



SOTSIAALKINDLUSTUSAMET

# How to collect evidence of experienced domestic violence?

Helpful guidelines for gathering  
evidence in criminal proceedings



## What is domestic violence?

Nothing justifies violent behaviour towards you! If your loved ones have used violence against you, you can get help from victim support services, women's support centres and the police. You don't need to provide any evidence to get help. However, the possibilities of the police to help you may be better if you have been able to gather evidence of what has been done to you or your loved ones. Below we give you helpful instructions on how to do so properly.

We urge you to be careful when following the guidelines below, especially if the person abusing you is living with you or otherwise has access to your home and belongings.

**Domestic violence** (also called family violence) is any form of mental, physical, sexual or economic violence that occurs between people who are or have been in a close relationship, including relatives. Anyone can suffer from domestic violence, regardless of gender, age, ethnicity, race or sexual orientation. Also, in the event of domestic violence, whether or not you have been living with a person who has committed violence against you is irrelevant.

# I have been subjected to domestic violence.

## Why should I be the one to collect evidence of that?

Domestic violence can have life-long consequences for the survivor and there is no justification for its use. That's why it's most important that you get the support you need if you've experienced domestic violence. In the same way, however, it is important that the use of violence against you stops and that the perpetrator is brought to justice. To do this, there must be sufficient evidence of the domestic violence committed against you. Domestic violence often takes place between the walls of your home, thus there may be no witnesses other than the perpetrator and yourself. This is why the evidence you collect is often the best or even the only proof of violence. Evidence that can help the police protect you can be a recording of what happened in the form of a photo, video, or audio recording, as well as e-mails, messages, taking notes about what happened, documenting the consequences of what happened at the doctor's office, writing or telling someone about it, etc. A closer look at the proper collection of such evidence is given below.

In the case of domestic violence, the perpetrator is also someone close to you. Therefore, it is more common that you may not be immediately ready to contact the police due to the violence you have experienced. However, it is important to gather evidence whenever possible in case you are ever ready to go to the police.

### Briefly .....

- You yourself have the most information and material about what has been done to you. Such material can be the recording of what happened in the form of a photo, video, or audio recording, as well as e-mails, messages, taking notes about what happened, documenting the consequences of what happened at the doctor's office, writing or telling someone about it, etc.
- If you are being victimised, contact the police for help in any case, even if you have no evidence of what happened.
- If possible, collect the evidence, even if you are not yet ready to go to the police.

# What am I supposed to consider when gathering evidence?

## When gathering evidence, make sure to keep yourself as safe as possible!

Gathering evidence about domestic violence is never entirely safe, but no evidence is so important as to unreasonably risk your life and health to collect it. Therefore, you should only collect evidence of the violence you have experienced in situations and in a way that does not put you at even greater risk.

Think carefully about where you keep the evidence you have gathered. If you live with a person who is abusive towards you, or they otherwise have access to your home, the home is not a safe place to keep evidence. In this case, try to deposit the evidence collected with a trusted family member or friend. If you keep evidence on your computer or phone, use a secure password to protect both the devices and the specific location (document folder, email, social media account, digital cloud, etc.) where you keep the evidence. If possible, keep a digital copy of the evidence in the cloud, so that the documents are preserved if the device is lost or destroyed.

Always take into account the possibility that the person abusing you is monitoring your smart devices and has access to your email, social media or other accounts. If possible, it is therefore worth sending a copy of the evidence collected to a trusted family member or friend. Also consider creating an e-mail or social media account hidden from the person who is perpetrating violence against you, through which you can communicate safely and where you can gather evidence.

## Briefly .....

- Gather the evidence of what has been done to you only if it does not put you at unreasonable risk. Your life and health come first!
- Keep the collected evidence in a safe place (e.g. with a safe family member or friend).
- Protect the evidence stored on your computer or other device securely with a password.
- Back up the evidence stored on your computer or on another device to the cloud, if possible, or send a copy to a trusted person. This way, the material will be preserved, even if something happens to your device, or if someone who uses violence gets access to the material stored on it.
- As soon as possible, create a second e-mail or social media platform account hidden from someone who uses violence against you, through which you can communicate securely and gather evidence.

## **Gather material on everything that worries you, but do so in an organised way!**

When gathering material on domestic violence, don't worry about whether one or the other act is a crime, whether there is a reason to punish it, whether the material you have gathered is sufficient to prove that the violence took place, and so on. These are all matters for lawyers and the persons conducting the criminal proceedings (police, prosecutor's office, and courts). You should record as much information as you can about what concerns you about the other person's behaviour, allowing the professionals to decide whether and which part of that information can be used.

