



Evaluating employment rights awareness

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Legislation covering employment relations in Estonia was reformed in 2009 and, three years later, the Employment contract act survey was carried out to evaluate how this new policy had been implemented. The survey analyses employees' and employers' awareness of their rights in employment relations and the implementation of the minimum conditions (provided for in the act) to ensure employment protection and quality. Employees' satisfaction and their willingness to pay for an unemployment safety net were also studied.

About the survey

In Estonia, the new Employment Contract Act was adopted on 17 December 2008, and came into force on 1 July 2009. The act aims at increasing flexicurity in employment relations, to allow employers and employees to agree on terms that would best fit their needs, while ensuring that their interests are protected. As part of good legislative practice, statistical data was collected and analysed about the implementation of the act. The study was set up by the [Ministry of Social Affairs](#) and carried out, in 2012, in collaboration with the Ministry, the [Praxis Center for Policy Studies](#), the Estonian Center for Applied Research ([CentAR](#)), and independent research company [Turu-uuringute AS](#).

The survey studied both private sector employers with at least five employees (the population size here is 16,860) and employed and unemployed people, covering those who are or were in employment with a contract (the population size here is 695,900). The cross-sectional sample of employers is stratified by economic activity, number of employees and their legal form (such as private, public, non-profit), and was randomly selected from the National Business Register. The sample size of employers is 903. Random route sampling was used for selecting a cross-sectional sample of employees and the unemployed. First, 130 geographical sampling points were selected, a random route procedure was then used to select household addresses; and a random procedure was used to select a respondent. This was done by choosing the youngest person at home at the time of the study, in order to enlarge the proportion of younger people in the sample, as this section of the population would be the most unlikely one to be at home. As a result, this achieves proportionality across socio-demographic characteristics such as gender or age. The maximum number of interviews per sampling point was 10. The sample size of employees and unemployed was 1,300.

In order to study the employers, a self-administered questionnaire of 113 questions was used. This was done by computer-assisted web interviewing. They also had access to a telephone and e-mail-based helpline. The employees' questionnaire included 141 questions and face-to-face interviews were conducted (computer-assisted personal interviewing).

