitoring cycle).

⁵ [The Gender Equality Act](#)

⁶ [The Equal Treatment Act](#)

do not qualify for advice and assistance from the Gender Equality and Equal Treatment Commissioner, and victims can't claim compensation for damage. As the United Nations Convention on the Rights of Persons with Disabilities (CRPD) prohibits discrimination against disabled people in all spheres of society, Estonia needs to amend its legislation to be able to fully implement it. While the previous Government began the process of discussing an amendment to the ETA, the current Government has not pursued it.

4. Implementation of the anti-discrimination legislation has been weak, although the laws entered into force a considerable time ago⁷. One reason is that the parties who have obligations under the laws, e.g. employers, government authorities, educational and research institutions, have inadequate awareness of the law⁸.
5. Recommendations
 - a. To amend the Equal Treatment Act, so that discrimination is prohibited in all spheres of society on all grounds.
 - b. To implement existing anti-discrimination legislation.

Free Elections

6. In Estonia all prisoners are automatically disenfranchised by law, which is both unconstitutional and in conflict with the European Convention on Human Rights, according to the Circuit Court⁹.
7. People with disabilities are effectively disenfranchised, which is in conflict with the CRPD. If a court establishes guardianship for managing all the affairs of a person, then the person under guardianship is also deemed to be without active legal capacity with regard to the right to vote. Many polling stations are not accessible, in some cases because of physical inaccessibility, but even more so due to a lack of alternative formats of information.
8. Recommendations
 - a. Amend the relevant laws so that the voting ban only applies to prisoners who have it as an additional punishment in their sentence¹⁰.
 - b. Declare illegal the constitutional impediment, upon which a person who has by court been declared without legal capacity cannot vote. Provide the full right to participate in voting processes to people with mental health problems and people with intellectual disabilities, based on their abilities.

⁷ The Gender Equality Act in 2004 and the Equal Treatment Act in 2009.

⁸ E.g. for employers, see Praxis Centre for Policy Studies Foundation: "[Implementation of Gender Equality Act by Estonian private, public and non-profit sector organizations and developing the indicators for assessing the impact of the Law](#)".

⁹ Ruling of Circuit Court in Tallinn no. [3-15-403](#).

¹⁰ Article 3 of Protocol 1 to the ECHR prohibits automatic and discriminate restriction on an individual's right to vote due to his status as a convicted prisoner.

- c. Make polling stations and information about elections accessible.

Freedom of Assembly and Association

9. The political climate has become more hostile towards human rights NGOs since the 2019 elections. Several abusive incidents, initiated by the Government coalition party EKRE, have taken place during the events of the Estonian LGBT Association and the LGBTI community. The head of the EKRE Pärnu region and the head of Saaremaa district disrupted the Associations' information event in Pärnu on 18 October last year. Two weeks later, on 1 November, the members of Tartu EKRE organised a demonstration against a LGBTI youth event. Both the young people and youth workers involved in the event received threatening and hostile messages through social media accounts¹¹.
10. Funding for human rights NGOs is under attack and there have been outright attempts to end it. Although NGOs working with gender equality and equal treatment have traditionally been funded from the Gambling Tax through the Ministry of Social Affairs, the Gambling Tax Act doesn't explicitly mention those areas as areas of support, leaving room for interpretation. In July 2020, the Minister of Foreign Trade and Information Technology, in his capacity as Minister of Finance (EKRE), ordered the State Service Centre to suspend payments for three ongoing equality projects. 11 NGOs were concerned, among them the Estonian Human Rights Centre, the Estonian LGBT Association and NGO Oma Tuba¹². A week later, the Ministry of Social Affairs announced that they would take over administration of the project funding¹³. There are no other comparable government-funded funding schemes.
11. Recommendation
 - a. To ensure sustainable funding mechanisms for human rights NGOs so that gender equality and equal treatment are clearly mentioned as areas to support in relevant legislation.

Human Rights Infrastructure

12. The Government's funding for its own programmes on gender equality and equal treatment is of concern and shows large fluctuations over the years. Estonia has relied heavily on foreign funding for human rights and gender equality projects, e.g. from the ESF, Norway Grants and ACF. The Government's own funding has often been limited. For example, foreign funding comprised 52% in 2018, 43% in 2019 and 37% in 2020 of the gender equality programme¹⁴. The proportions show the low priority that equality policies have in the Government budget. The funding for the Gender Equality and Equal Treatment Commissioner is clearly insufficient in relation to its tasks.
13. Recommendation

¹¹ LGBT Association's blog post. <https://www.lgbt.ee/post/eesti-kodanikuuhiskond-on-runnaku-all>

¹² Government official communication database reference: <https://adr.rik.ee/som/dokument/7372958>

¹³ Government official communication database reference: <https://adr.rik.ee/som/dokument/7400456>

¹⁴ Ministry of Social Affairs, "Welfare Development Plan for 2016–2023", the Gender Equality Programme 2019–2022, [Appendix 4](#) and the Gender Equality Programme 2020–2023, [Appendix 6](#).

