



Eesti Ametiühingute Keskkliit  
*Inimväärse elu nimel!*

## Industrial relations and workplace adaptation

Supporting industrial relations in the field of workplace adaptation to enable the employment of older or disabled populations:

Estonia- country report



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## Table of Contents

1. Executive Summary .....	4
2. Background .....	6
3. Government policy of work accommodation .....	7
4. Industrial Relations and Work Accommodation .....	10
5. Conclusions and evaluations .....	23
6. References .....	26
7. Annex: Methodology .....	28

# 1. Executive Summary

Activating and including disabled people in the labour market has been much discussed in the context of central public administrations occupational disability reforms, which began in 2014. In the context of an ageing population, i.e. workforce ageing and decrease, also active ageing and employment of ageing population has been debated. However, these debates focus on labour market participation and employment opportunities of persons with disabilities including disabled and ageing persons, but issues such as access to suitable employment i.e. accommodated work and working conditions can hardly be considered the focus question of the debate, especially in collective employment relations in Estonia.

Social partners and the government are key players in determining terms of employment and working conditions and shaping labour market practices. Industrial relations provides incentives through which the behaviour of employers and employees are influenced and practices are mediated. Until recently, the most notable joint action from social partners has been related to occupational disability reform, where they have been in active social dialogue with the government and have reflected on the importance of enabling working conditions in their independent statements. This project aims to improve social partners' expertise and industrial relations in the field of work accommodation, and as a result promote labour market inclusion of disabled and older workers. The motivation of social partners to participate derives from two quite different factors. One being very practical stemming from the need to keep the native population active to tackle the shortage of labour, while the other reflects more prevalent values in society, such as to ensure equal opportunities to different groups.

In a wider context, co-determining accommodated working conditions could be a way of promoting greater flexibility in employment relationships in Estonia. This is important because social partner representatives participating in the seminars pointed to the inflexibility/rigidity in the Estonian employment relations system. Inflexible employment relations together with the lack of tradition to accommodate work is keeping employees to make requests and for employers, to offer or negotiate accommodations. Furthermore, disability and age management are often categorised as occupational health and safety issues by social partner representatives and not, therefore, a matter of working conditions. Other factors that directly influence employee bargaining and co-determination for work accommodation, are low awareness about their functional capacity and suitable employment, but also of their rights and courage and willingness to disclose an impairment and request non-standard working conditions. In the case of employers, lack of knowledge of possible accommodation opportunities, uncertainties related to work accommodation and risks related to collective reaction to hiring people with disabilities, appear to be important factors. In addition, there is low awareness of their legal rights and support measures available from government among both employers and employees. Based on the aforementioned challenges, social partners agreed that the ultimate aim is to ensure that working conditions will not be the reason why a disabled or older person is out of work. Objectives that could be better realised by setting realistic and practical objectives, such as raising awareness among employers and employees about work accommodation opportunities and recognizing when work accommodation and opportunities to negotiate over the need for work accommodation, arise.

The ideas social partners proposed and discussed mainly revolved around what information is necessary to encourage employers to accommodate work and employees to ask for work accommodation and make the decision-making process on whether to accommodate work easier than it currently is. There were no proposals on how work accommodation could be integrated to collective agreements which is

probably due to the fact that collective bargaining is not widespread in Estonia. From a list of possible interventions, social partners agreed that the first step towards enhancing work accommodation via industrial relations would be to compile detailed information about the work accommodation process, together with information about the most common disabilities, including their main characteristics and practical advice about what employers should consider and take into account when they hire or plan to hire workers with disabilities.

To achieve this, it was decided that all relevant information about work accommodation (from information about accessible workplaces to tax benefits etc) scattered between different organisations webpages should be gathered, systematized and updated and written down so that it would be relevant, clear and concise, but also sufficiently detailed in order to be easily translated into practice. In addition to this information, real life stories of work accommodation in different types of companies and sectors should also be collected that would increase awareness on what kind of different work accommodation are possible with the information on how much it could approximately cost and what were the main challenges implementing them. Both, employers and employee representative organisations (ETKL and EAKL) will create a topical sub-webpage on work accommodation in their webpage together with references to other relevant sources. The information will be shared in different channels such as newsletters, special sectoral magazines, but also within everyday communication with members, in topical seminars, cooperation events and conferences to spread the knowledge, but also to reach members who do not visit or use these websites very often or at all.

As this is the first project of its kind in Estonia, the whole process itself can be seen as success. However, several challenges and questions remain. Firstly, it can be questioned, whether further aims and actions set by social partners are the best or maximum that could be achieved via social partners' joint efforts to enhance work accommodation in today's Estonia. While overall, the structures and legislation are there to promote work accommodation via industrial relations, the project results show that even with the steps agreed to be taken from hereon, social partners worry whether it is possible to ensure the sustainability and execution of these efforts. While on the one hand, this is related to social partners scarce human and financial resources and capacity to address the issue in a more systematic way, on the other hand it is also a matter of priorities. As social partners have several other employment relations issues on their agenda, the key challenge is social partners own willingness and capacity to keep this issue in their agenda and systematically pursue activities to promote work accommodation.

## 2. Background

Questions of labour market participation and the employment opportunities of different population sub-groups was recently raised in the policy brief by Praxis experts (Haaristo et al 2015). The paper points out that in age group 15-64 approximately 600, 000 are employed and 279, 000 are either inactive or unemployed. Taking into account the population forecasts and presuming the same labour market activity rate, there will be 122, 000 less employed persons in the society in 2040. This development will have a considerable impact on welfare, inclusion and economic development in the society. The policy paper proposes that in part, these developments could be evened out by more inclusive labour market strategies. Analysis points out that, of those not employed 28, 636 are of retirement age and 44, 528 are disabled. A number of support measures are in place, including social protection system incentives and active labour market policies, but it is concluded that greater emphasis needs to be placed on inclusive workplace level practises and flexible working conditions.

There has been little specific research on work accommodation, although occupational disability/labour market disability and ageing in general is rather frequently studied. In the recent cross-sectional survey (Emor, Praxis 2016) it was found that 39% of the population older than 50 self-reported that their age limits the type of work they could do or they would need accommodated work arrangements. The self-reported need for accommodated work is bigger among those who are not employed. And those not working about 30% estimate that they the reason they are not working is lack of suitable work and 16% estimate that in order to return to work they would need help regarding work accommodation. Also, the multivariate analysis in the report indicates that older people who need work accommodation, are more likely to be unemployed or inactive. These results thus, indirectly suggest that the supply of accommodated work is small. In an earlier study (Espenberg et al 2012), it was reported that although there is considerable share of older employees that would say that their working conditions are too rigid, only few have informed employers about their needs. For instance, 23% of employees currently working full-time would like to work part-time, but of those only 11% have enquired about a change in working time. In the survey, it was also found that roughly half of employers do not currently, nor plan to accommodate working conditions for older employees. However, over one third of employers already report that they accommodate working conditions for older employees.

According to the most recent survey of disabled people (Saar Poll OÜ, Tartu Ülikool, 2009) 33% of unemployed or inactive disabled people self-reported that to return to work they would need accommodated work. The share is about 50% for those disabled people older than 65 years. 18% not employed disabled people estimate that the main reason they left their last job was related to their disability. This share is around one third among disabled people up-to 65 years old (working age). The results point to the need for suitable employment and accommodated working conditions. In one survey of employers (Saar Poll OÜ 2014), it was found that 54% of employers estimated that work accommodation is not costly, 28% considered it costly and 17% of employers could not estimate. Employers that currently do not employ disabled workers were more likely to estimate that work accommodation is costly. 8% of employers estimate that they would need government help in accommodating work. Also, 13% employers estimated that all of their workplaces could be accommodated, at the same time 18% employers estimated that there are no workplaces in their premises that could be accommodated and 29% of employers could not estimate.

