# Response of Estonia to the questionnaire on equal participation in political and public affairs.

**Participation in the conduct of public affairs**

1. **Do the Constitution and/or other laws of your country provide for the right of individuals to participate in the conduct of public affairs? Please provide information on relevant legislation and constitutional provisions.**
2. **What is the scope and content of the right to political and public participation as provided in national law?**
3. **How does the State guarantee that all individuals take part in the conduct of public affairs? Which concrete measure (including legislation) does the State take in order to enable the full and equal political and public participation by members of all groups? How does the State monitor and enforce legislation adopted to enable the full and equal political and public participation by members of all groups?**
4. **To what extent are all individuals consulted during the legislative and policymaking processes? Please describe best practices or experiences of representative structures, processes or any other means to encourage participation prior to reaching a political decision.**

There is a widespread practice in Estonia that Government authorities include stakeholders and public in the elaboration of decisions concerning them with the purpose to ensure the transparency of the decision making and best possible quality and legitimacy of the decisions.

In 2011 the Government adopted Good Engagement Practices that set out instructions for arrangement on public consultation. Ministries need to include stakeholders into preparation of decisions, present draft laws and development plans for opinions and give feedback on the opinions gathered. For better inclusion of partners, and Inclusion Handbook has been prepared for civil servants and NGOs.

It is common that representatives of stakeholders (including Estonian Chamber of Disabled People) participate in the working groups and steering committees of drafting legislation, development plans etc. All draft legislation, strategies, development plans, concept papers etc. are published in [www.osale.ee](http://www.osale.ee) website for public debate, in Government’s Draft Legislation Information System [www.eis.ee](http://www.eis.ee) for opinions and also presented directly to the Estonian Chamber of Disabled People for opinions.

For example, in 2014 there were several important developments regarding the work capacity reform. The target groups were actively participating in the public debate. Due to the debate the awareness of the reform among target groups and society has increased. The debate also induced related questions regarding the rights and possibilities of people with reduced work ability and people with disabilities, for example the questions of access to education and service provision of local municipalities were under discussion.

1. **Are there any outreach efforts in place to effectively involve women, indigenous peoples, persons with disabilities, members of minorities and other groups requiring special attention in participatory processes?**

The Government has established five general topics that have to be taken into account in terms of strategic planning of the national policy strategies. One of the principles topics among these is the “Equal Opportunities! That includes the obligation for impact assessment in terms of gender equality, equal rights for national minorities, people with disabilities and people of different age. Therefore the non-discrimination aspect has to be mainstreamed and the impacts taken into account in every national strategy or law proposal.

In March 2012 the Government and the Estonian Chamber of Disabled people have signed a bilateral memorandum of principles of cooperation and have formed a cooperation assembly in order to mainstream disability issues, coordinate activities to ensure protection of the rights of persons with disabilities, set strategic objectives and priorities etc. All the ministries as well as the Estonian Chamber of Disabled people and four main organisations of people with disabilities (Association of Persons with Reduced Mobility, Association of the Blind, Association of the Deaf, Association of People with Intellectual Disabilities) are represented in the cooperation assembly that meets regularly.

In November 2014 twelve organisations signed a Cooperation Agreement for Ensuring Social Protection for Persons with Disabilities or Health Damage. The Cooperation Agreement describes principles and measures for:

1. Development of preventive actions;
2. Increase of employment among persons with reduced work capacity;
3. Development and increase of availability and accessibility of supportive labour market and welfare services;
4. Promotion and increase of accessibility of education for children and young people;
5. Increase the awareness of the society.

The detailed action plan for the Cooperation Agreement is currently being prepared and is planned to be ready by March 2015. All organisations wishing to do so, can join the Cooperation Agreement later on.

According to the Gender Equality Act (GEA), upon planning, implementation and assessment of national, regional and institutional strategies, policies and action plans, the state and local government authorities have to take into account the different needs and social status of men and women and consider how the measures applied and to be applied will affect the situation of men and women in society. In case the state and local government authorities lack an experience to fulfil these obligations, the GEA foresees that they should, upon planning the performance of these obligations and upon performance of such obligations, consult the relevant interest groups and non-profit organisations that have a legitimate interest in helping to combat discrimination based on sex in order to support compliance with the principle of equal treatment. Umbrella organisations of women’s organisations are consulted by the government when specific policies (including legislation) are prepared for promoting gender equality.