- a. To increase domestic funding for gender equality and equal treatment programmes.

Refugees and Asylum Seekers

14. Estonia has an extremely restrictive policy towards resettlement programmes. Under the second migration plan, the Government agreed to resettle 80 people, but it received only 7 people; as of 2019, the Government does not accept mandatory refugee quotas¹⁵. The practice of pecuniary punishment of asylum seekers for irregular border crossings continues. On one occasion, criminal proceedings were instituted and ended only when the accused were recognised as refugees. The Estonian Human Rights Centre has received several complaints regarding access to the territory and the asylum system. Asylum seekers have described situations at border crossing points where Police and Border Guard Board officials have tried to persuade them to return to their country of origin or have initially refused to accept an asylum application. There is no possibility to receive state legal aid at the border and the support for legal counsel in detention and accommodation centres is insufficient¹⁶.

15. Recommendation

- a. To participate in resettlement and relocation programmes for asylum seekers.
- b. To end the punishment of asylum seekers for irregular border crossings, to ensure immediate access for them to the asylum system at border crossing points and to improve access to legal aid for asylum seekers.

Women

16. The gender pay gap in Estonia is the highest in the EU (22.7% in 2018, the EU average being 14.8%)¹⁷ and even larger for ethnic minorities. The average hourly wage of Russian-speaking women is 63% that of Estonian men¹⁸. The pay gap is also highest for women aged 35–44, which roughly corresponds to childrearing age¹⁹. Although generously paid, long parental leaves often lead to slower career progression for women²⁰. Only 32.8% of children below the age of three took part in formal childcare in 2019²¹ and there is a lack of an obligatory childcare provision for children under 1.5 years of age²². The availability of flexible and affordable care for other dependent relatives (like the elderly and people with special needs) is insufficient, leading to difficulties for carers – mostly women – in pursuing their working lives²³. Another cause of the pay gap is the very high gender segregation in the labour market, with women being largely overrepresented in low paid sectors and in lower positions within

¹⁵ [Government Coalition Agreement 2019–2023](#)

¹⁶ UNHCR “[Access to legal aid for asylum-seekers in Estonia](#)” (2019).

¹⁷ Eurostat Pay Gap statistics <https://ec.europa.eu/eurostat/statistics-explained/pdfscache/6776.pdf>

¹⁸ Tallinn University, “Reducing the Gender Wage Gap” research project, [unpublished information](#).

¹⁹ Ibid.

²⁰ [European Council Recommendation for Estonia 2019](#)

²¹ Social Survey 2019, Statistics Estonia.

²² [European Council Country Report on Estonia 2020](#)

²³ [The Final Report of the Care Burden Reduction Task Force](#) 2017.

organisations²⁴. The previous Government tried to address the gender pay gap problem by proposing amendments to the GEA to parliament in order to strengthen pay transparency and create state supervision over equal pay matters. However, in 2019, the bill was dropped from the proceedings due to elections, and the new Government has not taken any initiatives to address the problem.

17. Progress in combating violence against women has been notable in Estonia, especially regarding developing services for victims, but serious problems remain to be solved. In cases involving sexual assault, the burden of proof is very hard to meet with and sentences are lenient. Estonia's Criminal Code distinguishes between rape (article 141), an act of sexual nature against will (article 141¹) and compelling a person to engage in sexual intercourse or other act of a sexual nature (article 143)²⁵, which leads to selecting the lesser offence with a lower penalty rate when qualifying sexual assault cases. Moreover, they refer to the use of violence by the perpetrator and the victim's ability to resist. These stipulations on rape do not meet with the requirements of the Istanbul Convention. Victims who apply for restraining orders must stay in the same courtroom as their perpetrators. Domestic violence is not always taken into consideration in custody proceedings. Most women's shelters are not accessible for women with mobility impairments.

18. The legal age of marriage and consent are too low. Estonia permits the lowest marriage age in Europe²⁶. While 18 years is the minimum legal age of marriage under the Family Law Act, children may marry at the age of 15 with permission from the court²⁷. Between 2009 and 2018, 81 persons younger than 18 got married and 89% of them were girls. The age of consent for sexual activity with an adult is 14, which is too low and puts young people at risk of sexual abuse by adults.

19. Hostile attitudes towards women and women's rights activists are displayed at the highest level of Government. The current Minister of Foreign Affairs (previously the Minister of Justice), the Minister of Finance and the Minister of Interior have all made derogatory comments about women and women's rights activists²⁸. The latter two have also repeatedly threatened to stop funding for certain feminist and human rights organisations²⁹.

20. Recommendations

- a. To use temporary special measures to advance the achievement of *de facto* gender equality, especially regarding the gender pay gap. Such measures may

²⁴ Statistics Estonia, [table TKS03](#).

