Code of Civil Procedure[1]

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15.12.2005	RT I 2005, 71, 549	01.01.2006
26.01.2006	RT I 2006, 7, 42	04.02.2006
14.06.2006	RT I 2006, 31, 235	01.09.2006
11.10.2006	RT I 2006, 48, 360	18.11.2006
15.11.2006	RT I 2006, 55, 405	01.01.2007
23.11.2006	RT I 2006, 55, 412	01.01.2007
06.12.2006	RT I 2006, 61, 457	01.01.2007
24.01.2007	RT I 2007, 12, 66	25.02.2007
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09.04.2008	RT III 2008, 16, 105	09.04.2008
11.06.2008	RT I 2008, 28, 180	15.07.2008
19.06.2008	RT I 2008, 29, 189	01.07.2008
10.12.2008	RT I 2008, 59, 330	01.01.2009
20.05.2009	RT I 2009, 30, 177	01.07.2010
21.05.2009	RT I 2009, 30, 178	01.10.2009
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18.11.2009	RT I 2009, 60, 395	01.07.2010
15.12.2009	RT III 2009, 60, 440	15.12.2009
16.12.2009	RT I 2009, 67, 460	01.01.2010
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22.04.2010	RT I 2010, 19, 101	01.06.2010
22.04.2010	RT I 2010, 20, 103	01.07.2010
22.04.2010	RT I 2010, 22, 108	01.01.2011, enters into force on the date which has been determined in the Decision of the Council of the European Union regarding the abrogation of the derogation

Passed	Published	Entry into force
		established in respect of the Republic of Estonia on the basis provided for in Article 140 (2) of the Treaty on the Functioning of the European Union, Council Decision 2010/416/EU of 13 July 2010 (OJ L 196, 28.07.2010, pp. 24–26).
12.05.2010	RT I 2010, 26, 128	14.06.2010
17.06.2010	RT I 2010, 38, 231	01.07.2010
17.11.2010	RT I, 06.12.2010, 1	05.04.2011
25.11.2010	RT I, 21.12.2010, 1	31.12.2010
16.12.2010	RT I, 30.12.2010, 2	01.01.2011
27.01.2011	RT I, 23.02.2011, 1	01.09.2011
17.02.2011	RT I, 14.03.2011, 2	18.06.2011
12.04.2011	RT I, 21.04.2011, 16	12.04.2011 Decision of the Supreme Court en banc declares to be in conflict with the Constitution and repeals the first sentence of subsection 183 (1) of the Code of Civil Procedure in the part that it excludes the provision of procedural assistance in a civil proceeding to Estonian legal persons in private law not satisfying the criteria specified in this provision for the release, in part or in full, from payment of the state fee on the appeal.
14.04.2011	RT I, 21.04.2011, 17	14.04.2011 Decision of the Supreme Court en banc declares to be in conflict with the Constitution and repeals clause 182 (2) 3) of the Code of Civil Procedure in the part that it excludes the provision of procedural assistance to natural persons for the release, in part or in full, from payment of the state fee on the appeal if the proceeding concerns the economic or professional activity of the person requesting procedural assistance and is not related to his or her rights which are not connected to his or her economic or professional activity.
01.11.2011	RT I, 10.11.2011, 5	01.11.2011 Decision of the Constitutional Review Chamber of the Supreme Court declares to be in conflict with the Constitution and repeals clause 182 (2) 3) of the Code of Civil Procedure in the part that it excludes the provision of procedural assistance to natural persons for the release, in part or in full, from payment of the state fee on recourse to the court if the proceeding concerns the economic or professional activity of the person requesting procedural assistance and is not related to his or her rights which are not connected to his or her economic or professional activity.
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05.12.2012	RT I, 21.12.2012, 1	01.03.2013, partially 01.01.2013
13.03.2013	RT I, 22.03.2013, 9	01.04.2013, partially 01.01.2014
20.03.2013	RT I, 05.04.2013, 1	15.04.2013
26.09.2013	RT I, 09.10.2013, 1	28.10.2013
11.12.2013	RT I, 23.12.2013, 1	01.01.2014, partially 01.01.2020
21.01.2014	RT I, 31.01.2014, 6	01.02.2014, partially 01.04.2014 and 01.07.2014
04.02.2014	RT I, 06.02.2014, 13	04.02.2014 - The decision of the Supreme Court en banc declares subsection 125¹ (2) of the Courts Act and subsection 174 (8) of the Code of Civil Procedure in the part pursuant to which the procedure expenses in a civil proceeding may be determined by a judicial clerk to be in conflict with the Constitution and repealed.
19.02.2014	RT I, 13.03.2014, 3	01.01.2018, partially 23.03.2014 and 01.01.2016

Part 1 GENERAL PROVISIONS

Chapter 1 GENERAL PRINCIPLES OF PROCEDURE

§ 1. Administration of justice in civil matters

A civil matter is heard pursuant to civil procedure unless otherwise provided by law. A civil matter is a case arising from a private law relationship.

§ 2. Purpose of civil procedure

The purpose of civil procedure is to guarantee adjudication of civil matters by the court justly, within a reasonable period of time and at the minimum possible cost.

§ 3. Right of recourse to courts

(1) The court conducts proceedings in a civil matter if a person files a claim with the court pursuant to the procedure provided by law for the protection of the person's alleged right or interest protected by law.

(2) In the cases prescribed by law, the court also conducts proceedings in a civil matter if a person files a claim with the court for the protection of a presumed right or interest protected by law of another person or the public.

(3) In the cases prescribed by law, pre-trial proceedings shall be conducted in the matter before a person may have recourse to the court.

§ 4. Disposal of procedural rights

(1) The court conducts proceedings in a civil matter only if an action or other petition has been filed pursuant to the procedure provided by law. In the cases provided by law, the court conducts proceedings in a civil matter at its own initiative.

(2) In an action, the parties determine the object of the dispute and the process of the proceedings, and decide on the submission of petitions and filing of appeals.

(3) Parties may terminate an action by judicial compromise. The plaintiff may withdraw the filed claim and the defendant may admit the claim filed against the defendant.

(4) During proceedings, the court shall take all possible measures to settle a matter or a part thereof by a compromise or in another manner by agreement of the parties if this is reasonable in the opinion of the court. For such purpose, the court may, among other, present a draft of a compromise contract to the parties or request that the parties appear before the court in person, or propose that the parties settle the dispute out of court or call upon the assistance of a conciliator. If, in the opinion of the court, it is necessary in the interests of adjudication of the matter, considering the circumstances of the case and the process of the proceedings, it may order the

parties to participate in the conciliation proceeding provided for in the Conciliation Act.
[RT I 2009, 59, 385 - entry into force 01.01.2010]

§ 5. Conduct of proceedings based on submissions by parties

(1) Proceedings are conducted in an action on the basis of the facts and petitions submitted by the parties, based on the claim.

(2) The parties have equal rights and opportunities in substantiating their claims, and to refute or contest the submissions of the opposing party. A party may choose the facts submitted in order to substantiate the claim thereof as well as the evidence intended for proof of such facts.

(3) In matters on petition, the court itself ascertains the facts and takes the necessary evidence unless otherwise prescribed by law. In matters where an action is filed, the court itself ascertains the facts and takes the necessary evidence only in the cases prescribed by law.

§ 6. Law applicable at time of proceeding

A procedural act in a civil matter is performed pursuant to the law in force at the time of performance of the act.