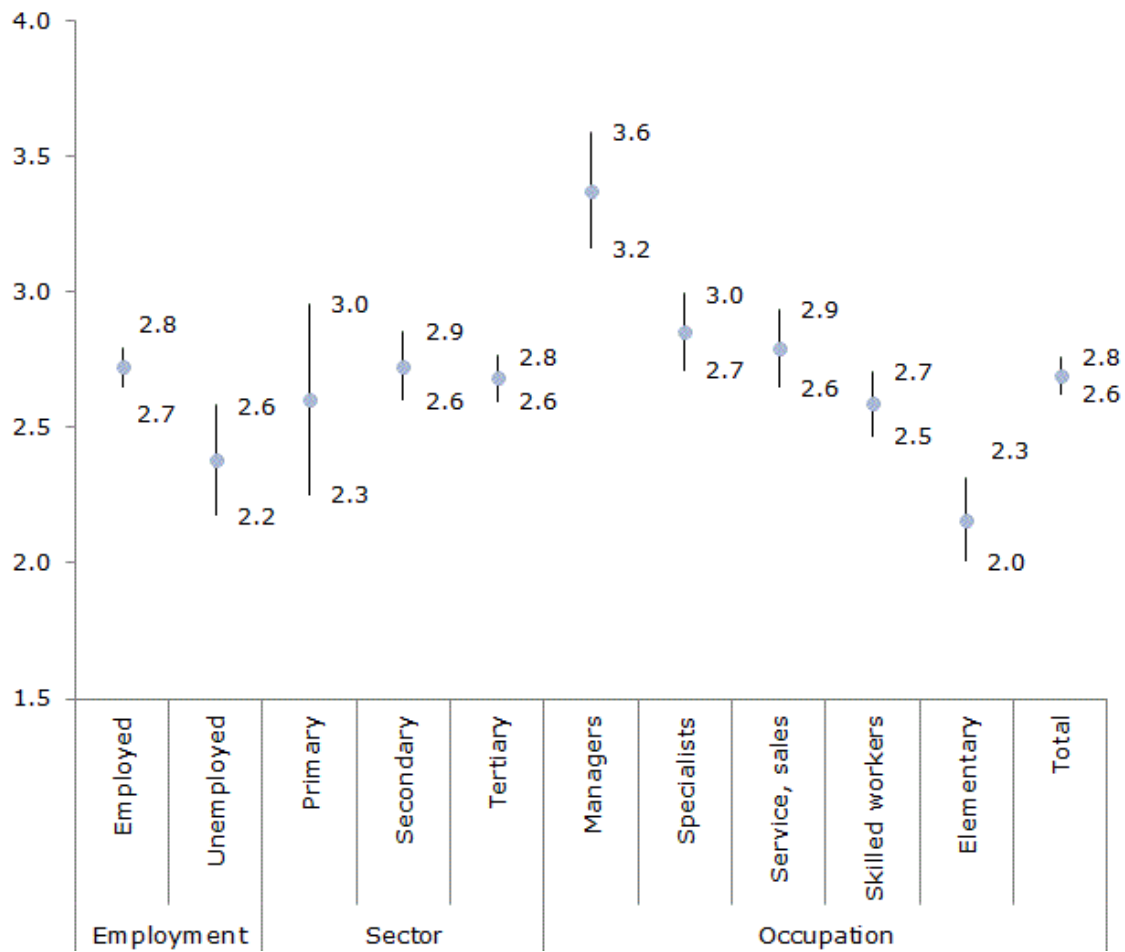
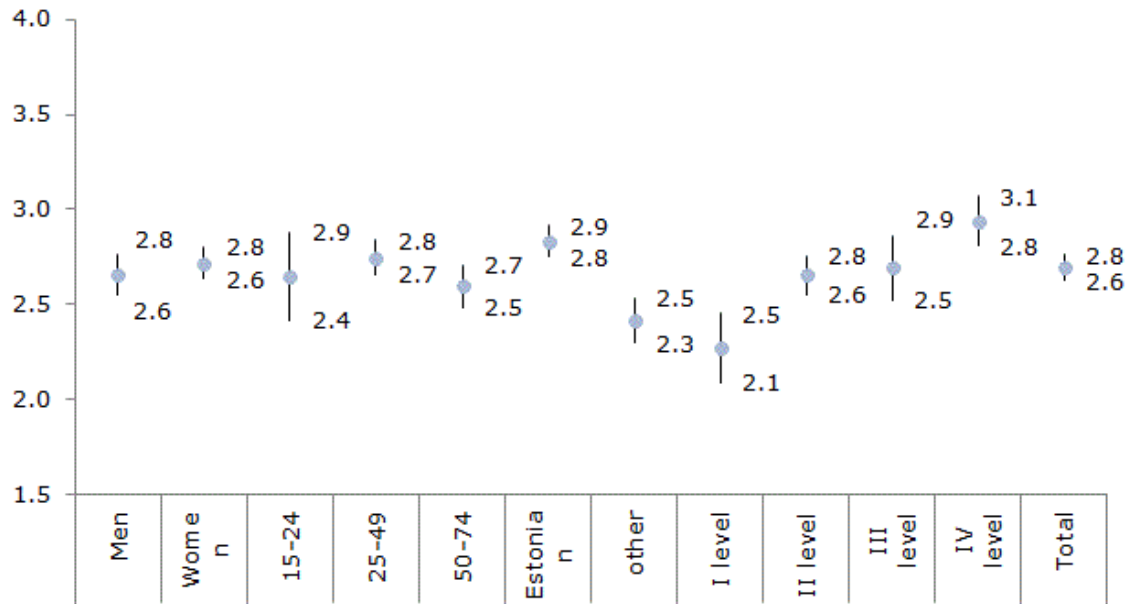
The survey focused on three main topics:

- awareness of employment rights;
- legal certainty;
- income security during unemployment.

