

Protection of Children, Young People, and Women at Work in Estonia in the Context of Conventions of the International Labour Organization (ILO), 1919–1940

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Abstract: The International Labour Organization (ILO) established in 1919 was active in the creation of legal norms for certain work standards and coordinated the cooperation of member states, so that these norms would be transformed into general standards that would be followed in all states and which would be a precondition for securing permanent social peace in the world. One of the basic tasks of the ILO was to protect the most vulnerable on the labour market – children, young people, and women by creating for them appropriate conditions of work. The article deals with the ILO international standards for the protection of these groups, the adoption of the international standards by Estonia, and the effect of these standards on Estonian legislation.

Keywords: International Labour Organization; labour law; minimum age to work; children; night work; women; maternity protection; young people

INTRODUCTION

In traditional international relations research, a state-centred approach has dominated in which the primary actors have been governments. Robert Keohane's and Joseph Nye's work, *Transnational Relations and World Politics*, which appeared in 1971, included in the international arena, besides governments, such transnational actors as international movements, international corporations, and non-governmental transnational organisations¹ which influenced through their activity, similarly to governments, various aspects of international relations. For Keohane and Nye the transnational organisations are examples of international organisations that are based on an idea above that of the national state.² They defined transnationalism as the movement of information, ideas, money, people, and goods across state boundaries.³ Keohane and Nye understood transnational relations as contacts, coalitions and cooperation that were not limited by the boundaries of states and were not under the control of governments.⁴ Emily S. Rosenberg adopted in her 2002 work the use of metaphors of transnational currents which contained different changes and processes and which moved through networks that unite people and organisations with similar principles, aims and evaluations.⁵ She showed that these currents appear most clearly in international organisations.⁶ A transnational perspective allows a deeper understanding of the effect of global social, economic, and political processes on the nation-state, and helps to shine light on the strength and weakness of the nation-state and the understanding of local history in the context of world history.⁷

One such transnational organisation is the International Labour Organization (ILO). The aim of this article is to show when the first child and women's labour laws were enacted and when the protection of children and women gained international attention, to examine the activities of the ILO in the drafting, improvement and implementation of international labour standards for the protection of children, young people and women at work and to examine whether and to what extent

- 1 According to Keohane and Nye a non-governmental transnational organisation is one in which, apart from government representatives, there is at least one representative who is not under government control. See Keohane, R. O., Nye J. *Transnational Relations and World Politics: An Introduction*. – International Organization, 1971, 25, 3: *Transnational Relations and World Politics*, 329–349.
- 2 Keohane, R. O., Nye J. *Transnational Relations and World Politics*, 331.
- 3 Keohane, R. O., Nye J. *Transnational Relations*, 332.
- 4 Keohane, R. O., Nye J. *Transnational Relations*, 331.
- 5 Rosenberg, E. S. *Transnational Currents in a Shrinking World*. – *A World Connecting 1870–1945*. Ed. by E. S. Rosenberg. Belknap Press of Harvard University Press, Cambridge, MA, 2012, 815–816; see also Rosenberg, E. S. Introduction. – *Ibid.*, 4.
- 6 See Rosenberg, E. S. *Transnational Currents*, 837–838.
- 7 Clavin, P. *Defining Transnationalism*, 438.

Estonia complied with the ILO standards as reflected in the relevant national legislation.

The ILO was established in April 1919 at the Paris Peace Conference (Versailles Treaty) as an autonomous organisation of the League of Nations. ILO roots go back to the year 1900 and the establishment in Basel of the International Association for Labour Legislation, the ideas of which were adopted by the ILO and developed further. The ILO constitution⁸, which was part of the Versailles Peace Treaty (XIII section article 427), was produced by a commission chaired by the president of the American Federation of Labor, Samuel Gompers, and to which belonged representatives from Belgium, Cuba, Czechoslovakia, France, Italy, Japan, Poland, the United Kingdom, and the United States.

The ILO, with its office in Geneva, began its activity with the aim of hindering the spread of Communist ideas by working toward an enduring and lasting social peace in the world. The idea was to accomplish this through the development of legal norms based on social justice, and by encouraging these norms to become general so that they could be followed in all states.

The constitution of the ILO set as the goal of the organisation equal pay for women and men; the securing of a living wage for all labour; insurance against sickness, work accidents and old age; the adoption of an 8-hour work day and 40-hour work week; a prohibition on child labour; the establishment of work conditions for young people that enabled them to acquire an education and to develop physically normally; and ensuring the workers' right to organise.

These goals could only be achieved through transnational cooperation. Successful transnational cooperation demands that at least two states work together to achieve a goal that cannot be achieved by one state alone.⁹ The ILO did not have problems with cooperative partners. The initial member states were the 29 states that signed the Versailles Peace Treaty; these states then invited an additional 13 states to join and, when membership was extended to Germany and Austria at the first ILO Conference in October 1919, the number of member states rose to 44. In the following years additional states joined, and the number of

8 Constitution of the International Labour Organization 1919. – Papers Relating to the Foreign Relations of the United States, the Paris Peace Conference, 1919, Vol. XIII (Labour). Section II. General principles (Art. 427). – <https://history.state.gov/historicaldocuments/frus1919Paris13/ch22subch2> (last accessed 17 October 2020); Rodgers, G., Lee, E., Swepston, L., Van Daele, J. *The International Labour Organization and the Quest for Social Justice, 1919–2009*. International Labour Office, Geneva, 2009, 249–251.

9 Peinhardt, C., Todd Sandler, T. *Transnational Cooperation: An Issue-Based Approach*. Oxford University Press, Oxford, 2015, 1.

member states rose to 62 in the middle of the 1930s. At the end of 1939, because of the intense political crisis and the start of the war in 1939, the number of member states declined to 56.¹⁰ Notwithstanding this, the original membership growth is witness to the high regard for the ILO, as well as the existing network, which reached into all corners of the world: to Europe, Asia, Africa, America and Australia.

The principal work organ of the ILO was the annual conference to which each member state was obliged to send a 4-member delegation. This consisted of two representatives from the government, one from the workers, and one from the employers, a combination that formed the structure of the ILO. The representatives of workers and employers had to be elected by their central organisations or unions. The ILO was and still is the only active tripartite transnational organisation in the world that specialises in labour and social relations. Placing labour representatives alongside government and employer representatives as decision makers was at the time a highly novel approach.

The basic task of the ILO was to draw up international conventions and recommendations and to adopt them at the annual conference. The adoption of ILO documents needed a two-thirds majority among the delegates, meaning that compromises had to be found between the different interests of labour and employers.

The ratification of ILO conventions by member states was mandatory. After ratification the member states had to bring their national laws into line with the requirements of conventions. Although the ratification of recommendations was not necessary, the ILO hoped that member states would also adopt these principles in their national legislation.

During the interwar period ILO conferences adopted 67 conventions on hours of work, unemployment, minimum wages, paid vacations, social insurance, etc., of which 14 (21%) touched on the protection of children and young people (10 conventions) and women (4).¹¹

10 Valticos, N. *International Labour Law*. Springer, Dordrecht, 1979, 27; basis of calculations: ILO: Country profiles. – <https://www.ilo.org/dyn/normlex/en/?p=NORMLEXPUB:11003:0::NO> (last accessed 11 October 2020).

11 Conventions of International Labour Organization. – https://www.ilo.org/dyn/normlex/en/?p=1000:12000:2005610200518:::P12000_INSTRUMENT_SORT:4 (last accessed 14 October 2020).

ASPECTS OF THE REGULATION OF
THE LABOUR OF CHILDREN AND
WOMEN IN THE NINETEENTH AND
EARLY TWENTIETH CENTURIES

The Industrial Revolution, which began in England at the end of the eighteenth century, during which arduous time-consuming labour was replaced by machinery, brought into industry and mining child and women's labour. Edward Palmer Thompson in his book dealing with the creation of an English working class named the use of the labour of small children as the most shameful aspect of English history.¹² Poverty forced the employment of children and of both single and married women in factories. In spite of the fact that wages for children and women were significantly lower than for men, this employment was essential for the economic survival of worker families, even at the end of the nineteenth and beginning of the twentieth century.¹³ The use of the cheap child labour harmed the health of children and their physical and intellectual development, and for this reason states that were industrialising became conscious of the need to protect children by creating labour conditions that enabled them to develop normally and receive an education. In order to protect young people at work countries began to regulate their employment by establishing a minimum age for admission to work, as well as setting the number of working hours and the type of employment.

