

## TEMPLATE POLICY PAGE

<b>Category:</b>	<b>Domestic Violence</b>
<b>Country:</b>	<b>Estonia</b>
<b>Year:</b>	<b>2015</b>

<b>Main policy page:</b>	<p>A fifth of women aged 15-74 in Estonia have been victim of physical and/or sexual violence committed by their intimate partner after attaining 15 years of age, which is similar to the European average indicator (22%); in Estonia, women have encountered markedly more psychological violence committed by their intimate partner (in Estonia: 50%, EU average: 43%).</p> <p>Nearly a third of all people living in Estonia know a woman among their friends and family who has been victimised by any type of domestic violence .</p> <p>The number of registered domestic violence offences has increased year by year and this indicates that the people’s awareness and the rate of informing the police have improved. A large proportion of domestic violence cases are related to children – in 2013, every fifth domestic fight involved a child as a (joint) victim or witness of the violence.</p> <p>Although the majority of Estonia’s population condemns violence between spouses and cohabitants, 10% of the population has the opinion that it is sometimes inevitable. The youngest (15–24) and the oldest (65–74) age group are more tolerant towards violence (13% and 16%, respectively); across nationalities, men speaking languages other than Estonian stand out as 21% of them think that physical “calling to order” of an intimate partner is sometimes inevitable. A little above fifth (21%) of Estonia’s population finds that domestic violence is internal affairs of a family and others should not intervene. According to the gender equality monitoring of 2013, a positive change has occurred since 2009: the proportion of people favouring an intervention in a violent domestic fight has increased from 63% to 77%.</p> <p>10 years ago, a state victim support system was created to help victims. 28 victim support employees are working across Estonia, mostly in the same building as the police; they provide victims with initial victim support services, arrange for psychological assistance and if necessary then also arrange state compensation for offence victims. Since 2013, special services are offered to victims of trafficking in human beings and to minor-age victims of sexual offences.</p> <p>A network of women’s shelters / support centres has been established for victims of violence against women: a total of 13 centres operating as NGOs (the first among them was opened in 2002, the newest in 2014), providing victims with a free service package: initial, case-based and psychological counselling, psychotherapy, legal counselling and if</p>
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	<p>necessary then housing. Also, an around-the-clock support hotline 1492 is available for victims of violence against women and their next of kin.</p> <p>Estonian Government adapted the <a href="#">Strategy for Preventing Violence in 2015–2020</a> in February of 2015. The strategy encompasses violence between children, abuse of children, domestic violence (intimate partner violence), sexual violence and trafficking in human beings.</p>
<p><b>Relevant legislation:</b></p>	<p>In Estonian legislation there is no separate section for domestic violence, but the latest changes to Penal Code consider violence against the partner to be aggravated circumstances in committing the crime.</p> <p><b>Penal Code § 58. Aggravating circumstances</b>  Aggravating circumstances are:</p> <ol style="list-style-type: none"> <li>1) self-interest or other base motives;</li> <li>2) commission of the offence with peculiar cruelty, or degradation of the victim;</li> <li>3) commission of the offence knowingly against a person who is less than eighteen years of age, pregnant, in an advanced age, in need of assistance or has a severe mental disorder;  [RT I, 12.07.2014, 1 - entry into force 01.01.2015]</li> <li>4) commission of the offence against a person who is in a service or financially dependent relationship with the offender, and against a former or current family member of the offender, against a person who lives with the offender or a person who is otherwise in a family relationship with the offender;  [RT I, 12.07.2014, 1 - entry into force 01.01.2015]</li> <li>5) commission of the offence during a state of emergency or state of war;</li> <li>6) commission of the offence by taking advantage of a public accident or natural disaster;</li> <li>7) commission of the offence in a manner which is dangerous to the public;</li> <li>8) causing of serious consequences;</li> <li>9) commission of the offence in order to facilitate or conceal another offence;</li> <li>10) commission of the offence by a group;</li> <li>11) taking advantage of an official uniform or badge in order to facilitate commission of the offence;</li> <li>12) commission of the offence against a minor with abuse of power or confidence;</li> <li>13) commission of the offence against the person by an adult in the presence of a minor.  [RT I, 12.07.2014, 1 - entry into force 01.01.2015]</li> </ol> <p><b><u>Following there is a list of the offences against the person from Penal Code (Chapter 9):</u></b></p> <p><b><u>Offences Against Life (Division 1)</u></b></p> <p><b>Subdivision 1: Offences hazardous to health</b>  <b>§ 118. Causing serious damage to health</b></p>

Causing of health damage which results in:

- 1) a danger to life;
- 2) a severe physical illness;
- 3) a severe mental disorder;
- 4) miscarriage;
- 5) a permanent mutilating facial injury, or
- 6) the loss or cessation of functioning of an organ, is punishable by 4 to 12 years' imprisonment.

