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PROGRAM

Estonia

Country Report for use in refugee claims based on persecution relating to sexual orientation and gender identity

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I. Introduction

Although same-sex sexual activities have been legal in Estonia since 1992 and anti-discrimination legislation was enacted when Estonia joined the European Union in 2004, homophobic attitudes are still widespread in the country.

Estonia legally prohibits discrimination and the incitement of hatred on the basis of sexual orientation. However, protections of equal treatment primarily refer to labour relations and do not include access to social welfare, education, or public goods. In addition, Estonia does not legally recognize same-sex partnerships. This is particularly noteworthy given the emphasis placed on the importance of the family in Estonia's constitution (see *Legislation*).

Estonians are generally less supportive of same-sex partnerships than citizens of Western European states, but more supportive than citizens of much of Eastern Europe. As such, European anti-discrimination institutions play an important role in promoting human rights in Estonia, but it is difficult to accurately measure the effectiveness of anti-discrimination laws (see *Scholarship*). This difficulty is augmented by the fact that the Estonian state does not have a coherent strategy to combat discrimination. International NGOs point to a lack of political will in Estonia as the cause of delays in implementing hate speech and hate-motivated violence amendments to the Penal Code.

Over the past few years, discussion about reforming Estonia's *Family Act* to potentially legalize same-sex partnership has been met with ire from a few vocal groups. In 2011, the Estonian Council of Churches sent an open letter to the government, saying that only the "traditional family" model "ensures the sustainability of the people and the land of Estonia". In March 2013, two members of Parliament from Estonia's right wing IRL party made

extremely homophobic comments, including the suggestion that LGBT people should be medically “treated”. In May 2013, the Foundation for the Protection of Family and Tradition gathered 38,000 signatures opposing same-sex partnership (see *Media*).

Estonian LGBT people’s awareness of their own rights may be growing. Pride parades have been organized in Tallinn since 2004, although in 2006 the parade was disrupted by violent protesters. An LGBT information and activity centre opened in Tallinn in 2011, and other local organizations have begun to provide equality training to businesses and teachers. Estonia’s Gender Equality Commissioner has urged better treatment for same-sex couples, and the Ministry of Social Affairs has funded a media campaign to fight homophobia (see *Non-Governmental Organizations* and *Media*).

II. Legislation

To access full text Estonian legislation and English translations see:

<http://www.legaltext.ee/indexen.htm>

For Draft legislation in Estonian see:

<http://eelnoud.valitsus.ee/main#P2gv0XG3>

For Estonian Supreme Court decisions (available in English) see:

1. *The Constitution of the Republic of Estonia*, online:

<http://www.legaltext.ee/text/en/X0000K1.htm>

- **Section 10 provides that the rights granted by the chapter on Fundamental Rights Freedoms and Duties are not exclusive.**
- **Section 12 guarantees equality before the law and freedom from discrimination. Sexual orientation is not an enumerated ground, but discrimination on other grounds is also prohibited.**
- **Section 27 recognises the family as fundamental and guarantees government protection for it. The definition of marriage which explicitly excludes same-sex partnerships is set out in the *Family Law Act*.**

Section 10.

The rights, freedoms and duties set out in this Chapter do not preclude other rights, freedoms and duties which arise from the spirit of the Constitution or are in accordance therewith, and which are in conformity with the principles of human dignity, social justice and democratic government founded on the rule of law.

Section 12.

Everyone is equal before the law. No one shall be discriminated against on the basis of nationality, race, colour, sex, language, origin, religion, political or other views, property or social status, or on other grounds.

Incitement to ethnic, racial, religious or political hatred, violence or discrimination is prohibited and punishable by law. Incitement to hatred and violence between social classes or to discrimination against a social class is also prohibited and punishable by law.

Section 27.

The family, which is fundamental to the preservation and growth of the nation and which constitutes the foundation of society, enjoys the protection of the government.

Spouses have equal rights.

Parents have the right and the duty to raise their children and to provide for them.

The protection of parents and children is provided by law.

The family is required to provide for its members who are in need.

2. *Family Law Act*, online:

<http://www.legaltext.ee/text/en/XXXXX33K3.htm>

- **Section 1 defines marriage as taking place between a man and a woman.**
- **Section 10 explicitly states that same-sex marriages are null and void.**
- **Section 148 allows single persons to adopt children alone, but only married persons may adopt jointly.**

Section 1. Prerequisites for contraction of marriage

(1) A marriage is contracted between a man and a woman.

(2) Only adults may get married.

(3) A court may extend the active legal capacity of a person who has attained at least 15 years of age pursuant to the provisions concerning the extension of active legal capacity of minors for the performance of acts required for the contraction of marriage and for the exercise of the rights and performance of the obligations related to marriage.

(4) An adult with restricted active legal capacity may marry only if he or she understands sufficiently the legal consequences of marriage. If a guardian has been appointed to a person, it is presumed that the person is unable to understand the legal consequences of marriage unless otherwise provided in the ruling concerning the appointment of a guardian.

