



ADF INTERNATIONAL

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**ESTONIA**

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## Introduction

1. ADF International is a faith-based legal advocacy organization that protects fundamental freedoms and promotes the inherent dignity of all people.
2. This report highlights the incompatibility of Bill 232 SE on Amendments to the Penal Code, the Code of Criminal Procedure, and the Code of Misdemeanour Procedure (hereinafter 'hate speech bill') with Estonia's obligations regarding the right to freedom of opinion and expression under international law. Additionally, it examines recent developments concerning assisted suicide and underscores the urgent need for Estonia to fulfill its obligation to respect and protect the right to life, as enshrined in core international human rights treaties.

### (a) Freedom of Opinion and Expression

#### *Legal Framework*

3. The right to freedom of opinion and expression is one of the most fundamental freedoms in any democracy. It underpins, inter alia, the ability of citizens to speak their mind without fear of repercussions. Article 45 of the Constitution of Estonia enshrines this right by establishing that:

'[E]veryone has the right to freely disseminate ideas, opinions, beliefs, and other information by word, print, picture, or other means. This right may be restricted by law to protect public order, morals, and the rights and freedoms, health, honor, and good name of others. This right may also be restricted by law for state and local government public servants, to protect a state or business secret or information received in confidence, which has become known to them by reason of their office, and the family and private life of others, as well as in the interests of justice. There shall be no censorship.'<sup>1</sup>

4. In addition to the specific limitations on this right set out in this provision, Article 12 of the Constitution provides that incitement to national, racial, religious, or political hatred, violence, or discrimination, including between social strata, shall be prohibited and punishable by law.<sup>2</sup>
5. Section 151 of the Penal Code gives effect to Articles 12 and 45 of the Constitution by prohibiting public incitement to hatred, violence, or discrimination based on nationality, race, color, sex, language, origin, religion, sexual orientation, political opinion, or financial or social status, where such conduct endangers a person's life, health, or property. This offense is punishable by a fine of up to three hundred fine units or by detention. If the act causes a person's death, harm to health, or other serious

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<sup>1</sup> Riigi Teataja 'Constitution of the Republic of Estonia' (1992) Article 45 <<https://www.riigiteataja.ee/en/eli/521052015001/consolide>>.

<sup>2</sup> Id, Article 12.

consequences, it is punishable by a pecuniary penalty or up to three years' imprisonment.<sup>3</sup>

### *Estonia's Hate Speech Bill*

6. Despite the legal recognition and protection of the right to freedom of opinion and expression, as well as the prohibition of incitement to hatred, violence, or discrimination within Estonia's legal framework, the European Commission initiated infringement proceedings against Estonia in January 2023. The Commission argued that Estonia had failed to transpose into national law the European Union Framework Decision 2008/913/JHA on combating certain forms and expressions of racism and xenophobia (hereinafter 'EU Framework Decision') through criminal law.<sup>4</sup>
7. In an interview that same month, Vera Jourova, European commissioner for values and transparency, said that Estonia and the European Commission should work together to find a definition of 'hate speech' that Estonia could adopt into law.<sup>5</sup>
8. Following Estonia's March 2023 parliamentary elections, the new governing coalition said that it planned to implement stronger legal penalties for 'hate speech' as part of its coalition agreement. To do so, the government introduced the hate speech bill. This bill would broaden the conditions under which hate speech would be criminalized in the Penal Code. It passed its first reading (of three) in September 2023.<sup>6</sup>
9. According to Estonia's latest comprehensive national review report submitted to UN Women in 2024, the bill aims at 'amending the Penal Code to enhance the enforceability of 'hate speech' prohibition. Currently, prosecuting individuals for incitement to hatred is challenging, as it necessitates a direct threat to people's lives or health.'<sup>7</sup>
10. To date, debate on the so-called 'Hate Speech Bill' remains ongoing.<sup>8</sup> The main questions are about whether this bill is needed to meet EU regulations or if Estonia's existing laws on freedom of speech and its limits already comply with relevant human rights norms and standards.<sup>9</sup>
11. It is important to note that under the EU Framework Decision, Member States may narrow the scope of their 'hate speech' laws. For example, they may choose to

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<sup>3</sup> Riigi Teataja 'Penal Code' (2001) Article 151

<<https://www.riigiteataja.ee/en/eli/ee/Riigikogu/act/519012017002/consolide>>.