The first country to protect children was the Great Britain, which in 1802 adopted a factory law that limited the hours of work for children to a maximum of 12 per day, prohibited their night work in textile mills, a production field where machines were first used, and demanded employers provide elementary education. This law, as well as the next, an 1819 law that prohibited the employment of children under 9, were not effective because an absence of supervision made it possible for employers to ignore the laws.¹⁴ The first law that was effective in Great Britain was the 1833 Factory Act, which improved the condition of working children in the textile industry thanks to the creation of a state supervisory system, i.e. factory inspection to enforce the laws. The law prohibited the employment of children under 9 and limited the hours of work for children aged 9 to 12 to 8 hours per day and for those aged 13 to 18 to 12 hours a day, and

12 Thompson, E. P. *The Making of the English Working Class*. Penguin, London 2013, 384.

13 Cunningham, H. *The Decline of Child Labour: Labour Markets and Family Economics in Europe and North America since 1830*. – *Economic History Review*, 2000, 53, 3, 410.

14 Hopkins, E. *A Social History of the Working Classes 1815–1945*. Edward Arnold, London, 1984, 55.

prohibited minors below 18 from working at night between 8pm and 5am. In order for working children to receive elementary education the law obliged employers to provide them at least two hours of schooling a day.¹⁵ The requirement to attend school was impossible for some of the children to fulfil, since the long working day ended after the end of school hours. Factory inspectors wishing to solve the problem initiated the discussion with factory owners and parliamentary deputies.¹⁶ As a result of debates in 1844 a law was passed that shortened working hours for 9- to 12-year-old children to six and a half hours a day, enabling them to work different times throughout the day and limiting the working day for the first time for women to 12 hours a day. The Ten Hour Act 1847 limited working hours for young people and women to 10 hours per day. Afterwards, when in 1870 England adopted compulsory elementary education and all children between 5 and 12 were required to attend school, school-age workers had to provide proof of school attendance once a week. Otherwise they were required to stop working until they fulfilled their education requirements.¹⁷ In order to support elementary education for all children, the Factory Act 1878 and the 1880 Elementary Education Act prohibited the employment of children under 13 unless they had an elementary school certificate.¹⁸

Since a large number of children worked in mines, the British parliament adopted in 1842 a law that set the minimum age for admission to employment at 10 years. In 1860 the minimum age was raised by two years to 12.¹⁹ In industry it was not until 1891 that the minimum age of employment of children was raised to 11 and women were prohibited from working for 4 weeks after childbirth under the influence of decisions of an international conference on labour legislation in Berlin.²⁰ In fact the employment age for children was set a year lower than what had been agreed at the conference. Only in 1901 was the minimum age for children to work in industrial enterprises raised to 12.

15 Hopkins, E. *A Social History of the Working Classes*, 59.

16 Annual report of the chief inspector of factories and workshops for the year 1932. The National Archives of the United Kingdom (NAUK), London, LAB (Records of departments responsible for labour and employment matters and related bodies), reference 15/19, 9, 14.

17 Factory Department Memoranda, April 1915. NAUK, LAB, reference 15/12, 61.

18 Factory and Workshop Acts. NAUK, HO (Home Office: Registered Papers) 45, reference 9910/B21173.

19 Reform of the Mines. – <https://www.parliament.uk/about/living-heritage/transformingsociety/livinglearning/19thcentury/overview/coalmines/> (last accessed 22 September 2020).

20 Later factory legislation. – <https://www.parliament.uk/about/living-heritage/transformingsociety/livinglearning/19thcentury/overview/latefactoryleg/> (last accessed 22 September 2020).

In continental Europe the first to begin the protection of children was Prussia, where in 1839 a law was passed that set the minimum age for factory work at 9, limited the working day of children under 16 to 10 hours a day and prohibited their working at night, and on Sundays and holidays. For children under 16 permission to work required at least a three-class school certificate.²¹ Prussia was the first state in Europe to establish compulsory schooling in the 18th century. The law of 1853 strengthened the protection of children by prohibiting the employment of children under 12 in factories and limited the working day for children below 14 to six hours in order for them to attend school.²² The 1869 labour legislation extended the prohibition of employment of children under 12 in mining and prohibited the employment of those under 16 from working at night (8:30pm to 5:30am), making it compulsory for employers to introduce safety measures at work. The new 1891 labour law of the German Empire raised the minimum age of employment by one year to 13. A 13-year old could begin work if he or she had a certificate of completion from an elementary school. Thirteen to 14-year-old children could work no more than six hours a day; work on Sunday, holidays and at night (between 8pm and 6am), and in dangerous occupations was prohibited.²³

In the second half of the 19th century there was an increase in the number of industrialising states which by legal acts protected children from entering the work force too early and underage workers and women from night work. Influential here were debates on these questions that in the 1860s had extended beyond the boundaries of single states (England, Germany) and had assumed an international perspective. People were able to communicate better and receive information on what occurred in the world as a result of the development of railways and the advent of newspapers. For the first time limiting child labour, the necessity of elementary school education, and the prohibition of night work for women were debated in international forums. First International's Congress of 1866 adopted resolutions on these matters. The 1887 International Congress on Hygiene and Demographics in Vienna adopted corresponding resolutions demanding the abolition of night work for

21 Anderson, E. *Ideas in Action: the Politics of Prussian Child Labor Reform, 1817–1839*. – *Theory and Society*, 2013, 42, 1, 82.

22 Braun, H. *Industrialisation and Social Policy in Germany*. C. Heymann, Cologne and Berlin, 1956, 48.

23 *Administration of Labor Laws and Factory Inspection in Certain European Countries*. – U.S. Department of Labor. *Bulletin of the Bureau of Labor Statistics*, 1914, 142, 1, 116.

women and a reduction in the working day in order to protect the health and morals of women.²⁴

The first attempt to develop international labour standards took place in 1890 at the Berlin conference, attended by 15 European states, the initiator of which was the German Kaiser Wilhelm II. The conference adopted a number of decisions among which was the establishment of a minimum age of 12 for child labour and the prohibition of night work for women.²⁵ The role of Germany was not surprising since from 1880 it had become a standard bearer for social legislation thanks to pressure from a strong social democratic movement and the necessity to prevent worker protests. Germany was the first state to adopt in the 1880s a comprehensive social insurance system for workers: sickness insurance (1883), work accident insurance (1884), old age and disability insurance (1889).

The International Association for Labour Legislation, established in Basel in 1900, set a goal of developing international labour legislation in industrial states through cooperation between different interest groups that considered it necessary to protect the legal rights of workers including children and women in work relations. In 1906 the association organised an international conference in Bern which had on its agenda the formulation of international labour standards, among them the prohibition of night work for women in order to protect women's health. As a result of the discussion an agreement was reached on two important questions and the appropriate conventions were adopted. The first of these prohibited the use of white phosphorus in the match-making industry since it was injurious to health, and the second prohibited women's night work. Night was defined as 11 consecutive hours that included the 7-hour period between 10pm and 5am, when night work was strictly prohibited. As an exception, it was permitted to utilise the work of women at night if it was seasonal work or involved the handling of rapidly deteriorating materials, and on such occasions night could be reduced to 10 hours for 60 days a year. It was decided that the convention, which became effective in 1912, would be left open for all to join.²⁶ By the time of the first ILO conference in 1919, in Washington, eleven states had joined the convention: Austria, Belgium, France, Germany, Great Britain, Italy, the Netherlands, Portugal, Spain, Sweden, and Switzerland.²⁷

24 Report of the Committee of Experts on the Application of Conventions and Recommendations. International Labour Conference 89th Session 2001. Report III (Part 1B). International Labour Office, Geneva, 2001, 26.

25 Fyfe, A. *The Worldwide Movement against Child Labour. Progress and Future Directions.* International Labour Office, Geneva 2007, 7, 8; Report of the Committee of Experts, 23.

26 Report of the Committee of Experts, 26.

27 Report of the Committee of Experts, 27.

In September 1913 this organisation worked out the first international convention prohibiting child labour, but because of the start of the First World War it was not put into practice.²⁸ During the war labour conditions of all workers, including young people, worsened and the length of the working day increased because, alongside women, they had to replace the men who were fighting. The situation normalised gradually only after the end of the war. By 1919 a minimum age for admission to work had been adopted by 23 states in Europe: in 13 states it was 13 or 14; in eight states 12; and in two, Hungary and Spain, 10 years.²⁹

PROTECTION OF CHILDREN AND YOUNG PEOPLE IN INDUSTRIAL WORK

The ILO immediately began to fulfil the goals established in its constitution, becoming active in advocating that states should take measures to protect children and young people at work that would permit them to develop normally physically and enable them to acquire an education.