§ 7. Administration of justice on basis of equality

In the administration of justice in civil matters, the parties and other persons are equal before the law and the court.

§ 8. Law applicable to conduct of proceedings in matter

(1) The conduct of proceedings in a matter by the court is based on the Estonian civil procedure law.

(2) In the absence of a provision of law regulating a procedural relationship, the court applies a provision which regulates a relationship similar to the relationship under dispute.

(3) In the absence of a provision of law regulating a relationship similar to the relationship under dispute, the court is guided by the general purpose of law. The fundamental rights and freedoms of a person may be restricted only if the possibility therefor is prescribed by law.

Chapter 2 COURTS COMPETENT TO ADJUDICATE CIVIL MATTERS

§ 9. Competent courts

(1) County courts, circuit courts and the Supreme Court are competent to adjudicate civil matters.

(2) By agreement of the parties, a civil matter may be referred to an arbitral tribunal unless otherwise provided by law.

(3) A civil matter is not heard by a higher court before it has been heard by the directly lower court unless otherwise provided by law.

§ 10. Restricted competence of court in respect of extra-territorial persons

The jurisdiction of the courts of the Republic of Estonia does not extend to:
1) the members of foreign diplomatic representations established in the Republic of Estonia, their family members and private servants, to the extent prescribed by the Vienna Convention on Diplomatic Relations (RT II 2006, 16);
[RT I 2008, 59, 330 - entry into force 01.01.2009]
2) the members of consular posts, to the extent prescribed by the Vienna Convention on Consular Relations (RT II 2006, 16);
[RT I 2008, 59, 330 - entry into force 01.01.2009]
3) the persons not specified in clauses 1) or 2) of this section if this arises from international agreements, generally recognised principles of international law or an Act.

§ 11. Jurisdiction of county court

(1) County courts as courts of first instance hear all civil matters.

(2) Hearing of certain types of matters by only certain county courts may be provided by an Act if this expedites the hearing of matters or otherwise renders it more effective.

§ 12. Jurisdiction of circuit court

A circuit court reviews the decisions made in civil matters by the county courts within its territorial jurisdiction on the basis of appeals and appeals against rulings filed against the decisions of the county courts. A circuit court also adjudicates other matters placed within its jurisdiction by law.

§ 13. Jurisdiction of Supreme Court

The Supreme Court reviews the decisions made in civil matters by the circuit courts on the basis of appeals in cassation and appeals against rulings filed against the decisions of the circuit courts. The Supreme Court also adjudicates petitions for the review of court decisions in force and, in the cases provided by law, appoints a court with the appropriate competence to adjudicate a matter, and adjudicates other matters placed within its jurisdiction by law.

§ 14. Validity of procedural acts

(1) A court may perform procedural acts and, among other, hold a court session outside of its territorial jurisdiction.

(2) The validity of a procedural act is not influenced by the fact that, based on the division of tasks, such act should have been performed by another judge or panel.

(3) In the cases prescribed by law, a procedural act of a collegial court panel may also be performed by one judge acting on the basis of an order. A judge acting on the basis of an order shall be a member of the panel entitled to perform that procedural act. The panel may amend the ruling made by the judge acting on the basis of an order.

§ 15. Procedural assistance between courts in performance of procedural acts

(1) Upon adjudication on civil matters, courts provide each other assistance in the performance of procedural acts. A court requests assistance from another court above all in the cases where the performance of a procedural act in the other court would facilitate the hearing of a matter, save the time of the participants in the proceeding and the court or reduce procedural expenses.

(2) A court requesting procedural assistance submits a request to the court within whose territorial jurisdiction the procedural act is to be performed.

(3) The court which receives a request for assistance (court acting based on a letter of request) shall not refuse to provide assistance unless the performance of the act would be illegal. If a letter of request has been submitted to a court of incorrect jurisdiction, such court forwards the letter to the appropriate court.

(4) The court who submits a letter of request does not cover the costs of the procedural act. The court which performs a procedural act presents information concerning the expenses to the court who submitted the letter of request, and such expenses are deemed to be expenses relating to the matter being heard.

(5) Unless otherwise provided by law or an international agreement, an Estonian court provides procedural assistance in performance of a procedural act at the request of a foreign court if, pursuant to Estonian law, the requested procedural act belongs to the jurisdiction of the Estonian court and is not prohibited by law. A procedural act may also be performed or a document may be issued pursuant to the law of a foreign state if this is necessary for the conducting of proceedings in the foreign state and the interests of the participants in the proceeding are not damaged thereby.

(6) The provisions of this Code apply to the assistance for taking of evidence in Estonia on the basis of requests by courts of Member States of the European Union and to the assistance for taking of evidence in Member States of the European Union on the basis of requests by Estonian courts in so far as not otherwise provided by the provisions of Council Regulation 1206/2001/EC relating to co-operation between the judicial authorities of the Member States in the taking of evidence in civil and commercial matters (OJ L 174, 27.06.2001, pp. 1–24).

(7) The rights and obligations in the regulation of cross-border judicial cooperation in civil matters imposed upon Member States by regulations adopted on the basis of Article 61(c) of the Treaty establishing the European Community shall be performed by the Ministry of Justice.

Chapter 3 COURT PANEL

§ 16. Panel of county court in adjudication of civil matters

(1) A county court adjudicates civil matters by a judge sitting alone.

(2) [Repealed - RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 17. Panel of circuit court in adjudication of civil matters

(1) A circuit court adjudicates civil matters collegially, by a panel of three judges, unless otherwise prescribed by law.

(2) Upon hearing a matter by way of appeal procedure, the chairman of a circuit court has the right to include a county judge of the same circuit in the panel of the circuit court with his or her consent. The included judge shall not act as the presiding judge in the matter or report on the case.

§ 18. Panel of Supreme Court in adjudication of civil matters

(1) The Supreme Court adjudicates civil matters collegially, by a panel of at least three judges, unless otherwise prescribed by law.

(2) If a panel of the Supreme Court hearing a matter has fundamentally differing opinions concerning the interpretation and application of the law, the matter is referred for adjudication to the full panel of the Civil Chamber of the Supreme Court. The panel may also refer a civil matter for adjudication to the full panel of the Civil Chamber of the Supreme Court if, in the opinion of the panel, this is necessary in the interests of harmonisation and development of judicial practice.

(3) A session of the full panel of the Civil Chamber of the Supreme Court is summoned and presided over by the chairman of the Civil Chamber of the Supreme Court or, in his or her absence, by the member of the Civil Chamber who is senior in office or, in the case of equal seniority in office, by the member who is senior in age.

(4) A session of the full panel of the Civil Chamber of the Supreme Court has a quorum if more than two-thirds of the members of the Civil Chamber of the Supreme Court participate.

§ 19. Special Panel of Supreme Court and Supreme Court *en banc*

(1) If a panel of the Supreme Court adjudicating a civil matter deems it necessary to derogate, in the interpretation of law, from the most recent position of another Chamber or the Special Panel of the Supreme Court, the matter is referred for adjudication to the Special Panel of the Supreme Court by a ruling.

(2) The Special Panel of the Supreme Court is formed by the Chief Justice of the Supreme Court.

(3) The members of the Special Panel of the Supreme Court are:
1) the Chief Justice of the Supreme Court as the presiding judge;
2) two justices from the Civil Chamber of the Supreme Court;
3) two justices from such chamber of the Supreme Court whose position concerning the application of the law is contested by the Civil Chamber.