<sup>4</sup> Freedom House 'Freedom on the Net 2024 Estonia Key Developments, June 1, 2023–May 31, 2024' <<https://freedomhouse.org/country/estonia/freedom-net/2024>>.

<sup>5</sup> Johannes Tralla 'Jourova: Estonia, EU must find a common hate speech definition together' (30 January 2023) <<https://news.err.ee/1608868607/jourova-estonia-eu-must-find-a-common-hate-speech-definition-together>>.

<sup>6</sup> Freedom House 'Freedom on the Net 2024 Estonia Key Developments, June 1, 2023–May 31, 2024' <<https://freedomhouse.org/country/estonia/freedom-net/2024>>.

<sup>7</sup> Ministry of Economic Affairs and Communications of the Republic of Estonia 'Estonia Comprehensive National Review Report' (August 2024) p. 10 <[https://www.unwomen.org/sites/default/files/2024-09/b30\\_report\\_estonia\\_en.pdf](https://www.unwomen.org/sites/default/files/2024-09/b30_report_estonia_en.pdf)>.

<sup>8</sup> Johannes Voltri 'Estonia's coalition government still not of one mind on hate speech law' (19 August 2024) <<https://news.err.ee/1609428505/estonia-s-coalition-government-still-not-of-one-mind-on-hate-speech-law>>.

<sup>9</sup> Id.

criminalize only conduct that is likely to disturb public order, or that is threatening, abusive, or insulting.<sup>10</sup>

12. However, the government's proposed hate speech bill attempts to transpose the EU Framework Decision in such a way that the limitation concerning the immediate threat to a person's life, health, or property is removed from the Penal Code.<sup>11</sup> Should it pass, the hate speech bill would go beyond the requirements of the EU Framework Decision. Section 151 of the Penal Code would be amended and read as follows:

'[P]ublic incitement to hatred, violence, or discrimination against a group of persons or a member of such a group on the grounds of nationality, race, skin colour, sex, disability, language, origin, religion, sexual orientation, political beliefs, or property or social status, in a manner that gives reason to fear that such incitement will be followed by an act of violence or will pose a significant threat to public security – shall be punishable by a pecuniary punishment or up to one year of imprisonment.'<sup>12</sup>

13. In practice, this bill would allow a person to be prosecuted solely because their opinions or views are deemed to 'give reason to fear' that a threat might arise. Because the hate speech bill does not define the conditions under which a 'reason to fear' arises, the determination of whether particular speech may be followed by an act of violence or pose a significant threat to public security would be left to the discretion of the authorities. This lack of clear criteria creates significant risks of arbitrary interpretation and enforcement. Furthermore, under said bill, so-called 'hate speech' would no longer be a misdemeanour but a felony.<sup>13</sup>

### *Estonia's Obligations Under International Human Rights Law*

14. Estonia acceded to the International Covenant on Civil and Political Rights ('ICCPR') on 21 October 1991.<sup>14</sup> Article 19 of the ICCPR enshrines the right to freedom of opinion and expression, which includes 'freedom to seek, receive and impart information and ideas of all kinds regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.'<sup>15</sup> This right is also recognized under Article 19 of the Universal Declaration of Human Rights.<sup>16</sup>

15. General Comment No. 34 by the UN Human Rights Committee recognizes that:

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<sup>10</sup> Official Journal of the European Union 'COUNCIL FRAMEWORK DECISION 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law' Article 1(2) <<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32008F0913>>.