Right to vote and to be elected

1. **Is there universal and equal suffrage in your country? Are the rights of article 25 b) of ICCPR guaranteed by law? If yes, please make reference to such legislation.**
2. **Which obstacles have been identified as preventing individuals from exercising the right to vote and which measures have been adopted to overcome them?**
3. **Is information on voter registration and on the electoral process (e.g. voting sheets) available in formats and languages, including minority languages that render them accessible to all? Please provide examples.**
4. **If voter registration is required, how is it facilitated? Are education and registration campaigns organized prior to major elections?**
5. **With respect to the right to vote and to be elected, how are the rights and needs of members of specific groups (women, persons with disabilities, minorities, indigenous peoples, first-time voters, etc.) taken into account?**

The right to belong to a political party, to participate in a referendum and to vote and stand as candidate in presidential elections and elections to the national parliament (Riigikogu), the European Parliament and local government councils is based on an age requirement, citizenship, residency and active legal capacity. Active legal capacity is defined as the capacity to enter independently into valid transactions.

A person who due to mental illness, mental disability or other mental disorder is permanently unable to understand or direct his or her actions, may be found by a court to have restricted active legal capacity, which depending on the specific case may or may not relate to the person’s voting rights (Code of Civil Procedure, § 526). Any loss of active legal capacity with respect to voting rights must be expressly stated in the court order.

Electoral procedure allows for anyone who, due to a physical disability is not able to participate in elections without assistance, to use the help of an assistant of their choice when they vote.

Traditional, non-electronic voting can also be organised in a person’s home, as well as in correctional facilities, hospitals and care facilities, which is actively promoted by the National Electoral Committee prior to all elections.

Online voting is well developed and popular in Estonia, which means that all voters can vote electronically in any election from their homes or any other location worldwide. The electronic voting website provides support for the blind and visually impaired, as it complies with W3C WAI guidelines and is compatible for use with a JAWS screen reader. In the 2014 European Parliament elections, 31% of all votes were cast online.

The low representation of women in politics has been criticized by civil society organisations and researchers, and attempts have been made to influence the parties to appoint more women to leading positions and elective posts. For example, in 2012, the Estonian Association of Business and Professional Women signed a cooperation memorandum[[1]](#footnote-1) with all the parties in the national parliament, calling for the use of the so-called zipper-systems in the upcoming elections for local governments, the European Parliament and the national parliament. Despite that, the zipper-system was used only in few constituencies in the 2013 local elections.

1. **What are the legal restrictions to the right to stand for election in your country, if any? Which practical obstacles have been identified in relation to the right to be elected? Which measures have been put in place to overcome these obstacles?**
2. **What positive measures have been taken to ensure that women, members of minorities, indigenous peoples, persons with disabilities and members of other disadvantaged groups are able to stand for elective office?**

No special measures have been taken to ensure that women are able to stand for elective office.

1. **What measures (including legislative measures) are in place to ensure that candidates for elective office are not aced with discrimination, harassment, and violations of their rights to freedom of opinion, expression, assembly and association?**

The Gender Equality Act (GEA) applies to all areas of social life, except professing and practicing faith or working as a minister of a religion in a registered religious association and concerning relations in family or private life. The GEA forbids both direct and indirect discrimination based on sex, including giving orders therefor. According to the GEA, the notion of direct discrimination based on sex includes also less favourable treatment of a person in connection with pregnancy and child-birth, parenting, performance of family obligations or other circumstances related to gender, as well as rejection of or submission to harassment. Indirect discrimination based on sex is defined by the law as a situation where an apparently neutral provision, criterion, practice or activity would put persons of one sex at a particular disadvantage compared with persons of the other sex, unless that provision, criterion, practice or activity is objectively justified by a legitimate aim, and the means of achieving that aim are appropriate and necessary.

In case a candidate suspect’s discrimination based on sex, he or she can turn to the court for the resolution of the discrimination dispute. If the rights of a person have been violated due to discrimination, he or she may demand that the harmful activity be terminated and that the damage be compensated for. In addition, an injured party may demand a reasonable amount of money to be paid as compensation for non-patrimonial damage caused by the violation.

A person may also ask the Gender Equality and Equal Treatment Commissioner, an independent and impartial expert monitoring the implementation of the GEA, to provide an expert opinion concerning the alleged case of discrimination. The Commissioner can also provide advice and assistance to persons upon filing of complaints regarding discrimination.