(4) A civil matter is referred to the Supreme Court *en banc* if:
1) the majority of the full panel of the Civil Chamber reach a different opinion than the legal principle or position hitherto held by the Supreme Court *en banc* on the application of law;
2) the majority of the full panel of the Civil Chamber consider the adjudication of the matter by the Supreme Court *en banc* to be essential for the uniform application of law;
3) the adjudication of the matter presumes the adjudication of an issue to be reviewed under the Constitutional Review Court Procedure Act.

(5) A matter referred to the Special Panel of the Supreme Court and the Supreme Court *en banc* is reported on to the Supreme Court *en banc* by a member of the Civil Chamber on the order of the chairman of the Chamber.

(6) Compliance with a decision of the Special Panel is mandatory for the Chambers of the Supreme Court which participated in the Special Panel in the application of law until the Special Panel or the Supreme Court *en banc* makes a different decision. A position of the Supreme Court *en banc* is mandatory for the Chambers and Special Panels of the Supreme Court in the application of law unless the Supreme Court *en banc* itself changes the position.

§ 20. Members of panel participating in making of decision

(1) If the composition of a panel of the court changes during the hearing of a matter, the matter is re-heard from the beginning. If the previous panel of the court has taken and examined evidence, the new panel is not required to repeat this act unless the parties apply therefor.

(2) If a proceeding is likely to extend over a lengthy period of time, the chairman of the court hearing the matter may involve a judge of the same court as a reserve judge in the proceeding. A reserve judge is present at the hearing of the matter and replaces the judge hearing the matter if he or she is prevented from attending.

(3) Petitions filed with the same court after the making of a decision on a matter, primarily petitions for the correction of mistakes in the decision, making of an additional decision, limiting of publication of the decision, immediate enforcement of the decision, refusal to review an application or terminating of the proceeding, need not be adjudicated by the judge that has made the decision.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 21. Confidentiality of deliberations

(1) Besides the judges adjudicating a matter, persons who are present in the court due to a reason related to their acquisition of higher education in law or persons employed by that court in

the capacity of an adviser and judicial candidates undergoing in-service training with that court may be present at the deliberations and voting of the court with the court's permission unless there is reason to doubt their impartiality.

(2) A judge or another person specified in subsection (1) of this section shall not disclose the contents of the discussions which take place during the deliberations. The duty to maintain the confidentiality of deliberations applies for an unspecified term.
[RT I 2005, 39, 308 - entry into force 01.01.2006]

§ 22. Voting in collegial court panel and dissenting opinion of judge

(1) A collegial court panel adjudicates the dissenting opinions relating to a civil matter by voting.

(2) A judge does not have the right to abstain from voting or to remain undecided. In the event of voting on a series of issues, a member of the court panel who has maintained a minority position does not have the right to abstain from voting on a subsequent issue.

(3) Upon an equal division of votes, the vote of the chair governs.

(4) A judge who maintains a minority position may present a dissenting opinion. A dissenting opinion which is appended to a court decision is published together with the court decision.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 22[1]. Competence of assistant judges and other court officials in adjudication of civil matters

(1) In the cases provided by law, a civil matter may also be adjudicated by an assistant judge, instead of a judge.

(2) The provisions of subsections 595 (2)–(4) of this Code apply to the competence of assistant judges and removal thereof.

(3) An assistant judge or another competent court official according to the internal rules of the court may also make a ruling in preparation of adjudicating a matter or other rulings of organisational nature which are not subject to appeal, including a ruling on refusal to accept an application, petition or appeal and a ruling on setting or extension of a term.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

Chapter 4 CIRCUMSTANCES PRECLUDING PARTICIPATION IN PROCEEDINGS

§ 23. Obligation of judge to remove himself or herself

A judge shall not adjudicate a civil matter and shall remove himself or herself in the following cases:
1) in a matter in which he or she is a participant in the proceeding or a person against whom a

claim arising from the proceeding may be filed;
2) in a matter of his or her spouse or cohabitee, and in a matter of a sister, brother or direct blood relative of his or her spouse or cohabitee even if the marriage or permanent cohabition has ended;
3) in a matter of a person who is his or her direct blood relative or other person close to him or her as defined in subsection 257 (1) of this Code;
4) in a matter in which he or she is or has been a representative or adviser of a participant in the proceeding or in which he or she participated or had the right to participate as the legal representative of a participant in the proceeding;
5) in a matter in which he or she has been heard as a witness or expert providing an opinion;
6) in a matter in which he or she participated in pre-trial proceedings, in the preceding court instance or in making a decision in arbitration proceedings;
7) if any other circumstances exist which give reason to doubt the impartiality of the judge.
[RT I 2005, 39, 308 - entry into force 01.01.2006]

§ 24. Removal of judge based on petition of challenge by participant in proceeding

(1) The removal of a judge may be requested by a participant in a proceeding in the cases prescribed in § 23 of this Code.

(2) A petition of challenge is submitted to the court to a panel of which the judge whose removal is requested belongs.

(3) The basis for removal shall be substantiated in the petition of challenge.

§ 25. Loss of right to remove judge

(1) In the case prescribed in clause 23 7) of this Code, a participant in a proceeding has no right to submit a petition of challenge if he or she has participated in a court session or, after becoming aware of the name of the judge, has submitted a petition on the merits of the matter without having submitted a petition of challenge.

(2) In the case specified in subsection (1) of this section, a participant in the proceeding has the right to submit a petition of challenge later, provided that the basis for removal was created only after the performance of the procedural act or the participant in the proceeding became aware of such basis only after the procedural act had been performed. Such circumstances shall be substantiated in the petition.

(3) A petition of challenge which has already been submitted under the same circumstances and has been adjudicated shall not be heard.

§ 26. Adjudication of petition of challenge

(1) If the judge or court panel concerning whom a petition of challenge has been submitted considers the petition to be justified, it makes a ruling on removing themselves.

(2) If the judge does not remove himself or herself and does not form a position concerning the petition of challenge, the petition is adjudicated by a ruling of the court panel to which the judge whose removal is requested belongs. The judge whose removal has been requested does not participate in deciding such matter. Upon an equal division of votes, the judge whose removal was requested is deemed to be removed.

(3) If a petition of challenge was submitted for removal of the entire panel adjudicating a matter or a judge sitting alone and the panel or judge fail to remove themselves, the matter of removal is adjudicated by the chairman of the court. If a petition of challenge is submitted against all the judges of the court, the removal is decided by the chairman of the court of the following instance.

(4) If a petition of challenge is submitted against the entire panel of the Supreme Court adjudicating a matter, the petition of challenge is adjudicated by such panel.

(5) If a judge does not remove himself or herself on the basis of a petition of challenge, he or she shall immediately inform the court or judge competent to adjudicate the removal about his or her position concerning the basis for removal.

§ 27. Removal without petition of challenge

(1) If a judge himself or herself finds that a circumstance specified in clauses 23 1)–6) of this Code which provide basis for his or her removal exists, the judge makes a ruling on his or her removal.

(2) If a judge himself or herself finds that a circumstance specified in clause 23 7) of this Code which provides basis for his or her removal exists, the judge requests his or her removal, pursuant to the procedure prescribed in subsections 26 (2)–(5) of this Code, from the court panel or chairman of the court.

(3) An unjustified refusal to administer justice is prohibited.

§ 28. Acts of judge whose removal is requested

(1) After the submission and before the adjudication of a petition of challenge against a judge, the judge may only perform procedural acts in the matter which cannot be postponed and which are of no determinative importance with regard to the decision on the matter.