<sup>11</sup> Riigikogu 'Act on Amendments to the Penal Code, the Code of Criminal Procedure and the Code of Misdemeanour Procedure (Incitement to Hatred and Crimes with a Hateful Motive) 232 SE' (12 June 2023) <<https://www.riigikogu.ee/tegevus/eelnoud/eelnou/da6b6990-df0b-460d-aa87-447d656e184f/karistusseadustiku-kriminaalmenetluse-seadustiku-ja-vaarteomenetluse-seadustiku-muutmise-seadus-vaenu-ohutamine-ja-vaenumotiiviga-kuriteod/>>.

<sup>12</sup> Id., § 1.

<sup>13</sup> Id., § 3.

<sup>14</sup> UN Treaty Collection 'Ratification Status: International Covenant on Civil and Political Rights' (17 August 2025) <[https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-4&chapter=4&clang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&clang=en)>.

<sup>15</sup> International Covenant on Civil and Political Rights, Article 19.

<sup>16</sup> Universal Declaration of Human Rights, Article 19.

'[F]reedom of opinion and freedom of expression are indispensable conditions for the full development of the person. They are essential for any society. They constitute the foundation stone for every free and democratic society. The two freedoms are closely related, with freedom of expression providing the vehicle for the exchange and development of opinions.'<sup>17</sup>

16. Nonetheless, the right to freedom of opinion and expression is not absolute. The exercise of this right may be subject to certain restrictions, but these shall be such as are provided by law and are necessary for the respect of the rights or reputations of others or for the protection of national security or of public order or of public health or morals.<sup>18</sup> Likewise, Article 20 of the ICCPR states that any propaganda for war and any advocacy of national, racial, or religious hatred that constitutes incitement to discrimination, hostility, or violence shall be prohibited by law.<sup>19</sup>
17. However, expanding restrictions on the right to freedom of opinion and expression beyond what is permitted under Articles 19(3) and 20 of the ICCPR risks contravening Estonia's international human rights obligations. Such measures may also be disproportionate, particularly given the harmful consequences of silencing speech that merely reflects minority viewpoints. Therefore, any limitations must carefully safeguard the free exchange of ideas, including those that the government opposes.
18. As recognized under the Rabat Plan of Action, Article 20 of the ICCPR requires a high threshold because limitations of freedom of expression must remain an exception. In this regard, it explicitly states that:

'[I]ndeed the three-part test (legality, proportionality and necessity) for restrictions also applies to cases involving incitement to hatred, in that such restrictions must be provided by law, be narrowly defined to serve a legitimate interest, and be necessary in a democratic society to protect that interest. This implies, among other things, that restrictions are clearly and narrowly defined and respond to a pressing social need; are the least intrusive measure available; are not overly broad, so that they do not restrict speech in a wide or untargeted way; and are proportionate so that the benefit to the protected interest outweighs the harm to freedom of expression, including with respect to the sanctions they authorize.'<sup>20</sup>

19. The Rabat Plan of Action expands on the three-part test by introducing a six-part framework for assessing incitement. It considers: the social and political context, the speaker's identity and status, the intent behind the expression, its content and form, its reach and dissemination, and the likelihood and immediacy of resulting harm, to

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<sup>17</sup> Human Rights Committee 'General Comment No. 34 Article 19: Freedom of opinion and Expression' CCPR/C/GC/34 (12 September 2011)

<<https://www.ohchr.org/sites/default/files/english/bodies/hrc/docs/gc34.pdf>>.

<sup>18</sup> International Covenant on Civil and Political Rights, Article 19(3).

<sup>19</sup> *Id.*, Article 20.

<sup>20</sup> Human Rights Council 'Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence' A/HRC/22/17/Add.4 (11 January 2013) para. 18 <[https://www.ohchr.org/sites/default/files/Rabat\\_draft\\_outcome.pdf](https://www.ohchr.org/sites/default/files/Rabat_draft_outcome.pdf)>.

determine whether the expression constitutes incitement to hatred, violence, or discrimination.<sup>21</sup>

20. Applying this framework as well as the three-part test, the proposed hate speech bill fails to meet the threshold established under international law. Its vague wording and lack of clear criteria for when a 'reason to fear' arises create highly subjective interpretations, risking arbitrary restrictions on freedom of expression. Furthermore, under the proposed bill, citizens will not be certain which forms of expression are within the boundaries protected by law or if they are subject to prosecution, thus shrinking the boundaries of free speech and creating a chilling effect on a variety of important conversations.