**§ 119. Causing serious health damage through negligence**

(1) Causing serious health damage through negligence is punishable by a pecuniary punishment or up to one year of imprisonment.

(2) The same act, if it causes serious damage to the health of two or more persons, is punishable by up to 3 years' imprisonment.

**Subdivision 2: Acts of violence**

**§ 120. Threat**

(1) A threat to kill, cause health damage or cause significant damage to or destroy property, if there is reason to fear the realisation of such threat, is punishable by a pecuniary punishment or up to one year of imprisonment.

(2) The same act, if committed by a legal person, is punishable by a pecuniary punishment.

[RT I, 23.12.2014, 14 - entry into force 01.01.2015]

**§ 121. Physical abuse**

(1) Causing damage to the health of another person and physical abuse which causes pain is punishable by a pecuniary punishment or up to one year of imprisonment.

(2) The same act if:

- 1) it causes health damage which persists for at least four weeks;
- 2) committed in a close relationship or relationship of subordination; or
- 3) committed repeatedly, is punishable by a pecuniary punishment or up to five years' imprisonment.

(3) An act provided for in subsection (1) or (2) of this section, if committed by a legal person, is punishable by a pecuniary punishment.[RT I, 12.07.2014, 1 - entry into force 01.01.2015]

**Sexual Self-determination (Division 7)**

**141. Rape**

(1) Sexual intercourse or commission of another act of sexual nature with a person against his or her will by using force or taking advantage of a situation in which the person is not capable of initiating resistance or comprehending the situation is punishable by one to five years' imprisonment.

[RT I, 13.12.2013, 5 - entry into force 23.12.2013]

(2) The same act:

- 1) if committed against a person of less than eighteen years of age;

- 2) if committed by a group;[RT I, 12.07.2014, 1 - entry into force 01.01.2015]
- 3) serious damage is thereby caused to the health of the victim;
- 4) it causes the death of the victim;
- 5) it leads the victim to suicide or a suicide attempt; or
- 6) it was committed by a person who has previously committed a criminal offence provided in this Division, is punishable by six to fifteen years' imprisonment. [RT I 2006, 31, 233 - entry into force 16.07.2006]

(3) The same act, if committed by a legal person, is punishable by a pecuniary punishment. [RT I, 13.12.2013, 5 - entry into force 23.12.2013]

**§ 143. Compelling person to engage in sexual intercourse or other act of sexual nature**

(1) Sexual intercourse or commission of another act of sexual nature with a person against his or her will by taking advantage of the dependency of the victim on the offender but without using force or outside a situation where the person was not capable of initiating resistance or comprehending the situation as provided for in § 141 of this Code, is punishable by up to three years' imprisonment.

(2) The same act, if committed by a person who has previously committed a criminal offence provided for in this Division, is punishable by up to five years' imprisonment.

(3) The same act, if committed by a legal person, is punishable by a pecuniary punishment. [RT I, 13.12.2013, 5 - entry into force 23.12.2013]

**§ 143<sup>2</sup>. Sexual intercourse or other act of sexual nature using influence**

(1) Engagement in sexual intercourse or commission of another act of sexual nature by an adult person with a person of less than eighteen years of age by taking advantage of the dependency of the victim on the offender or with abuse of influence or confidence but without using force or outside a situation where the person was not capable of initiating resistance or comprehending the situation as provided for in § 141 of this Code, is punishable by two to eight years' imprisonment.

(2) The same act, if committed by a person who has previously committed a criminal offence provided for in this Division, is punishable by three to eight years' imprisonment.