### 3. Government policy on work accommodation

**Employment law** could be considered the main government policy measure on changing behaviour of employers and employees. The ILO convention and EC directive are transposed into Estonian legislation<sup>1</sup>. Article 11 of the Estonian Law on Equal Treatment stipulates that “Employers shall take appropriate measures, where needed in a particular case, to enable a person with a disability to have access to, participate in, or advance in employment, or to undergo training, unless such measures would impose a disproportionate burden on the employer”. The stipulation is complemented by regulation in Employment Contract Act (Article 88) that an employer may extraordinarily cancel an employment contract if the employee has decreased in capacity for work due to their state of health over four months. Before the cancellation, an employer has to offer “another work to the employee, including organise, if necessary, the employee's in-service training, adapt the workplace or change the employee's working conditions if the changes do not cause disproportionately high costs for the employer and the offering of other work may, considering the circumstances, be reasonably expected”. Also, Law on Occupational Health and Safety (Article 18) states that “an employer shall create suitable working and rest conditions for employees who are disabled” and “an employer is required to enable /.../ an employee who has become partially incapacitated for work in the employer's enterprise as a result of an occupational accident or occupational disease to continue work suitable for him or her in the enterprise”.

The most detailed definition of work accommodation was introduced to the Occupational Health and Safety Act (Article 10<sup>1</sup>) in July 2009: “Adaptation means making the building, workroom, workplace or work equipment of the employer accessible and usable for a disabled person. This requirement also applies to commonly used routes and non-workrooms used by disabled employees.”

The Law on Equal Treatment that took effect in January 2009 (Article 11) also specifies how to consider whether the adaptation is reasonable: “Upon determining whether the burden on the employer is disproportionate /.../ the financial and other costs of the employer, the size of the entity or enterprise and the possibilities to obtain public funding or funding from other sources shall also be taken into account”. Thus, the law applies to all employers without no other specification whether the duty to provide accommodation is placed on all employers regardless size, legal form or other segmentation. All employers have the obligation to accommodate working conditions if it is considered reasonable.

As the stipulation above indicates, the policy measures are targeted at “*disabled people*” or “*decrease in capacity for work due to state of health*”. It follows that the legislation does not explicitly target, however it does not also explicitly exclude ageing employees. Disability is defined in the Equal Treatment Act (Article 5), in effect from 1 January 2009, as “the loss of or an abnormality in an anatomical, physiological or mental structure or function of a person which has a substantial and long-term adverse effect on the performance of everyday activities”. Crucial is also the definition of (occupational) disability in social security legislation. The Work Ability Allowance Act in effect from 1 January 2016 (Article 5) stipulates that “upon assessment of work ability, the state of health of a person

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<sup>1</sup> the Equal Treatment Act was passed in Estonia in 2008. It ensured the correct implementation of the Directive and resulted in the Commission closing its case against Estonia- European Commission (2009). Employment equality rules: case closed for Estonia; reasoned opinions to Germany and Italy. IP/09/1620. Accessed on 03/04/2014 at: [http://europa.eu/rapid/press-release\\_IP-09-1620\\_en.htm](http://europa.eu/rapid/press-release_IP-09-1620_en.htm).

and restrictions on activity and participation arising from the state of health, and the prognosis and estimated duration of such restrictions shall be taken into account”.

The law does not discuss explicitly disclosure of disability or employers’ awareness or knowledge about disability or their need for an accommodation which an employer must have to be subjected to the duty. It follows that employer might request medical certificate or similar from the employee claiming for an accommodation.

In Estonia there is no specific legislative provision concerning a duty to consult the disabled worker. However, according to Employees’ Trustee Act in effect from 1 February 2007 (Article 20) an employer shall inform and consult about substantial changes in the work organisation, changes in the employment contract relationships, the structure of the employer, that in principle could also cover provisions of reasonable accommodation. More specifically, Article 18 of Occupational Health and Safety Act stipulates that working environment council<sup>2</sup> shall “assist in the creation of suitable working conditions and work organisation for female employees, minors and disabled employees”.

In Estonian employment and social protection system, there is no explicit obligation to consult other (government) body with regards to the reasonable accommodation. That includes that in social security system, particularly in neither sickness benefit system nor work ability allowance is tied to return to work-stay at work process. Which means that whether employers decide to accommodate or not accommodate remains entirely their decision and reasonable work accommodation could be not implemented due to lack of ideas or low awareness of different support opportunities for work accommodation. However, indirectly employers are supposed to consult the Labour Inspectorate regarding the application of labour law, including the provision of reasonable accommodations.

In the system, there are no preferential employment measures or employment quotas stipulated in the regulation. However, the Estonian Law on Equal Treatment (Article 11) encourages employers taking of positive measures regarding persons with disabilities stating that granting “preferences to persons with disabilities, including creating a work environment suitable for persons with special needs linked to disabilities, does not constitute discrimination.”

**Making the employment right effective.** Although employees’ terms of employment are covered by administrative labour inspection, the scope of the working conditions to be inspected (for instance working time limits) has become quite limited after new Employment Contracts Act was put into effect in 2009. The direct interpretation of the Employment Contracts Act (Article 115) excludes state supervision, but indirectly the Occupational Health and Safety Act (Article 25) could allow for state supervision. Additionally, the Gender Equality and Equal Treatment Commissioner monitors compliance with the requirements of Equal Treatment Act, which includes equal treatment clauses relating to employment and work. However, this enforcement principle is theoretical, as according to the available public information, there has not been inspection regarding work accommodation.

Employees have the right of recourse to tripartite pre-court system - Labour Dispute Committee or to court (Individual Labour Dispute Resolution Act (1996). Also, in the case of disputes, employees could request their representatives, for instance employee trustees to represent them in a labour

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<sup>2</sup> According to the law, a working environment council is a body for co-operation between an employer and the employees’ representatives which resolves occupational health and safety issues in the enterprise.



dispute with the employer before having recourse to a labour dispute resolution body (Employees' Trustees' Act, § 10)<sup>3</sup>. In case of the dispute, the court can either award compensation, and/or order the employer to adopt or implement a certain accommodation. From all the labour dispute claims (5544 in 2016), 3534 claims made by employees were related to stipulation article 88 from Employment Contract Act that regulates extraordinary cancellation of employment contract by employer for reason arising from employee including the reason „if the employee has for a long time been unable to perform his or her duties due to his or her state of health which does not allow for the continuance of the employment relationship (decrease in capacity for work due to state of health).“ However, it is not clear, how many of these 353 claims were related to this reason for extraordinary cancellation as article 88 includes several other reasons.

**Economic Incentives.** There are number of measures in the Estonian tax-benefit system that could be considered incentives to encourage employers to (formally) employ disabled people. In the tax system, work accommodation is the most directly targeted by tax exemptions. Income Tax Act (put into effect from 1 January 2015)(Article 48) stipulates that income tax is not charged on medical devices which are granted by an employer to an employed person whose loss of capacity for work has been established to be 40% or more (in the case of an auditory disability, decrease of auditory ability of 30 decibels and more) and the value of which does not exceed 50% of the total size of payments subject to social tax made to the employee or public servant during one calendar year. In more general terms, there are also incentives for suitable transport, training and general taxation that also indirectly could motivate employment of disabled people.