²⁵ The [Penal Code](#)

²⁶ European Union Agency for Fundamental Rights. [Mapping minimum age requirements for marriage](#).

²⁷ [The Family Law Act](#).

²⁸ For example, the minister of Foreign Affairs Urmas Reinsalu in his [op-ed piece where in derogatory words he criticised feminist activists](#) and regretted having condemned violence against women 16.1.2018; the minister of Finance Martin Helme when he [criticised the Istanbul Convention and called childless young women "harmful elements in society"](#) 17.5.2016; and Minister of Interior Mart Helme when he [called the Prime Minister of Finland a salesgirl](#) 16.12.2019.

²⁹ E.g. in an [interview by Mart Helme in public broadcasting ERR](#) 28.3.2019.

include the allocation of resources, targeted recruitment, hiring and promotion, and different types of *quotas*.

- b. To increase affordable and quality care options for young children and other dependant relatives, such as the elderly or people with special needs, in order to ease the burden of informal carers.
- c. To amend the Penal Code, so that the definition of rape encompasses any non-consensual sexual acts, as stipulated in the Istanbul Convention.
- d. To keep the victim and the perpetrator in separate rooms during restriction order proceedings.
- e. To ensure that domestic violence is taken into consideration in custody proceedings.
- f. To secure accessible accommodation at women's shelters for all women with disabilities in all counties of Estonia.
- g. To change the Family Law Act to ensure that the minimum age for marriage is 18 years.
- h. To change the age of consent to 16, with an exception if the partners are of similar ages and the age difference is not higher than a certain number of years.

People with Disabilities

- 21. The definition of "disability" is narrower in national legislation than in the CRPD. In recent years, the state has changed the administrative procedures for evaluating disabilities. As a result, 742 children (32%) and 2 299 working age persons (21%) who had previously been deemed to have disabilities are now not considered disabled, having had their cases re-evaluated in 2019³⁰. In the CRPD context, this means that those children and adults are not being granted necessary supportive services such as rehabilitation, support person service, childcare and/or social transportation service and benefits³¹.
- 22. Estonia does not have legislative acts or state policies that address the situation of women with disabilities, and there have been no studies conducted to examine their situation³². The term "multiple discrimination" is not used in legislation. The rights of women with disabilities are not linked to women's rights, which indicates that the gender aspect is not really embraced.
- 23. Children with disabilities are mostly cared by their parents (95–97% of cases), and most often by their mother (90–92%)³³. The realisation of the rights of children with

³⁰ Social Insurance Board statistics (2020).

³¹ Civil society comments to the state response to the List of issues in relation to the initial report of Estonia (2020). Estonian Chamber of Disabled People.

³² [UN CRPD Shadow report of Estonia](#) (2019). Estonian Chamber of Disabled People.

³³ Study on abilities and needs of families with disabled children (2017). Estonian Centre for Applied Research CentAR and Turu-Uuringute AS /Market-Studies Ltd/.

disabilities depends on the abilities of their parents and is therefore not equally accessible to all³⁴.

24. There are significant regional disparities regarding accessibility. Accessible housing is very hard to find and accessibility in older apartment buildings remains unsolved. The Public Transportation Act does not oblige the purchasing of vehicles that are adapted for people with disabilities. Most buses serving county routes are inaccessible for wheelchair users³⁵. Only a few traffic lights are equipped with sound signals. There are few guiding signs with embossed script or good contrasts and almost no signs in Braille in the city environment. It makes independent movement and orientation for blind people almost impossible³⁶.
25. Article 12 of UN CRPD Equal recognition before the law was ratified by Estonia with a declaration. Estonia is utilising the substituted judgment model, which gives the legal guardian the right to decide instead of the person with disabilities³⁷. Legal provisions for supported decision making are not available in Estonia. The lack of legal capacity is adversely affecting the rights and interests of an individual³⁸.
26. The Supreme Court of Estonia has highlighted serious shortcomings in the legislation on deciding upon involuntary psychiatric treatment and in the enforcement of that legislation³⁹. There are situations where a person with a psychiatric disorder is left untreated or unattended or assigned to the wrong service⁴⁰.
27. Due to the different capacities of local municipalities, disability services are not rights-based. There is no effective monitoring system for local authorities' ability to offer adequate assistance for the protection of the rights of people. Unjustifiably, access to services depends heavily on the disabled person's ability to seek help, while this should primarily depend on the need for assistance. In 2019, the Supreme Court stated that municipalities must fulfil the obligations of offering social services that have been assigned to them by Estonian legislation⁴¹. The court decision may have a significant impact on the distribution of state and local government functions.
28. The queues for special care services are not allowing the user to select the provider or time of the service provision⁴². The quality of special care services does not

³⁴ Questionnaire and focus-groups for DPOs (2016–2017). Estonian Chamber of Disabled People.

³⁵ UN CRPD Shadow report of Estonia (2019). Estonian Chamber of Disabled People.