(2) If a petition of challenge is clearly unfounded, the judge may continue the proceedings regardless of the submission of the petition but is prohibited, before the petition of challenge has been adjudicated, from making a decision which terminates the proceeding in that court instance. If a proceeding was continued after submission of a petition of challenge and the petition is satisfied, the procedural acts performed after submission of the petition are deemed to be void.

§ 29. Substitution of judge

(1) A removed judge is replaced at the earliest opportunity.

(2) In the case of removal of a judge or the entire court panel, the matter is heard by another judge or panel of the same court. If a judge cannot be replaced in the court hearing the matter, the matter is referred to another court of the same level through the directly higher court.

§ 30. Relying on basis of removal in appeal

The annulment of a decision due to failure to remove a judge may be applied for in an appeal filed with a higher court only if the petition of challenge was submitted to the lower court on time or if the basis for removal was created or became evident after the adjudication of the matter in such court.

§ 31. Removal of expert, interpreter or translator

(1) Upon existence of the basis specified in § 23 of this Code, an expert, interpreter or translator shall remove themselves and a participant in the proceeding may remove an expert, interpreter or translator participating in the proceeding. Earlier participation of a person in the matter as an expert or witness is not a basis for removal.

(2) A petition of challenge is submitted to the court which appointed the expert or involved the interpreter or translator before the questioning of the expert or the procedural act which requires the presence of the interpreter or translator begins.

(3) A petition of challenge submitted after the questioning of an expert or the procedural act requiring the presence of the interpreter or translator have begun, or more than 15 days after the date on which the name of the expert, interpreter or translator becomes known, is heard only if the petitioner is able to provide the court with good reason for failing to inform the court of the existence of a basis for removal at an earlier time.

(4) The basis for removal shall be substantiated in the petition of challenge.

(5) The court hearing the matter adjudicates the removal of an expert, interpreter or translator by a ruling. If a petition of challenge is submitted in a court session, the court hears the opinions of the person whose removal is requested and the participants in the proceeding.

(6) The annulment of a decision due to failure to remove an expert, interpreter or translator may be applied for in an appeal filed with a higher court only if the petition of challenge was submitted to the lower court on time or if the basis for removal became evident after the adjudication of the matter in such court.

Chapter 5 WORKING LANGUAGE OF COURTS

§ 32. Working language of courts

(1) The language of judicial proceedings and court procedure is Estonian.

(2) Minutes of court sessions and other procedural acts are prepared in Estonian. A court may also record any testimony or statement given in a court session in a foreign language in the minutes in the language in which it is given in addition to the translation thereof into Estonian if it is necessary for an accurate presentation of the testimony or statement.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 33. Documents in foreign language in judicial proceedings

(1) If a petition, request, appeal or objection submitted to the court by a participant in a proceeding is not in Estonian, the court requires that the person submitting such documents provide a translation thereof into Estonian by the set due date. If a documentary evidence submitted to the court by a participant in a proceeding is not in Estonian, the court requires that the person submitting such documents provide a translation thereof into Estonian by the set due date unless translation of the evidence is unreasonable considering its contents or volume and other participants in the proceeding do not object to accepting the evidence in another language.

(2) The court may require a translation made by a sworn translator or authenticated by a notary or caution the translator that he or she bears liability for a knowingly false translation.
[RT I, 23.12.2013, 1 - entry into force 01.01.2014]

(3) If the translation is not submitted by the due date, the court may disregard the petition, request, appeal, objection or documentary evidence.

(4) The court organises translation of a court decision into a foreign language for a participant in the proceeding only if the participant in the proceeding so requests and provided that in the proceeding the participant in the proceeding is not represented by a representative and he or she has been granted procedural assistance for bearing translation costs. If the person so requests, a court organises translation of a court decision for the person specified in subsection 34 (4) of this Code on account of the Republic of Estonia regardless of the existence of a representative or the grant of procedural assistance.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 34. Participation of interpreter or translator in proceedings

(1) If a participant in a proceeding is not proficient in Estonian and he or she does not have a representative in the proceeding, the court involves, if possible, an interpreter or translator in the proceeding at the request of such participant in the proceeding or at the initiative of the court. An interpreter or translator need not be involved if the statements of the participant in the proceeding can be understood by the court and the other participants in the proceeding.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) If the court is unable to immediately involve an interpreter or translator, the court makes a ruling whereby the participant in the proceeding needing the assistance of an interpreter or translator is required to find an interpreter, translator or a representative proficient in Estonian for himself or herself. Failure to comply with the demand of the court does not prevent the court from adjudicating the matter. If a plaintiff fails to comply with the demand of the court, the court may refuse to hear the action.

(3) Before commencing interpretation or translation in a proceeding, an interpreter or translator is cautioned that he or she bears liability for false interpretation or translation, and the interpreter or translator gives a signature to that effect.
[RT I, 23.12.2013, 1 - entry into force 01.01.2014]

(4) Provision of an interpreter or translator shall be ensured to a person in a proceeding for placement of the person in a closed institution and in a proceeding for establishment of guardianship for the person.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(5) An interpreter or translator is not involved in a proceeding for a contractual representative of a participant in the proceeding or for an adviser.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 35. Involvement of interpreter or translator in case of deaf, mute or deaf-mute participant in proceeding

If a participant in a proceeding is a deaf, mute or deaf-mute person, the course of the proceeding is communicated to him or her in writing, or an interpreter or translator is involved in the proceeding.

§ 36. Oath and signature of person not proficient in Estonian

(1) A person who is not proficient in Estonian gives an oath or signature on being cautioned of his or her liability in a language in which he or she is proficient.

(2) A signature is given on the text of the oath or caution prepared in Estonian which is translated to the person directly before he or she signs it.

Chapter 6 PUBLIC PROCEEDINGS

§ 37. Public court hearings

(1) Court hearing of a matter is public unless otherwise prescribed by law.

(2) The court has the right to prohibit a person who has expressed contempt for the court and, in order to protect the interests of a minor, to prohibit the minor from attending a public hearing of a matter.

§ 38. Declaration of proceeding closed

(1) The court declares a proceeding or a part thereof closed at the initiative of the court or based on a petition of a participant in the proceeding if this is clearly necessary:
1) for the protection of national security or public order and above all, for the protection of a state secret or classified information of a foreign state or information intended for internal use;
[RT I 2007, 16, 77 - entry into force 01.01.2008]
2) for the protection of the life, health or freedom of a participant in a proceeding, witness or other person;
3) for the protection of the private life of a participant in a proceeding, witness or other person unless the interest of public proceeding exceeds the interest of protection of private life;
4) to maintain the confidentiality of adoption;
5) in the interests of a minor or a mentally handicapped person and above all, for hearing such persons;
6) to protect a business secret or other similar secret unless the interest of public proceeding exceeds the interest of protection of the secret;
[RT I 2008, 59, 330 - entry into force 01.01.2009]
7) for hearing a person obligated by law to protect the secrecy of private life of persons or business secrets if the person is entitled by law to disclose such secrets in the course of a proceeding;
8) for the protection of the confidentiality of messages transmitted by post, telegraph, telephone or other commonly used means.

(2) The court may declare a proceeding or a part thereof closed at its own initiative or based on a petition of a participant in the proceeding in a case not specified in subsection (1) of this section if objective administration of justice would otherwise be clearly compromised or if the possibility to convince the parties to terminate the proceeding by a compromise or resolve the dispute in another manner is higher in a closed proceeding.