**Organise the gathered material chronologically or in some other way**, e.g. in a diary format, or by using the date, etc. in the file titles, in addition to a brief description of the event. If there are several different pieces of evidence about the same event, try to link them in some way (e.g. all the documents about the same event are saved in a single folder). All of this will help the person conducting the criminal proceedings to whom you present the evidence you have collected to gain a better understanding of what has happened. It also helps to understand the evidence collected and use it as evidence without your further explanations.

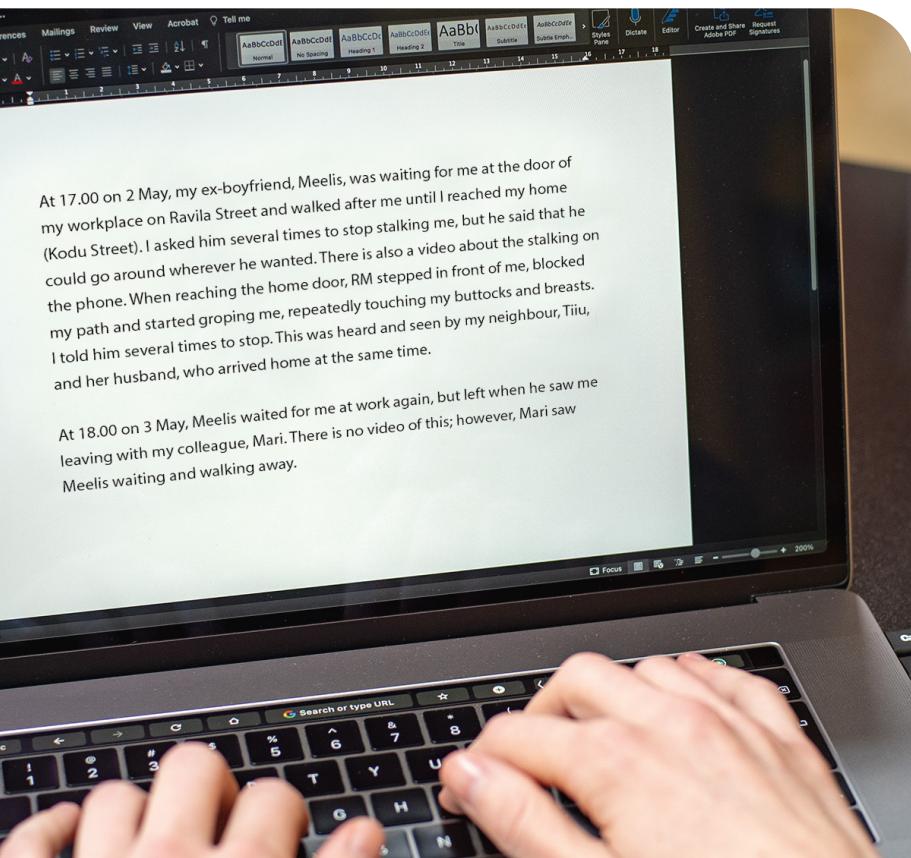
## **Briefly .....**

- Gather evidence on all of the violent acts that you can. Don't worry about whether all the material is necessary, it is up to the person conducting the criminal proceedings to decide.
- Systematize the evidence collected chronologically or otherwise.

# How and what to gather?

## Keep a diary/take notes!

Keep track of everything that a person who uses violence against you has done to you, no matter how insignificant it may seem at the moment. Be sure to take notes as you go, because in hindsight not all things come to mind so accurately. Be as detailed as possible when making notes about what happened and be sure, inter alia, to mention the following.



It doesn't matter if you write them down on paper somewhere, or print them on a computer or phone, the important thing is that the person who abused you doesn't know about their existence and has no way of accessing them.

- Who and against whom (you, your children, your loved ones) was violence used?
- What happened, or what was the violence about? Include a brief description of the situation and of what happened before and after, if possible, to help you remember the details later.
- When did it happen (if possible, please indicate the date and time)?
- How many times did it happen and has it happened before, and if so, when?
- Where did it happen?
- Who saw/heard what happened, or could have seen/heard it, and who did you tell about it? If possible, ask for and write down the contact details of eyewitnesses/listeners.
- Did you manage to record what happened (video, voice recording, message or email, etc.)?