Limiting child labour in industrial occupations was already on the agenda of the first, 29 October 1919 to 27 January 1920, Washington ILO conference. The issue was not new, it had been discussed several times at the international level. The basic debate at the conference was over the age at which children could be permitted to work. Some felt that work could begin at 12, others at 14, workers' delegates proposed a minimum age of 15. Unemployment was a serious problem because states had not yet recovered from the destruction of war. It made sense to preference the work of adults and limit the entrance of children to the labour market. In the end it was agreed that the most sensible way was to support the practices of the more progressive states and adopt a minimum age of 14 and continue the discussion of raising the minimum age at another conference.³⁰ Thus, with 94 votes in favour and three opposed (delegates

28 Fyfe, A. *The Worldwide Movement*, 8.

29 Rogers, G., Lee, E., Swepston, L., Van Daele, J. *The International Labour Organization and the Quest for Social Justice, 1919–2009*. International Labour Office, Geneva, 2009, 69; Bauer, S. *International Labor Legislation and the Society of Nations*. – *Bulletin of the U. S. Bureau of Labor Statistics*, 1919, 254, 49.

30 *International Labor Conference. First Annual meeting October 29, 1919 – November 29, 1919*. Government Printing Office, Washington 1919, 92. On the basis of physical development of persons the participants at the conference agreed that until the age 16 was childhood, 16 to 18 the age of young persons and adulthood from the age of 18 (see *ibid.*, 50).

from India³¹), the convention³² adopted a minimum age of 14 for young people to begin work in industry, in addition to which employers would be obliged to keep a list of employees who were under the age of 16. The second convention³³ adopted at the conference prohibited night work for those below 18³⁴ in industry and only in very critical circumstances could local authorities abrogate the prohibition of night work for those between 16 to 18. An exception permitted the use of young people over 16 in uninterrupted production processes for paper, glass, sugar, iron and steel. In the convention the concept of night work was described in the same fashion as the 1906 Bern convention on women's night work. All of the delegates in attendance (93) voted in favour of the convention.³⁵

While the first convention protected children from beginning work too young and supported them acquiring an elementary education, the aim of the second was to protect the health of working young people. Night work was much more exhausting than day work with the associated reduction of sleep interrupting the biological rhythm, which in turn created greater susceptibility to disease.

The member states understood the necessity of the two conventions, which is shown by the comparatively large number of ratifications. During the inter-war period 27 states adopted the convention on minimum age of work and 32 on night work for young people, that is, approximately half of the member states.³⁶

For the newly independent young Estonian Republic it was necessary to achieve international recognition and guarantee the security of the state. In order to achieve these goals it was necessary to be accepted into international organisations like the League of Nations and the International Labour Organization. Following active lobbying and activity in foreign relations, Estonia became a member of the League of Nations in September 1921 and a month later of the ILO.

31 They considered such age definition too high for India where children mature at an earlier age.

32 Coo5: Minimum Age (Industry) Convention, 1919. – https://www.ilo.org/dyn/normlex/en/?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312150 (last accessed 20 August 2020).

33 Coo6: Night Work of Young Persons (Industry) Convention, 1919. – https://www.ilo.org/dyn/normlex/en/?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:Coo6 (last accessed 20 October 2020).

34 It was agreed at the conference that adulthood began at 18.

35 International Labor Conference. First Annual Meeting October 29, 1919 – November 29, 1919. Government Printing Office, Washington, 1920, 182.

36 Ratifications of Coo5: Minimum Age (Industry) Convention, 1919. – http://www.ilo.ch/dyn/normlex/de/?p=NORMLEXPUB:11300:0::NO:11300:P11300_INSTRUMENT_ID:312150:NO (last accessed 20 September 2020); Ratifications of Coo6: Night Work of Young Persons (Industry) Convention, 1919. – http://www.ilo.ch/dyn/normlex/de/?p=NORMLEXPUB:11300:0::NO:11300:P11300_INSTRUMENT_ID:312151:NO (last accessed 20 September 2020).

Upon becoming a member of the ILO, Estonia promised to adopt the earlier standards of the organisation and support the work done before. In ratifying³⁷ in October 1922 the conventions on minimum age in industry and night work in industry, Estonia bound itself to obligations to implement these conventions. In order to comply, existing tsarist laws³⁸ needed to be changed or new legal proposals needed to be developed. Estonia chose the latter route, since in the sphere of legislation the goal was to replace tsarist laws with contemporary Estonian legal acts. Thus, the Labour and Welfare Ministry (*Töö- ja Hoolekandeministeerium*) worked out a legislative proposal for labour regulations for children and young people that was approved by the *Riigikogu* on 20 May 1924 and which repealed the paragraphs of the 1913 tsarist industrial code³⁹ that dealt with 12- to 14-year-old child employment and the work of 15- to 17-year-olds in industry and mining and their education requirements.

The 1924 law on hours of work for children, young people and women in industrial enterprises⁴⁰ raised the minimum age for beginning work in industry by two years from 12 to 14 and limited the labour of 14- to 15-year-olds who were bound by education requirements, permitting them to work only during school holidays up to 6 hours a day in textile factories and 6½ hours in other industrial areas of employment. The law extended the existing ban on night work for those below 18 in the textile industry to all industrial areas. The night period (from 9pm to 5am, when work was strictly prohibited) was 8 hours, one hour longer than was required by convention. Exceptions mentioned in the law allowed, in certain uninterrupted production processes in industry (iron, glass, and paper factories), night work for 17-year-olds and the utilisation of 16- to 18-year-olds in *force majeure* situations. The law established a list of jobs that were injurious to health in which young people under 18 could not be employed, and prohibited their work underground.

Thus national law in comparison with the ratified convention was broader and more future oriented. The law had a basic importance in Estonian society in guaranteeing for children their over-all development and the acquisition of elementary schooling and in protecting their health. The two-year increase in the age limit for starting work decreased

37 I Riigikogu protokollid, 8. istungjärk, protokoll nr 165, 27. oktoober 1922. Riigikogu, Tallinn 1922, 872.

38 According to Estonian law 19 November 1918 the Tsarist laws remained in force. See Riigi Teataja (RT, State Gazette), 1918, 1, 7.

39 Устав о промышленном труде. – Свод законов Российской империи. Т. XI. Ч. 2. Издание 1913 года, Санкт-Петербург, § 64–70, 72–86.

40 RT, 1924, 68, art 30.

the importance of young people in the work force. In 1913, 12- to 14-year-olds formed 1.5%, and 15- to 16-year-olds 7.5%, in total 9%, of the Estonian industrial workforce (37,500).⁴¹ By 1925 the percentage of young people in industry (48,008) had decreased to 1.6%. The decrease was significant because in the same period the definition of ‘young person’ had been raised from 17 to 18. The decrease in the percentage of youth in industry can be explained primarily by the establishment of compulsory six-grade elementary education in Estonia in 1920, the increase in the minimum age to begin work, and permission for young people to work only during the school holidays. A large part of the working youth was by 1925 employed in two areas, textiles and the metal working industry. In the second half of the 1920s, during the years of industrial expansion, when more labour was needed to increase production, the use of young people increased in industry. In July 1929 young people working in industrial firms (1,675) made up 3.2% of the industrial work force (51,773).⁴²

The 1929 world-wide economic depression that left millions of people unemployed, led to the understanding that alongside measures for economic growth, it was necessary to establish a variety of social insurance schemes in order for workers to survive. These would improve work conditions and strengthen the protection of children by raising the minimum age to begin employment (as per discussion in 1919 at the first ILO conference). As a result the ILO began to modify a number of its conventions that dealt with young people.

One of them, the convention⁴³ on the minimum age in industry, which was raised by one year to 15; this was approved at the 37th ILO conference in 1937 by 98 delegates (18 against) from 53 states. Two of the Estonian delegates, workers’ representative Ilmar Rebane, the secretary of the Labour Council (*Tööliskoda*), voted in favour while the employers’ representative Konrad Mauritz, secretary of the Estonian Union of Manufacturers (*Eesti Vabrikantide Ühisus*), voted against.⁴⁴ The government representatives, Johannes Sonin, head of the Ministry of Social Affairs, and Johannes Kõdar, secretary of the Estonian permanent

41 Pihlamägi, M. Eesti tööstus Esimese maailmasõja aastail (1914–1918). – Esimene maailmasõda ja Eesti. Koost T. Tannberg. (Eesti Ajalooarhiivi Toimetised, 22 [29].) Eesti Ajalooarhiiv, Tartu, 2014, 187.