1. **Please explain how possible interferences with the elector’s will and with voter or candidate registration are avoided. Is undue interference prohibited by law? How does the State ensure effective access to judicial and other remedies in case of violations?**

**Equal access to public service**

1. **What are the conditions for access to public service in your country? Do any restrictions apply? How is the requirement for equal access met?**

Social welfare services

According to Social Welfare Act, the following have the right to receive social services, social benefits and other assistance:

1. Permanent residents of Estonia;
2. Aliens residing in Estonia on the basis of residence permits or right of residence;
3. Persons enjoying international protection staying in Estonia.

Every person staying in Estonia has the right to receive emergency social assistance.

The main problems with provision of social services are related to availability and quality of the services, as those vary across local governments because different local governments have different administrative capabilities due to their territory, revenues, population size, etc. Lower administrative capability of local governments is not a justification for not providing services. To unify the service quality, recommended guidelines for social services in the area of responsibility of local governments have been prepared.

Estonia will improve the accessibility and quality of social welfare services with ESF 2014-2020 support. In 2014 Estonia has started to draft a Social Protection, Inclusion and Equal Opportunities Development Plan for 2016-2023 which will also address possible ways to improve the accessibility and quality of social welfare services.

1. **How does the State ensure that recruitment processes used by government authorities and political associations are transparent, objective and reasonable? Which measures (e.g. temporary special measures, quotas, etc.) are in place to ensure the equal recruitment of women, minorities, persons with disabilities and members of other disadvantaged groups?**

Estonian anti-discrimination legislation is based on § 12 of the Constitution, which prohibits discrimination on the basis of nationality, race, color, sex, language, origin, religion, political or other opinion, property or social status, or on other grounds. In 2009 Estonia adopted the Equal Treatment Act, which prohibits discrimination based on racial or ethnic origin, color, religion or belief, age, disability and sexual orientation. In labor relations the Act prohibits discrimination upon:

1. *Establishment of condition for access to employment, to self-employment or to occupation, including selection criteria and recruitment conditions, as well as upon promotion;*
2. *Entry into employment contracts of contracts for the provision of services, appointment or election to office, establishment of working conditions, giving instructions, remuneration, termination or cancellation of employment contracts or contracts for the provision of services, release from office;*
3. *Access to vocational guidance, vocational training, advanced vocational training and retraining, practical work experience;*
4. *Membership in an organization of employees or employers, including a professional organization, and grant of benefits by such organizations.*

The Employment Contracts Act and the Public Service Act refer to Equal Treatment Act as the underlying acts to be implemented. The Employment Contracts Act establishes the principles of equal treatment, placing an obligation on employers to ensure the protection of employees against discrimination.

The Public Service Act contains a regulation according to which all public service bodies have to assure a public servant or a person wishing to enter into public service, the protection against discrimination and promote equal treatment.

More specific regulation concerning equal recruitment of women and men can be found in the Gender Equality Act (GEA). According to the GEA, cases in which an employer selects for employment or a position or hires a person of one sex and overlooks a person with higher qualifications and of the opposite sex are considered discrimination, unless there are strong reasons for the decision of the employer or such decision arises from circumstances not related to gender. The activities of an employer are discriminatory if the employer, upon making such decisions, overlooks a person or treats a person less favourably in any other way due to pregnancy, child-birth, parenting, and performance of family obligations or other circumstances related to gender. The GEA also stipulates that employers should act such that their activities would support that both men and women apply for vacant positions and that persons of both sexes are employed to fill vacant positions. Their activities should also support ensuring that the number of men and women hired to different positions is as equal as possible. The GEA also includes prohibition of offers of employment and training which are directed only at persons of one sex. The only exceptions to this rule are: 1) differences in treatment due to the sex of persons in access to employment, including to training required for employment, where, by reason of the nature of the particular occupational activities concerned or of the context in which they are carried out, the sex of a person constitutes a material and determining requirement, and such difference in treatment is justified by a legitimate aim and the requirement is proportional to the aim and 2) application of temporary specific measures that promote gender equality and give advantages to the less-represented sex or reduce gender inequality.

The main institution to turn to in case of discrimination is the Gender Equality and Equal Treatment Commissioner. The institution monitors compliance with the requirements of Gender Equality and Equal Treatment Acts, accepts applications and provides opinions concerning possible cases of discrimination. The Commissioner has the competence of providing recommendations for the government for the improvement for the equal treatment policy. Discrimination disputes shall be resolved by a court or a labour dispute committee. According to the GEA § 13 and the ETA § 24 the victims can demand both that the infringing party ends the discrimination and also compensates the damages caused, both material and moral damages.

