

Violence Against Children in ESTONIA

Relevant extracts from an NGO alternative report presented to the UN Committee on the Rights of the Child

CRC Session 32, January 2003

Estonian Union for Child Welfare - English

www.crin.org/docs/resources/treaties/crc.32/Estonia_ngo_report.doc

[...]

The § 68 of the Child Protection Act provides that the details concerning the implementation of this Act shall be regulated by the Government and the § 70 of the same act provides that the Government shall monitor the implementation of this Act. Until today the Government has been inactive in implementing this act and relative measures have not been implemented. The generality of this law has determined the difficulties in its implementation, which is why the mentioned law has encountered little actual use – e.g. very few references have been made to the law in legal proceedings.

[...]

a) National legislation has not been compared to all of the articles of the UN Convention on the Rights of the Child. As a result of this there are several contradictions, mostly declarative contradictions between the different legislative acts (e.g. section 31 paragraph 3, section 35, section 59), contradictions between the Convention and national legislation and several areas are not regulated at all (see stipulation 4.4)

[...]

e) The cooperation between the central, regional and local governments is insufficient. Therefore questions rising on the local level do not always reach the central government. In order to ensure the organizing of the protecting of the child's rights and supervision of the cooperation between different administrative levels among the state, local government and the third sector it is necessary to create a unified platform for developing balanced development patterns of child welfare and enforcing them on different levels (the submission is based on the results of the questioning of the people working in the counties family support networks. The questioning was carried out by the Estonian Union for Child Welfare in 7 counties in 2002).

f) There is no independent children's ombudsman in Estonia. The Government has written in its report that the Legal Chancellor is in charge of the general surveillance of the laws, who has the right to appoint special advisors for dealing with the questions related to children – today no such special advisor has been appointed. Therefore Estonia has no real institution for dealing systematically with the attaching of public attention to the necessity of protecting child's rights, analysing the situation and monitoring the implementation.

g) There is no institution in Estonia, who would perform ongoing studies and analyses in order to understand how are children's rights really ensured and which problems are we dealing with. The studies are mainly conducted by the non-governmental organizations and irregularly, depending mostly on the outside support (e.g. Union for Child Welfare study of school bullying, where it came out that it is wide spread and psycho-social help is not available). There is a lack of systematic and logical development of the area of child welfare and collecting corresponding data and statistics. This has resulted in the lack of an adequate overview about the situation of children making it difficult to compare the situation of Estonian children to that of the situation of children in other countries (e.g. the number of children living in poverty).

[...]

13. The State in its report has mentioned (sub-article 199- State Report) that in 1999 the guardianship was established in 314 cases and a child was placed in a foster family in 610 cases. During the same period 340 children were placed in a social welfare institution (the statistical data from the Social Welfare Department of the Ministry of Social Affairs). Those numbers tell us that the overall number of the children in social welfare institutions is large and new children are being institutionalised at an intensive rate, because the number of institutionalised children is larger than the number of children who were given under guardianship. The reasons why the families are not ready to exercise guardianship for a child in difficult situation is not clear because no corresponding surveys have been conducted. There is also no system for selecting, training and evaluation of guardians and adoptive parents.

[...]

The number of specialists working with children in the children's social welfare institutions by the end of 2001.

	Total	By Gender		By Age				
		male	female	to 29	30-39	40-49	50-59	over 60
Social Workers	25	-	25	4	4	12	4	1
Educators	358	15	343	57	70	110	89	32
Psychologists	6	-	6	-	-	3	2	1

Compiled by the Statistics and Analyzing Department of the Ministry of Social Affairs

We can see from the table that there are 358 educators per 1814 children (see table above), and only 6 and 25 of psychologists and social workers respectively. That makes an average of five children per one educator and 73 and 302 children per one social worker and psychologist respectively. From those specialists 65,2% are over 40 years of age and only 34,8% under 40 years of age. Most of the workers have not received any training on child's rights as the topic was not present in the scholastic programs of the educators and most of the educators have graduated from school 20-30 years ago, when there was no Child Protection Act in Estonia. There are no indications of the corresponding further training provided for the educators.

[...]

24. As there is no such supervision mechanism present in Estonia, there is no adequate statistical data about the situation of children in social welfare institutions. The results of the surveys conducted recently by the non-governmental organisations (e.g. the Estonian Society for Rehabilitation of Addicts "Tootsi Tuba") have showed that the conditions of children in the institutions are not good. In order to receive adequate overview of the situation it would be necessary to conduct periodical analyses regarding the situation of children in welfare institutions, in order to change, modify and supplement regulation on the basis of that.