Awareness of employment rights

The protection of employees and employers is ensured by legal certainty; or how much employees and employers are aware of their rights and obligations (see Meager et al, 2002, for a theoretical and methodological discussion of this) and the extent to which they are obliged to exercise their rights and carry out their responsibilities.

Figure 1: Employees' awareness of their rights (index)



Note: The index varies from 0–5. The value indicates the number of correctly answered questions about employment law.

Source: Masso et al, 2013

According to the survey, 8%–14% of employers and 28%–34% of employees and the unemployed assessed their own awareness of labour law as poor. (Please note that confidence intervals of statistics are reported here). At the same time, 73%–79% of employers and 79%–83% of employees and the unemployed felt that they needed more knowledge about rights and obligations concerning employment relations. Some 14%–19% of employees and the unemployed could not name any aspect of labour law and the same proportion could reply correctly to only one in five specific questions about labour law. Thus, knowledge of labour law among approximately one tenth of employers and approximately one fifth of employees and the unemployed is poor, with most respondents in all groups admitting they need to know more. As a result, legal certainty may be at stake and the legitimate behaviour of parties may not be guaranteed due to this.

It is important to identify groups where the proportion of those workers with a lower awareness of employment rights is higher than average and who may therefore be less protected or more likely to infringe the rights of other parties. No significant differences were found among groups of employers. However, the survey revealed discrepancies in awareness among the groups of the unemployed and employees, with non-Estonians, less well educated people, the unemployed, and people in lower occupational positions having a worse knowledge of labour law (see also Figure 1). Thus, to improve awareness of employment rights, additional attention must be paid to these groups.

Legal certainty

Apart from the need for an awareness of their rights and obligations, legal certainty needs to be established by the compliance of employers and employees. Here is a description of the usual practices relating to employment relations and deviations from the conditions provided for in the act.

Employment contracts

According to the study, for 57%-63% of employees the employer unilaterally determines all terms of employment and working conditions upon entry into an employment contract, with the employee having no say. Also, 25%–31% of employers have developed standard terms and conditions for employment contracts, taking into account their needs and expecting the employees' agreement. Thus, employees' freedom and bargaining power is often limited. The act presumes that parties to employment relations will agree on the substantial terms of employment and working conditions in writing, in order to make the agreement official. However, if the employment is not going to last longer than two weeks, an oral employment contract is permitted. According to the survey, the proportion of oral contracts has not changed since the Employment Contracts Act came into force. This is because of the combined influence of the new act, the economic environment, the labour market and employment relations. However some 2%–3% of employees have only oral contracts. Some 4%–7% of employees say they were given a written employment contract more than two weeks after they began work that does not comply with the act. In both cases, it is hard to rectify a contract once it is agreed, and it is also hard for an employee in this situation to stand up for their rights in a dispute.

Training

Employees' knowledge and skills affect their chances of finding and enhancing their work so the Employment Contract Act specifies employers' obligations on training and study leave. Nevertheless, statistics show the proportion of employees participating in formal and professional

training (around 7%–8%) has remained constant since the act became law due to the combined influence of the act, the economic environment, the labour market and employment relations.

The act clarifies the requirements concerning compensation for training expenses. If expenses over and above the standard training expenses are incurred, parties can enter into an agreement regarding compensation for these additional expenses. According to the survey, 14%–19% of employers and 9%–12% of employees had signed this kind of agreement. However, for 33%–50% of all employees this agreement is not in compliance with the standards of labour law, as it does not provide a binding period or, if it does, it exceeds the three years permitted in the act. Likewise, 7%–18% of employees who have entered into the agreement consider it unreasonable as the employer is not obliged to incur expenses that are any higher than usual in training the employee.