## **(b) Right to Life**

### *Background*

21. Suicide is commonly understood as an act by which someone deliberately ends their own life; whereas, assisted suicide occurs when another person provides assistance or aid in doing so.<sup>22</sup> According to the Organisation for Economic Co-operation and Development (OECD), in Estonia, adult suicide rates are significantly high and above those of most OECD countries.<sup>23</sup> However, data on assisted suicide are currently unavailable, as no legal or policy framework exists in this area.<sup>24</sup>
22. In May 2025, the Estonian Supreme Court highlighted this legal gap and signaled that leaving the matter unregulated carries risks.<sup>25</sup>

### *Legal Framework*

23. The right to life is primarily governed by the Constitution and is further elaborated upon in international human rights treaties ratified by Estonia.
24. Article 16 of the Constitution recognizes that everyone has the right to life and states that the right to life is protected by law.<sup>26</sup>
25. Under Estonia's legal framework, assisted suicide is not considered a crime.<sup>27</sup>

### *Criminal Case against Paul Tammert*

26. In October 2023, the Southern District Prosecutor's Office presented charges against an individual named Paul Tammert, who constructed and rented out for financial gain

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<sup>21</sup> Id., para 29.

<sup>22</sup> Sophia Kuby and Jean-Paul Van De Walle 'The Legalization of Euthanasia and Assisted Suicide: An inevitable slippery slope' (2022) *ADF International* <[https://adfinternational.org/wp-content/uploads/2022/02/Euthanasia-White-Paper\\_2022\\_DIGITAL.pdf](https://adfinternational.org/wp-content/uploads/2022/02/Euthanasia-White-Paper_2022_DIGITAL.pdf)> p. 12.

<sup>23</sup> Srdan Tatomir 'Boosting efforts to improve health in Estonia' (19 May 2025) *Organisation for Economic Co-operation and Development* <<https://oecdecoscope.blog/2025/05/19/boosting-efforts-to-improve-mental-health-in-estonia/>>.

<sup>24</sup> Annika Lall et Silvia Kaugia 'Euthanasia and/or assisted suicide: for or against?' 30 September 2024) <<https://sciendo.com/fr/article/10.25143/socr.29.2024.2.39-45?tab=article>>.

<sup>25</sup> Supreme Court of Estonia, Criminal Chamber 'Criminal case against P. T. under Penal Code § 372(2)(3) Case No. 1-23-5985' (6 May 2025) <<https://www.riigiteataja.ee/kohtulahendid/fail.html?id=405889630>>.

<sup>26</sup> Riigi Teataja 'Constitution of the Republic of Estonia' (1992) Article 16 <<https://www.riigiteataja.ee/en/eli/521052015001/consolide>>.

<sup>27</sup> Annika Lall et Silvia Kaugia 'Euthanasia and/or assisted suicide: for or against?' 30 September 2024) <<https://sciendo.com/fr/article/10.25143/socr.29.2024.2.39-45?tab=article>>.

a 'device' by which users could administer their own assisted suicide via lethal gas. Two people were killed using this device, while the third's suicide attempt failed.<sup>28</sup>