(3) In the cases listed in clauses (1) 2), 3) and 6)–8) of this section, the court does not declare a proceeding or a part thereof closed if the person for the protection of whose interests the proceeding or a part thereof ought to be declared closed objects thereto.

§ 39. Admitting persons to closed session

The court may permit a person who has justified interest in participating in a court session or whose presence at the session is clearly in the interests of administration of justice to be present at a closed court session. The consent of the participants in the proceeding is not required in that case.

§ 40. Procedure for declaring proceeding closed

(1) Declaration of a proceeding or a part thereof closed is heard in a closed session if this is requested by a participant in the proceeding or if the court deems it necessary.

(2) A ruling on declaring a proceeding or a part thereof closed is made public. The ruling may be pronounced in a closed session if there is reason to believe that public pronouncement could significantly disturb order in the court session.

§ 41. Obligation of participants in proceeding and persons present in court session to maintain confidentiality

(1) In a closed court session, the court cautions the participants in the proceeding and other persons present in the courtroom that the contents of the hearing held and the documents examined in a closed session must not be disclosed to the extent necessary for the protection of a right or interest specified in § 38 of this Code.

(2) In addition to the provisions of subsection (1) of this section, the court may caution, by a ruling, a person who is present in a closed court session to maintain the confidentiality of a fact which has become known to him or her in the session or from a document relevant to the matter if this is necessary to protect a right or interest specified in § 38 of this Code.

(3) The court may require the participants in the proceeding and other persons present in the courtroom to maintain the confidentiality of a fact which has become known to them in the course of the proceeding even if the proceeding has not been declared closed but maintaining confidentiality is clearly necessary for the protection of a right or interest specified in § 38 of this Code.

(4) A person required to maintain confidentiality may file an appeal against the ruling made in respect of the obligation specified in subsections (2) and (3) of this section.

§ 42. Transmission and recording of court session

(1) Notes may be taken at a public court session if this does not interfere with the court session. A court session may be photographed or filmed, and audio recordings, radio, television or other broadcasts may be made in a court session only with the prior consent of the court.

(2) In a closed court session, the court may decide that written notes only may be taken.

(3) The court may remove a person violating the provisions of subsection (1) or (2) of this section from the courtroom and impose a fine on him or her.

Chapter 7 SECURING OF CIVIL PROCEDURE

§ 43. Order in court session

(1) The court ensures order in a court session and organises the enforcement of rulings made in order to ensure order in a court session, including rulings on fine or detention. The participants in a proceeding and other persons present in a courtroom shall comply with the orders of the court without argument.

(2) Judges acting on the basis of a letter of request or order, or performing a procedural act outside a court session also have the obligation to ensure order provided for in this Chapter and the rights arising therefrom.

§ 44. Limitation of number of persons present in court session

The court has the right to limit the number of persons present in a court session if the courtroom is overcrowded and this interferes with hearing the matter.

§ 45. Removing of persons from court session and application of other measures to persons

(1) The court may remove a participant in a proceeding or his or her representative or adviser, or a witness, expert, interpreter, translator or another person present in the session who fails to comply with an order given to ensure order in the court session, acts in an improper manner in the court session or expresses contempt for the court or for other participants in the proceeding.

(2) The court may remove from a proceeding a representative or adviser of a participant in the proceeding or to prohibit the person from making statements if the representative or adviser is not able to act in the court in accordance with the requirements, including due to inadequate language proficiency, or, in the course of the court proceeding, has shown himself or herself as dishonest, incompetent or irresponsible, or if the person has, in bad faith, obstructed the just and expeditious hearing of the matter at the minimum possible cost or has repeatedly failed to comply with the orders of the court.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) If a participant in a proceeding or his or her representative is removed from a court session, the hearing of the matter may be continued in a manner equal to a situation where a participant in a proceeding or his or her representative leaves the session voluntarily. A representative of a participant in a proceeding is considered to have left the session even if he or she is removed from the proceeding or he or she is prohibited from making statements in the proceeding in accordance with the provisions of subsection (2) of this section.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(4) The court has the right to impose a fine or detention of up to seven twenty-four hour periods on a person who conducts himself or herself in the manner specified in subsection (1) of this section or on a participant in a proceeding or a representative or adviser thereof who has, in bad faith, obstructed the just and expeditious hearing of the matter at the minimum possible cost or who has repeatedly failed to comply with the orders of the court.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(5) If a participant in a proceeding is not present in the court session or performance of a procedural act, the court immediately informs him or her of application of the provisions of subsections (1)–(4) of this section to his or her representative and proposes that he or she select a new representative by the date set by the court. The court also informs the Estonian Bar Association or another professional association to which the advocate belongs of application of

the provisions of subsections (1)–(4) of this section to an advocate.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(6) If elements of a criminal offence become evident in court in the conduct of a participant in a proceeding or another person, the court files a report on the criminal offence with the Prosecutor's Office or the police. If necessary, the court detains such person based on a ruling.

§ 46. Imposition of fines

(1) In the cases provided by this Code where the court has the right to impose a fine, such fine may be imposed to the extent of up to 3,200 euros unless otherwise prescribed by this Code. In determining the amount of a fine, the court takes the financial situation of the person and other circumstances into consideration.
[RT I 2010, 22, 108 - entry into force 01.01.2011]

(1^1) Instead of or in addition to a minor, a fine may be imposed on his or her parents or guardians. Instead of an adult with restricted active legal capacity, a fine may be imposed on his or her guardians. No fine is imposed on minors under 14 years of age and persons with restricted active legal capacity.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) A fine may be imposed on a person only after a warning of a fine has been given to him or her, unless the giving of a prior warning is not possible or reasonable.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) A fine imposed on a person for non-performance of an obligation does not release the person from performing the obligation. If an obligation is not performed after the imposition of a fine, a new fine may be imposed.

(4) A transcript of a ruling whereby a fine is imposed is immediately served on the person fined or the representative thereof.

§ 47. Detention and compelled attendance

(1) The court may, by a court ruling, impose detention in a civil proceeding in the cases prescribed by law if the court has warned the person that detention may be imposed.

(2) In the cases where collection of a fine is impossible, the fine may be substituted by detention of up to three months. Substitution of a fine by detention may already be prescribed by the ruling which imposes a fine. Upon substitution of a fine by detention the provisions of § 72 of the Penal Code and § 201 of the Code of Enforcement Procedure apply. If the person fined pays the fine, he or she is released from detention.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) Detention is served at a house of detention of the location of the court that made the ruling or of the residence of the detained person under the conditions provided for in the Imprisonment Act.

(4) The court may, by a ruling, impose compelled attendance by police escort on a person in the cases prescribed by law if the court has warned the person that compelled attendance may be imposed.

(5) In order to enforce a ruling on compelled attendance, a person may be detained for up to 48 hours before the beginning of a court session. Unless otherwise provided by this Code, the provisions of subsections 139 (3)–(5) of the Code of Criminal Procedure apply to compelled attendance.

§ 48. Appeal against ruling on fine or detention

A person on whom a fine or detention is imposed may file an appeal against the ruling on fine or detention specified in this Chapter.