In the benefits system, the most considerable is compensation of adaptation and special aids. According to Labour Market Services and Benefits Act (Article 20 entered into force as of 1 January 2012) “the Estonian Unemployment Insurance Fund shall compensate the employer for 50 to 100 per cent of the cost of the adjustment<sup>5</sup> based on the reasonableness of the expenses for eliminating disability-related hindrances.<sup>6</sup>” Also, (Article 21) stipulates that the Fund is obligated to conclude a contract under public law with the disabled person or the employer of the disabled to person to enable free of charge special aids and equipment for the disabled person. Additionally, working with a support person (i.e. labour market service provided to disabled unemployed persons who, due to their disability, need help and direction while working) is subsidised (Article 23). Also, there are additional labour market services for disabled people that they can claim, more general than work accommodation (e.g. work practice).

**Awareness raising, guidance.** There are no specific measures aimed at training, information and knowledge sharing activities. As hinted above, the Labour Inspectorate consults employers regarding the application of labour law, including the provision of reasonable accommodations. Also, the Estonian Unemployment Insurance Fund (also in cooperation with Astangu Vocational Rehabilitation Centre)

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<sup>3</sup> Since 2007, Estonia has had a dual channel of employee representation – employees can be represented by a trade union and/or employee trustee. Employee trustee can be elected by trade union members or employees in the general meeting (Employees' Trustees Act).

<sup>4</sup> Labour Dispute Committee statistics from 2005-2016

<sup>5</sup> Here, the adaptation is defined as follows: „Adaptation of premises and equipment means the rendering of an employer's construction works, facilities, workstations or equipment accessible to and fit for use by a disabled person.“

<sup>6</sup> To reclaim compensation, employers must turn to EUIF with their request and EUIF will decide whether the request will be approved.

consults employers during the above mentioned public employment services related to work accommodation. Also, there is [short article](#) on work accommodation on work-life portal, the portal compiles different work related information and is aimed at employers, employees and their representatives.

### Policy Evaluation

There are no counter-factual policy evaluations. According to the most recent qualitative policy analysis (Masso et al 2015) that partially focuses on work accommodations two recommendations are outlined for the government. Firstly, it is recommended that they introduce additional measures to guide employers and employees on presenteeism and absenteeism to support stay at work and return to work processes, which includes work accommodation. Secondly, the take-up of the economic incentives for employing disabled people, including incentives for work accommodation is rather low (in 2016, there were 686 cases of wage subsidy, 4 cases of adaptation of premises and equipment and 102 cases of working with special aids and equipment (EUIF statistics). This can be caused by the differences in the criteria set to be eligible for different support measures, resulting with a situation where people with similar problem could be treated unfairly depending of the criteria. Thus, it is suggested by Masso et al (2015) that the qualification criteria for different incentives should be based on unified standards, so that all persons with an occupational disability are treated equally.

## 4. Industrial Relations and Work Accommodation

### Institutional framework

Estonia's modern industrial relations system had to be built from scratch including circumventing and enforcing legislation on collective bargaining and collective dispute resolution in 1993. There have been few amendments to the legislation passed in 1993, even though much has changed in employment relations, in the labour market, in the economy, and in individual employment law since then (such as the decrease in trade union membership and collective agreements, increase in ageing population, emergence of new employment forms etc). Early in 2013 the government began to discuss new legislation on collective bargaining and collective dispute resolution with the social partners, however, the reform plan remained standstill around 2014 (see also the overview of the plan [here](#) ) and has been put on hold since then due to inability to compile a Draft Act that would be suitable for both, employers as well as employee representatives.

Since 2007, Estonia has had a dual channel of employee representation – employees can be represented by a trade union and/or employee trustee. In more detail, the institutional framework is described [here](#) and [here](#). Regarding, in particular, work accommodation, two considerations are practical. Firstly, as already discussed above, conditions of **employee participation** could also cover stipulations of work accommodation. In particular, Article 18 of the [Occupational Health and Safety Act](#) stipulates that working environment council<sup>7</sup> shall “assist in the creation of suitable working conditions and work organisation for /.../ disabled employees”. Secondly, regarding **collective Bargaining**, the [Estonian Collective Agreements Act](#) (Article 6) outlines an open list of terms of employment and

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<sup>7</sup> According to the law, a working environment council is a body for co-operation between an employer and the employees' representatives which resolves occupational health and safety issues in the enterprise.

working conditions that parties may determine, including “working conditions”, “working and rest time conditions”, “the conditions for occupational health and safety”, and “any terms which regulate other relations between the parties to the collective agreement”. Thus, in general the provisions would allow concluding binding agreements related to employment of disabled or older people in general and work accommodation in particular. However, a collective agreement concluded by associations or a federation may be extended by agreement of the parties in respect of only closed list of conditions: (1) the wage conditions; (2) the working conditions; (3) the working and rest time conditions. Here, for instance, the closed list omits the conditions for occupational health and safety and thus the framework could potentially constrain collective bargaining on work accommodation

**Social Dialogue.** Trade unions, employers’ organisations and public institutions play a key role in the governance of the employment relationship, working conditions and industrial relations structures. They are interlocking parts in a multilevel system of governance that includes the European, national, sectoral, regional (provincial or local) and company levels. This section looks into the main actors and institutions and their role in Estonia. Social partners take part in the consultation phase of drafting legislation. In addition to that, the social partners are members of the supervisory boards of the Estonian Health Insurance Fund (EHIF), the Estonian Unemployment Insurance Fund (EUIF) and the Estonian Qualification Authority (EQA), which is responsible for developing the professional qualifications system in Estonia. In the context of ongoing reform, the government started the reform in 2012 and since 2013 social partners have been involved in preparing amendments to the occupational disability policy system (see the overview of the reform here). Among other things, in 2014 a goodwill agreement (Disability, or damage to health and the protection of human social cooperation agreement (in Estonian, 306 KB PDF)) between the government, labour market and social services providers, trade unions and some representative organisations of persons with disabilities was concluded<sup>8</sup>. The agreement proposes that occupational health and safety regulations should be reviewed to identify incentives to improve the working conditions and work environment of disabled people. Secondly, the Estonian Employers’ Association released the latest Employer’s Manifesto in 2014 that declared employer support for the goal of the work of incapacity reform and expressed a readiness to help people who require special work conditions back to work. Also, the Employers’ Association has published a short overview on work accommodation on their website.