Section 10. Nullity of marriage

A marriage is void if:

1) persons of the same sex are married;

2) contraction of the marriage has been confirmed by a person who does not have the competence of a registry official of a vital statistics office, or

3) even only one party has not expressed his or her will to contract marriage.

Section 148. Right of single person and right of married person to adopt

- (1) A single person may adopt a child only alone.
- (2) Married persons may adopt a child jointly. A child may be adopted also by only one spouse if:
 - 1) he or she adopts the child of the other spouse;
 - 2) the other spouse cannot adopt because he or she has restricted active legal capacity.

3. *Penal Code*, online:

[http://www.legaltext.ee/en/andmebaas/tekst.asp?](http://www.legaltext.ee/en/andmebaas/tekst.asp?loc=text&dok=X30068K12&keel=en&pg=1&ptyyp=RT&tyyp=X&query=penal+code)

[loc=text&dok=X30068K12&keel=en&pg=1&ptyyp=RT&tyyp=X&query=penal+code](http://www.legaltext.ee/en/andmebaas/tekst.asp?loc=text&dok=X30068K12&keel=en&pg=1&ptyyp=RT&tyyp=X&query=penal+code)

- **Section 69² (6)** refers to “sexual orientation disorder,” which is not defined, as a grounds for treatment in substitution of imprisonment for sexual offences.
- **Section 151** criminalises the incitement of hatred; sexual orientation is an enumerated basis.
- **Section 152** criminalises violations of equality; sexual orientation is an enumerated basis.
- ***Penal Code* replaced the *Criminal Code* in 2002. Among other changes, it redefined the crime of rape and removed the crime of “indecent sexual acts towards a person under age of 16” (formerly s 115 and s 117 respectively).**

Section 69². Substitution of imprisonment by treatment...

(6) For the purposes of this Act, a treatment is:

- 1) addiction treatment of drug addicts to a person who has not been previously sentenced to imprisonment and who committed a criminal offence due to drug addiction;
- 2) complex treatment of adult sex offenders to a person who committed a criminal offence due to sexual orientation disorder.

Section 151. Incitement of hatred

(1) Activities which publicly incite to hatred, violence or discrimination on the basis of nationality, race, colour, sex, language, origin, religion, sexual orientation, political opinion, or financial or social status if this results in danger to the life, health or property of a person is punishable by a fine of up to 300 fine units or by detention.

(2) The same act, if:

- a. it causes the death of a person or results in damage to health or other serious consequences; or
- b. it was committed by a person who has previously been punished by such act; or
- c. the act is committed by a criminal organisation, is punishable by a pecuniary punishment or up to 3 years' imprisonment.

(3) An act provided for in subsection (1) of this section, if committed by a legal person, is punishable by a fine of up to 3200 euros.

[RT I 2010, 22, 108- entry into force 01.01.2011]

(4) An act provided for in subsection (2) of this section, if committed by a legal person, is punishable by a pecuniary punishment.

[RT I 2006, 31, 234- entry into force 16.07.2006]

Section 152. Violation of equality

- (1) Unlawful restriction of the rights of a person or granting of unlawful preferences to a person on the basis of his or her nationality, race, colour, sex, language, origin, religion, sexual orientation, political opinion, financial or social status is punishable by a fine of up to 300 fine units or by detention.
- (2) The same act, if committed:
 - a. at least twice; or
 - b. if significant damage is thereby caused to the rights or interests of another person that are protected by law or to public interests, is punishable by a pecuniary punishment or up to one year of imprisonment.[RT I 2006, 31, 234- entry into force 16.07.2006]

4. *Equal Treatment Act*, online:

<http://www.legaltext.ee/text/en/XXXX006K4.htm>

- **Section 1 states that the purpose of the act is to prevent discrimination on certain grounds including sexual orientation.**
- **Section 2 prohibits discrimination on the grounds of sexual orientation, including in labour relations, but it does not extend to access to social welfare, education, or public goods.**
- **Section 3 defines direct and indirect discrimination.**
- **This Act is mandated by the European Union, complementary to the *Gender Equality Act*. Compliance with both Acts are monitored by the Gender Equality and Equal Treatment Commissioner <http://www.svv.ee/index.php?id=481>**

Section 1. Purpose and scope of Act

- (1) The purpose of this Act is to ensure the protection of persons against discrimination on grounds of nationality (ethnic origin), race, colour, religion or other beliefs, age, disability or sexual orientation.
- (2) In order to achieve the purpose specified in subsection (1) of this section, this Act provides for:
 - a. the principles of equal treatment;
 - b. duties upon implementation and promotion of the principle of equal treatment;
 - c. resolution of discrimination disputes.