42 Töökaitse Eestis 1929. a. Tööinspektorite 1929. a. aruannete kokkuvõte. E. V. Sotsiaalministeerium, Tallinn, 1930, 10, 13.

43 See Co59: Minimum Age (Industry) Convention (Revised), 1937. – [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:Co59;Co60:Minimum Age \(Non-Industrial Employment\) Convention \(Revised\), 1937. –https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:Co60](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:Co59;Co60:Minimum Age (Non-Industrial Employment) Convention (Revised), 1937. –https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:Co60) (last accessed 4 October 2020).

44 International Labour Conference Twenty-Third Session, Geneva 1937. Record of Proceedings. International Labour Office, Geneva, 1937, 503.

representation to the League of Nations, remained neutral in accordance with government directives.⁴⁵

Taking into account the number of states who voted in favour of the revised convention, the result of ratification was unexpected because only one state, Norway, ratified the convention.⁴⁶ Apparently member states had their own reasons for not adopting this international standard. The Estonian government felt that it was not possible to implement this change and did not submit the revised convention to parliament for adoption.⁴⁷ In Estonia completion of compulsory six-grade basic education was achieved at ages 13 to 14 and, since only a few continued their education in gymnasium because of high tuition costs, there was no alternative to starting work. The raising of the age minimum would have hindered entrance to work and encouraged criminality or vagrancy among those waiting to begin work. The decision was also affected by a lack of labour in the second half of the 1930s.

PROTECTION OF WOMEN IN INDUSTRIAL OCCUPATIONS

Night work. The ILO treated women equally with children and young people as a risk group and so it was considered necessary to adopt measures for their safety and health. Thus in a similar way to the convention on night work for young people, the convention⁴⁸ on women's night work was approved by the first ILO conference. This prohibited the use of women in industrial firms at night, i.e. during an 11-hour period that included the 7-hour cycle from 10pm to 5am. In exceptional circumstances, women's night work was permitted in conditions of *force majeure* or the necessity of working on rapidly deteriorating raw materials. In seasonal firms and in firms where night work was, due to special circumstance, necessary, the night period could be shortened to 10 hours for 60 days a year. The requirements of the convention did not apply to women who were in managerial positions and did not do physical work. The convention on women's night work was approved almost

45 J. Kõdari aruanne valitsusele 23. ILO konverentsi tööst 1937. a. RA (Rahvusarhiiv), ERA. 957.14.379, 23v.

46 Ratifications of Co59: Minimum Age (Industry) Convention (Revised), 1937. – [http://www.ilo.ch/dyn/normlex/de/f?p=NORMLEXPUB:11300:0::NO:11300_P11300_INSTRUMENT_ID:312204:NO](http://www.ilo.ch/dyn/normlex/de/f?p=NORMLEXPUB:11300:0::NO:11300:P11300_INSTRUMENT_ID:312204:NO) (last accessed 5 October 2020).

47 J. Kõdari aruanne valitsusele 23. ILO konverentsi tööst 1937. a. RA, ERA. 957.14.379, 23v.

48 Co04: Night Work (Women) Convention, 1919. – https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:Co04 (last accessed 5 October 2020).

unanimously with 94 votes. The Norwegian employer representative, G. Perri, voted in opposition since he supported the standpoint of the delegation's adviser that women and men should be treated equally. In Norway night work was prohibited for both genders and special laws on the protection of women only covered birth and work in mining.⁴⁹

Keeping their promise to ratify the conventions that were approved by the ILO conferences of 1919–1920 (i.e. before Estonia became a member of the ILO), the Estonian government submitted the convention on night work for women to parliament. The *Riigikogu* ratified the convention in 1922 at the same session as the convention on night work for young people.⁵⁰ The basic principles of the convention were implemented by Estonian national law, i.e. the above-mentioned 1924 law on hours of work for children, young people and women. The law prohibited women's night work⁵¹ from 9pm to 5am, one hour longer than was stated in the convention, in all sectors of industry. It would be more correct to say that the 1924 law left unchanged the prohibited working hours prescribed in the tsarist industrial code. Exceptions mentioned in the law allowed, in certain uninterrupted production processes in industry (iron, glass, and paper factories), women's in night work in *force majeure* situations and also when it was necessary to work with rapidly with deteriorating raw materials.

The law established a list of jobs harmful to health and prohibited the employment of pregnant women. The law also prohibited the employment of women in underground work in any mine, because of the unhealthy work environment, and in a number of categories of work that exceeded women's physical capacity. On the international level the prohibition of women's work underground only came eleven years later in 1935 when the ILO conference adopted the relevant convention⁵². Estonia wished that no member state with an extensive mining industry would employ women in underground work and thus made a contribution to the regulation become universal. Estonia was one of 21 states with mining activity that adopted this ILO convention before the Second World War.⁵³

49 International Labor Conference. First Annual meeting, 103, 181–182.

50 I Riigikogu protokollid, 8. istungjärk, protokoll nr 165, 27. oktoober 1922. Riigikogu, Tallinn, 1922, 872.

51 According to the decree of Minister of Labour and Social Welfare on 13 September 1926, women's night work needed to end in all industrial enterprises at the very latest by 15 May 1927. See RT, 1926, 71, 873.

52 Co45: Underground Work (Women) Convention, 1935. – https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312190:NO (last accessed 5 October 2020).

53 See Valitsuse vastus küsimustikule naiste töö kohta allmaatöödel. RA, ERA.31.3.9030

On the agenda of the 15th ILO conference in 1931, on the initiative of the British and Belgian governments, was a modification of the 1919 convention on night work for women, but the proposal did not receive the required two-thirds majority in the final vote.⁵⁴ The question was discussed again three years later at the 18th ILO conference in June 1934. This time delegates approved the convention,⁵⁵ which modified night work for women in industry and permitted a change in night hours. A new clause, which was added to this proposal, permitted, in agreement with labour and employer organisations, the existing prohibited 7-hour period from 10pm to 5am to be shifted by one hour, to 11pm to 6am. This change was a response to wishes expressed by women to wake later in the morning.⁵⁶

Even though in 1919 30 member states ratified the convention on women's night work, only 17 member states adopted the obligation to change their national laws and bring them into line with the 1934 modification of the convention.⁵⁷

In connection with Estonia adopting the up-dated edition of the ILO 1934 women's night work convention that changed the definition of night work to be more flexible, appropriate changes were made to the 1924 law. Two paragraphs were changed in order that in the future women in managerial positions who did not perform physical labour could work at night, and the Ministry of Road Transport⁵⁸ (*Teedeministeerium*) could in exceptional circumstances permit industrial workers, with the agreement of the employers and labour organisations, to change the prohibited time of night work from 9pm to 5am to 11pm to 6am.⁵⁹ In the same way, as with all implemented laws, the public was informed of these changes that derived from ILO conventions.⁶⁰

(without page numbers); Ratifications of Co45: Underground Work (Women) Convention, 1935. – https://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO::11300:P11300_INSTRUMENT_ID:312190 (last accessed 23 October 2020).

54 Haridus- ja sotsiaalministri kiri valitsusele, 18.08.1933. RA, ERA. 31.3.5160, 1.

55 Co41: Night Work (Women) Convention (Revised), 1934. – https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11300:0::NO::P12100_ILO_CODE:Co41 (last accessed 21 September 2020).

56 Haridus- ja sotsiaalministri kiri valitsusele, 18.08.1933. RA, ERA.31.3.5160, 1.

57 Ratifications of Co04: Night Work (Women) Convention, 1919. – http://www.ilo.ch/dyn/normlex/de/f?p=NORMLEXPUB:11300:0::NO::P11300_INSTRUMENT_ID:312149; Ratifications of Co41: Night Work (Women) Convention (Revised), 1934. – http://www.ilo.ch/dyn/normlex/de/f?p=NORMLEXPUB:11300:0::NO::11300:P11300_INSTRUMENT_ID:312186:NO (last accessed 5 October 2020).

58 In accordance with the changes in governmental institutions, Ministry of Road Transport was responsible for social policy since 1934.

59 RT, 1935, 99, art 816.

60 See Naiste öötöö korraldamine. – Maa Hääl, 1935, 15 November; Muudeti tööstusettevõtete laste, alaealiste ja naiste töö seadust. – Uus Eesti, 1935, 15 November.

