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Mutual recognition of protection measures in civil matters

Estonia



Estonia

FINDING COMPETENT COURTS/AUTHORITIES

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Article 17 - Information made available to the public

Protection measures in civil matters can be applied under Section 1055(1) of the [Law of Obligations Act](#), which states that if unlawful damage is caused continually or a threat of unlawful damage is made, the victim or the person who is threatened has the right to demand that the behaviour which causes the damage be terminated or the making of threats by such behaviour be refrained from. In the case of bodily injury, harm to health, infringement of privacy or any other personality rights, it may be required, inter alia, that the tortfeasor be prohibited from approaching other persons (by means of a restraining order), the use of housing or communication be regulated or other similar measures be applied. Section 475(1)(7) of the [Code of Civil Procedure](#) lays down the procedure for the application of civil protection measures, according to which proceedings on petition include the imposition of a restraining order and other similar measures for the protection of personality rights as laid down in Sections 544-549 of Chapter 55, which set out the procedure for applying a restraining order more precisely. Under Sections 378(1)(3), 546 and 551(1) of the Code of Civil Procedure, civil protection measures may also be applied as a measure for securing an action or as a provisional measure in proceedings on petition.

Pursuant to Section 1055(1) of the Law of Obligations Act, it may be required that the tortfeasor be prohibited from approaching other persons (i.e. for a restraining order be imposed), the use of housing or communication be regulated or other similar measures be applied. Therefore the measures that may be applied for the protection of personality rights are not listed exhaustively in the Act, and the application of an appropriate and necessary measure may be requested in particular cases. In its 2008 analysis of the case-law relating to restraining orders, the Supreme Court took the position that if a person at risk and the person causing the risk live (or work) in close proximity to one another, it would be more appropriate to regulate their contact arrangements, and the content of the prohibitions (protection measures) could primarily consist of a list of prohibited actions. For the application of civil protection measures, it is not necessary for an unlawful act to have been perpetrated against the person at risk. It is sufficient for the defendant's previous behaviour to give grounds to fear that the defendant may injure the victim, damage their health or violate the victim's privacy or other personality rights.

No statistics are available regarding the average period of application of measures. In Estonia it is possible to apply many measures for the protection of privacy and personality rights under Section 1055 of the Law of Obligations Act for a period of up to three years. In accordance with the analysis of case-law on restraining orders that was prepared by the Supreme Court in 2008, courts have generally applied restraining orders for a

period of up to 3 years.

Regulation No 606/2013 covers protection measures applied in civil cases. Regulation No 606/2013 does not apply to protection measures that fall within the scope of Regulation 2201/2003.

The implementation of a protection measure may be applied for by a person at risk or an injured person, either in separate proceedings or in conjunction with another claim. In order to implement a protection measure, the person at risk must submit a petition to the [county court](#) of the place of residence or the last known place of residence of the person causing the risk, in accordance with general territorial jurisdiction. The courts process petitions under proceedings on petition. Before applying a protection measure, the court hears the person with respect to whom application of the measure is requested and the person in the interests of whom proceedings are conducted for application of the measure. Where necessary, the court also hears persons closely connected with the persons specified above, or the rural municipality or city government or police authority of the persons' place of residence.

Petitions submitted to a court must be drafted in Estonian and must meet the requirements of Sections 338 and 363 of the Code of Civil Procedure. In accordance with Section 338 of the Code of Civil Procedure, a procedural document submitted to the court by a participant in proceedings must set out:

1. the names, addresses and telecommunications numbers of the participants in proceedings and their potential representatives;
2. the name of the court;
3. the merits of the case;
4. for the matter being dealt with, the number of the civil case;
5. the petition filed by the participant in proceedings;
6. the circumstances on which the petition is based;
7. a list of appendices to the procedural document;
8. the signature of the participant in proceedings or representative thereof or, for a document transmitted electronically, a digital signature or other means of identification in conformity with the provisions of Section 336 of the Code of Civil Procedure.

A procedural document must set out the personal identification code or, in the absence thereof, date of birth of the natural person.

If a participant in proceedings does not know the address or other data of another participant in proceedings, the procedural document must set out the measures taken by the participant in proceedings in order to obtain such information.