Working time

The new act also regulates rights and obligations relating to working time with the aim of protecting employees' health. Statistics indicate that the average length of a working week (about 38 hours), the proportion of employees working longer than this (about 2%) and doing overtime (about 3%) has remained the same since the act became law. The analysis also does not indicate any significant changes to how overtime is paid, although the new act presumes it is primarily in the form of time-off in lieu. As for evening work, the act no longer defines it, limits its use, nor prescribes additional pay for it, thus favouring this working time arrangement. On the other hand, although it more extensively regulates the use of night work, statistics do not indicate any changes in the proportion of employees working during the evening (about 39%) or at night either (about 13%). It is also worth mentioning that, according to the act, anyone working more than 13 hours in a 24-hour period is entitled to get time off equal to the number of hours by which the 13 working hours were exceeded. However, statistics indicate that 15%–23% of employees seldom and 11%–19% of employees never rest for more than 11 hours (which is the minimum for a 24-hour period) after a working day exceeding 13 hours.

Wages

Previous analyses have indicated that employers have been able to reduce or freeze wages when the economic environment or a firm's economic activities change. This supports the opinion that working conditions in Estonia are flexible. Whereas in general, employees and employers must agree on reducing wages, in the case of unforeseen economic circumstances beyond the control of the company, the employer can also decide unilaterally to reduce the wages of an employee. The survey showed that up to a quarter of companies have not consulted their employees about cutting wages, even though the law requires them to do so. Interestingly, at least 10% of employees who had their wages cut believe this was because their employer wanted an easy way to reduce costs, rather than as a reaction to unforeseen economic circumstances.

Problems in employment relations

Legal certainty is required to protect the rights and obligations of employees and employers in employment relations. The survey indicates that employees and unemployed people often have problems in employment relations, and that employment contracts deviate from the minimum conditions provided for in the act. Furthermore, 2%–5% of companies and institutions say they have encountered problems in exercising their legitimate rights and carrying out their obligations, while 27%–32% of employees and the unemployed have felt that their employment rights have been violated, they have been treated unfairly or they have experienced other problems in this area. Also, 18%–22% of employees and unemployed people say if faced with such a problem they would quit rather than attempting to resolve the issue. The reasons they gave were that they

did not want to exacerbate the problem and also that they did not believe it would be possible to find an easy and appropriate solution.

Therefore, in order to increase legal certainty, it is necessary to tackle not only awareness, but also employees' willingness to resolve employment relation issues (including through representatives and law enforcement authorities) and their freedom to determine that working conditions more accurately reflect their rights and needs.

Income security for unemployment

One of the objectives in regulating employment relations is to increase employees' economic security after the end of the employment relationships and during unemployment. The new act regulates employment rights such as

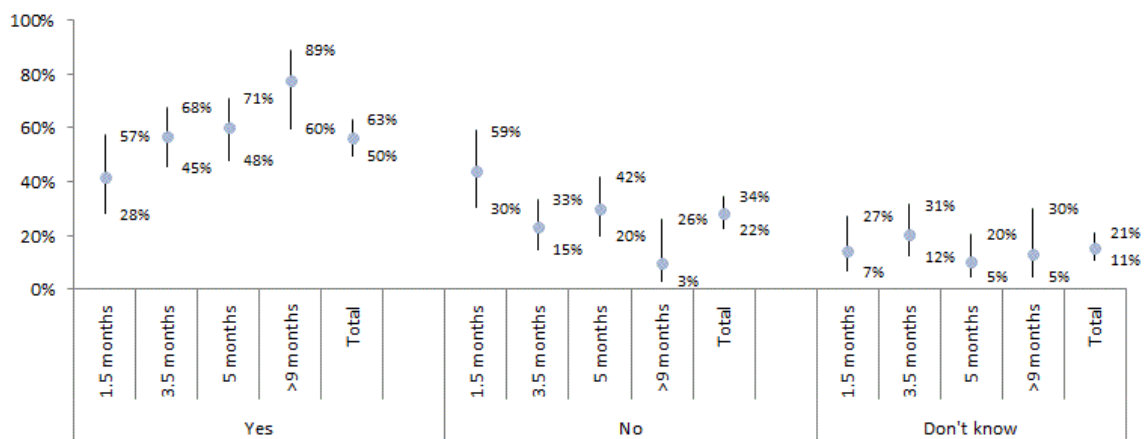
- notice period;
- time off for job search;
- unemployment benefits.