Section 2. Scope of application of Act

- (1) Discrimination of persons on grounds of nationality (ethnic origin), race or colour is prohibited upon:
 - a. establishment of conditions for access to employment, to self-employment or to occupation, including selection criteria and recruitment conditions, as well as upon promotion;
 - b. entry into employment contracts or contracts for the provision of services, instructions, remuneration, termination or cancellation of employment contracts or contracts for the provision of services, release from office;
 - c. access to vocational guidance, vocational training, advanced vocational training and retraining, practical work experience;

- d. membership in an organisation of employees or employers, including a professional organisation, and grant of benefits by such organisations;
 - e. access to the services of social welfare, social security and healthcare, including social benefits;
 - f. education;
 - g. access to and supply of goods and services which are available to the public, including housing.
- (2) Discrimination of persons on grounds of religion or other beliefs, age, disability or sexual orientation is prohibited upon:
- a. establishment of conditions for access to employment, to self-employment or to occupation, including selection criteria and recruitment conditions, as well as upon promotion;
 - b. entry into employment contracts or contracts for the provision of services, appointment or election to office, establishment of working conditions, giving instructions, remuneration, termination or cancellation of employment contracts or contracts for the provision of services, release from office;
 - c. access to vocational guidance, vocational training, advanced vocational training and retraining, practical work experience;
 - d. membership in an organisation of employees or employers, including a professional organisation, and grant of benefits by such organisations.
- (3) This Act does not preclude the requirements of equal treatment in labour relations on grounds of any characteristic not specified in subsection 1 (1) of this Act, in particular due to family-related duties, social status, representation of the interests of employees or membership in an organisation of employees, level of language proficiency or duty to serve in defence forces.
- (4) The Administrative Procedure Act applies to administrative proceedings prescribed in this Act, taking account of the specifications provided for in this Act.

Section 3. Discrimination and principle of equal treatment

- (1) The principle of equal treatment means that discrimination on grounds of any characteristic specified in subsection 1 (1) of this Act does not occur.
- (2) Direct discrimination is taken to occur where, on grounds of any characteristic specified in subsection 1 (1) of this Act, one person is treated less favourably than another is, has been or would be treated in a comparable situation.
- (3) Direct discrimination includes also harassment which occurs when unwanted conduct on grounds of any characteristic specified in subsection 1 (1) of this Act takes place with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment.
- (4) Indirect discrimination is taken to occur where an apparently neutral provision, criterion or practice would put persons, on grounds of any characteristic specified in subsection 1 (1) of this Act, at a particular disadvantage compared with other persons unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary.
- (5) An instruction to discriminate against persons on grounds of any characteristic specified in subsection 1 (1) of this Act is deemed to be discrimination.
- (6) Discrimination includes also a situation where one person is treated less favourably

than others or negative consequences follow because he or she has filed a complaint regarding discrimination or has supported a person who has filed such complaint.

III. Canadian Jurisprudence

Immigration and Refugee Board of Canada Decisions

1. *U.E.T. (Re)*, [2000] CRDD No. 66

Holding: Refugee claim denied

- **Factual inconsistencies found between claimant’s oral testimony of alleged ill treatment and his Personal Information Form**
- **Claimant’s experiences of harm did not amount to the serious harm of persecution**

Claimant alleged that due to a strong social taboo against homosexuality in Estonia, he was forced to hide his sexual orientation in order to gain employment. Claimant alleged that when his coworkers discovered his sexual orientation, their treatment of him and attitudes towards him were so unbearable that he had to resign. He testified that he would be unable to get employment in his chosen profession in Estonia. Panel concludes that this evidence of restricted employment options amounts to discrimination, but not persecution.

Claimant also alleged that he suffered verbal harassment and eviction from his landlord on the basis of his sexual orientation. In February 1998, three people approached the claimant outside a gay bar in Tallinn, and shouted slurs at him. The claimant testified that he was punched in the face. The panel found that this incident was isolated, and not reflective of repeated and persistent acts of physical threat or harm.

To qualify as a Convention refugee, the claimant did not necessarily have to suffer persecution himself—he could have demonstrated the persecution of similarly situated people. Claimant testified that two of his friends had been attacked on the basis of their sexual orientation, and that one of them had been killed. The panel found that because this information was third hand, and lacked supporting documentation, it was unsatisfactory.

2. *S. (I.Q.) (Re)*, [1994] CRDD No. 323

Holding: Refugee claim denied

- **Claimant found to be not credible because of conflicting testimony: “The panel believes that the claimant will say anything in order to increase his chances to be accepted as a Convention refugee: this was a man who informed on his fellow**

- citizens, with no bad conscience, for four years because he liked his job.”**
- **Claimant was found to have experienced discrimination, but not persecution**

Claim for refugee protection by three non-citizens of Estonia: a woman, a man, and their minor child. All claimants feared persecution on the basis of their Russian nationality, and their political opinions. The male claimant also sought protection on the basis of his sexual orientation. He was born in Tallinn, and believed that he was discriminated against for being Russian. During his career as a sailor on international voyages, he became a KGB informant. During his last voyage in March 1992, he had a same-sex relationship with a fellow sailor. Their relationship was discovered, and they were beaten and abused on the ship. The claimant lost his job.