³⁶ Estonian Blind Union expert opinion (2020). Estonian Chamber of Disabled People.

³⁷ Frolik, L. A., Whitton, L. S. (2012). The UPC Substituted Judgment / Best Interest Standard for Guardian Decisions: a Proposal for Reform. University of Michigan Journal Law Reform, Vol 45, 739.

³⁸ UN CRPD Shadow report of Estonia (2019). Estonian Chamber of Disabled People.

³⁹ Supreme Court of Estonia case law 19.02.2014 in case [no 3-2-1-155-13](#)

⁴⁰ Estonian Health Insurance Fund, Audit on involuntary treatment (2020): "[Quality of treatment of patients with organic psychiatric disorders, schizophrenia and mental and behavioural disorders due to substance use in acute psychiatry](#)"

⁴¹ Supreme Court of Estonia case law 9.12.2019 in case [no 5-18-7](#)

⁴² UN CRPD Shadow report of Estonia (2019). Estonian Chamber of Disabled People.

always meet the requirements established by law or the principles of the UN CRPD^{43 44}.

29. The deinstitutionalisation process is impeded by cases where local citizens and local municipalities fight against the reorganisation of large institutions into smaller family-like units and residents moving from the periphery to populated areas^{45 46}.
30. People with visual and hearing impairments or intellectual disabilities have difficulties accessing information⁴⁷. A 2015 study found that only 28% of governmental bodies and 1% of local authorities were living up to the WCAG 2.0 guidelines at the minimum level A or the recommended level AA. None of the websites were living up to the highest WCAG 2.0 level AAA⁴⁸.
31. There are no common standards on how to offer sign language interpretation services, and the availability of the service shows large regional disparities⁴⁹. University of Tartu has discontinued the provision of University level education of sign-language interpreters to the regret of the deaf community and the Estonian disability movement⁵⁰.
32. There is no effective monitoring system for the ability of school keepers (usually the local authorities) to adhere to the Basic Schools and Upper Secondary Schools Act. Mainstream schools have a shortage of skilled teachers, support teachers and support specialists to make inclusive education a reality⁵¹, and they do not have the capacity to teach Braille, communication and orientation skills⁵². State education policy is paying less and less attention to the cultural and linguistic identity of the deaf, instead promoting primarily oral teaching methods⁵³.
33. There are no guidelines for hospitals on how to treat patients with disabilities. There have been cases where intellectually disabled people or people with complex dependency needs have not been treated with dignity while hospitalised⁵⁴. The premises of many long-time care providing units are inaccessible, which leads to bedridden care recipients never being brought outdoors. Half of the care providing

⁴³ Opinion of Chancellor of Justice. 23.8.2019 no [7-9/190891/1904137](#).

⁴⁴ Survey of Institutions for Adults with Psychosocial and Intellectual Disabilities Report of Findings from Institutional Assessments in Estonia, 2018, World Health Organization.

⁴⁵ Mallene, L. (2019). [Keila elanikud läksid puudega inimeste kodu pärast kohtusse. „Mitte meie naabrusesse!”](#), Delfi, 9.1.2019.

⁴⁶ Nikolajev, J. 2019. [Narva linn tõrjub erihooldekodu linnast välja](#), ERR, 5.8.2019.

⁴⁷ Civil society comments to the state response to the List of issues in relation to the initial report of Estonia (2020). Estonian Chamber of Disabled People.

⁴⁸ [Accordance of the public sector webpages to WCAG 2.0 guidelines in 2015](#) (2015). Report of the study. Ministry of Economy and Communication.

⁴⁹ Estonian Deaf Union expert opinion (2020). Estonian Chamber of Disabled People.

⁵⁰ Civil society comments to the state response to the List of issues in relation to the initial report of Estonia (2020). Estonian Chamber of Disabled People.

⁵¹ Räis, M. L., Kallaste, E., Sandre, S.-L. [Solutions for education provision for pupils with special needs and efficiency of the earmarked measures \(2016\)](#). Final report of study. CentAR Centre for Applied Research. Extract as of January 2018.

⁵² Estonian Blind Union expert opinion (2020). Estonian Chamber of Disabled People.

⁵³ Estonian Deaf Union expert opinion (2020). Estonian Chamber of Disabled People.

⁵⁴ UN CRPD Shadow report of Estonia (2019). Estonian Chamber of Disabled People.

units don't have an alarm button, and there is also a serious lack of personnel in order to provide good care⁵⁵. There is no countrywide access to permanent nursing care, especially if the person requires it for more than 120 days – such as end-of-life care⁵⁶.

34. In the absence of adequate publicly-financed coverage, the burden of long-time-care falls disproportionately on informal caregivers, giving rise to significant economic and social costs. Moreover, poverty is often correlated with unmet need for long-term care⁵⁷.