Chapter 8 MINUTES

§ 49. Taking minutes of procedural acts

(1) Minutes are taken of court sessions and, in the cases provided by law, also of other procedural acts. The same applies to procedural acts performed by the court based on an order or letter of request.
[RT I 2006, 7, 42 - entry into force 04.02.2006]

(2) The minutes are taken by the clerk of the court session or another competent court official in conformity with the internal rules of the court or the judge during the court session or the performance of another procedural act. If the minutes are taken by the clerk of the court session or another competent court official in conformity with the internal rules of the court, it enters the information specified in clauses 50 (1) 6)–9) and subsection 50 (2) of this Code in the minutes only in accordance with the summary made by the judge.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) Minutes are taken of sessions of the Supreme Court to the extent the court considers necessary.

§ 50. Content of minutes

(1) Minutes of a procedural act shall reflect the essential course of the procedural act and other circumstances relevant to the adjudication or possible appeal in the matter. The minutes set out:
1) the time and location of performance of the procedural act, and a short description and number of the matter;
2) the name of the court hearing the matter and the names of the judges, court reporters, interpreters and translators;

3) the type of the matter;
4) information on attendance of the participants in the proceeding and their representatives, and witnesses and experts;
5) information on whether or not the proceeding is public;
6) the petitions and requests of the participants in the proceeding;
7) the admission of claim, discontinuance of action or compromise;
8) the essential content of the claims and objections of the parties and other participants in the proceeding to the extent this is not reflected in the written documents submitted to the court;
9) the essential content of the statements of the participants in the proceeding given under oath, testimonies of witnesses, oral replies of experts and inspection results;
10) the directions of the court and decisions made in the session;
11) the time of making the decision public;
12) discontinuance of appeal against decision;
13) the date the minutes are signed.

(2) At the request of a participant in a proceeding, a fact or position presented in the matter is included in the minutes. The court may refuse, by a ruling, to satisfy the request if the fact or position clearly has no relevance to the matter.

(3) A procedural document is deemed to be equal to the taking of minutes if such document is appended to the minutes and a reference thereto is made in the minutes.

§ 51. Preparation of minutes

(1) Minutes are prepared in typewritten form or are recorded on a digital data medium in a court session in a format which allows the reproduction of the minutes in writing. Initially, the minutes may also be prepared otherwise in a session, including by taking notes or dictating, but the minutes shall be brought into the format specified in the first sentence of this subsection by the time of signing the minutes.

(2) The technical requirements for digital minutes, for the format of objections submitted regarding such minutes and for signing the minutes shall be established by a ruling of the Minister of Justice.
[RT I 2006, 7, 42 - entry into force 04.02.2006]

§ 52. Recording of procedural act

(1) A court session or other procedural act may be initially recorded, in full or in part, on audio, video or other data media. In such case, the minutes shall be prepared immediately after the court session or performance of other procedural act.

(2) The minutes contain only an indication concerning the recorded statements of witnesses, experts and participants in the proceeding and recorded inspection results unless, in the course of the proceeding, taking of minutes of the essential contents of the recordings is demanded by a party or the court deems it necessary.

(3) The recording is included in the file.

§ 53. Submission of objections to minutes and correction of minutes

(1) The content of the statements of the participants in the proceeding given under oath, statements of witnesses and replies and responses of experts which are entered in the minutes are immediately made public in a court session, unless such person and the participants in the proceeding who have participated in the session agree that the content entered in the minutes is not made public in the court session and the court does not consider it necessary either. Corrections are made to the minutes on the basis of objections by the relevant person if the court consents thereto. Any objections to which the court does not consent are entered in the minutes or appended thereto.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) Participants in a proceeding have the right to examine the minutes and submit requests for correction of the minutes within three working days after signing the minutes. The court notifies the participants in a proceeding of the time of signing the minutes and forwards the minutes to them electronically immediately after signing thereof if the participant in the proceeding has provided his or her e-mail address to the court.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) If, in the case specified in subsection (2) of this section, a participant in a proceeding submits a request for correction of the content of the minutes, the court seeks the position of the other participants in the proceeding on the issue. If necessary, the court organises a court session for adjudicating the request. Absence of a participant in the proceeding from the session does not prevent the adjudication of the request.

(4) In the case the court consents to a request for correction of the minutes specified in subsection (2) of this section, the court makes the corrections to the minutes. Any objections to which the court does not consent are entered in the minutes or appended thereto.

(5) If the content of the minutes is recorded, the person whose statements were recorded may immediately examine the recording and submit any objections thereto. If the court consents to the objection, the statement, testimony or answer is recorded in a new wording. If the court does not consent to the objection, the content of the objection is recorded.

(6) Upon taking minutes of a procedural act, the court explains the rights specified in subsections (1)–(5) of this section to the persons who have the right to submit objections to the minutes.

(7) Indication is made in the minutes concerning examination of the minutes or the recordings, or on waiving such right, and on approving the content of the minutes or filing objections thereto.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 54. Signing of minutes

(1) The minutes are signed by the judge. If a collegial court panel participates in the performance of a procedural act, the minutes are signed by the presiding judge. If the minutes are prepared by the clerk of the court session or another competent person, such person also signs the minutes.

(2) If the presiding judge is unable to sign the minutes, another member of the court panel signs the minutes instead of him or her. If a judge sitting alone in performing a procedural act is unable to sign the minutes and the minutes were prepared by the clerk of the court session or another competent person, signature of the minutes by the person who prepared the minutes is sufficient. The reason for failure to sign the minutes is indicated in the minutes.

(3) Digital minutes are signed digitally or in another technically secure manner.

§ 55. Probative value of minutes

Violation of the procedural rules in a court session or of other procedural acts of which minutes have been taken can be proven only on the basis of the minutes. The only objection that can be filed to the minutes is the objection concerning the falsification of the minutes.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

Chapter 9 FILE

§ 56. File in civil matter

(1) The court keeps a file on each civil matter which includes, in chronological order, all procedural documents and other documents relevant to the matter of all the levels of the proceeding, including minutes and court decisions. In the cases prescribed by law, other objects relevant to the proceeding are included in the file.

(2) A file is kept in the form of a collection of written documents.

(3) An electronic document sent to or prepared by the court is stored in the file in the form of a printout together with information concerning the person who prepared the document and made the printout as well as the time of preparation of the document and sending of the document to the court and of making the printout. An electronic document may also be included in the file in the form of a recording in the information system of the court or on a digital data medium if preservation of such copy of the document in the information system of the court is guaranteed.
[RT I 2009, 67, 460 - entry into force 01.01.2010]

§ 57. Digital file

(1) A file may be maintained, in whole or in part, in digital form.

(2) In such case, the documents submitted on paper are recorded on a digital or other similar data medium and such data media substitute for the documents submitted on paper. A document recorded on such data medium shall include the date on which the document on paper was recorded on the data medium and the data on the person who made the recording and shall be digitally signed by him or her.

(3) If necessary, the documents submitted on paper are preserved until the end of the proceeding in the case specified in subsection (2) of this section.

§ 58. Archiving of files

(1) If a proceeding has been terminated by a decision which has entered into force, the county court which conducted the proceeding in the matter archives the file.

(2) The file and the procedural documents contained therein are preserved after the end of a proceeding only as long as this is necessary in the interests of the participants in the proceeding or other persons, or in the public interest.

§ 59. Examination of file

(1) The participants in a proceeding have the right to examine the file and obtain transcripts of procedural documents contained therein.