The panel found that the worst thing that happened to the claimant on the basis of his sexual orientation was that he lost his dream job as a sailor—this was discrimination, not persecution. They found the claimant had had an isolated same-sex relationship, but did not intend to pursue a “homosexual lifestyle”. If he returned to Estonia he would face social ostracism, but not persecution. The panel found that he did not seriously look for other work, and that it was reasonable that he might get a job and even Estonian citizenship in the future (because he was never a paid employee of the KGB). Aspects of the claimant’s testimony were found to be not credible.

IV. Government Reports

United States

1. Travel.State.Gov – US Department of State, “Estonia: Country Specific Information” (August 2013)
Online: http://travel.state.gov/travel/cis_pa_tw/cis/cis_1112.html

- **Caution advised for LGBT people visiting Estonia.**

The US Department of State claims that the Estonian government generally respects Estonian legal prohibitions on discrimination on the basis of gender, sexual orientation, or other personal characteristics. The website mentions that LGBT visitors to Estonia should exercise caution when visiting, “especially with regard to expressing affection in public.” Local advocacy groups report that public displays of affection have led to incidents of verbal or physical assault.

2. U.S. Department of State, “Country Reports on Human Rights Practices for 2012: Estonia”
Online: <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204281#wrapper>

- The report indicates that many LGBT people in Estonia choose not to reveal their identity and avoid reporting incidents to police.
- Many LGBT people are reluctant to publicly display affection.
- LGBT advocates in Estonia claim that the government seems unwilling to fund studies that examine issues faced by LGBT people.

Canada

1. Travel.gc.ca – Government of Canada (July 2013)
Online: <http://travel.gc.ca/destinations/estonia>

- **The Government of Canada's travel advisory website does not currently have any advisories relating to LGBT travellers in Estonia.**

2. Immigration and Refugee Board of Canada, “Estonia: Whether lesbians in Estonia are provided redress by the state in cases of discrimination and ill-treatment.” (March 2003)
Online: <http://www.refworld.org/publisher,IRBC,QUERYRESPONSE,EST,3f7d4d9138,0.html>

- **Sexual orientation is not mentioned in the Constitution of Estonia, enacted in 1992.**

United Kingdom

1. Gov.uk – Government of the United Kingdom, “Foreign Travel Advice: Estonia” (October 2013)
Online: <https://www.gov.uk/foreign-travel-advice/estonia>

- **The UK's travel advisory website does not list any advisories for LGBT visitors to Estonia.**

Estonia

1. VisitEstonia.com - “Official tourist information website”
Online: <http://www.visitestonia.com/en/things-to-see-do/estonia-for-people-like-you/gay>

- **Estonia promotes itself to the LGBT community as a safe destination on its tourism website. Like other documents however, it warns that public displays of affection are “rare,” especially in “smaller towns and Russian speaking areas of Estonia...”**

European Union

1. The European Union Agency for Fundamental Rights, “European Union Lesbian, Gay, Bisexual and Transgender Survey: Results at a Glance” (2013)
Online: http://fra.europa.eu/sites/default/files/eu-lgbt-survey-results-at-a-glance_en.pdf

- **This report provides a brief overview of the status of LGBT equality in the EU.**
 - **Estonia's LGBT situation is not explored specifically; however survey results may be useful indicators:**
 - **The number of respondents claiming that they felt discriminated against in the previous 12 months in areas other than employment because of their LGBT status was lower in Estonia than the EU average (30 in Estonia, 32 average)**
 - **The number of respondents who had heard negative comments or seen negative conduct because a schoolmate was perceived to be LGBT during their schooling before the age of 18 was lower in Estonia than the EU average (85 in Estonia, 91 average)**
2. European Union Agency for Fundamental Rights, “Homophobia, transphobia and discrimination on grounds of sexual orientation and gender identity – 2010 Update”
Online: http://fra.europa.eu/sites/default/files/fra_uploads/1286-FRA-LGBT-report-update2010.pdf
- **This report is not focused on one particular state.**
 - **It indicates however that Estonia's *Equal Treatment Act* has extended the mandate of its equality body, the Gender Equality and Equal Treatment Commissioner, to cover discrimination on the basis of sexual orientation.**
 - **Estonia has taken action to “foster education and dialogue, with the aim of challenging negative attitudes towards homosexuality and LGBT people...”**
3. Council of Europe, Commission for Human Rights, “Report by Nils Muižnieks Commissioner for Human Rights of the Council of Europe Following his visit to Estonia from 25 to 27 March 2013” (June 2013)
Online: <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2308567&SecMode=1&DocId=2023896&Usage=2>
- **In 2011, 358 inquiries and 90 complaints of discrimination were made to the Equality Commissioner. In respect of 23 complaints, the Equality Commissioner found that discrimination had taken place. Half of the complaints received related to the ground of sex, 9% to ethnicity, 6% to sexual orientation (or sexual identity) and 2% to disability.**