**Collective Bargaining.** The dominant level of collective bargaining for setting pay, working time or any other issues in Estonia is the enterprise level. There are only a few sectoral and national level collective agreements. At sectoral level, there are only two agreements: in transport and in healthcare. At national level, national minimum wages are negotiated annually between the Estonian Trade Union Confederation (EAKL) and the Estonian Employers’ Association (ETTK) and then brought into effect by a government decree

Today, the trade union membership level in Estonia is one of the lowest in the EU. Looking at the reasons collective bargaining is quite low in Estonia, it has been found that Estonian historic-cultural background, mainly its Soviet Union heritage, has not allowed to build and develop trade union movement in Estonia on the same ideological basis as in has in other countries and that the

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<sup>8</sup> However, the major representative organisations of people with disabilities that had been vocal in expressing their criticisms and points of view during the debate did not sign the agreement. They claim that the government had not taken into account the shortcomings they had pointed out and their suggestions made during the parliamentary debate

individualistic nature of Estonian people does not favour belonging to trade unions (Kallaste et al 2011). Trade unions institutional weakness, in turn, has its effect on collective bargaining. In the same study, it was found that states lack of appreciation and low support to social dialogue and collective labour relations also affect general opinion towards collective labour relations (Kallaste et al 2011). According to ECS2013, trade unions exist in 5% of establishments and employee trustees in 35% of establishments. About 6% of all employees belong to trade unions (OECD/Visser (2014). Collective bargaining coverage remains very low, thus national and sectoral level social partners mainly represent their members interest by participating in policy consultations. According to the 2009 Work Life Survey, 32.7% of employees were covered by a collective agreement, while 5.4% said they did not know whether they were covered by a collective agreement or not. The survey also indicated that about 6% of all companies in Estonia had concluded a collective agreement. There is no information whether work accommodation has been the subject of bargaining, however 84% of concluded agreements determine conditions related to occupational health and safety (Põldis and Proos 2013). It might be very distant proxy to readiness to discuss issues related to sustainability of work, ageing and disability management and work accommodation.

In the recent year, equality (most notably gender equality) has also been one of the topics the trade unions have been promoting. In 2011 Estonian Transport and Road Workers Trade Union, in cooperation with other organisations, including the Estonian Trade Union Confederation released Practical collective bargaining handbook that considerably focus on equal opportunities and equal rights, although not directly work accommodation. Also, the Employers Confederation informs its members and other employers about work accommodation in a short article authored by an active labour market policy expert. However, these activities have not been systematic, but rather one-time projects and rather general without focusing on how equality and diversity could be promoted in different sectors and taking into account the specificities of different groups.

Overall, national level social partners rather focus on national level social dialogue and participate in policy making through Draft Act consultation process. Besides national minimum wage agreement and a few other cooperation manifestations, social partners have not concluded any national nor sectoral level binding agreements that would involve work accommodation measures. Enterprise level being the dominant level of collective bargaining indicates that national level and sectoral level social partners do not have the will, capacity and the mandate from their members to negotiate and conclude agreements that would be binding to all their members. As employers' and trade unions capacity and resources are quite limited, they prioritize and take proactive position only in case of topics that are most relevant to their members. Work accommodation and how it could be enhanced via industrial relations has not been among those topics. However, social partners are quick to notice the barriers of work accommodation that are related to employment policy and that should be dealt by the state. This reflects the (reactive) work process that they are used to.

## Motivation

During the discussion seminars with social partners, two main drivers emerged that were relevant to the employment of disabled and older people. Firstly, as already discussed in the opening section, the Estonian population and workforce is shrinking mainly due to demographic ageing. Although employers are also for other possible solutions to tackle the shortage of labour, like immigration, they also acknowledge the importance of keeping the native population active and including the inactive

population in employment. Secondly, there was evidence in discussions that both employer and employee representatives are allegedly increasingly turning to fundamental values like equal opportunities and diversity. For instance, a number of employer representatives in the seminars were also the members of the Estonian Diversity Charter that promote inclusion in Estonian society and labour market and believe that companies that take into consideration diversity in society could better use its potential capacity and be more competitive. Regarding the two drivers, the approach to an inclusive labour market would be seen to a large extent as an opportunity, not a problem. To put it differently, the more positive approach recognizes that rewards for work accommodation and inclusive employment in general are much greater meaning that by being proactive, it provides opportunities for improving our quality of economy and society. Still, it is important to emphasize that most employer side participants were not from sectoral associations, but individual (socially responsible) company representatives, which could indicate that despite public manifestations of the importance of the issue, employers' representatives currently lack the will and capacity to take proactive steps to improve work accommodation themselves and the prevalent mindset is that every company should deal with this issue if and when its relevant to them.

### Defining the issue

The insufficient demand and supply of work accommodation is recognised by social partners as a multifaceted issue. More than that, the multifaceted issue shall be conceptualised in the more general employment relations context. We start the discussion from the latter. Work accommodations for disabled or older people could be considered as one form of non-standard terms of employment and working conditions. More than that, co-determining accommodated working conditions could be interpreted as flexibility in employment relationships. In this regard, social partners' representatives participating in the seminars pointed to the inflexibility/rigidity in the Estonian employment relations system. In general, the regulation of employment in Estonia is considered flexible<sup>9</sup> (see for instance OECD indicator on employment protection legislation). Also, as discussed above, the most crucial level of codetermination in Estonia is at company level where terms of employment and working conditions are individually bargained between the employer and employee and co-determined. Yet, non-standard work is relatively uncommon in Estonia. For instance, compared to a number of EU countries, the share of non-standard work time regime is considerably smaller in Estonia. Only around 10% of employed persons self-report part-time employment (in EU-28 about 20%), and only about 3% of employed persons report temporary employment (in EU-28 about 14%). It follows therefore, that the opportunities to bargain and co-determine accommodated work is contextualised by flexibility in employment relations and prevalence of non-standard working conditions and terms of employment and that non-standard work could be considered more "abnormal" than in many other EU countries. Representatives discussed that in the context of inflexibility in employment relations, the lack of a tradition to accommodate work is preventing employees from requesting accommodations and employers conform, and together negotiate work accommodation. Thus, since it has not been

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<sup>9</sup> The OECD indicators of employment protection legislation measure the procedures and costs involved in dismissing individuals or groups of workers and the procedures involved in hiring workers on fixed-term or temporary work agency contracts. It is important to note that employment protection refers to only one dimension of the complex set of factors that influence labour market flexibility. (OECD)

widespread practice, both, employees and employers do not come to the idea of asking or offering work accommodation.

Furthermore, disability and age management in general are often regarded as occupational health and safety issues by social partner representatives. Representatives therefore emphasized that suitable work and accommodated work shall also be safe, preventing (further) decline of functional abilities. Accommodation shall also take into account potential hazardous conditions, for example, the ability of wheelchair users to move into safety in case of emergency while elevators are not functioning due to fire. More than that, linking work accommodation to occupational health and safety is viewed as natural in the face of the developments in the discipline in both Estonia and Europe (see for instance Masso and Aumayr-Pintar, 2015), which increasingly has focused on, not only prevention of accidents and issues, but also supporting work ability over the life course. Arguably, this is also why the Estonian Occupational Health and Safety Act regulates work accommodation for disabled people (see also above).

Now turning to the issues that more directly influence bargaining and co-determination for work accommodation. Conditionally, employees and employers side factors could be demarcated based on the social partners' evaluations. **Employee** side impediments were evaluated to be related to self-sufficiency and awareness. It was discussed that people with disabilities could be worried that they do not have the best understanding about his/her functional capacity and suitable employment that could make the best use of the capacity and this might keep them from applying to jobs. More generally, individual employees might not have the best judgements about the work and work environment that would both (1) limit his/her knowledge power in bargaining and co-determination and (2) encourage a person to disclose ones need and request non-standard working conditions. Related to this is employees' awareness of their rights, which according to representatives' evaluations - employees are not aware about regulations and stipulations regarding work accommodation rights and services. In a recent survey 28%–34% of employees and the unemployed assessed their own awareness of labour law as poor (see also Masso et al. 2013), evidence that suggests, this explanation is indeed plausible. Similarly, it has been argued, based on administrative statistics, that the take-up of accommodation services and financial instruments is poor and that this can be linked to poor awareness (Masso et al. 2015).