All petitions must be submitted to the court in legible typewritten form. Where possible, electronic copies of procedural documents submitted in writing should also be submitted to the court. Contractual representatives, notaries, bailiffs, trustees in bankruptcy, state and local government agencies and other legal persons submit documents to the court electronically unless there is good reason to submit the document in another form. More detailed rules for submitting electronic documents to the courts, the format requirements for documents and the list of documents to be submitted via the portal are laid down in a [Regulation](#) enacted by the minister responsible for the area. A participant in a proceeding must, when submitting to the court written documents and appendices thereto, provide the requisite number of transcripts of those documents to be served on the other participants in the proceeding, unless the documents are to be submitted electronically.

A state fee of 50 euros is to be paid when filing a petition or appeal in a matter reviewed under proceedings on petition. A state fee of 50 euros is to be paid when filing an application for securing an action.

Under Estonian law, participants in proceedings do not require a representative in court for proceedings concerning the application of civil protection measures.

A ruling on the application or amendment of a restraining order or other measure for the protection of personality rights may be appealed against by the persons obligated to comply therewith. An order whereby the court denies a petition for applying a restraining order or another measure for protection of personality rights, or cancels or alters such a measure is subject to appeal by the person who requested application of the measure or in whose interests the measure was applied. Appeals to district courts are to be filed in writing through the

county court whose ruling is contested in the appeal. Appeals are to be submitted within 15 days of the date on which the ruling was served. An appeal against a ruling cannot be filed after five months have passed from the making of the ruling in actions or in a proceeding on petition unless otherwise provided for in law. If circumstances change, the court may cancel or alter a restraining order or another measure for the protection of personality rights. Before cancelling or altering a measure, the court hears the participants. A ruling on the application of a restraining order or another measure for the protection of personality rights is served on the persons with regard to and in the interests of whom such measures are applied.

Rulings made concerning protection measures are to be enforced from the moment they are delivered to the obligated person (the person causing the risk).

Enforcement of the ruling under which the protection measure was ordered is arranged by a bailiff. Bailiffs generally learn of the violation of a protection measure from the person to whom the risk is caused. If the protection measure was ordered before access rights were determined, the court may rule on access rights in a manner that takes into account the protection measures that have been applied.

Article 18 (a)(i) - the authorities which are competent to order protection measures and issue certificates in accordance with Article 5

In Estonia the courts are competent to apply protection measures. In accordance with Article 5, the county court that applied the protection measure is competent to issue a certificate concerning the protection measure. In order for a certificate to be issued, a petition must be submitted to a county court. The contact information for Estonian courts is available on the courts' [website](#).

Article 18 (a)(ii) - the authorities before which a protection measure ordered in another Member State is to be invoked and/or which are competent to enforce such a measure

In order to invoke a protection measure ordered in another Member State, a person must contact the bailiff that has jurisdiction over the debtor's place of residence or location, or in whose jurisdiction the debtor's assets are located. Bailiffs initiate enforcement proceedings on the basis of a petition and an enforcement document from the person at risk. The contact information for bailiffs can be found on the [website](#) of the Chamber of Bailiffs and Trustees in Bankruptcy.

Article 18 (a)(iii) - the authorities which are competent to effect the adjustment of protection measures in accordance with Article 11(1)

A protection measure ordered in another Member State can, if necessary, be applied by a bailiff who is competent to carry out the enforcement of the protection measure. The bailiff who has jurisdiction over the debtor's place of residence or location, or in whose jurisdiction the debtor's assets are located, is competent to carry out the enforcement of a protection measure ordered in another Member State. The contact information for bailiffs can be found on the [website](#) of the Chamber of Bailiffs and Trustees in Bankruptcy.

Article 18 (a)(iv) - the courts to which the application for refusal of recognition and, where applicable, enforcement is to be submitted in accordance with Article 13

To refuse recognition or enforcement of protection measures ordered in another Member State, an application must be submitted to the debtor's place of residence or to the county court with jurisdiction over the intended enforcement proceedings. The contact information for Estonian courts is available on the courts' [website](#).

Article 18 (b) - the language or languages accepted for translations as referred to in Article 16(1)

Estonian and English

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