V. Reports from International Agencies and Non-governmental Organizations

International Lesbian and Gay Association (ILGA)

1. “Estonia, Annual Review, 2013”, 2013
Online: http://www.ilga-europe.org/home/guide_europe/country_by_country/estonia/review_2013

- **Civil society groups have begun to provide training to teachers and businesses aimed at enhancing equality in the classroom and workplace, and addressing bullying.**
- **There has been legislation introduced aimed at addressing “bias motivated speech” and “bias motivated violence” on the grounds of sexual orientation. Both bills are expected to come before Parliament in 2013.**
- **Some progress is being made in terms of LGBT family rights**

While same-sex marriage is not recognized in Estonia, new legislation before Parliament seeks to amend the *Cohabitation Act* in a variety of ways including extending some unspecified legal protection to *de facto* same-sex partners. However, ILGA, citing an Estonian official, points out that this item is last on the agenda and is unlikely to be addressed.

Public opinion polling conducted by the Tallinn University of Technology Law School (on behalf of the Estonian government) indicates that 34% of Estonians found homosexuality “completely unacceptable” and only 10% indicated that it was “completely acceptable.” There is a geographic component to this: opinion on whether same-sex couples should be able to have their relationships recognized was more positive in the south than in the north of the country.

2. “Implementation of the Council of Europe Recommendation to member states on measures to combat discrimination on grounds of sexual orientation or gender identity. Summary Report: Estonia”, 2012
Online: http://www.ilga-europe.org/home/guide/council_of_europe/lgbt_rights/recommendation_com_lgbt/report_s/estonia_monitoring_implementation_of_the_coe_recommendation/summary_report

- **Public authorities lack, in general, comprehensive information on the situation of LGBT people in almost every area but especially so on hate crimes and hate speech, armed forces, sports, education and health.**
- **There has been no regular training of public officials on LGBT issues and, in some cases, no training at all.**
- **In many instances, the inherent vulnerability of the LGBT people in certain areas is not recognised and thus special measures specific to their situation are not adopted.**
- **The report found that there is a lack of political will which manifests itself in “low resources made available to the main anti-discrimination body, the Gender Equality and Equal Treatment Commissioner.”**

The report is divided into 12 topics. It found that recent attempts to amend the *Penal Code* to include hate-related motivation as an aggravating circumstance have failed year after year after receiving widespread criticism. Due to the lack of political will, it is “important to bring about change through case-law... and practice by non-judicial institutions.”

European network of legal experts in the non-discrimination field

1. “Executive Summary- Country Report Estonia 2010 on measures to combat discrimination”, 2010

Online: http://www.non-discrimination.net/content/media/2010-EE-Summary%20country%20Report%20LN_FINAL.pdf

- **Discrimination based on sexual orientation is prohibited by the Law on Equal Treatment (which introduced the Commissioner for Gender Equality and Equal Treatment).**
- **The Chancellor of Justice (similar to an ombudsman) is available to deal with alleged cases of discrimination on a number of grounds, including sexual orientation and sex.**

Estonian Human Rights Centre

1. “Annual Human Rights Reports, Estonia”, 2012

Online: <http://humanrights.ee/en/annual-human-rights-report/5030-2/the-situation-of-lgbt-persons/>

- **Popular opinion is shifting in favour of LGBT rights.**
- **However, a lack of political will continues to hamper efforts, as evidenced by the lack of progress on the Cohabitation Act. It is also manifested by the fact that most of the LGBT-related projects conducted by the Ministry of Social Affairs were funded by the European Union.**
- **The relatively low number of complaints made to the Gender Equality and Equal Treatment Commissioner may be more indicative of either an unwillingness to report or a lack of awareness of existing reporting mechanisms.**
- **The inclusion of LGBT topics in the gender equality monitoring conducted by the government can be viewed as a positive development. A new assessment is due in 2013.**
- **Transgender issues are subject to regulatory uncertainty. While the basis of all activities relating to gender reassignment in Estonia is the regulation of Ministry of Social Affairs on common requirements to medical acts of sex change, the regulation is controversial and does not cover all the issues arising from gender reassignment, thereby leaving a lot of discretion to officials.**

The Ministry of Justice had a role in two issues in 2012: 1) creating the concept draft of a Cohabitation Act that would allow same-sex couples to register their union, and 2) amending incitement of hatred provisions in the *Penal Code*. Both issues were topics of significant public debate. Ministry of Social Affairs was mostly focused on EU-sponsored projects and campaigns aimed at raising awareness.

The report indicated that in 2012 the Gender Equality and Equal Treatment Commissioner was presented with 23 communications regarding sexual orientation. Seven of them had to do with complaints where the applicant expressed suspicion of possible discrimination based on sexual orientation. The Commissioner did not find discrimination in any of these cases.

The number of communications has risen a little each year, suggesting that people's awareness of their rights is slowly rising.

