



Estonia

## Member State law - Estonia



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This page provides you with information on the Estonian legal system and an overview of Estonian law.

### Sources of law

Estonia is part of the Continental European legal system (civil law system). The most important sources of law are legal instruments such as the Constitution, European Union law, international agreements, Acts and Regulations.

Legal interpretations given by the highest court — the Supreme Court — and comments by experts also serve as reference points (e.g. the commented edition of the Constitution). Court judgments do not create rights, and in general judgments handed down by higher courts are not binding on lower courts. However, the Supreme Court, which is also the court of constitutional review, is authorised to declare legal instruments invalid if they are not in accordance with the Constitution or with legal instruments taking precedence over them. When addressing particular cases, no court may apply such an instrument, and the courts are authorised not to apply any legal instrument that is in conflict with the Constitution. The Supreme Court, as the court of constitutional review, then examines the case further and is authorised to declare any such instrument unconstitutional (but not invalid).

Generally recognised principles and rules of international law are an inseparable part of the Estonian legal system.

### Types of legal instruments — description

**Constitution** — in accordance with Section 3(1) of the Constitution, State authority is exercised solely pursuant to the Constitution and Acts which are in conformity with it.

**Acts** — in accordance with Section 65 of the Constitution, Acts are adopted by the Estonian Parliament (the *Riigikogu*), in which legislative power is vested. Acts are adopted in accordance with the Constitution and are published in the prescribed manner in *Riigi Teataja* (the State Gazette). Only Acts that have been published are enforceable.

**Regulation** — in accordance with Sections 87 and 94 of the Constitution, the Government of the Republic and Ministers are authorised to issue Regulations on the basis of and for the purpose of complying with an Act. In order to deal with issues of local importance or in cases laid down in an Act, local government councils are also authorised to issue Regulations. A Regulation is, in essence, a basic act. Regulations may be issued only on the basis of a limited scope of authority laid down in an Act. In addition to the Government of the Republic, the right to issue Regulations has also been granted to other independent legal entities — legal persons in public law (universities) and public bodies. Furthermore, on the basis of Section 154(1) of the Constitution local government councils are also authorised to issue Regulations, as is *Eesti Pank* (the Bank of Estonia) on the basis of Section 111.

The Government of the Republic and the Ministers are authorised to issue Regulations on the basis of and for the purpose of complying with an Act. Regulations enter into force on the third day following their publication in *Riigi Teataja*, except as otherwise provided in the Regulation.

**Administrative Order** — an individual administrative act by which a public-law administration decides on and organises individual legal issues. In accordance with Section 87(6) of the Constitution, the Government of the Republic issues Administrative Orders on the basis of and for compliance with an Act. The Prime Minister, county governors and local governments are also authorised to issue Administrative Orders.

**Decision** — an individual administrative act issued on the basis of administrative challenges or appeals or by which sanctions are imposed. Decisions are also adopted by Parliament, local government councils, the National Electoral Committee and the courts.

**Order** — in accordance with Section 94 of the Constitution, Ministers issue Orders on the basis of and for compliance with an Act. An Order includes a general mandatory code of conduct for issues relating to service in a Ministry or for determining the structure and organising the operations of State bodies operating under the jurisdiction of a Ministry.

**International agreements and the primacy of European Union law** — in accordance with Section 3(1) of the Constitution, generally recognised principles and rules of international law are an inseparable part of the Estonian legal system. Section 123 of the Constitution states that the Republic of Estonia does not enter into international agreements that are in conflict with the Constitution. The Act amending the Constitution lays down the principle of the primacy of European Union law. Pursuant to Section 2 of that Act, while Estonia is a member of the European Union the Estonian Constitution applies, having regard to the rights and obligations under the Act of Accession. If Estonian Acts or other legal instruments are in conflict with international agreements ratified by Parliament, the provisions of the international agreement apply.

International agreements enter into force in accordance with the procedure laid down in the agreements.

The application of foreign law is regulated by the Private International Law Act.

If foreign law is to be applied under an Act, international agreement or transaction, it is applied by a court irrespective of whether an application to that end has been made. Foreign law is applied in accordance with its interpretation and application in practice in the country concerned. Foreign law is not applied if the result would be a clear contradiction with the fundamental principles of Estonian law (public order). In such cases, Estonian law is applied.

**Decree** — under Section 109 of the Constitution, if it is impossible to convene Parliament, the President of the Republic may, in the event of urgent national need, issue Decrees having the force of law. Such Decrees must be countersigned by the President (speaker) of the Parliament and the Prime Minister. Under the Constitution, the President may issue:

- special decrees in the event of urgent national need and if it is impossible to convene Parliament;
- emergency decrees in the event of urgent national need, where the Government has declared a state of emergency and if it is impossible to convene Parliament or there is not enough time for Parliament to be convened.