[...]

2.4.1 ARTICLE 19 (1) (ABUSED AND NEGLECTED CHILD)

(In the State report pages 41-45; sub-articles 222-234)

25. The § 14 (2), § 31 and § 33 of the Child Protection Act forbid any forms of child abuse, including sexual abuse. The State has included data in its report regarding the children being subject to sexual crime, 72 children in 1999 (sub-article 229). At the same time the State does admit that these crimes are with a high rate of latency, which means that the number of those crimes can be much higher.

26. This does also come out when analysing the problems of children who have turned to Tartu Support Centre for Abused Children and Tallinn Child Support Centre (the two largest institutions providing free of charge counselling and rehabilitation for children). In 2001 Tallinn Child Support

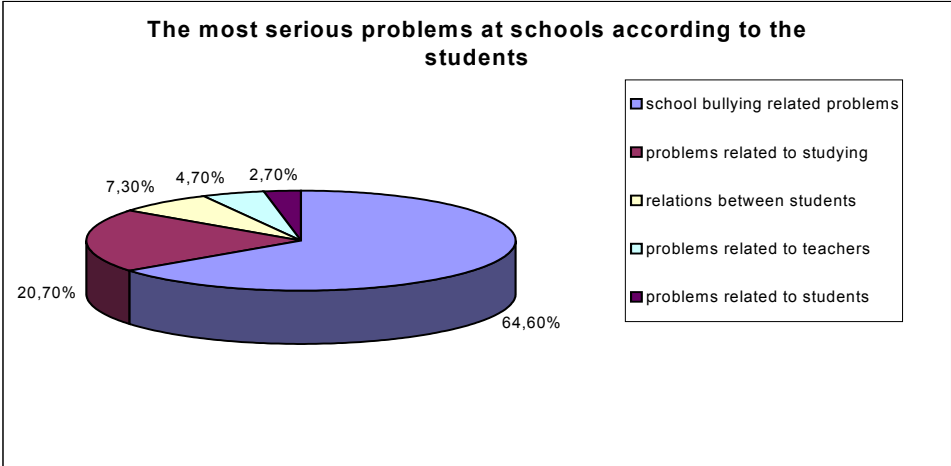
Centre had 1 424 children turning to them, from whom 320 had abuse problems (sexual, physical and emotional abuse). Tartu Support Centre for Abused Children received 525 children at the same time period from which 35% had school problems (incl. school bullying), 18% had family problems (incl. domestic violence), 29% had behavioural problems and 6% had problems relating to sexual abuse. As this includes only the initial appeals, the total amount of appeals is much higher.

27. The results of the study (conducted by Margit Rosenthal and Kersti Tilk as a part of their bachelor’s study at the University of Tartu in 1999) investigating the extent of sexual abuse of children, show the high rate of its occurrence. The respondents were 494 last year students of the schools of Tartu city and Tartu County, including 185 male and 308 female. 70% of the respondents had experienced sexual abuse (including verbal abuse, mental, physical and serious physical sexual abuse). 65 of the respondents had experienced serious physical sexual abuse, including rape and attempted rape, trying to have sexual intercourse using unacceptable ways, forcing to undress. 220 respondents had experienced light forms of physical sexual abuse, including fumbling.

28. A survey to investigate the problem of school bullying was conducted by the Estonian Union for Child Welfare in 2001. The respondents were 2255 5-9 year basic school students from which 38,3% were male and 61,7% female.

29. The results of the study show that 46,97% of the respondents had experienced light forms of physical violence e.g. pushing and poking. 3,57% had experienced teasing and mockery, and 34,10% had experienced their possessions taken away or hiding of their possessions. In 16% of the cases the students had experienced serious forms of physical violence like punching and beating.

30. The results of the study conducted by the Centre of Excellence in School Improvement among the school psychologists and social workers in 2001 showed that about 54% of the students turning to them have complaints concerning school bullying. The neglect and inadequate attention to the children is vividly described by the fact that about 30% of the respondents admitted that children had turned to them with suicidal thoughts. 0,4% said that they had faced the problem multiple times. Although this number seems small, it means that there is an average of four possible suicide cases in a city school with about 1000 students, which is a lot. The rate of possible suicides can be used to describe the mental health of the society.