**Employer representatives** to a certain extent agreed with the employee side issues. During the seminars, employer and employee representatives considered one of the key issues to be that employers do not have the required knowledge to adequately imagine the possibility to employ the person by supplying suitable work and working conditions. Functional limitations are different and change over time, and employers without proper experience in disability and age management to not have the required knowledge toolbox for effectively matching employee with terms of employment and working conditions in the way that his/her work capacity is made best use of. Furthermore, some representatives' knowledgably discussed the fact that accommodations might be situational and there might not be readily available best practice on how to accommodate across situations and individuals. The other side of awareness is related to awareness on disability and ageing – the situation where employers or co-workers might be afraid of real or imagined differences: for instance, how to behave (how to act and communicate) when mental health problems unfold in work situations. Social partners' expert opinions also highlighted how management and decision making regarding work accommodation is challenging. Firstly, the employer might struggle with weighing the pros and cons,

and costs and benefits of work accommodation. Similarly, to other personnel management decisions there is uncertainty involved. For instance, employing a new worker who would need accommodated work is a risk that is increased by the investments in work accommodation that might be deprived from the returns, in case the employee or employer decides for other reasons like skill mismatch that employment relationship shall end. Although trial period applies to everyone according to the Employment Contracts Act and employment relationship could also end before trial period with other employees, it indicates that employers weigh between the bureaucracy, time and effort to hire and accommodate disabled workers and the potential benefit from hiring them. Secondly, employers might struggle with making the judgment and communicating in the organisation on enabling differences in terms of employment and working conditions. In other words, the employers and managers are risking in undermining good work atmosphere in case co-workers do not understand and recognize work accommodation as management practice and are afraid that this would disrupt perceptions of organizational justice. Thus, the work accommodation is often a joint effort in the collective. One key contingency of the above described issue is information asymmetry regarding health and work capacity. Although employers use recommendations given by occupational health doctors to shape their work environment, they do not have direct access to confidential personal information, and employees' willingness to share the required information is little. This asymmetry pertains to distrust that result in mismatching employee to suitable work. This is especially severe in case of invisible or hidden disabilities, where the opportunity for employment and productivity for employers is veiled.

Similarly, to employee side challenges, employers' noted challenges that point to alleged shortcomings in employment policy. However, while employee side challenges are more related to how to make the interventions effective (i.e. legal awareness), employer concerns pointed to both policy design and implementation. Regarding design, social partner representatives pointed out that requesting work accommodation is futile in the case of the public sphere, building and roads, education etc. because institutions and buildings are not accommodated. More directly to work accommodation, some forms of employment are either over or under regulated. Regarding the former, part-time work is relatively more expensive due to minimum social security contribution (that at the same time tackles moral hazards in the social protection system and ensures quality of public services). Regarding the latter, the employment law does not regulate home-work and distance working, thus employers feel they have full liability in a situation when they could only have partial responsibility for safety. Regarding the design of financial instruments, both benefits and in kind (i.e. services), employers point out that the policy rules are too rigid, for instance, the Estonian Unemployment Insurance Fund compensates the costs of particular accommodations for particular employees, not for general accommodation for all the possible similar future employees. Also, the application process is considered too long with excessive administrative burden. This also passes to implementation related issues. Similar to employees, employers' legal awareness is lacking according to social partner representatives. It was discussed that there is no one stop agency or source of information on work accommodation and supporting employment policy (for instance social partners pointed out that, in case of existing workers employers are not aware of the recent amendment that also currently employed employees are eligible for the refund discussed above).

### **Realistic Objective for Change**

Once the social partners finished mapping the main barriers and challenges related to work accommodation, it was time to set realistic objectives that could be achieved by efforts made in

cooperation between trade unions and employers' associations that would help to increase work accommodation and tackle the issues currently impeding work accommodation. Social partners decided that the ultimate objectives are:

- 1) to ensure that people **with reduced work capacity, who are ready and willing to work, find suitable job with suitable working conditions.**
- 2) **to prevent the fallout of employment of people with reduced work capacity that are already in employment by ensuring they get suitable work accommodation on time. Meaning that the general aim is to ensure that an inability to accommodate working conditions will not be the reason why a person with reduced work capacity is out of work.**

These ultimate objectives could be reached by setting more realistic and practical objectives such as raising awareness among employers and employees about work accommodation opportunities, on how to recognize the need for work accommodation and opportunities to negotiate over the need for work accommodation that would altogether contribute to the increase in work accommodation and decrease in shortage of labour force.

### **Solutions: Way Forward**

The importance of knowledge and information as key factors promoting work accommodation has also been emphasized in the literature. Several authors have suggested that lack of knowledge and information on work accommodation and respective technologies are among the typical barriers to implementation of work accommodation at the workplace (Heckl and Pecher 2009; Nevala et al. 2015; Gold et al. 2012).

As previously mentioned, social partners have not due to abovementioned reasons been actively involved in enhancing work accommodation through industrial relations. During the design seminar on aims and solutions, social partners were asked to brainstorm to gather suggestions and ideas that could help to achieve the previously set objectives. The ideas social partners proposed and discussed mainly revolved around what information is necessary to encourage employers to accommodate work and employees to ask for work accommodation and make the decision-making process on whether to accommodate work easier than it currently is. One of the proposals also foresaw employers and employee representatives participating in wider media campaigns, TV and radio shows, writing articles where they share experiences of work accommodation to encourage others and "normalise" work accommodation, but this was afterwards excluded from current set of activities due to lack of resources to draw up long-term communication plan and lack of resources to create input. There were no proposals on how work accommodation could be integrated to collective agreements which is probably due to the fact that collective bargaining is not widespread in Estonia and since collective bargaining mainly involves wage and working time stipulation negotiations. Also, since it is a new subject for social partners to deal through industrial relations, it was somewhat predictable, that they would rather be open and willing to "soft" measures such as raising awareness and breaking the stereotypes and fears connected to disability, rather than proposing possible options how to consult their members on work accommodation in collective bargaining negotiations. However, the question remains whether the proposed solutions would be the maximum that could be achieved in nowadays Estonia or it is the path social partners in Estonia are accustomed to take.



Social partners brought out the need for information on 1) Most common disabilities with details of their main characteristics and a potential list of unsuitable work assignments and work environment elements, but also guidance on how to communicate and react to people with mental health issues that employers have to take into account when hiring a disabled person. This information would help them, but also employee representatives to get realistic overview of what kind of job would be suitable for people with different disabilities and shape employers attitudes to be more open to hire people with disabilities and design job advertisements so that it would encourage people with disabilities to apply 2) detail steps on how to accommodate work and working conditions, who should be contacted, how to decide what might be the reasonable accommodation for different disabilities with approximate costs of work accommodation available in one place 3) about support services (benefits, allowances, schemes that subsidise the costs of accommodation). In addition, social partners expressed the need for sharing good practices and experiences on work accommodation in different type of companies and sectors to share ideas how work can be accommodated, what have been the challenges and how these challenges could be addressed. By improving employers and employees' awareness and knowledge and tackling their fears and stereotypes would make accommodation more realistic and tangible. Thus, social partners would hope that this would help to improve to promote work accommodation.

