

# How close is Estonia to a registered partnership law?



EUROPEAN COMMISSION ON  
SEXUAL ORIENTATION LAW

*[www.sexualorientationlaw.eu](http://www.sexualorientationlaw.eu)*

- Reimo Mets, lawyer. Copenhagen 2009

# Background information

- Homosexuality has never been criminalized in Estonia – it has been criminalized during different occupation periods- USSR.
- Soviet Estonian (part of USSR) Criminal code § 118 prohibited sexual act between two men. Sentence up to 2 years imprisonment.
- 20.08.1991 Estonia declared its reindpendence and from 1st of June 1992 Estonia decriminalized homosexuality in the Criminal Code.
- The Constitution of Estonia was taken in force on the 3rd of July 1992

# Legal situation

- The Constitution § 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 opinion, property or social status, or on other grounds.
- The incitement of national, racial, religious or political hatred, violence or discrimination shall, by law, be prohibited and punishable. The incitement of hatred, violence or discrimination between social strata shall, by law, also be prohibited and punishable.

# Penal Code § 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. Until 15.07.2006.
- Paragraph was changed (entered into force 16.07.2006) in follows: if this results in danger to the life, health or property of a person are punishable by a fine of up to 300 fine units or by detention.
- Conclusion no men will be prosecuted based on this paragraph.

# Equal Treatment Act

§ 1 The purpose of this Act is to ensure the protection of persons against discrimination on the grounds of nationality (ethnic origin), race, colour, religion or other beliefs, age, disability or sexual orientation.

§ 2 art 2 Discrimination of persons on the grounds of religion or other beliefs, age, disability or sexual orientation is prohibited

NGO Sexual Minorities Protection Union was founded on 12.03.2007 and have since then worked with lobbying and advocacy to protect sexual minorities in Estonia.

The Ministry of Justice reported last week the analyze of the legal situation for sexual minorities in Estonia and propose to work on, to regulate the area in 3 different ways:

1. Make marriage available for same sex couples.
2. Work out new law as Partnership or Union to cover the area for LGBT people and give them legal recognition.
3. Keep it the same as it is at the current situation.

Therefore, debate is open and the Ministry of Justice is waiting reasonable statements from all interest parties.

It is obvious that before the local government election in autumn 2009, there won't be any law

The legal situation is one thing, but social beliefs are another topic. 87% of Estonians are considering themselves as non-religious people. 18% support same sex relationship, 25% don't say a word and 68% are against same sex marriage.

There is no questionnaire among LGBT – what they would prefer.

There is no questionnaire – research what is the public opinion about partnership law – probably it is more acceptable.

Most of the public is against the adoption rights.

NGO SEKY has stated to get at least some kind of law for regulating the social benefits and material relations between LGBT people.

Hopefully the partnership law will take in force into 2010 if not 2011 when Tallinn is The European Culture Capital.



# The End

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