Source: Study “Stop violence” by the Union of Child Welfare

31. The Estonian Society for Rehabilitation of Addicts “Tootsi Tuba” who is working with the children deprived of parental care, addicts and juvenile offenders has conducted a survey among 228 children.

The results of the survey show that 55,3% of the respondents had experienced abuse – from general taunting to sexual harassment.

32. It is also concerning that up until recently these cases have been covered up. The breaking point was a documental film “Päkapikudisko” (“Elf Disco”) on school bullying that initiated hot discussions among officials and different specialists (Psychologists, psychiatrists, teachers, social workers etc). Although the Education Act provides that teaching cannot be connected to physical or emotional abuse, the everyday life shows the opposite – most of students ignoring the compulsory school attendance/ dropouts have experienced abuse from the side of teacher(s) and/or schoolmates.

33. After the presentation of the film the taboo has been broken and the newspapers are publishing articles dealing openly with child abuse and violence in the relations of children. In order to put stop to child abuse, all the cases of maltreatment should be made public and solutions should be found to deal with them. At the same time it is necessary to provide training for media professionals in order to avoid tension and labelling of children caused by unprofessionality and indiscretion.

34. The state has created a cooperation network, but the real work with abused children is being done by non-governmental organizations. The State does not conduct studies to investigate the situation and studies conducted by the third sector organisations are usually nonrecurring, but the results show vividly that the problem of child abuse should be attached more importance, as children are not guaranteed the right to be protected from all forms of abuse and maltreatment. If the state does not implement the necessary measures, including effective social programmes, it violates the articles 19, 37a of the Convention and responsibilities deriving from the Child Protection Act.

[...]

58. Estonia is well covered with network of schools, but education is not always made accessible to all children. According to the State report the overall number of children in general education schools in 1999 was 215 841 (sub-article 377 in the State report). Dropout rate from the basic and upper secondary schools is extremely high in Estonia, which shows that education is not made accessible in a way that would create a possibility for everybody to receive a graduation certificate.

The percentage of dropouts according to the type of school and gender (% of girls/ boys, who studied in these types of schools) 1993/94 – 1998/99.

	a/y	% Girls	% Boys	number Girls	number Boys	number TOTAL
Basic school	1993/94	0,4	1,0	389	901	1290
	1994/95	0,5	1,1	407	989	1396
	1995/96	0,4	1,0	361	995	1356
	1996/97	0,5	1,0	480	991	1471
	1997/98	0,4	1,0	366	996	1362
	1998/99	0,4	1,1	343	1051	1394
Upper secondary school	1993/94	5,4	8,4	1064	1146	2210
	1994/95	5,5	8,5	1192	1271	2463
	1995/96	5,4	7,9	1160	1180	2340
	1996/97	5,4	8,8	1186	1367	2553
	1997/98	6,4	9,0	1462	1390	2852
	1998/99	5,6	8,1	1248	1187	2435

Source: Annus etc. Overview of the educational system of Estonia 2000.

[...]

The relative number of 16-year-old children, who have not acquired basic education, has stayed around 20%.

[...]

60. There are various reasons behind the number of school dropouts. In the year 2000 all the 7th – 12th year students in the third largest city of Estonia, Pärnu were questioned in order to investigate the students' opinions regarding school, how do they manage and what are the reasons for dropping out. A total of 3006 answers were received, which represent the following opinions:

60.1 The school as an educational environment fails to fulfil its role:

- a) The school is distancing from its educational purposes and has concentrated only on process of learning and teaching;
- b) The school does not provide protection – the abuse from fellow schoolmates and teachers is present, including demeaning of the children from least privileged families, violence towards weaker or “different” students;
- c) In order to receive larger amounts of capitation fee the studying conditions in the overcrowded classrooms are health hazardous and reduce the possibilities for individual approach to each child;
- d) The schools are giving up the cooperation with the family;
- e) Teaching of the students with special needs is not well differentiated;
- f) The school is not responsible for keeping the child in the learning process;
- g) The curricula are overextended and too difficult for the child as well as his/her parents (even with higher education) in the basic school stage already;
- h) The school as an institution rather excludes children with lower academic performance or other problems, the opposite examples are rare;
- i) The schools role in organizing extracurricular activities has diminished and is insufficient;
- j) The teachers are usually left alone with their problems of educating the children – without the relevant support of the school administration and other agencies (welfare, juvenile police etc), in reality the networking is still in an initial running stage;
- k) Most of the schools have not employed a social worker.