Economic security depends on the tenure – the longer the employment with a specific company, the longer the job-search period during which replacement income is guaranteed. The act has made the termination of a job much less expensive for the employer, but has also introduced additional obligations for the protection of the employees. Therefore, the study evaluated to what extent employees and unemployed people are satisfied with their economic security.

During the data collection, the complex legal framework of the security net was explained to ensure informed responses, and cooperation. In principle, the questions addressed employees' satisfaction with the length of the period they have replacement income, presuming they would like to maintain the cost level at 70% of their last wage. The approach was conservative and rather underestimated the security provided by the safety net.

The survey results indicated that most people are satisfied with the economic security provided under the current system (see Figure 2).

Figure 2: Whether job-seeking period covered by replacement income is sufficient.

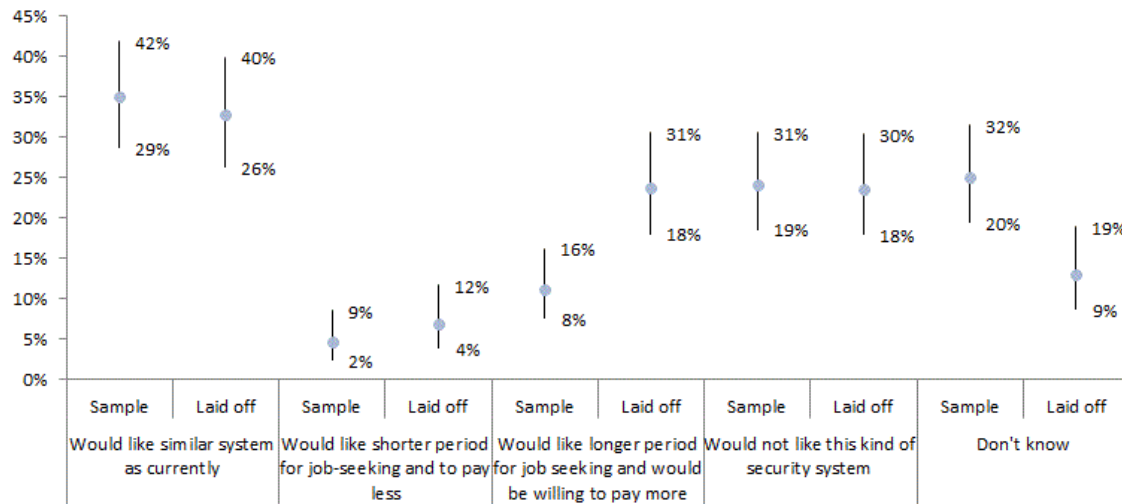


Source: Masso et al, 2013

The satisfaction with the job-search period mainly depends on how much time people have to look for a job while receiving financial contributions, and whether they have experienced involuntary unemployment. Those who had been laid off were much more critical of the

economic security provided while looking for a job. From their point of view, the time that needs to be spent searching for a job is considerably longer than that experienced by the general sample. The safety net was also assessed based on employees' willingness to contribute to the social security system through unemployment insurance payments (Figure 3). A relatively modest number of people wanted the unemployment security system to change (for better or worse) with most respondents willing to pay for the benefits currently provided. A significant proportion of people among those who had been laid off were prepared to pay extra for additional security. In sum, willingness to pay for the current safety net and willingness to pay for greater security was quite high.

Figure 3: Assessment of the safety net: willingness to pay for the security system



Source: Masso et al, 2013

Commentary

The focus of this survey is rather unusual. Normally, surveys describe topics relevant to policy and focus on employment relations and working conditions. The current study, by focusing on awareness and implementation of employment rights, endeavours to evaluate the current employment policy.

The survey shows that, as employees are not fully aware about their rights in employment relations, legal certainty may be at stake and the legitimate behaviour of parties may not be guaranteed. Also, the studied examples of rights show that, when entering into an employment contract and agreeing on working conditions, there are often deviations from the minimum conditions provided for in the act. The study is interesting in its attempt to study satisfaction with, and willingness to pay for, safety at the end of an employment relationship and during unemployment. The study indicates that most people are satisfied with the current system and do not object to paying for it.

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