35. Recommendations

- a. Bring the definition of “disability” into accordance with the UN CRPD.
- b. Conduct studies on the execution of the rights of women with disabilities in Estonia.
- c. Provide equal, adequate social protection for children and adults with disabilities at municipal level, deriving from common methods of evaluation of their needs, and introduce real monitoring mechanisms for municipal service provision.
- d. Improve access to housing for people with disabilities, including social housing.
- e. Introduce measures to make public spaces accessible.
- f. Bring the Public Transportation Act into accordance with the UN CRPD.
- g. Establish preconditions for moving from the substituted judgement model towards a supported decision-making model and consider withdrawal of the declaration of article 12 issued when the UN CRPD was ratified.
- h. Create a new concept of psychiatric care, which clarifies the restriction of fundamental rights by a court decision regarding involuntary and compulsory treatment.
- i. Ensure that people residing at care facilities are provided with high quality and accessible health services.
- j. Develop flexible care possibilities, reducing the burden of care on relatives of children and adults with disabilities, as well as enabling active participation in the labour market and societal life.
- k. Enhance the quality of special care services in line with the UN CRPD.

⁵⁵ [Provision of health services at care facilities \(2017\)](#). Summary of a Study. Tallinn: Health Board.

⁵⁶ Towards a caring state. Political recommendations for improving the long-term care provision and reducing burden of care of family members in Estonia. Final report of the Task Force on reducing the burden of care (2017). Government Office of Estonia.

⁵⁷ [Reducing the burden of care in Estonia \(2017\)](#). Interim report, World Bank Group.

- l. Secure adequate access to sign language interpretation for people with hearing impairments.
- m. Secure a sufficient level of support for the provision of specialised services, to enable real implementation of inclusive education.

LGBTI

36. The development of LGBTI human rights in Estonia has stalled in recent years. The legislature has not adopted strategies that take LGBTI people into account, nor has it taken heed of the European Union's sectoral proposals, laws on the elimination of discrimination and equal treatment of LGBTI people, or the shortcomings of existing laws. As a result, some violations have been established by decisions of the Supreme Court and lower courts. The political climate has become more hostile towards LGBTI people and their rights, but the attitude of the Estonian population towards LGBTI people and the need for legal regulation of the registration of same-sex couples has improved⁵⁸.
37. The Government has not provided any meaningful and comprehensive overview of existing legal and other measures that could directly or indirectly discriminate on the basis of sexual orientation or gender identity. No LGBTI-specific action plan or strategy has been developed. Measures to address general discrimination are included in the Welfare Development Plan 2016–2023⁵⁹, which mentions LGB people only in passing, and completely ignores trans and intersex issues.
38. The state does not yet fully recognise the rights of same-sex families. The Registered Partnership Act⁶⁰, which allows same-sex couples to register, was an important step forward, but the law was passed without the Bill on Implementation⁶¹, so other laws, such as the Family Law Act, the Vital Statistics Registration Act and the Population Register Act, were not amended accordingly. Some notaries refuse to notarise partnership agreements, the agreements are not reflected in the population register and there have been obstacles to adoptions⁶². More than 80 laws are to be amended⁶³; and in order for the rights guaranteed by the Act to be recognised, the victim must go to court to resolve cases of unequal treatment and unconstitutionality.
39. There is a lack of common practice among health care providers regarding intersex children. Since the issue has not been researched in Estonia, it is not possible to assess if gender reassignment procedures occur with the person's informed consent, especially in cases of intersex children. There is no information on if or how many intersex children are subjected to irreversible medical gender reassignment procedures.

⁵⁸ Human Rights in Estonia 2020. [The Situation of LGBT persons.](#)

⁵⁹ Ministry of Social Affairs, "[Welfare Development Plan for 2016–2023](#)"

⁶⁰ Registered Partnership Act: <https://www.riigiteataja.ee/en/eli/527112014001/consolide>

⁶¹ The Bill on Implementation of the Registered Partnership Act (114S E).

⁶² Human Rights in Estonia 2016–2017. [The Situation of LGBT persons.](#)

⁶³ The Bill on Implementation of the Registered Partnership Act (114S E).
<http://eelnoud.valitsus.ee/main/mount/docList/200c352b-8579-44ed-950f-2d6a24d4c198>