The ideas shared by social partners have also been reflected in the literature. Heckl and Pecher (2009) reported that disabled people may need support in job searches, in assessing their skills, checking their employment options and obtaining information on training possibilities and reasonable accommodations. Nevala et al. (2015) has emphasized the attitudes, understanding and knowledge of co-workers' about the disability or disease and work accommodation as important facilitators or barriers to employment. Thus, employers and employees awareness of work accommodation is important for ensuring adaptation of workplaces (Gold et al. 2012). In addition, Heckl and Pecher (2009) have stressed the importance of a single information point (one-stop-shop), which bundles the know-how concerning all issues with regard to the integration of persons with disabilities and the provision of reasonable accommodation for both employers and the people concerned. Thus, social partners would hope that sharing information would help to promote work accommodation.

To continue, social partners were asked to choose one idea from their brainstorming outcomes that fit three criteria: The solution is according to social partners' achievable meaning that it is suitable, executable and does not need external resources to be implemented. Thus, it can be implemented via industrial relations. Based on the criteria, social partners decided to continue to thoroughly design the execution of two ideas put together: Compile detailed information on work accommodation process together with information on most common disabilities with its main characteristics and descriptions and practical advice and tips what employers should consider and take into account when they hire or plan to hire a person with disabilities.

For designing the solution, social partners had to explain how the solution works and what actions it involves. In addition, what resources are needed to execute the solution and what are the potential risks of this solution?

Social partners argued that the information necessary for successful work accommodation is scattered between different websites (Unemployment Insurance Fund, Labour Inspectorate, Riigi Teataja, The Estonian Chamber of Disabled People (EPIkoda) and different informative pages such as Tööelu.ee that compiles information on different aspects of working life) and lacks detail. Information available in these pages is general and there is no one-stop-shop where employers and employee representatives

would get a comprehensive overview of information necessary to accommodate working conditions or request work accommodation. Therefore, firstly, all relevant information scattered between different organisations webpages should be gathered (e.g. Unemployment Insurance Fund has information on services and benefits; EPIkoda has information on factors employers would need to take into consideration before hiring people with different disabilities, but also how to communicate when mental health problem unfolds in work situation etc), systematized and updated and written down so that it would be relevant, clear and concise, but also sufficiently detailed in order to be easily translated into practice. This information would involve relevant information for employers and employee representatives as well as employees. In addition to this information, real life stories of work accommodation in different types of companies and sectors should also be collected that would increase awareness on what kind of different work accommodation are possible with the information on how much it could approximately cost and what were the main challenges implementing them. This would help employers to make decisions on what work accommodation would be realistic in their working environment (e.g. building an elevator might be too expensive, but providing remote work opportunities would be possible). Such information is necessary for employers, but also for employee representatives as studies have also indicated that employers and employees might have different preferences regarding work accommodation. Gold et al. (2012) found in an analysis of a comparison of employer and employee perspectives of work accommodation in the USA, that, on the one hand, parties perceptions about negotiating reasonable workplace accommodations converged in several ways (e.g. presenting credible requests to improve employee job performance), on the other hand, they also differed sharply on their expectations of each other (e.g. costs versus moral obligations to provide accommodations). In addition, as it has been mentioned that support from co-workers might be one of the main barriers for disabled peoples employment (see Nevala et al. (2015), working with the personnel to prepare them for hiring a disabled person would be easier if both, employer and employee representatives would make joint efforts. Also, by knowing this, employee representatives could help employees with disabilities to disclose their need for work accommodation and provide different work accommodation ideas to employers to make the negotiation process easier and allay employers' potential fears accompanying work accommodation.

Although most of the information gathered during this process could be relevant for both, employers and employee representatives, social partners agreed that different channels would be used to reach their targets. Similar practices have been used in United Kingdom and elsewhere (see (Clayton et al. 2012). Both, employers and employee representative organisations (ETKL and EAKL) will as a result, create a topical sub-webpage on work accommodation in their webpage with general information on where to find references to relevant legislation and information on services and benefits together with more specific information necessary for their members. This means, employers would enrich the general information with practical stories on how work has been accommodated in different companies, what was done by whom and when and the same will be done by the trade union organisation, where instead of employer side, relevant information for employee representative on how to negotiate work accommodation will be included. It was also decided that cross-references will be made between social partners' websites to ensure that all relevant information is still available in one place. In addition, both parties would conclude FAQ to answer the main questions their members have related to work accommodation and its process. The information on the webpages on work accommodation will be shared via newsletters, special sectoral magazines, everyday communication

with members, in topical seminars, cooperation events and conferences to spread the knowledge, but also to reach members who do not visit or use these websites very often or at all.

Regarding the resources necessary to implement this selected solution, employers' organisation (ETKL) is in the starting phase of a new four-year long project in cooperation with The Ministry of Social Affairs and Estonian Human Resource Management Association (PARE). The overall focus of this project is to encourage employers to hire people with disabilities, thus information on industrial relations and work accommodation gathered within this project will also be communicated and shared under the new project. It was discussed that some part of information gathering that is necessary for raising awareness on issues mentioned in this project can be gathered within the new project such as FAQ on issues related to hiring a person with disabilities and experiences of companies that have already accommodated work. The webpage with FAQ will be completed in autumn. It was also agreed that within this project, The Estonian Chamber of Disabled People would update their information on different disabilities (main characteristics and descriptions) that is relevant for the employers to take into consideration when hiring people with different disabilities (what work accommodation would be necessary when hiring a person with eyesight impairment etc) that could then also be used and cross-referenced in their topical sub-webpage by both social partners. Although this project focuses on employers, it was discussed in the seminar, that cooperation between ETKL and EAKL on this issue will continue meaning that information gathered from this project will be shared with trade unions confederation (EAKL) who can then share important information necessary for employee representative to be more informed and useful in the work accommodation process via their own channels.

Social partners were also asked to contemplate on the main risks for the solution to be successful. Main worries brought out by the social partners were that it might be difficult to ensure that the info in the webpages will be systematically updated and complemented with additional new information as new topics emerge constantly that demand social partners' attention and thereby the resources to deal with all relevant topics might not be sufficient. In addition, social partners could not find water-tight solutions on how to reach all target groups, especially older people and disabled people who might use and prefer other information channels instead of surfing in websites. Although, it was suggested that they could be reached in seminars and common events, such events are not that systematic and therefore only reach a certain audience. Thus, their awareness is largely intertwined with the workplace level information and consultation and depends largely on how well employers use their internal communication tools and how informed is the workplace level employee representative. Social partners also admitted that currently, they lack resources to compile long-term joint communication plan to alleviate these risks. Thus, while during the seminars, social partners were able to detect the barriers for work accommodation and propose and design some solutions, a lot depends of social partners own willingness and capacity to keep this issue in their agenda and systematically pursue activities to promote work accommodation. In the literature, there is little knowledge on the impact of industrial relations on work accommodation, but there are studies that show (Van Dalen et al. (2015) that human resource policies of European employers in relation to older workers, including work accommodation are more likely if labour unions are involved. Also research (in-depth interviews with supervisors in Canada) by Williams-Whitt (2007) indicates that accommodation outcomes for disabled employees may be substantially affected by the quality and degree of union involvement. Nevala et al. (2015) has also brought out that the willingness of employees, the employer, and other professionals to build mutual trust and understand their responsibilities in the provision process, as well as mutual

understanding of the motivations for work accommodation is found to considerably enhance the work accommodation process. Currently, it can be said that social partners in Estonia rather prefer activities to promote work accommodation that can be done on their own.

Therefore, to increase work accommodation for disabled and older people in Estonia, it is important that social partners continue and tighten their cooperation and building mutual trust towards each other.