(3) The same act, if committed by a legal person, is punishable by a pecuniary punishment. [RT I, 13.12.2013, 5 - entry into force 23.12.2013]

**§ 144. Sexual intercourse with descendant**

(1) Sexual intercourse or commission of another act of sexual nature by a parent, person holding parental rights or grandparent with a child or grandchild is punishable by two to eight years' imprisonment.  
[RT I, 13.12.2013, 5 - entry into force 23.12.2013]

(2) The same act, if committed by a person who has previously committed a criminal offence provided for in this Division, is punishable by three to eight years' imprisonment. [RT I, 13.12.2013, 5 - entry into force 23.12.2013]

**§ 145. Sexual intercourse or other act of sexual nature with child**

(1) Engagement in sexual intercourse or commission of another act of sexual nature by an adult person with a person of less than fourteen years of age is punishable by up to five years' imprisonment.

(2) The same act, if committed by a person who has previously committed a criminal offence provided for in this Division, is punishable by two to eight years' imprisonment.

(3) The same act, if committed by a legal person, is punishable by a pecuniary punishment. [RT I, 13.12.2013, 5 - entry into force 23.12.2013]

**§ 145<sup>1</sup>. Buying sex from minors**

(1) Engaging in sexual intercourse or committing another act of sexual nature with a person of less than eighteen years of age for monetary payment or any other benefit, is punishable by up to three years' imprisonment.

(2) An act specified in subsection (1) of this section, if committed against a person of less than fourteen years of age, is punishable by up to five years' imprisonment.

(3) The act specified in subsections (1) and (2) of this section, if it was committed by a person who has previously committed a criminal offence provided for in this Division, is punishable by two to eight years' imprisonment.

(4) An act specified in subsection (1) or (2) of this section, if committed by a legal person, is punishable by a pecuniary punishment.  
[RT I, 13.12.2013, 5 - entry into force 23.12.2013]

**§ 147. Inability of person of less than ten years to comprehend**

Within the meaning of the offences provided for in this Division, a person is deemed to be incapable to comprehend if he or she is less than ten years of age.

**Following is the imposition of Restraining Order and Other Similar Measures for Protection of Personality Rights from Civil Court Procedure Act (Chapter 55)**

**§ 544. Application of restraining order and other measures for protection of personality rights**

(1) In order to protect the personal life of a person or other personality rights, the court may apply a restraining order or other measures based on § 1055 of the Law of Obligations Act. Such measures may be applied

with a term of up to three years.

(2) If the court conducts proceedings in the matter of application of measures in order to protect a personality right in connection with a family relationship, the provisions regulating family matters on petition additionally apply, unless otherwise provided by this Chapter.

(3) In the case provided in subsection (1) of this section, the court may adjudicate the matter in a proceeding on petition, if it is adjudicated together with other action or if the plaintiff so requests.

#### **§ 545. Hearing and conciliation of participants**

Before applying a restraining order or another measure for protection of personality rights, the court shall hear the person with respect to whom application of such measure is requested and the person in the interests of whom proceedings are conducted for application of such measure. Where necessary, the court shall also hear the persons close to the persons specified above, and the rural municipality or city government or police authority of the residence of the persons.

#### **§ 546. Application of provisional legal protection**

Where necessary, the court may secure a petition for application of a restraining order or another measure for protection of personality rights or apply provisional legal protection by a ruling. As a measure of provisional legal protection, measures for securing the action may be applied pursuant to the procedure for securing an action.

#### **§ 547. Service and entry into force of ruling**

A ruling on application of a restraining order or another measure for protection of personality rights shall be served on the persons with regard to and in the interests of whom such measures are applied.

The ruling is subject to execution after the date in which the ruling is served on the obligated person.

#### **§ 548. Recall and amendment of measures for protection of personality rights**

If circumstances change, the court may recall or amend a restraining order or another measure for protection of personality rights. Before recalling or amending a measure, the court must hear the participants.

#### **§ 549. Filing of appeal against ruling**

(1) A ruling on application of a restraining order or another measure for protection of personality rights is subject to appeal by the persons obligated to comply therewith.

(2) A ruling whereby the court refuses to satisfy a petition for application of a restraining order or another measure for protection of personality rights, or recalls or amends such measure is subject to appeal by the person who requested application of the measure or in whose interests the measure was applied.

### **Penal Code**

#### **§ 3312. Violation of restraining order**

Violation of a restraining order or other measure of protection of personality right imposed by a court decision, if this poses a danger to

the life, health or property of persons, or repeated violation of a restraining order or other measure of protection of personality right is punishable by a pecuniary punishment or up to one year of imprisonment.