According to 2012 polls, "21% of the Estonian respondents favour opening up the institution of marriage, 14% favour allowing adoption. A certain positive development in people's views can be detected here." The report also regards the opening up of public discussion of LGBT rights as a generally positive development, as it allows for redefinition of terms like family while highlighting injustices in a constructive way.

2. "The Status of Lesbian, Gay, Bisexual and Transgender Rights in Estonia", June 2010
Online:

<http://www2.ohchr.org/english/bodies/hrc/docs/ngo/EstoniaShadowReportLGBT.pdf>

- **Training for police and state officials on sexual violence does not include violence towards LGBT people.**
- **Unmarried same-sex couples are not afforded the same rights as unmarried opposite-sex couples.**
- **The government has not assisted LGBT people in asserting their guaranteed rights of assembly, and instead allowed the police to do little in the face of harassment and abuse at the 2006 Pride celebration.**
- **Transgender people must undergo sex-assignment surgery in order to have their status legally recognized.**
- **The condition of LGBT prisoners has not been extensively studied, however there were at least two complaints prior to the report's publication, one from a transgender person and another from a gay male.**
- **Stigma remains a significant problem.**

In general, the report points to legal discrimination, government inattention, and stigmatization as the current major issues facing LGBT people in Estonia. The report makes eight recommendations, including improving government training, enhancing reporting mechanisms for incidents of discrimination, and simplifying the process for transgender people applying to change their legal status without having undergone surgery.

A sexual health officer in Estonia commented that homosexuality was a disease. While this position was rejected by the government, it does indicate that individuals in key government sectors may discriminate based on sexual orientation. According to a Eurobarometer survey conducted in 2008, 32% of the population believes that discrimination based on sexual orientation occurs regularly. This is an increase of 7% from 2006.

VI. Newspaper and Media Reports

1. "Not a Single Politician is Standing Up for Minorities, Says Activist," ERR News, September 12, 2013.

Online: <http://news.err.ee/Politics/4b0cb2d4-8813-427e-9e6a-10a6c7613b63>

- **Head of the Estonian Refugee Council, Kristina Kallas, says that the failure of politicians to speak for gays, refugees, and other minority social groups to stand up for minorities is entrenching intolerance and hatred in society.**
2. “Foundation Hands Over 38,000 Signatures Opposing Same-Sex Marriage,” ERR News, May 15, 2013.
Online: <http://news.err.ee/society/48e2beab-d445-46f7-a13b-7cfefaa5bf44>
- **Foundation for the Protection of Family and Tradition submitted petition to parliament to show opposition to potential legal recognition of same-sex partnership.**
3. “Gay rights are human rights, one day...,” Karolina Raudsepp, The Baltic Times, April 17, 2013.
Online: <http://www.baltictimes.com/news/articles/32847/>
- **Article discusses high tensions surrounding recent public debate on gay rights.**
4. “Estonia Needs To Address Its False Phobias,” Chris Glew, Estonian World, March 28, 2013.
Online: <http://estonianworld.com/opinion/estonia-needs-to-address-its-false-phobias/>
- **Author argues that the fact that Estonian LGBT individuals can live openly and host pride parades was great news in 2003, but ten years on, it’s not enough.**
 - **Points to recent examples of extremely homophobic comments by MPs from IRL, a conservative political party.**
5. “Estonia right wing party says ‘sorry’ for anti-gay slurs,” Dan Littauer, GayStar News, March 27, 2013.
Online: <http://www.gaystarnews.com/article/estonia-right-wing-party-says-sorry-anti-gay-slurs260313>
- **After two of its MPs made homophobic comments, the IRL party issued an apology to everyone who felt “uncomfortable” with those comments.**
 - **The party stressed that the MPs’ comments were personal opinions, and that voicing homophobic opinions was an exercise of free speech.**
6. “IRL Apologizes for Comments About Gays,” ERR News, March 22, 2013.
Online: <http://news.err.ee/politics/aa8500bd-2ed3-4e9c-bf2a-c830fe5307f4>
- **Estonian IRL MP said, in reference to LGBT people, “There are all kinds of deviants,” and compared same-sex relationships to bestiality.**
 - **Second IRL MP said that LGBT people should be avoided and sent to medical treatment.**

7. “Report Cites Lack of Political Will in Solving Problems of Sexual Minorities,” ERR News, March 8, 2013.

Online: <http://news.err.ee/society/3db7126e-ca80-4a40-ba92-378ed5c75e15>

- **Article on a report by Estonia’s Human Rights Center, which finds that the state doesn’t have a coherent strategy to combat discrimination.**
- **Report says that the Gender Equality Commission is underfunded, and that potentially helpful legislation is gathering dust.**

8. “Ministry Floats Idea of Same-Sex Partnership Without Adoption,” ERR News, August 28, 2012.