[...]

63. The unemployment rate among young people in Estonia was 23,9% in the year 2000 (among the whole population 13,7%). Although unemployment, including the unemployment of young people is a rather new issue in Estonia, the rate of unemployment of young people grows faster than the rate of unemployment of the general population. The young people with the low educational level face the most serious problems in entering the labour market. At the same time the relative number of the 16 year old who have not acquired basic education or have terminated their studies in basic school has stayed at 20% level. Therefore the number of potential unemployed young people as well as the number of young people who are not working nor studying is growing. We have actually two problems here: to prevent the growth of this group and to create coping possibilities for those who have already “dropped out”.

[...]

66. Education in native language is made accessible to the Russian speaking population, but other minor ethnic groups (e.g. Poles, Lithuanians, and Finnish) have not been guaranteed education in their

native language. The State has paid little attention to that because of the small percentage of ethnic minorities. According to the amendments of the Basic Schools and Upper Secondary Schools Act, passed in 2000, the students whose mother tongue is not Estonian and who attend schools where Estonian is the language of instruction shall be afforded the opportunity to learn their mother tongue and to learn about their national culture, taking into account regional peculiarities and the curriculum of the school. The Government of the Republic shall establish the corresponding procedure not later than by 1 January 2002.

[...]

68. According to the current legislation (Education Act, Basic Schools and Upper Secondary Schools Act) the local government is obliged to ensure the studying possibilities for children with physical and sensory disabilities, speech impairments and mental disorders in the school of his/ her residence. If there are no conditions in the school of his/ her residence the state and the local government shall ensure the studying possibilities in the special school created for this purpose. As Estonian schools have no conditions for disabled children (no elevators or special teaching equipment) and most of the school administrators and teachers have no special training and to teach a disabled kid is very low, most of the disabled children are sent to special schools.

69. The law does not provide the office/agency who should create the opportunities for disabled children to attend regular schools. The local government officials do not usually respond to the special educational needs of a child until the child goes to school. This means that the institutions do not plan ahead the attending of school of a disabled child. Even the largest local governments do not have any strategy and planning of the resources in order to bring those children into regular kindergartens and schools. Some children have nevertheless been accepted to regular schools, but mostly as the result of their parents' initiative and activity.

[...]

72. No special courts have been established in Estonia for criminal proceedings against juveniles and these cases are being proceeded in general courts. Unfortunately there are no judges specializing in juvenile cases, which makes it extremely difficult to fulfil the requirements of the article 40 (1) – to take into account the personality, rights and uniqueness of the child in the criminal proceedings. There is no special procedure for juveniles according to the law, which could enable to take into account their uniqueness. There are only few special provisions in the Criminal Code for juveniles, which do not enable to fulfil all the international requirements. There are no prosecutors specializing in juvenile criminal matters.

73. Estonia has not recognized or fulfilled the requirements of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) or requirements deriving from the United Nations Rules for the Protection of Juveniles Deprived of Liberty.

74. The stipulation 7 of the article 40 (2) of the Convention requires that juvenile privacy shall be respected throughout the whole procedure, which requirement is set by the article 8 of the Beijing Rules. There have been several cases recently in Estonian media where child's rights and interests as well as media ethical standards have been violated in showing the cases with negative context connected to children.

75. Estonian publications are not always ensuring the child's physical and mental safety, the main example being identifying children in the media in cases when it is not in the best interests of the child.

Example: On December 2, 2000 an article was published in Postimees "Prisoners' hunger strike helps to feed the homeless and children". The content of the story was that the Tallinn Child Support Centre was given the food left over from the prisoners' strike. The article was accompanied by the picture, which shows the face of one of the boys clearly. The boy had been a subject of mocking for living in

the support centre, but it was already quieting down. After the article the child started to experience a lot worse hassle. The picture was published despite of the veto of the support centre employee.

76. The Union for Child Welfare is organizing a seminar in the end of May 2002 to discuss in the presence of the specialists how to avoid such cases in the future.

77. Estonian judicial decisions are public – everyone has the right to read and study them. Today they are available in the Internet as well. In addition to the positive aspect we have to depreciate the fact that in those cases juveniles are identified as criminals or victims.