### **Code of Criminal Procedure**

#### **§ 1411. Temporary restraining order**

(1) For protection of private life or other personality rights of the victim, a person suspected or accused of a crime against the person or against a minor may be prohibited to stay in places determined by the court, to approach the persons determined by the court or communicate with such persons at the request of a Prosecutor's Office and on the basis of an order of a preliminary investigation judge or on the basis of a court ruling.

(2) The temporary restraining order is applied to a suspect or accused with the consent of the victim.

(3) In order to issue a ruling on application of temporary restraining order, a preliminary investigation judge shall examine the criminal file and interrogate the suspect or accused and, where necessary, the victim with a view to ascertaining whether the request for temporary restraining order is justified. The prosecutor and, at the request of the suspect or accused, the counsel shall also be summoned before the court or the preliminary investigation judge and their opinions shall be heard.

(4) A ruling on temporary restraining order shall set out:

- 1) the reasons for the temporary restraining order;
- 2) the conditions of the temporary restraining order.

(5) A victim, a Prosecutor's Office, a suspect, accused or his or her counsel may file an appeal pursuant to the procedure provided for in Chapter 15 of this Code against application of temporary restraining order or refusal to apply temporary restraining order.

(6) A copy of a ruling on establishment of temporary restraining order shall be submitted to the suspect or accused and victim and sent to the police prefecture of the residence of the victim. A preliminary investigation judge or court shall also immediately notify other persons whom the restraining order concerns of the application of temporary restraining order.

#### **§ 1412. Verification of reasons for application of temporary restraining order**

(1) A suspect or accused or his or her counsel may, within three months after the application of temporary restraining order, submit a request to the preliminary investigation judge or court to verify the reasons for the application of temporary restraining order or to amend the conditions of application of temporary restraining order. A new request may be submitted three months after the reviewing of the previous request.

(2) A preliminary investigation judge or court shall review a request within five days as of the receipt thereof. The prosecutor, victim, suspect or accused and, at the request of the suspect or accused, his or her counsel shall be summoned before the preliminary investigation judge or court.

(3) A request shall be adjudicated by a court ruling. A ruling made in reviewing of a request is not subject to contestation except in the case

when the conditions of the temporary restraining order are amended.

**§ 1413. Amendment and annulment of temporary restraining order at request of victim and Prosecutor's Office**

(1) At the request of the victim or at the request of the Prosecutor's Office and with the consent of the victim, a preliminary investigation judge or court may amend the conditions of the temporary restraining order or annul the temporary restraining order.

(2) In order to issue a ruling on amendment of the conditions of or annulment of the temporary restraining order, a preliminary investigation judge or court shall examine the criminal file and interrogate the suspect or accused and the victim with a view to ascertaining whether the request is justified. The prosecutor, victim, suspect or accused and, at the request of the suspect or accused, his or her counsel shall be summoned before the preliminary investigation judge or court.

(3) A copy of a ruling on amendment of the conditions of or annulment of the temporary restraining order shall be submitted to the suspect or accused and victim and to another person whom the restraining order concerns

**3101. Decision concerning restraining order**

(1) At the request of the victim, the court may apply, for protection of private life or other personality rights of the victim on the basis of § 1055 of the Law of Obligation Act, the restraining order with a term of up to three years to an offender convicted of a crime against the person or against a minor.

(2) A court shall adjudicate a request for restraining order pursuant to the procedure provided for in § 310 of this Code.

Penal Code, Code of Criminal Procedure and Civil Court Procedure Act can be found in English: <http://www.legaltext.ee>

The latest versions of previously mentioned acts in Estonian can be found in [www.riigiteataja.ee](http://www.riigiteataja.ee).

**Trends:**

A [national action plan on combating violence for years 2015-2020](#) was approved by the government in February 2015. It concentrates on four main topics: adolescents' crimes, violence against children, domestic violence and human trafficking. The aim of the action plan is to divide responsibilities between different institutions (both governmental and non-governmental) and develop a solid approach towards prevention and combating violence.

	<p>Crime statistics and research in general: <a href="http://www.kriminaalpoliitika.ee/et/statistika-ja-uuringud">http://www.kriminaalpoliitika.ee/et/statistika-ja-uuringud</a></p> <p>More info in Estonian: <a href="http://www.avasilmad.ee">www.avasilmad.ee</a> and also: <a href="http://www.kriminaalpoliitika.ee/et/perevagivald/mis-perevagivald">http://www.kriminaalpoliitika.ee/et/perevagivald/mis-perevagivald</a></p>
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