40. The gender recognition process for transgender people is confusing and difficult to access. Changes in legal gender recognition are made dependent on previous medical interventions and are not based on a person's self-determination – the expert committee diagnoses a transgender person with a medical mental disorder (gender dysphoria or transsexualism). This is contrary to the WHO decision, which ended the categorisation of trans-related conditions as mental and behavioural disorders⁶⁴. Gender recognition decisions depend on the deliberations of a medical examination committee; there are no supervisory measures and no official publicly available information. The current regulation is controversial, leaving it unclear as to whether hormonal treatment or any other treatment or surgical procedure is required by law; in practice, however, hormonal treatment is mandatory⁶⁵. The state health insurance does not reimburse all the costs necessary for gender correction or reimburses them only in part. For example, only 50% of hormone therapy is reimbursed and surgical services provided to transgender people are not reimbursed at all, being equated with non-necessary plastic surgery⁶⁶.
41. The field of education and the school environment related to LGBTI issues has not been studied by the Government. LGBTI topics are not explicitly part of the compulsory curriculum and school teachers are not systematically trained on this topic⁶⁷. According to the Estonian Survey of the School Environment of LGBTI Students, school is an unsafe and significantly violent environment for LGBTI students due to their identity, and schools do not provide safe conditions to meet the basic needs of all students. At the same time, the state does not provide comprehensive training or guidelines for teachers on how to recognise homo, bi- and transphobic bullying and how to ensure the safety and quality of school life for LGBTI students⁶⁸.
42. Recommendations:
- a. Develop a comprehensive public education and awareness-raising strategy on discrimination, including on grounds of sexual orientation, gender identity, gender expression and gender characteristics.
 - b. Carry out research to map and understand the situation of LGBTI people in different areas (incl. school bullying in the school system, unequal treatment in the health care system, treatment of LGBTI people in prisons).
 - c. Adopt implementing provisions for the law on cohabitation, which will ensure full implementation of the law.
 - d. To study the situation and treatment of children born intersex and ensure that their human rights are not violated through irreversible, medically unnecessary

⁶⁴ OHCHR. 2020. [UN experts hail move to 'depathologise' trans identities](#).

⁶⁵ [Common Requirements for Medical Operations for Gender Reassignment](#), 1999.

⁶⁶ [Compliance Report on the implementation of Committee of Ministers' Recommendation CM/Rec\(2010\)5 on measures to combat discrimination on grounds of sexual orientation or gender identity in Estonia](#).

⁶⁷ Käger, M., Pertsjonok, N., Kaldus, K., Vollmer, M., Harjo, M., Gutman, K., ... Meior, M. (2017). [Inimõigused ja inimõiguste alusväärtused Eesti koolis ja hariduspoliitika](#).

⁶⁸ Ney, M., Rannaääre, K., Raud, K. [Eesti LGBTI õpilaste koolikeskkonna uuring 2018](#). (Estonian LGBTI Student School Survey 2018).

and coerced medical practices, and to provide up-to-date training for medical staff on the subject.

- e. Change the regulation of gender recognition by separating the processes of medical and legal gender recognition. Ensure that legal gender recognition is based on self-determination.

Children and Youth

- 43. Compared to 2012, the ratio of children who have heard of children's rights has slightly decreased and the ratio of adults has remained the same. According to children, care and protection against danger is offered to children in Estonia but listening to and taking their opinions into account has not yet been particularly accepted by adults; furthermore, adults lack life skills that help them to understand children at critical moments⁶⁹. Human rights teaching often depends on the competence of teachers to address human rights issues in an integrated way⁷⁰.
- 44. The participation of children and young people is still problematically low. Children in Estonia usually have a say in issues affecting the child, but they participate less in family issues and even less in school life⁷¹ or society at large⁷².
- 45. Estonia's regional inequality and its aggravation continues to be a major challenge⁷³. The well-being and coping of households with children depend to a large extent on the type of household and the area of residence. Statistics and various surveys point to inequalities in health as well as differences in the availability of services, support specialists, hobby education, etc.⁷⁴.
- 46. Unfortunately, following administrative reform, the number of specialists engaged in child protection work has decreased⁷⁵, although the number of children in need of assistance has increased (e.g. in 2018 there were 9 488 children). Overload and the risk of burnout for child protection workers is a major problem. There is often not

⁶⁹ Turk, P., Sarv, M. [Lapse osalusõigusest laste ja täiskasvanute vaates \(2019\)](#). Kogumikus Laste subjektiivne heaolu kohalikus ja rahvusvahelises vaates. Koostajad D. Kutsar ja K. Raid. Statistikaamet.

⁷⁰ [Inimõigused ja inimõiguste alusväärtused Eesti koolis ja hariduspoliitikas. Uuringuaruanne](#) (2017). Balti Uuringute Instituut, Inimõiguste Keskus.

⁷¹ According to the Children's Worlds survey, pupils felt that they were not listened to and their views were not taken into account at school (one in four children was critical of the teacher in this regard), <http://www.isciweb.org>

⁷² Anniste, K., Biin, H., Osila, L., Koppel, K. ja Aaben, L. (2018). [Lapse õiguste ja vanemluse uuring 2018](#). Uuringu aruanne. Tallinn: Poliitikauuringute Keskus Praxis.

⁷³ Kattai, K., Lääne, S., Noorkõiv, R., Sepp, V., Sootla, G., Lõhmus, M. (2019) [Peamised väljakutsed ja poliitikasoovitused kohaliku omavalitsuse ja regionaaltasandi arengus. Analüüsi lõpparuanne](#). Tallinna Ülikool.