Maternity protection for women workers. Another important convention adopted at the first ILO conference in 1919 protected working future mothers. The convention⁶¹ on maternity protection guaranteed expectant and nursing mothers working in industrial or commercial enterprises adequate time, i.e. 12 weeks (6 weeks before and 6 weeks after child-birth), to give birth, recover and nurse their children to prevent harm to their or their infants' health. During maternity leave they had to be paid monetary support from public funds or through insurance schemes in amounts sufficient to cover the upkeep of themselves and their children, as well as be provided free medical care. The amount of financial support would be determined by each member state. During maternity leave, or during illness caused by child-birth, a woman worker could not be fired. A breast-feeding mother, who returned to work, had to be given at least two half-hour breaks in order to feed her baby.

Also important from the viewpoint of health protection was a recommendation⁶² approved by the member states at the first conference aimed at preventing the employment of pregnant women and under 18s in work that involved exposure to poisonous substances such as lead or zinc or their alloys.

The ratification of the maternity protection convention proved to be a problem for Estonia. Estonia recognised the importance of protecting the health of women, but the ratification of the convention was hindered by the scope of regulation and duration of paid maternity leave. The convention included women working in both industry and commerce, but in Estonia the tsarist health insurance law,⁶³ which was relevant only for industrial workers, was still in effect. According to this law women working for industrial firms had the right to a 6-week (2 weeks before and 4 weeks after giving birth) paid maternity leave, and after returning work two half-hour breaks during the day to feed her baby. Financial support was paid from the health insurance fund on the condition that the person had registered for insurance at least three months before the maternity leave.

The Industrial Council⁶⁴ (*Tööstusnõukogu*) from which the government requested its opinion did not support Estonia joining the

61 Co03: Maternity Protection Convention, 1919. – https://www.ilo.org/dyn/normlex/en/?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:Co03 (last accessed 5 October 2020).

62 Ro04: Lead Poisoning (Women and Children) Recommendation, 1919. – https://www.ilo.org/dyn/normlex/en/?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312342:NO (last accessed 20 September 2020).

63 Устав о промышленном труде. – Свод законов Российской империи. Т. XI. Ч. 2. Издание 1913 года, Санкт-Петербург, § 257–371.

64 Advisory Council to the Government for industrial relations.

convention since it felt that a 12-week maternity leave was too long. The council thought that implementing the requirements of the convention would lead to firms refusing to employ women because they would find it difficult to get substitutes for such a long period and also the expenditure of the firm would increase because of the financial support as well as because of the provision of medical aid.⁶⁵

In 1922 the question of possibly adopting the convention was also discussed a number of times by a government commission composed of representatives from various ministries, but no final decision was reached. Clarification on the question supposedly would come from a *Riigikogu* commission on occupational safety and health which had initiated the new maternity and sickness insurance law with which the government in principle also agreed.⁶⁶

Instead of completing the draft on maternity and sickness insurance, a new draft on health insurance, which included also the 12-week maternity leave, was initiated by the Ministry of Education and Social Affairs. For this reason the government decided in May 1931 to submit the ILO convention on maternity protection to the *Riigikogu* for information.⁶⁷ The *Riigikogu's* social commission found that there were no hindrances to Estonia joining the convention and reached the firm opinion that the government proposal needed to be rejected, and requested that it present the convention to the *Riigikogu* for ratification or present a proposal that would carry out the provisions of the convention.⁶⁸ At the 29 October 1931 *Riigikogu* session the Minister of Education and Social Affairs, Jaan Piiskar, declared that the government proposal to accept the convention for information proceeded from the practice that a convention can be adopted when national law had been brought into line with the provisions of the convention or an entirely new national law had taken effect. He noted that the ministry had prepared a new draft of an act on health insurance with the provisions of the convention which would be submitted to the parliament in the near future. After the adoption of the law, it would be possible to ratify this convention.⁶⁹ After listening to the points of view of the social commission and the government, *Riigikogu* adopted at its 22 October 1931 session a decision

65 Tööstusnõukogu protokoll 02.06.1922. RA, ERA 73.1.1430, 24–25; Tööstusnõukogu protokoll 18.07.1922. RA, ERA.73.1.1430, 26, 30.

66 Ekspertkomisjoni koosoleku protokoll 13.05.1922. RA, ERA.31.4.335, 10–12; Kaubandus-Tööstusministeeriumis toimunud valitsuskomisjoni koosoleku protokoll 2.06.1922. RA, ERA.50.1.2712, 135, 136; Ekspertkomisjoni protokoll 16.09.1922. RA, ERA 50.1.2712, 125.

67 Valitsuse otsus 29.05.1931. RA, ERA.50.1.2712, 8.

68 IV Riigikogu protokollid, 8. istungjärk, protokoll nr 175, 22. oktoober 1931. Riigikogu, Tallinn, 1931, 3188.

69 IV Riigikogu protokollid, 8. istungjärk, protokoll nr 175, 3189.

consisting of two points: 1) it would accept for information the international convention on maternity protection, and 2) it would recommend that the government propose to the *Riigikogu* the convention on maternity protection for ratification, or propose for adoption a national law that would carry out the provisions of the convention.⁷⁰

However, the economic crisis delayed the finalisation of the health insurance law for several years. Finally in October 1936 the Ministry of Social Affairs asked related organisations and ministries to give opinions on the amended draft law, which included the right for working women to have 12 weeks' paid maternity leave, and covered all workers working under the Employment Contracts Act. The Chamber of Trade and Industry (*Kaubandus-Tööstuskoda*), which represented the interests of employers, agreed with 12 weeks' paid maternity leave, but disagreed with the increase in the insurance tax for employers and employees and wished the state to contribute to insurance as well.⁷¹ The supplementing of the draft on the basis of the proposals took time and the government expected to present the amended law to parliament in autumn of 1938. Unfortunately, the promises were not kept. The government led by prime minister Jüri Uluots that took office in October 1939, considered submitting the draft of the general health insurance law to parliament in the spring of 1940. Despite the promises, the draft was not submitted before the 1940 *June coup d'état*.⁷² So Estonia did not implement the 1919 convention on maternity protection in its entirety, and neither was the international convention ratified. In Estonia, apart from the law on health insurance for industrial workers, another law existed that provided a measure of maternity protection to working women. A 1938 law⁷³ relating to workers in shops and offices prohibited the use of pregnant women for tasks which were injurious to their health. Those who had been employed for at least six months before giving birth had the right, on the basis of a doctor's certificate, to paid maternity leave of two weeks before and four weeks after birth.

One of the most influential ILO member states, Great Britain, also did not consider it necessary to adopt the convention because British national health insurance regulations had a much broader reach than the ILO convention, covering, apart from women who worked in industry,

70 IV Riigikogu protokollid, 8. istungjärk, protokoll nr 175, 3191.

71 Kaubandus-Tööstuskoja arvamus haiguskindlustusseaduse elnõu kohta, 03.11.1936. RA, ERA.891.1.1234, 15.

72 Peep, V. Eesti sotsiaalpoliitilise õigusloome arengujooned 1. omariiklusajal. Argo, Tallinn, 2005, 140.

73 RT, 1938, 42, art 400.

women who worked in transport, education and other fields.⁷⁴ During the inter-war period only 15 member states ratified the convention on maternity protection, among them European states such as Bulgaria, Greece, Germany, Hungary, Latvia, Luxembourg, Romania, and Spain.⁷⁵

PROTECTION OF UNDERAGE CHILDREN IN THE MARITIME SECTOR

Children and young people were also engaged in vital economic sectors other than industry, and here too their work needed regulation and protection. One of these was the maritime sector. The second ILO conference, in 1920, approved a convention⁷⁶ stipulating the minimum age of work on ships, which prohibited, similarly to industry, the employment of children under 14 and obliged employers to maintain a list of those crew members under the age of 16 in order to be able to control the fulfilment of the convention. The third conference, in 1921, adopted two conventions to protect the health of young people working at sea. The convention⁷⁷ on the minimum age for work on ships (steam ships) as trimmers and stokers obliged member states to adopt a minimum age of 18, which meant that in those occupations only adults could be employed, since this work was beyond the physical capacity of young people and harmful to their health. A convention⁷⁸ on medical examination for young people working on ships prescribed a medical certificate for those below 18 confirming that their health permitted them to work on ships. The health of young people was to be evaluated regularly with a required annual medical check-up.

Each convention was ratified by 30 to 34 member states, each of which adopted an obligation to put into practice the convention's regulations so as to help them to become general practices.