27. On 15 May 2024, Tartu County Court convicted Tammert of unlawful economic activity in a field related to healthcare and gave him a suspended prison sentence. Tammert appealed this decision. However, on 15 November 2024, the Tartu Circuit Court issued a decision upholding the conviction imposed by the County Court, with some changes to legal costs.<sup>29</sup>
28. Following this, Tammert's defense lawyers filed cassation appeals to the Supreme Court of Estonia. The Court heard the case on 16 April 2025 and delivered its ruling on 6 May 2025, ultimately fully acquitting Tammert.<sup>30</sup>
29. In its decision, the Supreme Court's Criminal Chamber concluded that assisting someone in ending their own life does not constitute a healthcare service. Therefore, Tammert could not be charged with committing unlawful economic activity in a field related to healthcare. At the same time, however, the Supreme Court further emphasized that 'every competent individual has the right to end their life voluntarily'. According to the Court, criminal liability in assisted suicide can only arise if the person is unable to carry it out themselves or lacks a full understanding of the significance of their actions.<sup>31</sup>
30. The Court further noted that if assistance in voluntary death is to be offered as a service, clear principles are necessary due to the significant intervention in an individual's health and the need to prevent potential abuses. It stressed that the absence of such principles could result in undesirable consequences and may expose the state to liability.<sup>32</sup> However, no regulatory framework—no matter how carefully constructed—can justify the intentional ending of innocent human life. Legalizing assistance in death contradicts the foundational principle that every human being possesses inherent dignity and equal worth, and opens the door to erosion of protections for the most vulnerable in society.

### *The Incompatibility of Assisted Suicide with International Human Rights Law*

31. The right to life does not include a diametrically opposite right to die. Rather, States have an obligation to protect the right to life of all without discrimination, as well as to ensure the highest quality of care for those suffering from physical or psychological causes, including palliative care for people with chronic or terminal conditions.
32. As stated in Article 6 of the ICCPR, 'every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.'<sup>33</sup> The obligation of states to protect this most fundamental human right is interlinked to the right of everyone to the enjoyment of the highest attainable standard of physical

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<sup>28</sup> ERR News 'Estonian prosecutor's office charges man over provision of assisted suicide device' (26 October 2023) <<https://news.err.ee/1609144949/estonian-prosecutor-s-office-charges-man-over-provision-of-assisted-suicide-device>>.

<sup>29</sup> Supreme Court of Estonia, Criminal Chamber 'Criminal case against P. T. under Penal Code § 372(2)(3) Case No. 1-23-5985' (6 May 2025) <<https://www.riigiteataja.ee/kohtulahendid/fail.html?id=405889630>>.

<sup>30</sup> Id.

<sup>31</sup> Id.

<sup>32</sup> Id, para. 36.

<sup>33</sup> International Covenant on Civil and Political Rights, Article 6.

and mental health.<sup>34</sup> Thus, it requires ensuring the highest possible quality of care for people experiencing suffering of any kind, including palliative and hospice care.

33. In this regard, instead of enabling access to assisted suicide, Estonia should focus on providing individuals with quality care and treatment, ensuring that patients and other persons in situations of vulnerability have access to high-quality, comprehensive care, including medical, psychological, socio-economic, and spiritual assistance.
34. In Estonia, this has yet to become a reality. Hospice care was only added to the list of health care services provided by the Health Insurance Fund in 2020, and by that time, Estonia had been the only European Union country that had not funded hospice care for years.<sup>35</sup> To date, services such as palliative home care continue to be insufficient to meet the actual need, which is estimated to be at least double the current usage.<sup>36</sup> Estonia continues to face challenges such as a lack of formal recognition of palliative medicine as a specialty, limited information for the public and policymakers, and uneven regional access to palliative and hospice services.<sup>37</sup>
35. Estonia's healthcare spending also remains among the lowest in the OECD<sup>38</sup>, and, for more than ten years, suicide continues to be one of the leading causes of unnatural death.<sup>39</sup> Despite this, Estonia only adopted its first Suicide Prevention Action Plan in 2025, covering 2025–2028, which notably does not address assisted suicide.<sup>40</sup>
36. Given Estonia's ongoing challenges with suicide prevention and its serious gaps in the provision of end-of-life care, the potential regulation of assisted suicide is especially troubling. As the European Court of Human Rights has made clear in *Pretty v. United Kingdom* and *Haas v. Switzerland*, the right to life does not confer a right to die.<sup>41</sup> Permitting others to actively facilitate suicide would invert this core principle and erode the state's duty to safeguard life.