(1^1) The court may restrict the right of a participant in a proceeding to examine the file and obtain transcripts thereof if this would be clearly contrary to a significant interest of another participant in the proceeding or any other person. The right of the parties to an action to examine the file and obtain transcripts thereof shall not be restricted.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) Other persons have the right to examine the file during actions and obtain transcripts of procedural documents contained in the file only with the consent of the parties. A representative of a competent state agency may examine a file and obtain transcripts of procedural documents with the permission of the chairman of the court conducting the proceeding in the matter, even without the consent of the parties, if the state agency substantiates its legal interest in examining the file and obtaining the transcripts.

(3) If the proceeding in a matter has ended with a decision which has entered into force, other persons may examine the file and obtain transcripts of procedural documents with the permission of the county court which has conducted the proceeding in the matter, even without the consent of the parties, if they substantiate their legitimate interest in examining the file and obtaining the transcripts. Files of matters heard in closed proceedings shall not be examined in such manner.

(4) Unless otherwise prescribed by law, other persons may examine the file and obtain transcripts of procedural documents in matters on petition only with the permission of the court which has conducted or is conducting the proceeding in the matter if they substantiate their legitimate interest in examining the file and obtaining the transcripts. Procedural documents

pertaining to adoption may be examined only with the permission of the adoptive parent and the adult child.

(5) Electronic procedural documents and documents recorded on digital or other data media may be examined on the basis provided in subsections (1)–(4) of this section only in a manner which guarantees intactness of the data media. An electronic transcript, printout or extract may also be obtained from a procedural document.

(5^1) A notation is made in the file concerning the examination of a file by a participant in a proceeding or his or her representative.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(5^2) At the request of a participant in a proceeding or his or her representative, a data medium used in the matter as evidence and containing state secrets or classified information of foreign states, which is not annexed to the file, is presented to him or her for examination pursuant to the procedure provided by the State Secrets and Classified Information of Foreign States Act. A notation is made in the file concerning the examination of a data medium containing a state secret or classified information of a foreign state.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(6) A ruling on refusal to grant permission to examine a file is made by a judge or assistant judge. An appeal may be filed against such ruling. A ruling made by a circuit court concerning an appeal against a ruling is not subject to appeal to the Supreme Court.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 60. Restoration of file

(1) If the file of a civil matter is destroyed or otherwise lost, the court may restore the file based on a petition of a participant in the proceeding or at its own initiative.

(2) In the proceeding for restoration of a file, the court requires submission of detailed information and documents or transcripts thereof concerning the matter from the participants in the proceeding.

(3) In the restoration of a file, the court uses the preserved parts of the file, documents issued in the matter prior to the loss of the file or transcripts thereof and other evidence relevant to the matter.

(4) Persons who were present at the procedural acts, persons who were members of the court panel hearing the matter or persons who enforced the judgment may be heard as witnesses by the court.

(5) The court decides the restoration of a lost file by a ruling in a proceeding on petition.

(6) A lost file is restored in full or in the part which is deemed necessary by the court. If a lost file is being restored, the court decision by which the proceeding terminated or the ruling on

termination of the proceeding or on refusal to hear the matter shall be restored if such decision or ruling was made in the matter.

(7) If the gathered information and documents are not sufficient for the restoration of a lost file, the court terminates the proceeding for the restoration of the file by a ruling.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(8) In a matter concerning the restoration of a lost file, the petitioner is released from the payment of legal costs.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 60[1]. E-file proceedings information system

(1) E-file proceedings information system (hereinafter *e-file system*) is a database belonging to the state information system which is maintained for processing proceedings information and personal data in civil proceedings and the purpose of which is:
1) to provide an overview of civil matters in which proceedings are conducted by the courts;
2) to reflect information concerning the acts made in the course of civil proceedings;
3) to enable the organisation of work of the courts;
4) to ensure the collection of court statistics necessary for making legal policy decisions;
5) to enable the electronic sending of information and documents.

(2) The following are entered in the database:
1) information concerning civil matters in which proceedings are conducted or have been terminated;
2) information concerning the acts made in the course of civil proceedings;
3) digital documents in the cases provided for in this Code;
4) information concerning the body conducting the proceedings, participants in the proceedings and parties involved in the proceedings;
5) court decisions.

(3) The e-file system shall be established and the statutes thereof shall be approved by the Government of the Republic. The Government of the Republic may establish the time and conditions of and the procedure for transition to the e-file system by a ruling.

(4) The chief processor of the e-file system is the Ministry of Justice. The authorised processor of the e-file system is a person appointed by the Minister of Justice.

(5) The Minister of Justice may issue regulations in order to organise the operation of the e-file system.
[RT I 2009, 67, 460 - entry into force 01.01.2010]

§ 61. Competence of Minister of Justice concerning files

The time of and procedure for transition to mandatory maintenance of digital files, the technical requirements for the maintenance and examination of digital files and the requirements for the

preservation of electronic documents shall be established by a regulation of the Minister of Justice. The specific requirements for archiving files, including the terms of preservation of files and procedural documents, and for the examination of archived files and procedural documents as well as for the destruction of files shall be established by a regulation of the Minister of Justice.
[RT I, 29.06.2012, 3 - entry into force 01.01.2013]

Chapter 10 TERMS IN PROCEEDINGS

§ 62. Calculation of terms in proceedings

(1) The provisions of the General Principles of the Civil Code Act applicable to calculation of time limits and due dates apply to calculation of terms in proceedings, unless otherwise provided by law.

(2) A procedural act for the performance of which a term has been set may be performed until 24:00 on the last day of the term. If a procedural act must be performed in the premises of the court, the end of the working day of the court is deemed to be the end of the term.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 63. Beginning of term set by court

The running of a term set by the court begins on the day following the day of service of the document in which the term is set, unless otherwise prescribed upon setting the term. If the document need not be served, the term begins to run as of receipt of a notice on setting the term.

§ 64. Alteration of term

(1) The court may extend a term set thereby on the basis of a reasoned petition or at its own initiative if good reason exists therefor. A term may be extended on more than one occasion only with the consent of the opposing party.

(2) The terms in proceedings, whether provided by law or set by the court, may be shortened by agreement of the parties. The agreement concerning shortening of a term is submitted to the court in writing or it is recorded in the minutes.

§ 65. Calculation of terms in case of sending document to incorrect court [RT I 2008, 59, 330 - entry into force 01.01.2009]

If a document sent by a participant in a proceeding is received by an incorrect court according to jurisdiction or court instance, such document is forwarded to the correct court. If the procedural document reaches an incorrect court according to jurisdiction or court instance on time, the term for performance of the procedural act is deemed to have been complied with.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 66. Consequences of failure to perform procedural act on time

If a procedural act is not performed on time, the participant in the proceeding has no right to perform the procedural act at a later time, unless the court restores the term provided by law or extends the term set by the same court or hears the petition, application, evidence or objection filed by the participant in the proceeding in the event provided for in subsection 331 (1) of this Code. The above applies regardless of whether or not the participant in the proceeding has been warned of such consequences.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 67. Restoration of procedural term provided by law

(1) If a participant in a proceeding has allowed a procedural term provided by law to expire, the court restores the term on the basis of a petition of the participant in the proceeding if the participant in the proceeding had good reason for allowing the term to expire and the expiry of the term does not allow the performance of the procedural act or has other negative effects on the participant in the proceeding.

(2) A petition for restoration of a term may be filed within 14 days after the date on which the impediment specified in subsection (1) of this section ceases to exist but not later than within six months after the end of the term which was allowed to expire.

§ 68. Deciding on restoration of term

(1) A petition for restoration of a term is submitted in the same format which applies to the procedural act which had to be performed. The petition sets out the circumstances which constitute the basis for restoration of the term and provides justification for such circumstances. The petition is filed with the court in which the procedural act should have been performed.