74 Great Britain and the Washington Maternity Convention. – International Labour Office. Official Bulletin, 1921, 4, 12, 8–9.

75 Ratifications of C003: Maternity Protection Convention, 1919. – https://www.ilo.org/dyn/normlex/en/?p=1000:11300:0::NO:11300:P11300_INSTRUMENT_ID:312148 (last accessed 12 September 2020).

76 C007: Minimum Age (Sea) Convention, 1920. – https://www.ilo.org/dyn/normlex/en/?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C007 (last accessed 20 September 2020).

77 C015: Minimum Age (Trimmers and Stokers) Convention, 1921. – https://www.ilo.org/dyn/normlex/en/?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C015 (last accessed 3 October 2020).

78 C016: Medical Examination of Young Persons (Sea) Convention, 1921. – https://www.ilo.org/dyn/normlex/en/?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C016 (last accessed 3 October 2020).

As labour relations in the maritime sector were not regulated in Estonia, the government regarded as important the implementation of measures for the protection of the health of children and young people employed at sea, and submitted all three conventions to the *Riigikogu* for ratification. The *Riigikogu* approved the minimum age for working as trimmers and stokers as well as periodic health examination for young people on 29 June 1922, and the convention on minimum age of work on ships on 15 December 1922.⁷⁹ To apply the requirements of the conventions the Labour and Welfare Minister, Christian Kaarna, prohibited with his regulation⁸⁰ of August 1925 the employment of young people under the age of 18 on ships as trimmers and stokers because the work was physically hard. The ministry also prepared a draft of a special law that established medical inspections for young people working at sea. The draft was vetted first by a commission of representatives from ministries for an expert opinion as to legality before being sent to the *Riigikogu*.⁸¹ The law⁸² on compulsory medical examinations for all children and young people was adopted by the *Riigikogu* in December 1925 and was to be applied to all Estonian registry commercial ships. In accordance with the law, ships could employ people younger than 18 only if they had a doctor's health certificate. Thereafter a doctor would evaluate the young person in accordance with health standards every year. The 1920 law on public elementary schools that prohibited the employment of school children and required the completion of elementary education protected young people from starting work at sea at too early an age.

All the requirements of three of the above-mentioned international conventions were met by the 1928 law⁸³ on seafarers' conditions of employment that followed in large part legal examples appropriated from the Scandinavian states and Finland. The law included prohibitions on the employment on ships of children under 14 and women below 18 and only allowed adults to be employed as trimmers and stokers. To employ young people on ships a medical certificate was required that had to be renewed annually.

At the 22nd ILO conference, in 1936, an amendment⁸⁴ to the Minimum Age (Sea) Convention that raised the minimum age on ships

79 I Riigikogu protokollid, 7. istungjärk, protokoll nr 141, 29. juuni 1922. Tallinn, Riigikogu, 1922; 8. istungjärk, protokoll nr 180, 15. detsember, 1922. Riigikogu, Tallinn, 1922, 1520.

80 RT, 1925, 29/30, 151.

81 Ekspertkomisjoni otsus 26.10.1925. RA, ERA.31.3.3696, 6–8.

82 RT, 1925, 199/200, art 140.

83 RT, 1928, 28, art 145.

84 Co58: Minimum Age (Sea) Convention (Revised), 1936. – https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:Co58 (last accessed 4 October 2020).

by one year to 15 was adopted with 81 voting in favour. All members of the Estonian delegation (government representatives Johannes Kõdar and Endel Tärna, employer's representative Ernst Masik and workers' representative August Gustavson) supported the modification of the convention. As it turned out later, the reason for support by government and employer's representative was the second paragraph of the convention, which permitted member states by national legislation to employ 14-year-old children if permission was granted by the school authority and a doctor's certificate was available.⁸⁵ The government was satisfied with the possibility of making exceptions, since it did not plan in the near future to raise the minimum age to work at sea to 15. For this reason the Prime Minister in his duties as the State-Elder, Konstantin Päts, decided, on the recommendation of the Minister of Social Affairs, Oskar Kask, by his decree⁸⁶ of 6 April 1938, to postpone the ratification of the convention indefinitely. Ultimately Estonia, as most member states, did not adopt this convention, which was to go into effect on 11 April 1939. They were not ready for economic reasons to set the minimum age for children to work at 15. Only five members (Belgium, Brazil, Norway, Sweden and the USA) ratified the convention before the Second World War.⁸⁷

PROTECTION OF CHILDREN AND WOMEN IN AGRICULTURE

Child protection. Rural children were in a special situation. They began working at an early age at home helping their parents or as paid animal herders for others and for that reason their education was chaotic. In order to protect children from starting work at too-early an age and give them the opportunity to acquire an elementary school education, the Governing Body of the ILO put on the agenda of the third 1921 ILO conference a draft convention. After a heated debate over the question of the principle of whether working conditions in agriculture belonged under the jurisdiction of the ILO, delegates decided that it was within the competency of the ILO. Three commissions to prepare the regulations in agriculture were formed for plenary. Two Estonian delegates were

85 E. Tärna aruanne valitsusele 21. ja 22. ILO konverentsi tööst 1936. a. RA, ERA.31.3.15125, 2, 22.

86 Riigihoidja K. Pätsi otsus 06.04.1938. RA, ERA.31.3.5199, 39.

87 Ratifications of Co58 - Minimum Age (Sea) Convention (Revised), 1936. - https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11300:0::NO:11300:P11300_INSTRUMENT_ID:312203:NO (last accessed 4 October 2020).

lected to one of the commissions: as the employer representative, Jaan Hünerson, and as the representative of the labourers, Mihkel Martna.⁸⁸ The aim of the convention,⁸⁹ which was adopted by a majority, on the minimum age of work in agriculture was not really to establish a rigid age limit but to establish an education requirement for children living in rural areas and, alongside that, develop work habits, skills and knowledge for future careers in agriculture. The convention permitted the employment of children under 14 in both public or private agricultural undertakings only outside the hours fixed of school on condition that the work would not interfere with school attendance. The convention saw as necessary the organisation of the school year and school hours in such a fashion as to permit children to perform light work alongside their schoolwork to obtain practical experience, especially during harvest, although the school year could not be shorter than eight months. Along with the convention a recommendation⁹⁰ was also approved relating to the employment of young people in night work in agriculture that recommended member states take into account the needs of the growing physical person, regulate by national laws night work for children younger than 14 in agriculture in such a fashion that their period of rest be at least ten, and for 14- to 18-year-olds persons at least nine, consecutive hours. Since the extension of ILO's competence to agriculture was not approved by all member states, only 19 states ratified this convention during the interwar period.⁹¹

Thus by the end of 1921 international standards set the minimum age for children to work in industry, shipping and agriculture and there was a prohibition in industry against employing young people in night work and in labour that was regarded as unhealthy.

At the time of the adoption by the third ILO conference of the convention on the minimum age for working in agriculture, Estonia had already approved a law on the working times and wage management of agricultural workers⁹² that protected children by prohibiting work for those under 12. The law permitted children under 16 to perform

88 International Labour Conference. Third Session Geneva 1921. Geneva 1921, p LXVII.

89 Co10: Minimum Age (Agriculture) Convention, 1921. – https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:Co10 (last accessed 5 October 2020).

90 Ro14: Night Work of Children and Young Persons (Agriculture) Recommendation, 1921. – https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312352:NO (last accessed 5 October 2020).

91 Ratifications of Co10: Minimum Age (Agriculture) Convention, 1921. – http://www.ilo.ch/dyn/normlex/de/f?p=NORMLEXPUB:11300:0::NO:11300:P11300_INSTRUMENT_ID:312155:NO (last accessed 5 October 2020).

92 RT, 1921, 102, art 194.

light work, for example animal herding on small farms, the weeding of gardens and raking of hay, etc. School children could only work during their holidays. Their use in night work was strictly prohibited. Since the law included what the ILO convention had prescribed, the *Riigikogu* ratified the ILO convention in June 1922.⁹³

The 1921 law was in force until 1939, when it was replaced by a new agricultural law⁹⁴ that demanded a written work contract with the employer in which work and wages would be fixed. The new law contained a separate chapter on the work of children, young people and women that regulated and supplemented their work-related rules. The law prohibited, as before, the employment of children below 12 in agricultural work, but permitted an exception by allowing 10-year-old children to work as animal herders. For all children under the age of 14 who worked in agriculture, a rest period of nine hours at night and four hours during the day was required. Those below 16 could be employed only in light work like animal herding, garden weeding, and hay raking. School children could be employed only during the holidays. Employers were obliged to utilise measures to protect the health of those below 16.