## Briefly .....

- Keep a diary of what's going on!
- Do it as you go, in hindsight you may not remember everything.
- The notes should be as detailed as possible – indicate dates, times, venue, (possible) eyewitnesses, and anything else that is relevant.
- Keep the diary in a safe place; away from home, if necessary.
- If possible, record what happened and your injuries on video or photo and add a respective note in your diary.

## Find help!

If you can, always report the violation against you by calling 112. The recording of an emergency call is, among other things, proof that you have given information about such an act at such a time. For example, if you are constantly being followed, but when you call the police the person stalking you makes a run for it, it is still worth calling the emergency number and documenting the stalking incident in that way. Calls made to the victim helpline 116-006 are also recorded. Along with other evidence, such recordings may later be important additional evidence in your defence.

If possible, be sure to have your injuries documented by your family physician or at an Emergency Medicine Centre (EMO), or in the case of sexual violence at a sexual violence crisis centre (for the location of the centres, see [www.palunabi.ee/seksuaalvagivald](http://www.palunabi.ee/seksuaalvagivald)). Do it, no matter how minor the (apparent) injuries are. Please also tell the doctor what happened. Ask the doctor to put this information in a digital record if you are sure that the person who used violence cannot access it.

Talk about what's been done to you with people who you can safely talk to. What other people have heard from you, alongside other evidence, may also become important later, especially if you have told them about the violence you have suffered immediately after experiencing it and while still under its influence.

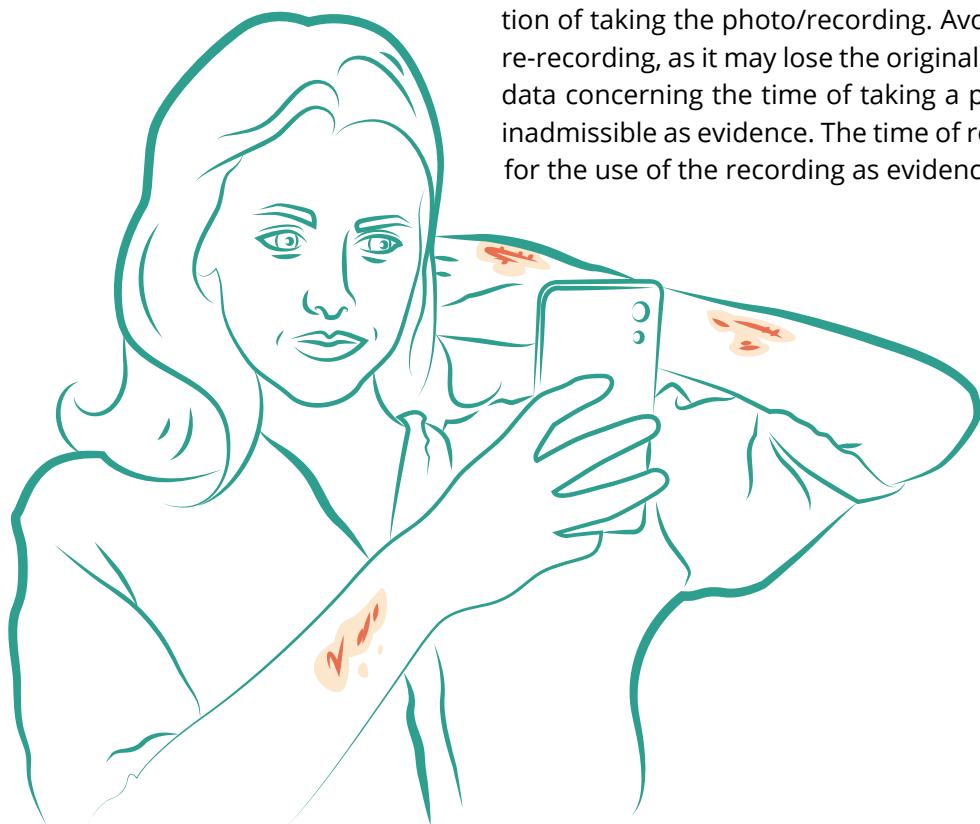
## Briefly .....

- If you feel the situation is dangerous for yourself or your loved ones, always call 112.
- Have your injuries documented by your family physician or at an Emergency Medicine Centre (EMO), or in the case of sexual violence at a sexual violence crisis centre.
- Tell people who you can safely talk to about what's been done to you.