BOX 1 PROPOSED CHANGES TO WORK ACCOMMODATION EMPLOYMENT POLICY

First and foremost, the seminars focused on what social partners shall and could do to influence work accommodation. However, social partner solutions are conditioned by employment policy, social partners co-create employment policy in social dialogue with government policy makers, and thus during the seminars a number of suggestions regarding employment policy were proposed.

#### **Employment law**

- › The current regulations directly entitle the right for the accommodated work for those with a formal disability. It follows that other people without a formal disability, or those with a functional disability because of ageing, are not covered. Amendment could be considered to extend the right for work accommodation and obligation to accommodate work.
- › Age management and disability management at the workplace level depends on adequate knowledge. Currently, the obligatory training and in-service training for working environment representatives and working environment specialists does not include skill and knowledge requirements in age management and disability management in general and work accommodation in particular. An amendment to Occupational Health and Safety Act could be considered to improve the knowledge of the working environment representative and working environment specialist.

#### **Tax law**

- › Employment costs of part time work are relatively bigger due to social protection minimum contribution requirements. However, the rule does not apply to old age pensioners, work ability benefits receivers (and sickness allowance receivers). It follows that other people with functional limitations need for part time work are not covered. An amendment to Social Tax Act could be considered to extend the exception in the minimum contribution policy rules.
- › There are several discounts and subsidies available to employers and their employees related to disability management, including work accommodation. However, the qualification criteria for different discounts and subsidies varies whether the disability is formal, whether one has a form of occupational disability or formal disability in general, whether one has temporary disability (sickness benefit), and therefore, not everyone is treated equally. An amendment to Income Tax Act could be considered to clarify the eligibility rules and tackle possible discrimination.

#### **Unemployment protection law**

- › Active labour market services include transport, accommodation, special aids benefits and in-kind benefits for both unemployed and employed disabled people. However, employers consider the application procedure too costly due to administrative burden and too long lasting. Also, the policy rules presume individualised accommodation, and employers who would like to accommodate for group of individuals before employing one, are not covered by the measure. Due to awareness, eligibility rules, administrative burden, the take-up is minute. Amendment to Labour Market Services and Benefits Act could be considered to improve the coverage and take-up.

#### **Knowledge sharing**

- › Estonian employment policy (including labour inspectorate and unemployment insurance board, health insurance board, tax-and customs board) does not have a one-stop shop

approach for benefits and services. Allegedly due to fragmentation, agencies focus on policy measures they administer. More than that, in general they focus on the instrument but not holistic approach to work accommodation. System change could be considered to have one entry point that could network expertise and knowledge for case management.

In cooperation with social partners, we plan to make arrangements to discuss these policy issues and solutions with policy makers and implementers.

## 5. Conclusions and evaluations

Estonia is among the countries where employment of disabled people and older people is relatively high. The employment rate gap of disabled people is 19 percentage points, which is similar to the EU average, and the employment rate gap of the population in age group 50-64 is 13 percent point while 21 percent points is the EU average. At the same time, the employment rate of these groups is considerably higher in Scandinavian countries and Benelux countries. For instance, in Sweden the employment rate of disabled people is 66% while 50% in Estonia and the rate of 50-64 olds is 81% in Sweden and 73% in Estonia. Among other factors, work accommodation could be the key driver, as in Estonia there are 12% of employees whose workplace or work has been changed to accommodate for health problems, while in SWE it is higher at level of 20%.

Activating and including disabled people in the labour market has been much discussed in the context of central public administration's occupational disability reform that started in 2014. In the context of population ageing, i.e. workforce ageing and decrease, also active ageing and employment of ageing population has been debated. Though terms of employment and working conditions have been mentioned in the debates, the issue of work accommodation hardly could be considered the focus question of the debate.

Collective employment relations, including social dialogue have not very robustly focused on the issue either, arguably due to the limited role of collective employment relations in the Estonian employment relations system and the number of economic, labour market and employment relations issues in the focus of social partners. However, there are at least some door opening initiatives that point to readiness to consider and debate the issue of work accommodation and issues of collective employment relations. Most notably, social partners have been in active social dialogue with the government during the occupational disability reform, and have reflected importance of enabling working conditions in their statements and materials.

The key driver to consider the employment of disabled people and old people in social partners' agenda derives from the issue of population shrinking and ageing. Taking into account the population forecasts and presuming the same labour market activity rate, there will be 122 000 less employed persons in the society in 2040. The analysis points out that of those not employed 28 636 are in retirement age and 44 528 disabled. Not least important is that employers' and employees' representative are allegedly increasingly turning to fundamental values like equal opportunities - considering diversity in society could better use its potential capacity and improve its economy.

Work accommodations for disabled or older people could be considered as one form of non-standard terms of employment and working conditions. The most crucial level of codetermination in Estonia is company level where terms of employment and working conditions are individually bargained and co-

determined. The employment law and collective agreements enable flexible co-determination.. Yet, compared to number of EU countries, the share of non-standard work arrangements like work time regime is considerably smaller in Estonia. It follows that in the context of inflexibility in employment relations, the lack of tradition to accommodate work is keeping employees to request and employers conform, and together negotiate work accommodations.

Even more importantly, both employers and employees lack proper experience in disability and age management and do not have the required knowledge toolbox for effectively matching employee with terms of employment and working conditions in the way that his/her work capacity is made best use of. It follows that awareness and knowledge about disability and ageing and work accommodation, including rights and obligations stipulated in employment law, is holding back negotiating suitable work and working conditions.

The way forward according to the seminars with social partners would be to compile detailed information on work accommodation process together with information on most common disabilities with its main characteristics and descriptions and practical advice and tips what employers and employees should consider while negotiating and managing work accommodations.

The solution finding process and proposed and designed solutions reflect Estonian industrial relations system. Work accommodations like most of the terms of employment and working conditions shall match both employers and employees' needs and preferences. More than that, in Estonian employment relations system, the bargaining takes place at individual level. The challenge of work accommodation bargaining is that although work accommodations need to be individualised, the issue of lack of demand and supply of work accommodation goes beyond individual workplace and individual bargaining. Thus, specifying social partners or collective employment relations work accommodation agenda is challenging.

In relation to that, third party interventions to tackle the demand and supply of work accommodation includes both central government's employment policy and social partners sector level and state level collective employment relations. Due to industrial relation system in Estonia, social partners much readily are willing to point to complexity of issues in the design and implementation of work accommodation and disability policy, than taking the responsibility in the issue, and design and implement their own solutions to tackle the issue.

Regarding to the very solution conceived, some caveats shall be kept in mind. Sharing information and knowledge might remain baby step in a longer process in influencing employees' and employees' behaviour regarding work accommodation. For instance, it is known that impact of the (passive) information sharing activities depend on number of cognitive processes like values and functional literacy. Thus, no employee or employer is the same and smaller organisations or less educated employees and managers could be less nudged by these activities.

Part of the intervention chain would be social partner member counselling and representation in bargaining work accommodations. Currently, social partners are representing its members interests more in employment law and not in actual practices. Thus, one key challenge of implementation of the knowledge sharing activities is how to grow sustainable capacity to further consult its members on work accommodation based on the information guides and cumulative catalogue of workable solutions and practices.