During the parliamentary proceedings, a heated discussion took place over the exception that allowed the employment of 10-year-old children for animal herding. This meant that in comparison with the 1921 law the minimum age for beginning work was lowered by two years. Some delegates protested against the exception and demanded that it be removed. The majority, however, felt that herding was not beyond the physical capacity of 10-year-old, and that children needed to learn to work at an early age.⁹⁵ The lowering of the minimum age was not contrary to the ILO 1921 international convention on minimum working age in agriculture, since it did not establish a firm age limitation on beginning work.

Maternity protection and night work for women. On the matter of working out international standards for maternity protection and the prohibition of night work for women in agriculture, which was discussed at the third ILO conference in 1921, member states did not reach agreement since not all supported the broadening of the jurisdiction of the ILO to agriculture. Because agriculture was a sensitive question, delegates agreed to support only laconic recommendations. At the conference a

93 I Riigikogu protokollid, 7. istungjärg, protokoll nr 141, 29. juuni 1922, 479-480.

94 RT, 1939, 47, art 368.

95 See Riigivolikogu stenograafilised aruanded. I koosseis I ja II istungjärg. 1.-45. koosolek 1938, 348, 350-352, 574-575, 613

recommendation⁹⁶, which was just barely adopted by three votes, for the protection of working pregnant women and young mothers in agriculture recommended that the member states would expand the 1919 convention on maternity protection in industry to cover agriculture. The Estonian delegation was split. One government representative, the Berlin embassy secretary Karl Tofer, and labour representative and member of parliament Mihkel Martna⁹⁷ voted for the recommendation, while the other government representative, councillor of the Labour and Welfare Ministry, Voldemar Grohman, and the representative of the employers secretary of the Estonian Farmers Central Association, Jaan Hünerson, voted against.⁹⁸ At the same conference the recommendation⁹⁹ on women's night work in agriculture, which was approved, recommended that member states regulate night work for women so that, similarly to 14- to 18-year-olds, there would be at least nine hours of consecutive rest. Ninety delegates voted for the recommendation, among them all four Estonian delegates; only four conference delegates voted against.¹⁰⁰ There is no evidence that delegates representing their countries at ILO conferences had agreed how to vote for one or other convention or recommendation, however a few sources indicate that at the annual ILO conferences Estonian government, employer, and labour representatives met delegates from other states, exchanged information, and discussed social problems and development issues.¹⁰¹ Delegates made information about the ILO conferences available to the Estonian public through media publishing articles and overviews of the work of the conferences.¹⁰²

96 Ro12: Maternity Protection (Agriculture) Recommendation, 1921 (No. 12) – https://www.ilo.org/dyn/normlex/en/f?p=1000:12100:171668904653::NO::P12100_SHOW_TEXT:Y (last accessed 21 September 2020).

97 Initially there was a problem with the representative of the workers because Estonia lacked a strong trade union movement, or a central organisation of trade unions. In addition workers looked at the ILO with scepticism because they were convinced that in decision making their interest would not be taken into account. For this reason the government appointed social democratic parliamentary deputies as the Estonian labour representative to the conferences until 1926.

98 International Labour Conference. Third Session Geneva 1921. International Labour Office, Geneva 1921, 277.

99 Ro13: Night Work of Women (Agriculture) Recommendation, 1921. – https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312351:NO (last accessed 21 September 2020).

100 International Labour Conference. Third Session, 400.

101 V. Grohmanni aruanne 3. ILO konverentsi tööst 1921. a detsembris. RA, ERA.31.4.281, 13, 14.

102 See, for example, Estur. Rahvusvaheline töökonverents lõppenud. – Tallinna Teataja, 1919, 6 December; Töökonverents Genfis. – Postimees, 1926, 28 May; K.-t.-koja nõunik hra E. Masik Genfis. – Kaubandus-Tööstuskoja Teataja, 1926, 8, 246; XIII rahvusvahelise töökonverentsi töö. – Kaubandus-Tööstuskoja Teataja, 1929, 22, 508–511; Gustavson, A. IXX Rahvusvaheline töökonverents. 40-tunnilisele tööädalale põhimõtteline tunnustus. – Rahva Sõna, 1935, 45, 8–12; Gustavson, A. Rahvusvaheline tööorganisatsioon 1936. a. – Tööliskoja Teataja, 1937, 3, 70–71; Rebane, I. XXIII Rahvusvaheline töökonverents. – Tööliskoja Teataja, 1937, 7/8, 193–195; 9, 228–231; Mis on ja kuidas töötab Rahvusvaheline Töö-organisatsioon. Töökaitse ja sotsiaalkindlustuse dir. J. Sonin jutustab tänavusest töökonverentsist. – Uus Eesti, 1938, 3 July; Genfi töökonverents. – Päevaleht 1939, 15 June.

In reality, Estonian legislation offered very little protection for women working in agriculture. The 1939 agricultural worker law¹⁰³ contained only provision that prohibited the placing of pregnant women in work situations that were harmful to their health three months before their due dates. Both, the above-mentioned 1921 and 1939 agricultural laws gave agricultural worker of both genders the right to rest on Sundays and public holidays and for at least 8 hours per night.

PROTECTION OF MINORS IN NON-INDUSTRIAL OCCUPATIONS

In addition to industry, shipping and agriculture there were some areas of activity where the work of minors was still not regulated. This gap was filled in 1932 at the 16th ILO conference with the adoption of a convention¹⁰⁴ on a minimum age for non-industrial employment that covered practically all fields of work where labour relations were unregulated. As with the conventions on industry, shipping and agriculture, this convention established a minimum working age of 14. In the event that, in accordance with national laws, obligatory schooling extended beyond 14, it was prohibited to employ young people until they had finished their education. Young people who were obliged to be in school could work only during school holidays.

As an exception, it was permitted to employ children between 12 and 14 during non-school hours for 2 hours a day in light work that did not harm them or endanger their health or hinder their normal physical or intellectual development. The total hours of school and light work could not be more than 7 hours a day. Performing light work was prohibited on Sundays, holidays and at night between 8pm and 8am. Every member state was obligated to define in law the types of light work that were suitable for young people during school holidays.

The exception was added only after heated debate, since some workers' delegates desired a simple age minimum of 14 for work.¹⁰⁵ Since their proposal was ignored, they did not participate in the voting and so the amended convention was adopted by 84 votes without opposing

103 RT, 1939, 47, art 368.

104 C33: Minimum Age (Non-Industrial Employment) Convention, 1932. –https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100::NO:12100:P12100_ILO_CODE:C033:NO (last accessed 5 October 2020).

105 Gustavson, A. XVI rahvusvaheline töökonverents. – Töö ja Tervis, 1932, 8, 150.

votes.¹⁰⁶ The recommendation¹⁰⁷ adopted at the conference recommended not employing children who were obliged to attend school (even for light work). Among light work were the delivery of newspapers, activity in culture, the arts, sport, advertising, and the gathering and sale of flowers and vegetables. In order to employ children it was necessary to secure permission from a government office. For lighter employment it was necessary to secure the consent of parents or guardians and a school opinion and a doctor's certification saying that the health of the children permitted light work. For children who did lighter work it was necessary to secure sufficient rest and establish a register for them, in which was noted the age of the child, the type of work and the beginning and end of work in order to ensure that the regulations had been followed. The Estonian delegates, government representatives August Schmidt and Johannes Sonin, and workers' representative August Gustavson, voted for both documents; employers representative Konrad Mauritz did not vote.¹⁰⁸

We can regard this convention as not very successful since only seven states ratified it during the inter-war period (Austria, Belgium, France, the Netherlands, Spain Cuba, and Uruguay)¹⁰⁹, thus adopting the obligation to carry out its terms in their states.

While in industry, at sea, and in agriculture, Estonia had in part established higher than minimum requirements of the ILO conventions in relation to under-age workers, then at the 1932 international convention on the minimum age for beginning work in non-industrial spheres the government and the *Riigikogu* were in entirely different positions. Since at the ILO conference the representatives of the government, J. Sonin and A. Schmidt, had voted to approve the convention, it could be surmised that there would not be any problem in proposing the ratification of the convention. However, the government decided to support the proposal of the Education and Social Minister, Nikolai Kann, to leave the convention without ratification and submit it to the *Riigikogu* for information only, using the reason that Estonia lacked the laws to implement the international standard.¹¹⁰ The social com-

106 International Labour Conference. Sixteenth Session, Geneva 1932. Record of Proceedings. International Labour Office, Geneva, 1932, 419.