## Capture it yourself – take photos, Film, and record!

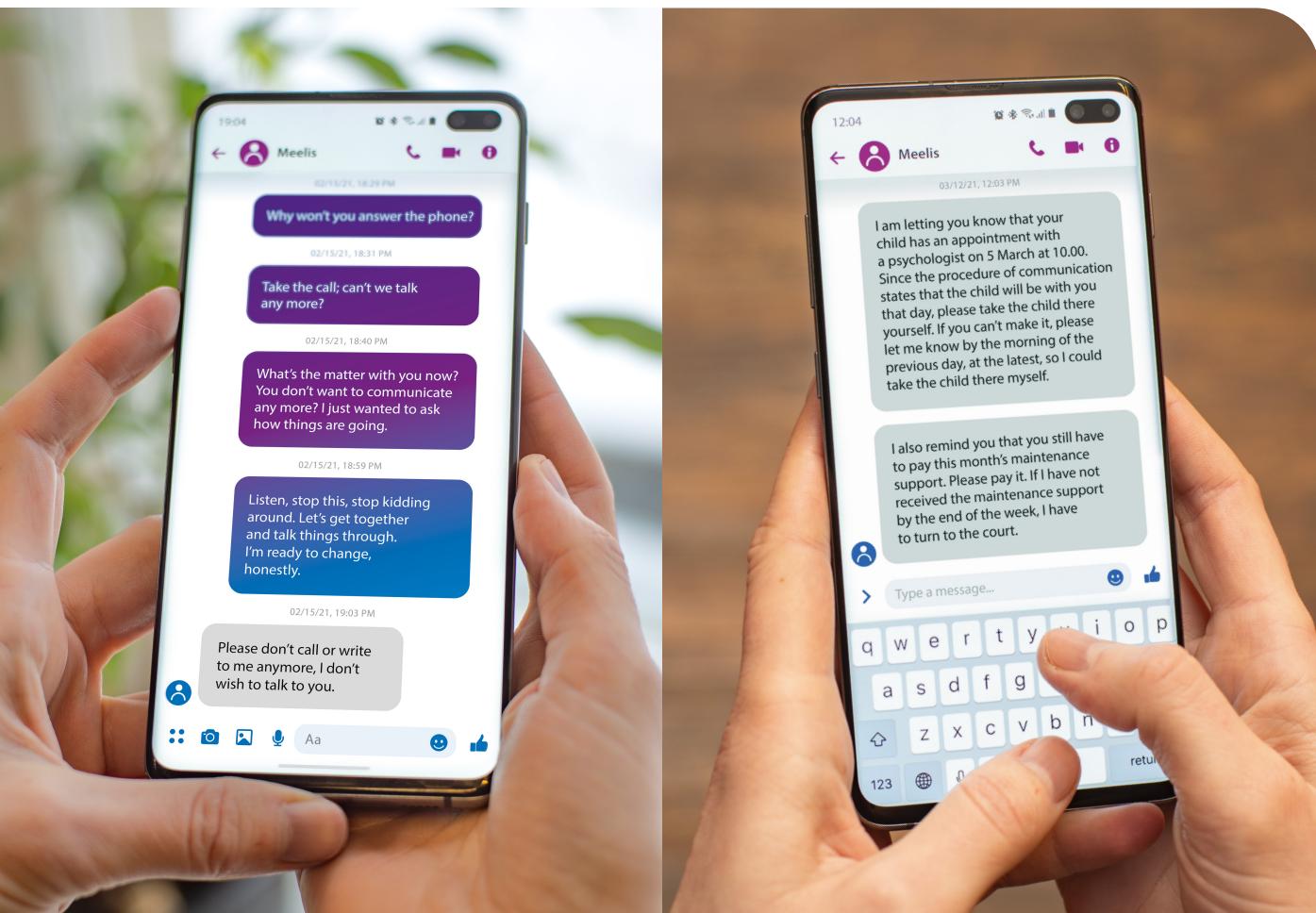
You do not have the right to record a conversation or other activity that you are not a party to. However, as a participant in the conversation, you also have the right to record the conversation without informing the other participants thereof and without asking for their consent. However, your own voice should also be heard on the recording. Otherwise, it may not be clear that it is a conversation with your participation and it may be difficult to use it in your defence in the proceedings. Also note that when recording a video call, you must consider that the recording may be visible to the other party, depending on the environment you are using. It should also be noted that public sharing of the recording without the consent of the other recorded person(s) is not allowed. In order to protect your safety and rights, you may exceptionally transmit a recording you have made for your own use to a person conducting the criminal proceedings or to a person you consider safe, provided they not publicly distribute what you have sent.