Ultimately, the key success factor of the steps made so far would be building the willingness, capacity and cooperation and mutual trust between social partners to go on with the issue. Barely, the previous dialogues and statements and the current solution finding seminars have any direct effect on work accommodation. Similarly, to the current occupational disability reform that has stalled to its first step of reforming the benefit system, the social partners' initiative will be futile without execution and taking the steps further. It remains to be seen to what extent the social partners are willing to prioritize the work accommodation issue among a plenty of other employment and employment relations issues in their agenda. More than that, the responsibility and further steps shall be taken to build its capacity to make the future world of work more accessible for disabled and ageing population via work accommodation.

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<https://www.riigiteataja.ee/en/eli/ee/530102013066/consolide/current>

Equal Treatment Act (Võrdse kohtlemise seadus), Passed 11.12.2008, RT I 2008, 56, 315, Entry into force 01.01.2009;

<https://www.riigiteataja.ee/en/eli/ee/520062016003/consolide/current>

Occupational Health and Safety Act (Tööttervishoiu ja tööohutuse seadus), Passed 16.06.1999, RT I 1999, 60, 616, Entry into force 26.07.1999;

<https://www.riigiteataja.ee/en/eli/ee/520062016004/consolide/current>

Collective Agreements Act (Kollektiivlepingu seadus), Passed 14.04.1993 RT I 1993, 20, 353 Entry into force 16.05.1993

<https://www.riigiteataja.ee/en/eli/511112014001/consolide>

Employees' Trustee Act (Töötajate usaldusisiku seadus), Passed 13.12.2006, RT I 2007, 2, 6 Entry into force 01.02.2007

<https://www.riigiteataja.ee/en/eli/ee/519012015010/consolide/current>

Labour Market Services and Benefits Act (Tööturuteenuste ja toetuste seadus), Passed 28.09.2005, RT I 2005, 54, 430, Entry into force 01.01.2006

<https://www.riigiteataja.ee/en/eli/ee/506062014001/consolide/current>

Work Ability Allowance Act (Töövõimetoetuse seadus) Passed 19.11.2014

<https://www.riigiteataja.ee/en/eli/502042015015/consolide>

Income Tax Act. Passed (Tulumaksuseadus) 15.12.1999, RT I 1999, 101, 903, Entry into force 01.01.2000.

<https://www.riigiteataja.ee/en/eli/513062016009/consolide>

## 7. Annex: Methodology

The study design combines desk research (based on national policy documents and research papers) and participatory action research with social partners' involvement aiming to design interventions that would entail behavioural change. Thus, the aim of the action research is to in cooperation with social partners find and elaborate workable and easily implemented industrial relation practices and measures that could be used to support their own activities that encourage and enable older people and disabled people employment via adaptation of works and working conditions. Action research takes place in a form of a series of consecutive seminars. The results of the seminars are translated into case study report presenting an overview of industrial relations and work accommodation situation in Estonia. During the seminars, main barriers, aims are discussed and solutions designed.

Overall, the Estonian participatory research with social partners was carried out according to the case study guidelines. However, process wise we progressed more slowly than envisaged. Thus during the fourth seminar, the main focus was still discussion on the solutions. It follows that we will incorporate the evaluating and feedbacking to the dissemination activities to be designed over the summer. The seminars were structured and moderated as follows:

- i. **Opening seminar.** The first seminar was about 2 hours for about 20+ participants. After about one hour presentation on projects objectives and the background report on work accommodation in Estonia, we had open discussion on the subject matter. The discussion was moderated by asking open questions and giving-taking a floor to ensure that 20+ participants could share their thoughts. Content wise, the discussion focused on the problem.
- ii. **Design seminar on problems and aims.** The second seminar was about 4 hours for about 15 participants. The problems were discussed according to the guidelines using the problem tree. The discussion was structured in 3 groups. Before the group discussion we asked the participants to think about the question at hand independently, and then the group brainstormed and evaluated the problems. Then, groups reported on their discussion; together the results were synthesized and generalised. At the very end of the seminar also the aims were discussed, although as we were running out of time, sketchily. In general, the aims were discussed in two dimensions: (1) whether the aim is achievable and (2) what would be the impact.
- iii. **Design seminar on aims and solutions.** The third seminar was about 3.54 hours for about 12 participants. At the beginning of the seminar, we summarised the previous seminar conclusions on problems. Then moved on to frame the aim of the social partners' solutions and practices. In general, the aims were discussed in five dimensions: (1) how realistic is the aim; (2) how clear is the aim; (3) how relevant is the aim for social partners; (4) whether it is achievable via collective employment relations; (5) what would be the time scope of implementation and impact? At the very end of the seminar, we also started discussion on the solutions. In general, the solutions were discussed in five dimensions: (1) What are the plausible solutions; (2) why and how would these work; (3) what would be the strength and weaknesses of the solutions; (4) how to implement the solutions, what would be the implementation steps, roles resources. For brainstorming the solutions, we used the solution tree method. The discussion was structured similarly to the previous seminar.

- iv. **Design seminar on aims and solutions.** The fourth seminar was about 2.5 hours for about 10 participants. At the beginning of the seminar, we summarised the previous seminar conclusions on problems, aims and solutions. Then quickly moved on to finalise the discussion on the solutions. In general, the solutions were discussed in three steps: (1) continued brainstorming on possible solutions, (2) selecting the best and applicable solutions; (3) design and implementation of the solutions. The discussion was structured in 1 group this time. Before the group discussion we asked the participants to think about the question at hand independently, and then the group brainstormed and evaluated the solution.

There are number of things that did not go as smoothly as expected, or we had to tackle unexpected things:

- › **Feedback and comments to the summary.** After each seminar, we compiled a short summary on the discussions and expected the participants' feedback. In general, we got none. Hardly due to perfect summary. In individual conversation, it was argued that the seminars were in the busy spring time and representatives, participants did not have time. It is worth considering more active solutions for feed backing.
- › **Continuous participation.** According to the case study guidelines, the masterplan is that representatives participate in all the seminars. However, in our seminars not all of those who participated at the beginning were present at the end, some participants joined in the following seminars. This caused the challenge how to co-create the shared information field and prevent allocating too much time for summarising previous discussion.
- › **Representativeness.** In theory, the composition of participants was perfect – in addition representatives from employers and employees' representative organisations we had participants from also Töötukassa (unemployment insurance board) and The Estonian Chamber of Disabled People. However, especially the employers' representative organisation was represented by individual member employers. Thus they not all the time represented or felt they represent the confederation and its common interest and good.
- › **Fatigue.** Two middle seminars were planned to last 4 hours. It was clearly seen that participants were getting tired as the time went on. It also contributed to the postponing discussions from one seminar to another and less active participation from those who got tired. Although it would be easy to suggest shorter seminars, shorter seminars could have resulted in bigger number of seminars with more challenges to motivate representatives to participate and find the suitable timing.
- › **Choice and execution of techniques.** Number of reflections are related to the methodology of participatory research. Most importantly (1) the moderators were challenged to find the balance in teacher and learner role; (2) finding the balance between structured and open discussion; (3) getting through that aim is to empower social partners not write a report to EC, (4) sticking to design of the research and adapting it to changing circumstances; (5) encouraging diplomatically not to talk about the things the government would need to do and nudge to think big and elaborate about social partners role and responsibility.

We are also in the process of getting back feedback form from all the participants; after that the section will be updated. However, based on the feedback we got from the drop-outs it might be that number

of participants expected more hands on solutions to their individual employer or employee cases and thus it might be that we failed to communicate that we are for discussing the problems and solutions on more general, common level.