107 Ro41: Minimum Age (Non-Industrial Employment) Recommendation, 1932. – https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:Ro41 (last accessed 3 October 2020).

108 International Labour Conference. Sixteenth Session, 419, 481.

109 See Ratifications of C033: Minimum Age (Non-Industrial Employment) Convention, 1932. – http://www.ilo.org/dyn/normlex/de/f?p=NORMLEXPUB:11300:0::NO:11300:P11300_INSTRUMENT_ID:312178:NO (last accessed 4 October 2020).

110 Hariduse ja sotsiaalministri kiri valitsusele 23.10.1933. RA, ERA.31.3.5161, 1, IV; Valitsuse otsus 26.10.1933. RA, ERA.31.3.5161, 30.

will. The composition of member states was varied, with states from Europe, America, Latin America, Asia, and Africa, which were all at different stages of development and had different traditions. Conventions were usually not ratified because for economic reasons, i.e. a lack of funds, since the implementation of each convention required certain expenditure or a fear of weakening one's competitive edge. Some states, among them the most influential ILO member state Great Britain, did not regard it necessary to ratify some conventions, since work conditions were regulated, alongside employer and worker collective agreements, or by framing laws which were broader than the conventions and exceeded the minimum demands. The financial situation of states in the 1930s exerted an especially strong influence on ratification activity during that period because of the worldwide economic crisis and the situation in the years that followed when only a few states, or none, adopted international labour standards. It can be said, using the example of Estonia, that non-ratification did not necessarily mean that states did not follow requirements of conventions or recommendations, and often in one way or another adopted them into national laws.

CONCLUSIONS

One of the important aims of the ILO was protection of the most vulnerable in the labour market, children, young people and women, by establishing through its standards limitations on age, work time and duration and type of work. These conventions were of a fundamental character since they had a great influence on the safety, health, psychological and physical development, and education of young people and the health of working women. The ILO had a coordinating role in the formation of the social policy of the member states and was a channel for cooperation among them.

Estonia joining the ILO in 1921 had a positive influence on the modernisation and development of Estonian labour legislation and social policy. The Estonian delegation did not go to the conference with unified views. Sometimes the government representatives had received instructions on how they should vote, while the employer and labour voices did not depend on the government. Their different interests were expressed at the conferences independently, either positively or negatively.

The protection of children and young people at work was one of the most important areas, the necessity of which was prioritised in

Estonia and which did not lead to heated, public debate. Under the influence of ILO conventions Estonian labour conditions in maritime affairs and in agriculture were regulated for young people and regulations in industry were up-dated and developed. Raising the minimum age to start work and improving the working conditions of young people by law enabled children to develop normally and to obtain an education.

In reality, Estonian legislation provided protection for women working in industry yet very little protection for women working in other areas. Women working in industry were protected through the prohibition on night work, underground work and work that was harmful to their health. Women also had the right to 6 weeks paid maternity leave and the right to return to work afterwards. To meet the ILO standard of 12 weeks maternity leave proved to be a problem for Estonia. The proposed general health insurance reform that included 12 weeks paid maternity leave did not materialise because the government had delayed the handover of the relevant acts to parliament before the June 1940 coup d'état.

Since ILO conventions were not universal and regulated the protection of working conditions of children, young people and women by economic sectors, Estonian national laws that implemented the provisions of the conventions were also specific, each one of them regulating protection in one sector or activity, whether industry, maritime affairs or agriculture. Outside of these sectors regulations were deficient or totally lacking. During the interwar period Estonia adopted 9 of the 14 international conventions that dealt with the protection of children, young people and women. Because of government as well as employer interest five important conventions were not ratified: maternity protection, minimum age of non-industrial work, and conventions that raised the minimum age of permission to work from 14 to 15 in industry, shipping and non-industrial work. Despite the fact that some of the convention were not ratified, a number of their principles were still implemented. Estonia as ILO member state contributed to the creation of international norms in labour relations, and general norms for improving working conditions and social protection.

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LASTE, NOORUKITE JA NAISTE
KAITSEST TÖÖSUHETES
EESTIS RAHVUSVAHELISE
TÖÖORGANISATSIOONI (ILO)
KONVENTSIOONIDE VALGUSES,
1919–1940

Maie Pihlamägi

Artiklis käsitletakse Rahvusvahelise Tööorganisatsiooni (ILO) konventsioone laste, noorukite ja naiste kaitseks töösuhetes ja Eesti kui ILO liikmesriigi tööseadusandluse kooskõlastamisprotsessi nende konventsioonidega. Esmalt näidatakse, et esimesed seadused, mis reguleerisid laste ja naiste tööd, pärinevad Suurbritanniast, riigist, kes esimesena alustas industrialiseerimist. Teised industrialiseerimise teele asunud riigid tunnetasid samuti vajadust reguleerida kõige nõrgemate tööd. Naiste ja laste kaitsmine töösuhetes muutus tööliikumise surve all rahvusvahelise arutelu objektiks 1860. aastatel. Esimesed katsed töötada välja rahvusvahelised tööstandardid tegi 1900. aastal Baselis asutatud Rahvusvaheline Tööseadusandluse Ühendus. Selle organisatsiooni ideid arendas edasi 1919. aastal Pariisi rahukonverentsil loodud Rahvusvaheline Tööorganisatsioon, kelle peamine eesmärk oli välja töötada sotsiaalsele õiglusele tuginevad rahvusvahelised tööstandardid, mida järgitakse kõigis liikmesriikides ja mis seeläbi muutuksid üldisteks põhimõteteks. Kuna ILO üks prioriteete oli kõige nõrgemate – laste, noorukite ja naiste – kaitsmine töösuhetes, asus ta välja töötama standardeid, mis tagaksid alaealiste normaalse vaimse ja füüsilise arengu ning hariduse omandamise ja töötavate naiste tervise.

Eesti liitumisel ILO-ga 1921. aastal oli positiivne mõju Eesti seadusandluse moderniseerimisele ja sotsiaalpoliitikale, samuti informatsiooni levikule. ILO iga-aastastel konverentsidel kohtusid Eesti delegaadid – valitsuse, tööandjate ja tööliste esindajad – teiste riikide delegaatidega, vahetasid teavet ja arutlesid sotsiaalsete probleemide ning tuleviku arengusuundade üle.

Kõige nõrgemate sotsiaalkaitse oli Eestis üks tähtsamaid valdkondi, mille arengu vajadust tähtsustati. Et vältida liiga varast töökarjääri algust ja võimaldada lastel füüsiliselt normaalselt areneda ja vajalikku haridust omandada tõsteti Eestis vastavalt rahvusvahelistele konventsioonidele vanuse alammäär töösuhte alustamisel tööstuses ja kehtestati esmakordselt vanuselised piirangud merenduse ja põllumajanduse sektoris, keelati

alaealiste öötöö ning töötamine tervistkahjustavatel töödel. Väljaspool neid tegevusalasid jäid regulatsioonid puudulikuks või puudusid üldse.

Töötavate naiste tervise ja emaduse kaitse oli Eesti seadustega tagatud peamiselt tööstussektoris. Keelatud oli naiste öötöö, töötamine terviskahjustavatel töödel ja allmaatöödel. Samuti oli neil õigus 6-nädalasele tasulisele rasedus- ja sünnituspuhkusele. Puhkuse pikendamine vastavalt ILO standardile 12 nädalani ja selle laiendamine teiste majandussektorite naistöölisele venis ja vastav eelnõu jäigi valitsusel Riigikogule enne 1940. aasta riigipööret esitamata.

Eesti ühines kahe maailmasõja vahel laste, noorte ja naiste kaitseks vastu võetud 9 rahvusvahelise konventsiooniga 14st. Ratifitseerimata jäid 5 olulist konventsiooni, nagu emaduse kaitse konventsioon, tööea alampiirist mittetööstuslikel töödel, samuti konventsioonid, mis nägid ette vanuse alammäära tõstmist töö alustamisel 14 aastalt 15 aastale. Vaatamata sellele, et Eesti mõnede rahvusvaheliste konventsioonidega ei ühinenud, rakendati siiski osa nende konventsioonide põhimõtetest ellu. Jõustades rahvusvahelisi norme andis Eesti ILO liikmeriigina oma panuse selleks, et need muutuksid töösuhetes üldisteks normideks, mis aitavad parandada töötingimusi ja tagada piisava sotsiaalkaitse.