If violence against you or the consequences of it can be captured in a photo or video, please do so. When taking photos of/filming injuries, **make sure you do it so that your face is visible**. This confirms that these are your injuries. If possible, also send the photo/video to a trusted family member or friend, including, if possible, a brief description of when and where the violence occurred. This will allow for further proof of the time and location of taking the photo/recording. Avoid multiple recording and re-recording, as it may lose the original data of the recording (e.g. data concerning the time of taking a picture) and thus render it inadmissible as evidence. The time of recording is very important for the use of the recording as evidence.



Keep and store in a safe place all messages, emails and letters regarding violent behaviour, taking a screenshot if necessary. Do this as soon as possible, as messages can be deleted afterwards. When recording a message or (email) letter, make sure that the name of the sender and the recipient or a contact associated with them (phone number, email address) and the date of sending are visible on the recording.

When you send messages or other written communications, be also careful how and what you write. Beware of emotions, don't use offensive language, and write as briefly as possible. When writing, always consider whether it is necessary to do so at all, and which questions from the perpetrator of violence need to be answered and which ones do not.



If you are disturbed by any activity, such as continuous calling, messaging, or stalking, make it clear in writing that you do not want it. This will help to prove later on that you really disliked such behaviour and that you have made this clear to the person who did it.

Please keep evidence of violence in a safe place – bloody or torn clothes and other items. If there is no other option, at least take a picture of them and save it according to the instructions above.

## Briefly .....

- Recording your own phone call or other conversation for your own use is permitted, but you cannot share it publicly. By way of exception, to safeguard your rights, the recording may be transmitted to the person conducting the criminal proceedings or to a safe person who will not distribute it publicly.
- When taking photos of/ filming injuries, make sure you do it so that your face is visible. Otherwise, it may not be possible to prove that the violence was committed against you.
- Record messages, letters and other written documents about violent behaviour. Be sure to do this so that you can see who sent the message/email, when and to whom.
- Be balanced and fact-based in your messages and avoid offensive language, don't write unnecessarily, including repetitive replies. If you want to stop an activity, always express this in writing, wherever possible.
- If possible, keep the items that show signs of violence (bloody, broken) or at least take a picture of them.

## To whom do I present the evidence I have gathered?

You can submit the evidence you have gathered, together with a report of criminal offence, to the police <https://www.politsei.ee/et/avaldus-politseile> or on the spot).

If you need advice on how to collect materials, you can also contact women's support centres and victim support services (see palunabi.ee or call 116 006).

# Examples of domestic violence that are punishable as an offence

The following is a sample list of acts that are punishable under Estonian law. Please note that this list is not exhaustive.

According to the Penal Code (as of 31.03.2022), offences punishable under criminal law include, for example, the following acts (the wording of the Penal Code is used):

- Causing serious health damage, that is to say, causing health damage which results in danger to life; a health disorder which persists for at least four months or which results in partial or no work ability; severe mental disorder; miscarriage; permanent mutilating facial injury; loss or cessation of functioning of an organ or death. Causing such damage to health through negligence is also punishable (§§ 118 and 119 of the Penal Code);
- causing damage to the health of another person, as well as physical abuse which causes pain (§ 121 of the Penal Code);
- a threat to kill, cause health damage or cause significant damage to or destroy property, if there is reason to fear the realisation of such threat (§ 120 of the Penal Code); sexual abuse (§§ 141 to 145<sup>1</sup> of the Penal Code);
- pimping (§ 133<sup>2</sup> of the Penal Code);
- unlawful deprivation of the liberty of another person (§ 136 of the Penal Code);
- knowing refusal to provide assistance to a person who is in a life-threatening situation due to an accident or general danger, although such assistance could be provided without endangering the person providing assistance (§ 124 of the Penal Code);
- repeated or consistent attempts to contact another person, watching them or interference in the privacy of another person against the will of such person in another manner, if the intent or effect thereof is to intimidate, humiliate the other person or disturb them in any other manner (§ 1573 of the Penal Code);
- observation of another person in order to collect information relating to such person by a person without the lawful right to engage in surveillance (§ 137 of the Penal Code). Such an act is, for example, knowingly recording a conversation to which you are not a party;
- violation of a restriction order or other measure of protection of personality right imposed by a court decision, if this poses a danger to the life, health or property of persons, or repeated violation of a restriction order or other measure of protection of personality right (§ 3312 of the Penal Code);
- a parent's knowing evasion of a monthly support ordered by a court to his or her child of less than eighteen years of age or to their child who has attained the age of majority but is incapacitated for work and needs assistance (§ 169 of the Penal Code).



# Victim support helplinen 116 006

## Women's support centres