A Decree issued by the President of the Republic enters into force on the tenth day following its publication in *Riigi Teataja*, except as otherwise provided in the Decree.

Once Parliament has convened, the President of the Republic lays the Decrees before Parliament, which then promptly adopts an Act to approve or repeal them. Under Section 110 of the Constitution, the President of the Republic may not use a Decree to enact, amend or repeal the Constitution, the Acts referred to in Section 104 of the Constitution, Acts setting national taxes or the State budget.

## **Hierarchy of legal instruments**

The hierarchy of legal instruments is as follows: the Constitution, European Union law, international agreements, Acts and Decrees, Government of the Republic Regulations and Regulations issued by Ministers. Besides basic legal acts, there are also individual acts that are issued on the basis of an Act and are located in the hierarchy below Acts and Regulations. The legal instruments at each level must be in accordance with those at a higher level.

## **Institutional framework**

### **Institutions responsible for the adoption of legal instruments**

Estonian institutional organisation follows the principle of the separation and balance of powers (Section 4 of the Constitution).

Legislative power rests with Parliament. Under Section 103 of the Constitution, the right to initiate legislative proposals rests with Members of Parliament, Parliamentary political groups, Parliamentary committees, the Government of the Republic and the President of the Republic. However, the President of the Republic may only initiate amendments to the Constitution. Parliament debates draft legislation and decides whether to adopt it as an Act or reject it.

On the basis of a decision taken by an absolute majority of its Members, Parliament has the right to make a proposal to the Government of the Republic for draft legislation desired by Parliament to be initiated.

Parliament has the right to put a draft Act or an issue of national importance to a referendum. The outcome of the referendum is decided by a majority vote of those who take part. Acts adopted by means of a referendum are promptly promulgated by the President of the Republic. Decisions taken in referenda are binding on all public authorities. If a draft Act put to a referendum does

not receive a majority of votes in favour, the President of the Republic declares extraordinary Parliamentary elections. Issues concerning the budget, taxes, the State's financial obligations, the ratification or denunciation of international agreements, the declaration or lifting of a state of emergency and national defence may not be put to a referendum.

Executive powers are exercised by the Government of the Republic. In most cases draft legislation is put before Parliament by the Government of the Republic. The draft Acts are submitted to the Government by the ministries, and there must have been a prior consultation stage between the ministries.

The Chancellor of Justice and the Auditor General participate in and have the right to speak at Government meetings. Their suggestions are not binding on the Government, but their recommendations and suggestions are often taken into account. If the Chancellor of Justice and the Auditor General believe it necessary, they may put their suggestions directly to the appropriate Parliamentary committee that is dealing with the draft legislation. In accordance with Section 139 of the Constitution, the Chancellor of Justice analyses all suggestions made to him or her concerning legislative amendments, the adoption of new Acts and the work of government bodies and, where necessary, submits a report to Parliament. If the Chancellor of Justice finds that a legal act adopted by the legislature, the executive branch or a local authority contradicts the Constitution or an Act, he or she makes a proposal to the body that adopted the act to bring it into conformity with the Constitution or the Act within 20 days. If the act is not brought into conformity with the Constitution or the Act within that time, the Chancellor of Justice makes a proposal to the Supreme Court for it to be declared invalid on the basis of Section 142 of the Constitution.

The President of the Republic promulgates Acts adopted by Parliament or refuses to do so. In the latter case, the President of the Republic returns the Act, together with his or her reasons, to Parliament for a new debate and decision.

The Ministry of Justice publishes adopted Acts promulgated by the President of the Republic in the Estonian official publication *Riigi Teataja* (State Gazette).

### **Decision-making process**

The legislative process in the Estonian Parliament comprises the following stages:

- initiation of draft legislation;
- examination of draft legislation;
- adoption of draft legislation.

#### **Initiation**

In accordance with Section 103 of the Constitution, the Government of the Republic, Members of Parliament, Parliamentary political groups, Parliamentary committees and the President of the Republic have the right to initiate legislative proposals. However, the President may only initiate draft amendments to the Constitution. Draft legislation must meet the technical rules adopted by the Board of the Parliament and the legislative and technical rules adopted by the Government of the Republic. The Board of the Parliament directs draft legislation to the permanent Parliamentary committee responsible for the draft.

#### **Examination of draft legislation**

Draft legislation is prepared for the plenary session of Parliament by a permanent Parliamentary committee (the Legal Affairs Committee, the Constitutional Committee, the Economic Affairs Committee, etc.). On the proposal of the committee responsible, the draft legislation is added to the agenda for the plenary session of Parliament.