⁷⁴ [Puudega lastega perede toimetuleku ja vajaduste uuring 2017](#); <https://novaator.err.ee/603403/oigus-huviringides-osaleda-ei-ole-koigile-eesti-lastetele-vordself-tagatud> and https://www.just.ee/sites/www.just.ee/files/miinumelatis_lopparuanne.pdf

⁷⁵ During the administrative reform planning phase, the Estonian Union for Child Welfare repeatedly drew the attention of decision-makers to the fact that the administrative reform should pay attention to children and guarantee children's fundamental social rights.

enough time left for prevention work, which would help to reduce the workload in the long run⁷⁶.

47. Relevant and up-to-date statistics are also needed to develop measures. The various relevant databases are still not connected, and statistics are collected on different bases.
48. Despite the ban on corporal punishment in 2016, 36% of adults do not consider corporal punishment of children to be violence, but a mere method of parenting⁷⁷.
49. According to Estonian children, bullying and the unfair behaviour of teachers are the biggest threat to the loss of school joy⁷⁸. Many LGBTI youth do not feel safe at school, experience mental and physical violence and do not find support from school staff⁷⁹. Almost a third of children have seen something disturbing online, and almost 40% of children have witnessed cyberbullying. 23% have been exposed to bullying online, and almost 1/3 of children do not tell anyone about the experience⁸⁰.
50. Noticing special needs is not an integral part of the learning process in all educational institutions. The problem of children dropping out of school before acquiring basic education and leaving young people out of the labour market or studies after graduating from basic school without continuing their studies or acquiring vocational education continues to be a problem. Not all children with disabilities can be guaranteed a place in kindergarten and the school of residence⁸¹, and there is a lack of support for teachers in teaching children with special needs. The quality of teaching children with behavioural disorders or learning difficulties is uneven, due to a shortage of competent teachers. The availability of support specialists continues to be insufficient at all levels of education.
51. The number of children with disabilities has been on the rise over the last decade, and children with disabilities experience inadequate protection against discrimination, lack of inclusion and assistance, and limited access to education. The exercise of the rights of children with disabilities in Estonia is directly dependent on the abilities of parents and is not guaranteed equally to everyone⁸².
52. Studies show a trend towards a decline in the subjective well-being of children with age, a decline in both school enjoyment and a deterioration in mental health indicators⁸³. Depression among schoolchildren has increased; in 2017/2018, every

⁷⁶ Viira, A (2017). [Kohaliku tasandi lastekaitsetöö tulemuslikkuse suurendamine ja jätkusuutlik arendamine](#). Sotsiaalministeerium; Aasmäe, M. (2019) Lastekaitsetöötajate läbipõlemisest ja selle põhjustest. Magistritöö. Käsikiri. Tallinna Ülikool; Saar, H. (2019) [Lapsesõbralik lastekaitse – lastekaitsetöötajate vaade](#). Sotsiaaltöö, 3, 36-41.

⁷⁷ Anniste, K., Biin, H., Osila, L., Koppel, K. ja Aaben, L. (2018). [Lapse õiguste ja vanemluse uuring 2018. Uuringu aruanne](#). Tallinn: Poliitikauuringute Keskus Praxis.

⁷⁸ The Children's Worlds survey: <http://www.isciweb.org>

⁷⁹ M. Ney, K. Rannaääre, K. Raud. Eesti LGBT+ õpilaste koolikeskkonna uuring (2018) Eesti LGBT Ühing.

⁸⁰ [EU Kids Online Estonia 2018](#) survey (2019).

⁸¹ [Õiguskantsleri aastaülevaade 2018-2019](#) (2019).

⁸² [ÜRO puuetega inimeste õiguste konventsiooni täitmise variraport „Puuetega inimeste eluolu Eestis”](#). (2018) Eesti Puuetega Inimeste Koda.

⁸³ [Kooliõpilaste tervisekäitumise uuring \(HBSC\), 2017/2018. a uuring](#) (2019). Tervise Arengu Instituut.

third pupil had already experienced it during the year. The older children get, the worse they feel. The mental health of 15-year-olds has become significantly worse, with one in five having thought about suicide during the previous year. Also, the Estonian National Youth Council finds mental health problems and lack of support services to be some of the biggest obstacles to the wellbeing of youth. Primary psychological care for children and young people is still insufficient. The lack of child psychiatrists and long waiting lists are a constant problem.