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<sup>34</sup> Committee on Economic, Social, and Cultural Rights 'General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12)' (11 August 2000) *E/C.12/2000/4*

<<https://www.ohchr.org/sites/default/files/Documents/Issues/Women/WRGS/Health/GC14.pdf>> para 1.

<sup>35</sup> Krõõt Padrik 'We cannot be last in hospice care and first in euthanasia' (25 December 2023)

<<https://news.err.ee/1609204702/kroot-padrik-we-cannot-be-last-in-hospice-care-and-first-in-euthanasia>>.

<sup>36</sup> Kaiu Suija and Kadri Suija 'Palliative Home Care for Cancer Patients in Estonia' (April 2022)

<[https://www.jpsmjournals.com/article/S0885-3924\(12\)00026-](https://www.jpsmjournals.com/article/S0885-3924(12)00026-7/fulltext#:~:text=As%20the%20population%20of%20Estonia,patient%20to%20be%20cared%20for.)

[7/fulltext#:~:text=As%20the%20population%20of%20Estonia,patient%20to%20be%20cared%20for.](https://www.jpsmjournals.com/article/S0885-3924(12)00026-7/fulltext#:~:text=As%20the%20population%20of%20Estonia,patient%20to%20be%20cared%20for.)>.

<sup>37</sup> Id.

<sup>38</sup> Srdan Tatomir 'Boosting efforts to improve health in Estonia' (19 May 2025) *Organisation for Economic Co-operation and Development* <<https://oecdecoscope.blog/2025/05/19/boosting-efforts-to-improve-mental-health-in-estonia/>>.

<sup>39</sup> Country Economy 'Number of suicides increase in Estonia' (2023)

<<https://countryeconomy.com/demography/mortality/causes-death/suicide/estonia>>.

<sup>40</sup> Kristina Köhler 'Estonia adopts its first national suicide prevention action plan' (25 February 2025)

*European Observatory on Health Systems and Policies*

<[https://eurohealthobservatory.who.int/monitors/health-systems-monitor/updates/hspm/hspm-estonia-2023/estonia-adopts-its-first-national-suicide-prevention-action-](https://eurohealthobservatory.who.int/monitors/health-systems-monitor/updates/hspm/hspm-estonia-2023/estonia-adopts-its-first-national-suicide-prevention-action-plan#:~:text=Estonian%20has%20launched%20its%20first,in%20collaboration%20with%20relevant%20stakeholders.)

[plan#:~:text=Estonian%20has%20launched%20its%20first,in%20collaboration%20with%20relevant%20stakeholders.](https://eurohealthobservatory.who.int/monitors/health-systems-monitor/updates/hspm/hspm-estonia-2023/estonia-adopts-its-first-national-suicide-prevention-action-plan#:~:text=Estonian%20has%20launched%20its%20first,in%20collaboration%20with%20relevant%20stakeholders.)>.

<sup>41</sup> *Haas v Switzerland* (2011) 53 EHRR 33; *Pretty v United Kingdom* (2002) 35 EHRR 1.

**(c) Recommendations**

37. In light of the aforementioned, ADF International respectfully suggests the following recommendations be made to Estonia:

- a. Withdraw Bill 232 SE on Amendments to the Penal Code, the Code of Criminal Procedure, and the Code of Misdemeanour Procedure, from Parliament to ensure full compliance with Estonia's obligations under international human rights law, particularly its obligation to respect and protect the right to freedom of opinion and expression;
- b. Redouble efforts to respect and protect the right to freedom of opinion and expression as enshrined under international human rights law;
- c. Explicitly prohibit assisted suicide and ensure that persuading, encouraging, or inducing individuals to commit suicide is prosecuted without exception;
- d. Strengthen policies and increase investments to promote access to high-quality, comprehensive palliative and hospice care, as well as psychological, socio-economic, and spiritual assistance;
- e. Promote awareness-raising campaigns to eliminate harmful stereotypes about disability and ageing and to foster better mental health.



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