In accordance with the Riigikogu Internal Rules and Rules of Procedure Act, the first reading of draft legislation must take place within seven Parliamentary plenary working weeks of it having been accepted. Draft Acts are debated by the Parliamentary plenary session at three readings, at the first of which there is a debate on the general principles behind the draft Act. If no motions for the draft to be rejected are made by the committee responsible or by any political group during the negotiations, the first reading ends without a vote. Following the first reading, Members of Parliament and the Parliamentary committees and political groups have 10 working days to put forward amendments. If the committee responsible so proposes, the President of the Parliament may set a different deadline for putting forward amendments.

The committee responsible reviews all proposed amendments and decides whether to take them into account when drawing up the new text of the draft. The committee draws up a new version of the draft for the second reading, including all the accepted amendments and any amendments made by the committee itself. It also draws up an explanatory memorandum for the second reading, which includes information relating to the processing of the draft legislation, such as the reasons for accepting or rejecting proposed amendments and the positions of the person who initiated or submitted the draft legislation, experts involved in the process and other persons.

Draft legislation is put on the agenda for a second reading on the proposal of the committee responsible. On the proposal of the Board of the Parliament, the committee responsible or the person who initiated the draft legislation, Parliament suspends the second reading of the draft legislation without a vote. If a political group proposes that the reading be suspended, it is put to a vote. If the second reading of draft legislation is suspended, amendments may still be put forward. If the second reading in Parliament is not suspended, it is deemed to have ended and the draft legislation is sent for a third reading.

A draft Parliamentary Decision may be put to a vote following the end of the second reading.

The committee responsible draws up the final text of the draft legislation for the third reading, making linguistic and technical improvements once the second reading has ended. The committee may draw up an explanatory memorandum for the third reading, providing an overview of the changes made after the second reading ended. In the third reading of draft legislation, negotiations are opened during which representatives from the political groups present statements. At its third reading, draft legislation is put to a final vote.

### **Adoption**

Acts and Parliamentary Decisions are adopted by means of an open vote in Parliament. A final vote is taken during the third reading of draft Acts. The number of Members of Parliament required to vote in favour for an Act to be adopted is laid down in Sections 73 and 104 of the Constitution, in accordance with which Acts are categorised as:

- constitutional Acts, i.e. Acts requiring an absolute majority of the Members of Parliament (more than half of the 101 Members of Parliament must vote in favour of adopting the Act); or
- ordinary Acts, i.e. Acts requiring a simple majority (more Members of Parliament must vote in favour of adopting the Act than against it).

The following Acts may be adopted or amended only by an absolute majority of the Members of Parliament:

- the Citizenship Act;
- the Riigikogu Election Act;
- the President of the Republic Election Act;
- the Local Government Council Election Act;
- the Referendum Act;
- the Riigikogu Rules of Procedure Act and the Riigikogu Internal Rules Act;
- the Act on the Remuneration of the President of the Republic and of Members of the Riigikogu;
- the Government of the Republic Act;
- the Act on the Initiation of Court Proceedings against the President of the Republic and Members of the Riigikogu;
- the Act on the Cultural Autonomy of National Minorities;
- the State Budget Act;
- the Eesti Pank Act;
- the National Audit Office Act;
- the Court Organisation Act and Acts concerning court proceedings;
- Acts pertaining to foreign and domestic borrowing and the proprietary obligations of the State;
- the State of Emergency Act;
- the Peace-Time National Defence Act and the War-Time National Defence Act.

Once an Act or Parliamentary Decision has been adopted, it is signed by the President of the Parliament, or in his or her absence by the Vice-President of the Parliament who chaired the session, at the latest on the fifth working day following its adoption.

### **Promulgation**

After an Act is adopted and signed, it is sent to the President of the Republic to be promulgated. The President of the Republic may refuse to promulgate an Act adopted by Parliament and may within 14 days of receiving it return it, together with his or her reasons, to Parliament for a new debate and decision. If an Act that has been returned by the President of the Republic is adopted by Parliament for the second time in unamended form, the President of the Republic either promulgates the Act or proposes that

the Supreme Court declare the Act unconstitutional. If the Supreme Court finds that the Act complies with the Constitution, the President of the Republic must promulgate it.

The Act enters into force on the tenth day after its publication in *Riigi Teataja*, unless provided otherwise in the Act itself.

## Publication of legal instruments

The most important legal instruments and international agreements are published in *Riigi Teataja*. Acts and Regulations gain legal force only once they have been published in *Riigi Teataja*.

📄 *Riigi Teataja* is Estonia's official online publication and the central database of legal instruments. Since 1 June 2010 *Riigi Teataja* has been published only on the internet, as an official online publication.

Since 1 January 2011, *Riigi Teataja* has been published by the Ministry of Justice.

### Brief description of content

Acts, Regulations, international agreements, Parliamentary Decisions and Government of the Republic Orders are published in *Riigi Teataja*, and other important information such as translations of legal instruments and procedural information concerning the draft versions of instruments may be made available there.