Online: <http://news.err.ee/society/6b9e39f6-8292-43dd-8170-17e3ac6e2150>

- **Justice Ministry proposes option of allowing registered cohabitation for same-sex couples.**
- **This would allow one partner to become the adoptive parent of a child raised by the other partner as a single parent, but registered cohabitants would not have equal adoption rights to married couples.**

9. “Gender Commissioner Speaks Out for LGBT Families,” Kristopher Rikken, ERR News, August 27, 2012.

Online: <http://news.err.ee/society/ae74c8e1-89c6-42a6-84e8-5b55e58c10d9>

- **Estonia’s Gender Equality Commissioner, Mari-Liis Sepper, says that society should guarantee better treatment for LGBT people in areas of life outside of the job market.**
- **She also indicates that prohibited forms of discrimination should be expanded.**

10. “The Family Matter,” Pablo Veyrat, ERR News, February 12, 2011.

Online: <http://news.err.ee/society/1c233b99-0ecf-4c37-b201-4c5f8ae449b6>

- **Article discusses Estonia’s lack of a civil union law.**
- **Ministry of Justice is trying to plan a gender-neutral Draft Act on Co-Habitation, but is meeting a lot of resistance.**
- **IRL party opposes any reform to the Family Act, and argues that Estonia needs “to protect family values and the family institution”.**
- **The Council of Estonian Churches, EKN, also opposes any legal recognition of same-sex partnerships.**

11. “Campaign Fights Against Homophobia,” Ingrid Teesalu, ERR News, November 7, 2011.

Online: <http://news.err.ee/4134fd31-eda3-4dbe-9d64-512f1fbbdbd1>

- **A media campaign called “Difference Enriches” will aim to show that sexual orientation should not affect anyone’s rights or opportunities.**
- **The campaign is financed by the Ministry of Social Affairs and the European Union’s PROGRESS program.**

12. “LGBT Info Center Opens in Tallinn,” Steve Roman, ERR News, September 26, 2011.

Online: <http://news.err.ee/Culture/552c9d62-74e6-4327-9d39-56f7a31b1c66>

- **LGBT info center operated by non-profit Estonian Gay Youth opens in Tallinn.**
- **Previous LGBT info center existed in Tallinn for three years, but closed in 2009.**
- **At the opening, Minister of Social Affairs Hanno Pevkur emphasized the importance of raising awareness in society about LGBT issues, and “guaranteeing security for same-sex couples”.**

13. “Churches Attack Gay Partnership Reform,” Ott Tammik, ERR News, July 1, 2011.

Online: <http://news.err.ee/politics/f9b2b549-2422-4187-94f9-29043e3a19e0>

- **Council of Churches sends an open letter to Ministry of Justice, saying that the “traditional family” “ensures the sustainability of the people and the land of Estonia”.**

14. “Gays, Marriage, and the Iron Curtain,” Stewart Johnson, ERR News, September 20, 2010.

Online: <http://news.err.ee/opinion/76dc5b8b-1e5a-4547-abf4-96b3a8baffaa>

- **Response to anti same-sex marriage opinion piece (linked in article), which compared same-sex partnership with incest, polygamy, and child marriage.**
- **Suggests Estonian homophobia is a lingering effect of Soviet ideology.**

15. “Estonia and Homosexuality: Between (little) Tolerance and Inclusion,” Lithuania Tribune, July 6, 2010.

Online: <http://www.lithuaniatribune.com/2484/estonia-and-homosexuality-between-little-tolerance-and-inclusion-20102484/>

- **Estonian Prime Minister said that “Estonia is a tolerant country”, but that Estonia, Latvia or Lithuania would not “soon accept same-sex marriage in the eyes of the law”.**
- **Estonian Gay Youth (an NGO representing the Estonian LGBTQ community) says that hateful acts and discrimination towards LGBT are present in Estonia.**

16. “Preventative: homosexuality is a deviation,” Inga-Gretel Linkgreim, ERR News, December 5, 2008.

Online: http://translate.googleusercontent.com/translate_c?depth=1&hl=en&prev=hp&ru=translate.google.com&sl=auto&tl=en&u=http://www.uudised.err.ee/index.php%3F06146772&usg=ALkJrhj2ILBSoeeQCjTN8apy-QcoN8p3rw

- ****Article is in Estonian**
- **Peeter Mardna of the Department of Health considers homosexuality a “disorder”.**

17. “Police finally authorise Estonian Pride,” Pink News, July 31, 2007.
Online: <http://www.pinknews.co.uk/2007/07/31/police-finally-authorise-estonian-pride/>

- **Police advised Pride organisers to “find a place more suitable for the event”, because of the “problems of last year”.**
- **Police said that holding the parade might “disturb the constitutional rights of other citizens to walk the narrow streets of the city”.**
- **The previous year, protesters had attacked the Pride marchers with sticks and stones.**
- **After gay rights activists called upon Estonia’s President and Prime Minister for support, Tallinn police finally agreed to let the Pride parade march through the Old Town.**

18. “Skinheads disrupt gay pride parade,” Paul Morton, The Baltic Times, August 16, 2006.