78. It should be said that according to the current law it is not prohibited to publish the summary of charges: according to the § 117 (1) of the Code of Criminal Procedure the information concerning a pre-trial investigation may be disclosed only with the permission of a preliminary investigator and to such extent as he or she deems possible. It appears that this kind of right is not in contradiction with the Estonian Personal Data Protection Act, but is unacceptable in the light of UN Convention on the Rights of the Child as well as the Beijing Rules.

[...]

5.1.1 ARTICLE 40 (1) AND (2) (PERIOD AND GENERAL CONDITIONS OF THE PROCEEDINGS)

79. According to the § 111 Code of Criminal Procedure the general period for preliminary investigation is two months starting from the day of the first procedural act to the day the file is sent to the prosecutor or the procedure is terminated. Any prosecutor can prolong this period by up to four months, which in reality means six months of preliminary investigation. The further prolonging of the period by the county or city senior prosecutor or State prosecutor can be basically indefinitely. It is therefore possible that preliminary investigating can take a very long time, which is then followed by judicial proceedings (about one month from the date of prosecution, if the session is not postponed).

80. The State has indicated in its report (sub-article 446) that there is a separate room for interrogating juveniles. In reality only Tartu and Tallinn Prosecutor's Office have these facilities, which mean that no exceptions are being done for children's' preliminary investigation in other places.

81. Therefore the preliminary investigating and judicial proceedings of juvenile suspects in Estonia are conducted by the investigators, prosecutors and judges without any special training. The § 35 of the Child Protection Act, which demands that specialists should be consulted during the preliminary investigation of the juvenile suspects regarding the punishment of the child, has raised a lot of misunderstandings and questions among the specialists, as procedural law or any other document does not give any regulations as to who should be consulted in this case.

[...]

5.1.3 ARTICLE 39, 40 (4) (THE RIGHTS OF THE CHILD IN THE PENITENTIARY INSTITUTION TO BE EDUCATED, TO HAVE FREE TIME AND CONTINUED CARE)

86. In most cases, as the handing over the materials to the juvenile committees is very limited, the cases of juvenile offenders are proceeded by the general court system. The State has indicated in its report that in 1999 1532 juvenile offenders were convicted (which means, that there were more of those cases proceeded), from whom 256 received real convictions depriving them of their liberty.

87. The Social Centre for Ex-offenders and Victims and the Social Rehabilitation Centre of the Estonian Evangelical Lutheran Church, who deal with the juvenile prison problems have declared that:

a) The requirements of the article 17 of the Convention are not fulfilled – the local libraries are poorly equipped, and no attention has been paid to the positive effect of the books and art education.

b) The article 20 also states that considering the child's interests also means taking into account his/her ethnical, religious, and cultural and language heritage. The prison does not favour exceptions or special needs. There is no minister of religion or chapel at Maardu prison.

c) The article 24 talks about the need of developing the first contact health care including developing of the preventive health protection, family behaviour etc. This is usually not present in prison environment, only Harku women prison has a working project of the Social Rehabilitation Center concerning sexual health and family behaviour, but this is a short-term project initiated by the third sector.

d) At the same time the Imprisonment Act is also damaging children's development (article 6), which is stipulating the requirements regarding the detaining of suspects. There are over 130 juvenile suspects at 32 chambers at Maardu prison who can only walk outside for one hour per day. They have no possibility of learning or working; the prison does not offer pro-social relations and the role model of a normal adult. There is no possibility to participate in social programs (forming of values, abuse prevention, healthy lifestyle, patriotic education, art courses, teaching of problem solving skills, cognitive development etc), as the law does not enable the children to group and the budgets have no money allocated to these activities.

e) There are no social special programs being established, according to the article 19, in prisons, in order to prevent violent behaviour towards the youngest and weakest in the locked chambers of the penitentiary.

[...]

91. The biggest problem is the long period of preliminary investigation. Regarding the study conducted by the Social Rehabilitation Centre in 1/3 of cases juveniles are being held in the custody for six months and more. At the same time there is usually no solid evidence for holding suspects in custody. The risk of these children escaping or committing new crimes does not usually weigh up the difficulties they are facing in custody. Preliminary investigation done in the prison may make the work of investigators and police easier but it does not correspond to the rights of children and should therefore be allowed only in special cases. According to the KrMSE § 127 the suspect cannot be held in custody during the pre-trial procedure for more than one year.

92. There is no periodical surveillance or studies regarding the situation of children in imprisonment or preliminary investigation institutions, in order to find out which are exactly the conditions and shortcomings of the young people living there.

[...]