In addition to the Commissioner, the victim of discrimination has several other options to turn to. He or she could also turn to the Chancellor of Justice that accepts applications from individuals regarding possible infringements of fundamental rights and freedoms by a public authority and may also mediate disputes between private persons in discrimination issues if both the parties agree to the proceedings. Disputes in private employment relations, including non-discrimination issues, are also in the competence of labor dispute committees. The decision of a committee can be appealed to a court.

**Other**

1. **Please state if there are restrictions imposed on the rights contained in art. 25 of ICCPR in your country. If so, how does the State ensure that these restriction s are non-discriminatory, exceptional and based on reasonable and objective criteria?**
2. **The full enjoyment of the rights protected in article 25 of ICCPR requires respect for the rights guaranteed in articles 19, 21 and 22 of ICCPR. In this regard, what legislation is in place to ensure an independent and pluralistic media? Are journalists, human rights defenders and civil society organizations able to freely pursue their activities? Please provide information on restrictions to freedom of association, in particular the right to form and join association concerned with political and public affairs? If there are any conditions to the exercise of the rights guaranteed in articles 19, 21 and 22 of ICCPR, are they prescribed by law, necessary and proportionate?**
3. **Please provide information on measures taken to ensure that information and education materials on human rights, in particular on rights and opportunities relating to participation in public and political affairs, are available and accessible to all.**

Estonian Public Broadcasting ensures that disabled people are informed of political developments and current events. The national news is broadcasting daily with sign language interpretation and subtitles are provided for talk-shows and investigative reporting tele-magazines discussing current affairs. Foreign language and Estonian broadcasts with foreign language sections are equipped with audio description.

Since 2012, visually impaired people have the opportunity to download and stream more than 2000 audiobooks, -newspapers and –magazines from the online library of the Estonian Library for the Blind.

Estonian language courses for hearing impaired or visually impaired adults have been organised in Tallinn and in Ida-Viru County, with the support of the European Social Fund. A learning kit for visually impaired people, called *Lood elust enesest* (“Stories from the Real Life”), consists of audio clips and worksheets on 20 topics plus a glossary and a teacher’s book. The learning material kit of Estonian language courses for hearing impaired adults, called *Pille ja Lauri lood* (“Pille and Lauri´s Stories”), includes worksheets on 20 topics as well as videos and electronic exercises, a glossary and a teacher’s book.

Tallinn Law School of Tallinn University of Technology in cooperation with the Estonian Human Rights Centre conducts a project *Erinevus rikastab* (“Diversity Enriches”) intended to raise the awareness about equal treatment and to combat intolerance. In 2011, the project focussed on promoting the social status of disabled people and in 2013 and 2014 the focus is on activities to empower disabled people and to solve their problems. During the project:

1. The campaign *Märka inimest, mitte puuet* (“Notice the person, not the disability”) (2011) was conducted, drawing attention to the importance of disabled people in Estonian society;
2. TV programmes were broadcasting about the problems of minorities (incl. people with special needs);
3. Special additions about the social status of disabled people were published in nationwide newspapers;
4. Weekly radio programmes called *Huvituja* (“Interested”) (2011) were broadcast, focussing on various domains of equal treatment (incl. inclusion of people with special needs);
5. The campaign Austame erinevusi (“We respect the differences”) (2012) was conducted, drawing attention to diversity and its benefits in business (incl. stressing the importance of inclusion of disabled people in the labour market);
6. Awareness-raising trainings, conferences, seminars, exhibitions were conducted, so that people would know their rights and would be able to seek help in case of discrimination;
7. The campaign week Erinevus rikastab nädal (“Diversity Enriches week”) has been conducted every year since 2011, including various awareness-raising events and film festivals on the topic of rights of minorities. For example in 2013, the special focus was on coping of intellectually impaired people and their inclusion in the society;
8. Employers were advised to promote equal treatment.
9. **Please provide information on how your country ensures that its public institutions are accountable for their policies on public and political participation.**
1. The memorandum in English is available online at: <http://bpw-estonia.ee/admin/upload/Koost%C3%B6%C3%B6memorandum%20ENG.pdf> [↑](#footnote-ref-1)