Online: <http://www.baltictimes.com/news/articles/16117/>

- **Pride parade in Tallinn was delayed due to a bomb threat.**
- **When it got underway, it was disrupted by about two dozen skinheads who threw eggs, spat, and yelled racial slurs at participants.**
- **Six of these protestors were arrested.**

19. “Ambassador quits Estonia over gay abuse,” Nick Paton Walsh, The Guardian, June 8, 2006.

Online: <http://www.theguardian.com/world/2006/jun/08/gayrights.nickpatonwalsh>

- **Dutch ambassador to Estonia requests a transfer after his partner fell victim to repeated racist and homophobic abuse in Tallinn.**

VII. Scholarship

1. Holzacker, Ronald. “State-Sponsored Homophobia and the Denial of the Right of Assembly in Central and Eastern Europe: The “Boomerang” and the “Ricochet” between European Organizations and Civil Society to Uphold Human Rights.” *Law & Policy*, 2013

Online: <http://onlinelibrary.wiley.com/doi/10.1111/j.1467-9930.2012.00371.x/abstract>

- **This is a study of how European institutions have interacted with local civil society organizations in Latvia, Poland, Serbia and Russia to spread information and promote the freedom of assembly in the case of Pride parades.**
- **It found that by sharing information and ways of making their arguments clear, institutions such as the Council of Europe, the European Union, and the European Court of Human Rights help make the efforts of civil society**

organizations more effective, especially in EU member states such as Poland and Latvia.

2. LaSala, Michael C. and Elyse J. Revere. "It Would Have Been Impossible Before: Reflections on Current Gay Life in Estonia." *Journal of Homosexuality*, 2011
Online: <http://www.tandfonline.com/doi/full/10.1080/00918369.2011.546737#.UolnF8STg9Y>

- **Participants in the study who are gays and lesbians reported significant improvements since the Soviet era, particularly socially.**
- **However, major gaps in legal protection remain. One participant summarized the situations with the observations that "[w]e can do whatever we want but cannot have any legal protection for personal life."**

This is a study exploring "how Estonian gays and lesbians were affected by the dramatic changes in their society from the end of the Soviet occupation in 1991 to the present". The author is an American who interviewed six participants in Tallinn over six months in 2007-2008. A major theme in the article is the difficulty of finding participants for the study due primarily to a lack of social and political organizations engaging in sustained activism on issues related to sexual orientation. The author suggests that some possible reasons for there not being a sustained political movement around issues of sexual orientation include: a culture of individualism, a lack of leadership, a widespread distrust of government, and satisfaction with present conditions.

3. Gerhards, Jürgen. "Non-Discrimination towards Homosexuality: The European Union's Policy and Citizens' Attitudes towards Homosexuality in 27 European Countries." *International Sociology*, 2010
Online: <http://iss.sagepub.com/content/25/1>

- **Older EU members were found to be more supportive of non-discrimination than newer member states.**
- **Estonia was more supportive of non-discrimination than most Eastern European states, but less so than the Czech Republic, Slovakia, and Slovenia.**

This is a study of divergent attitudes about non-discrimination on the basis of sexual orientation across Europe. A 2000 European Values Survey asked whether "homosexuality can always be justified, never be justified or something in between". Interviewees were required to answer this question using a 10-point scale ranging from 'never' (1) to 'always' (10), and the average Estonian response was 3.0. In response to a question on the 2006 Eurobarometer No. 66 survey which asked whether "homosexual marriages should be allowed throughout Europe," 21% of Estonians said they should be.

The author analyzed the findings through the lens of major sociological theories. It was concluded that both economic factors and religious factors contribute to the difference in attitudes amongst various states.

4. Georgescu, C. M. "Challenges in implementing EU anti-discrimination legislation in member states." *Revista De Stiinte Politice*, 2009
Online: <http://cis01.central.ucv.ro/revistadestiintepolitice/files/revista%20de%20stiinte%20politice%20nr24.pdf>

- **A study of implementation and enforcement of the *Racial Equality Directive* and the *Employment Equality Directive* found that the number of incidents reported does not necessarily reflect the true frequency of discriminatory acts.**

Factors that contribute to incidents going unreported include the mistaken belief that discrimination is primarily an economic concern, a lack of awareness of reporting mechanisms available, the belief that issues will not be solved even if reported, and "appreciating discrimination as normal and frequent."

5. Waitt, Gordon. "Sexual citizenship in Latvia: geographies of the Latvian closet." *Social & Cultural Geography*, 2005
Online: <http://www.tandfonline.com/doi/full/10.1080/14649360500074618#.Uol228STg9Y>

- **This is a study of how a gendered narrative of Latvian nationalism, which encourages exclusion and oppression, has been performed and perpetuated over time.**
- **It was concluded that social movements pertaining to issues of sexual orientation and gender identity in some European contexts may benefit from adopting a culturally specific approach, rather than assuming that "the western model of sexual politics...[is] universally appropriate."**