53. Every year, there are cases where children and young people seeking help do not receive it because their parents are categorically opposed to psychiatric care. The Mental Health Act stipulates that voluntary psychiatric care is provided to minors only with the consent of their legal representative⁸⁴. Mental health problems and seeking help are still stigmatised, which exacerbates the problem.
54. According to Statistics Estonia, 990 children lived in substitute homes in 2018, so the trend towards family-based substitute care still needs additional state support. The availability of aftercare service is insufficient, the content of the service is not clear, and the volume and range of the service depends on the local government.
55. In 2019, there were more than 14 500 children in Estonia whose child maintenance obligation was not voluntarily fulfilled by the parent, with the total claim amount exceeding 31 million euros. The number of disputes concerning custody and access rights along with problems in enforcing court decisions on child-parent contact has increased⁸⁵.
56. Recommendations:
 - a. Increase the volume of human rights education (including the rights of the child), media literacy and the teaching of social skills at different levels of education; and in formal training and the in-service training of professions related to children.
 - b. To increase the influence of children and young people in shaping society, to promote the participation and involvement of children and young people in various decision-making processes and environments.
 - c. Reduce regional disparities. Enhance consistent cooperation in the fields of health, social services and education to ensure the availability and quality of support services for children, regardless of the child's place of residence and, for example, the existence of special educational needs. Contribute to the promotion of multidisciplinary cooperation.
 - d. Ensure that all local governments have a sufficient number of child protection workers.

⁸⁴ Letter from the Chancellor of Justice to the Minister of Social Affairs on Consent of a Minor to Psychiatric Treatment. [Alaialise nõusolek psühhiaatriliseks raviks](#) (2019).

⁸⁵ The UN Committee on the Rights of the Child also referred to the problems described above in its recommendations to Estonia (2017). "[Concluding observations on the combined second to fourth periodic reports of Estonia](#)." Geneva.

- e. To improve the collection, processing and publication of statistical data, and to develop solutions for reconciling different databases with STAR.
- f. Increase the scope of prevention activities on violence against children by promoting positive, non-violent and inclusive parenting methods.
- g. Strengthen measures to combat various forms of bullying, including improving the capacity of school staff and pupils to deal with diversity and resolve conflicts. Support the participation of children in the prevention of various forms of bullying, including not being indifferent when witnessing it.
- h. Consistently allocate resources to create a safe and developmental learning environment for all children and young people, including those with special needs, at all levels of education from kindergarten onwards. This includes training, adapting the necessary learning environment and supporting bullying prevention programmes. Ensure the availability of support services that meet the needs of children in every educational institution. To develop teacher education and teaching materials (incl. digital).
- i. Expand the availability of support services in schools, while ensuring that all professionals working with children are adequately trained to recognise mental health problems. Increase state funding for support services.
- j. Further strengthen the availability and quality of mental health services, including by ensuring an adequate number of child psychiatrists in addition to other appropriately trained mental health professionals.
- k. Amend the Mental Health Act so that a minor can turn to a psychiatrist without parental permission. Make efforts to destigmatise mental health problems and the seeking of help.
- l. Contribute to the development of family-based substitute care and provide high-quality substitute and follow-up care, to further reduce institutionalisation, including for short stays, especially for children under 3 years of age.
- m. Ensure the availability of various counselling, conciliation and therapy services for families with children, as well as improve the efficiency of collecting maintenance and the current practice of enforcing child-parent contact.

Vegans

- 57. In the human rights doctrine, veganism is regarded as life stance belief, but belief discrimination protection in Estonia for vegans is insufficient. The Constitution prohibits discrimination on the grounds of political views or other belief, but the ETA, which details the protection, only prohibits discrimination in employment on the grounds of belief. Therefore, it's not applicable in the majority of the discrimination cases vegans face, such as school, hospital and prison catering cases and cases where vegans are harassed in the health care system by a healthcare professional, e.g. asked to change their belief, (psycho-)pathologised because they are vegans, asked to consume animal products or not offered a vegan-friendly version of the treatment even when it is available.

58. The 2008 decree “Health protection rules for catering in preschool and school facilities” states in § 5 (8) that “For religious reasons or due to parent’s beliefs the menu of the child may be altered in line with the health protection rules.” In 2018, after multiple requests from the Estonian Vegan Society, the Health Board confirmed the vegan menu to be in line with these health protection rules. In reality, the Estonian Health Board suggests to school facilities and parents that the vegan menu is an exception, and only allowed if all parties agree and there are resources and know-how to cook such meals.⁸⁶ Liability lies with the parents. In some cases, the parents are asked to sign a document that they are aware of the dangers and the need for regular doctor appointments due to a vegan diet. All the extra cost for vegan food compared to non-vegan food is to be paid by the parents. These limitations to the rights of vegans are not stipulated in any law.

59. Recommendations

- a. Ensure by legal norms that vegans are entitled to food and other equipment, including medical treatment, in line with their beliefs in hospitals, schools and kindergartens, summer camps for children, in military service and in prisons.
- b. Include the vegan diet into the National Nutritional Guidelines as a legitimate option for diet.
- c. Canteens in public institutions, including public authorities, such as ministries which employ many people, should serve at least one vegan option every day, regardless of whether there has been a vegan client demanding such meals or not.

⁸⁶ [News article in Eesti Päevaleht](#) 4.11.2019