The majority of instruments adopted since 1990 are available in *Riigi Teataja*.

Since 1 June 2002, official consolidated versions of Acts, Decrees of the President of the Republic, Government Regulations and Orders, ministerial Regulations, Regulations of the President of *Eesti Pank* and National Electoral Committee Regulations have been published in *Riigi Teataja*. Consolidated versions of Parliamentary Decisions have been published since 1 June 2010 and consolidated versions of local authority regulations since the end of 2011.

Each time such instruments are amended, an updated and consolidated version containing the amendments is drawn up and published at the same time as the amending instrument, together with information on when it will be in force. The consolidated texts are official and they can be relied upon when enforcing the law. They have legal force.

All published legal instruments are stamped digitally when they are published. Anyone is able to check the digital stamp, which ensures that the instrument has remained unaltered since its publication. All published instruments are also linked to a time stamp, which enables any cases of unauthorised processing to be detected.

You can view the consolidated versions that are/were in force on any particular date. You can also access future versions of these instruments, where they are known. Each consolidated version is linked to the previous and subsequent versions. This allows you to 'move in time' from the one version of the consolidated text to the next and vice versa. You have the opportunity to compare different consolidated versions of the same instrument to see what amendments have been made.

The links present in the consolidated version allow you to open the Regulations enacted on the basis of the Act and to move from those Regulations to the provisions of the Act on the basis of which the Regulations are enacted.

Procedural information is also added to the instruments in *Riigi Teataja*, including explanatory memoranda (links to the consultation database and to Parliamentary proceedings), links with European Union legislation, translations and other additional information necessary to understand the legal instrument.

On the *Riigi Teataja* website you can search for the case law of the county courts, district courts and Supreme Court. Information is also available about the time and place of court hearings.

Summaries and overviews of Supreme Court rulings and all judgments passed by the European Court of Human Rights (ECHR) are also published. The summaries have been systematised, and you can search the summaries of Supreme Court rulings by keyword or by reference to legal instruments. ECHR judgments are searchable by Article.

Various news items relating to Acts and the law in general are also published in *Riigi Teataja*.

In 2011 sworn translators began providing English translations of the updated texts of Acts, a process that was organised by the Ministry of Justice. On 30 October 2013 the 📄 [English Riigi Teataja website](#) was launched. This contains updated English translations of the consolidated texts of Acts. By the end of 2014, updated translations of the consolidated texts of all Estonian Acts in force (with the exception of ratification Acts) will have been published. Although the translations do not have legal force they are kept updated, and the translations of amendments are generally added to the consolidated texts before the amendments enter into force. Anyone can have the latest translations sent to their e-mail address by signing up for the My RT service.

There is also a search function for draft legal instruments which lets you search the various procedural stages through which adopted instruments have passed and draft instruments are still passing. From there you can access all the information concerning the legislative procedures and the relevant documents that have been drawn up. You can also request procedural information concerning the passage of various legal instruments from one procedural step to the next. This will be sent to your e-mail address if you sign up for the Estonian-language *Minu RT* service.


By using the *Minu RT* service, everyone has the opportunity to set up their own user portal in which they can add instruments to their collection of links and ask via the portal to be informed by e-mail of new instruments and any new additional information.

#### **Is access to the database of Estonian legislation free of charge?**

Access to *Riigi Teataja* and to all legal information services is **free of charge** for users.

Free access to the electronic *Riigi Teataja* is granted at local governments and public libraries (approximately 600) to anyone interested. Assistance is also provided in searching for the relevant instruments. Users must be permitted to print up to 20 pages free of charge.

#### **History of the database of Estonian legislation**

 *Riigi Teataja* is the official publication of the Republic of Estonia and has been published since 27 November 1918. Publication of *Riigi Teataja* was suspended in 1940 and resumed in 1990.

*Riigi Teataja* has been published on the internet since 1996, and on 1 June 2002 the online version was given official status.

Since 1 June 2010 *Riigi Teataja* has been published only on the internet, as an official online publication. It has not been published on paper since then.

In November 2010 a new, more user-friendly IT system was introduced offering more legal information. The IT system was developed under the guidance of the Government Office using funding from the European Regional Development Fund.

Summaries of Supreme Court rulings and ECHR judgments, various news items concerning the law in general and information on case-law and court hearings have been available on the *Riigi Teataja* website since 20 January 2012.

A search function for draft instruments was introduced at the end of 2012.

As of 2013, the up-to-date consolidated versions of all Regulations adopted by local authorities are published in *Riigi Teataja*.

Since 24 September 2013, all legal instruments are given the issuing body's digital stamp and a time stamp when they are published in *Riigi Teataja*.

The English-language *Riigi Teataja* website was launched on 30 October 2013.

A connection will be created to the European N-Lex portal as part of the process of developing the new electronic *Riigi Teataja* IT system.

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