(2) A procedural act for which restoration of the term is applied shall be performed simultaneously with the submission of the petition to restore the term.

(3) The court adjudicates the restoration of a term by a ruling.

(4) An appeal may be filed against a ruling on refusal to restore a term made by a county court or circuit court. A ruling of a circuit court concerning an appeal against a ruling of a county court is not subject to appeal to the Supreme Court.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(5) If a term is restored, the proceeding is restored to the point at which it was before the term was allowed to expire.

(6) Before deciding on restoration of a term, the court may, by a ruling, suspend the enforcement proceeding or permit it to be continued only against a security, or revoke the enforcement action.

Part 2 JURISDICTION

Chapter 11 GENERAL PROVISIONS

§ 69. Definition of jurisdiction

(1) Jurisdiction is the right and obligation of a person to use his or her procedural rights with a specific court. Jurisdiction is general, optional or exclusive.

(2) General jurisdiction establishes the court with which an action can be filed against a person and other procedural acts can be performed with respect to a person unless it is provided by law that the action must be filed or the act be performed by another court.

(3) Optional jurisdiction establishes the court with which actions can be filed against a person and other procedural acts can be performed with respect to a person in addition to general jurisdiction.

(4) Exclusive jurisdiction establishes the sole court which can be addressed for adjudication of a civil matter. Jurisdiction in matters on petition is exclusive unless otherwise provided by law.

§ 70. International jurisdiction

(1) The provisions concerning international jurisdiction determine the circumstances under which a matter can be adjudicated by an Estonian court.

(2) A matter falls under the jurisdiction of an Estonian court if an Estonian court can adjudicate the matter according to competence and pursuant to the provisions concerning jurisdiction or based on an agreement on jurisdiction, unless otherwise provided by law or an international agreement.

(3) International jurisdiction is not exclusive unless otherwise prescribed by law or an international agreement.

(4) The provisions of this Code concerning international jurisdiction apply upon determination of the jurisdiction between the courts of the Member States of the European Union only to the extent in which this is not regulated by Council Regulation (EC) No 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ L 012, 16.01.2001, pp. 1–23), Council Regulation (EC) 2201/2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Council Regulation (EC) No 1347/2000 (OJ L 338, 23.12.2003, pp. 1–29) and Council Regulation (EC) No 4/2009 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations (OJ L 007, 10.01.2009, pp. 1– 79) or other Council regulations.
[RT I, 14.03.2011, 2 - entry into force 18.06.2011]

§ 71. Agreement on jurisdiction

In the cases and pursuant to the procedure prescribed by law, parties may enter into an agreement concerning jurisdiction. An agreement concerning jurisdiction is an agreement to settle a dispute in a specific court.

§ 72. Special jurisdiction of Harju County Court

(1) If, pursuant to general provisions, a matter does not fall under the jurisdiction of an Estonian court or such jurisdiction cannot be determined and an international agreement or law does not provide otherwise, the matter is adjudicated by Harju County Court if:
1) the case must be adjudicated in the Republic of Estonia pursuant to an international agreement;
2) the petitioner is a citizen of the Republic of Estonia or has a residence in Estonia, and the petitioner has no possibility to defend his or her rights in a foreign state or the petitioner cannot be expected to do so;
3) the matter concerns Estonia to a significant extent due to another reason and the petitioner has no possibility to defend his or her rights in a foreign state or the petitioner cannot be expected to do so.

(2) Harju County Court also adjudicates a matter if the matter falls under the jurisdiction of an Estonian court but it is not possible to determine which court has jurisdiction in the matter. The above also applies if Estonian jurisdiction has been agreed upon without specifying which court has jurisdiction.

§ 73. Jurisdiction determined by court

Jurisdiction is determined by the chairman of the court of a higher instance based on a petition of a participant in a proceeding or at the request of the court which received such petition, if:
1) the correct court by jurisdiction cannot exercise judicial power in the matter;
2) it is not clear, considering the boundaries of the territorial jurisdiction of courts, which court has jurisdiction in the matter;
3) several courts have decided regarding a matter that the matter does not fall under their jurisdiction but one of those courts could adjudicate the matter.

§ 74. Matters which fall under jurisdiction of several courts and division of matters among courthouses
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(1) If a matter falls under the jurisdiction of several Estonian courts concurrently, the petitioner has the right to choose the court with which to file the petition. In such case, the matter is adjudicated by the court which was the first to receive the petition.
[RT I 2005, 39, 308 - entry into force 01.01.2006]

(2) If an action is filed with the court of the residence or seat of the defendant or with the court of exclusive jurisdiction, the matter is heard in the courthouse in the territorial jurisdiction of

which is the defendant's residence or seat or the place according to which the exclusive jurisdiction is determined. If different places determining jurisdiction otherwise remain within the territorial jurisdiction of one county court, but within the service areas of different courthouses, the plaintiff indicates the courthouse wherein the matter is heard. If the plaintiff fails to indicate it, the place of hearing the matter is determined by the court.
[RT I 2005, 39, 308 - entry into force 01.01.2006]

(3) Matters on petition are heard in the courthouse in the territorial jurisdiction of which is the place according to which jurisdiction is determined. If different places determining jurisdiction remain within the territorial jurisdiction of one county court, but within the service areas of different courthouses, the place of hearing the matter is determined by the court.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 75. Verification of jurisdiction

(1) The court which receives a petition verifies whether, pursuant to the provisions concerning international jurisdiction, the petition can be filed with an Estonian court. After this, the court verifies whether the matter falls under the jurisdiction of the court with which the petition was filed.

(2) If the matter does not fall under the jurisdiction of such court, the court forwards the petition to the court which has jurisdiction in the matter, unless the court finds that according to international jurisdiction, the matter does not fall under the jurisdiction of an Estonian court.

(3) A person may request, even before filing a petition, that the court make a ruling on whether or not the matter falls within the jurisdiction of that court. In such case, the draft of the intended statement or petition and other documents necessary for determining jurisdiction shall be added to the request. If necessary, the court may ask for the positions of the presumed defendant or other participants in the proceeding on the adjudication of the request and hear them.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3^1) The ruling specified in subsection (3) of this section whereby the court finds that the matter does not fall under its jurisdiction is subject to appeal by the person who filed the request. A ruling made by a circuit court concerning an appeal against a ruling is not subject to appeal to the Supreme Court.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(4) A higher court does not verify or change jurisdiction on any other grounds except by adjudicating an appeal filed against a court ruling concerning jurisdiction, refusal to accept a petition, refusal to hear a matter or termination of a proceeding. A higher court may also verify on the basis of another appeal whether an Estonian court may adjudicate a matter according to international jurisdiction if it is challenged in the county court.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 76. Referral of matter according to jurisdiction

(1) If, after accepting a petition, the court ascertains that the matter does not fall under the jurisdiction of the court, the court makes a ruling on referring the matter according to jurisdiction. If the matter falls under the jurisdiction of several courts, the court refers the matter to the court of the petitioner's choice.

(2) The ruling specified in subsection (1) of this section is subject to appeal. A ruling made by a circuit court concerning an appeal against a ruling is not subject to appeal to the Supreme Court.

(3) The court refers a matter to the correct court by jurisdiction after expiry of the term for filing of appeals against the court ruling. If an appeal is filed against the court ruling, the court refers the matter after refusal to satisfy the appeal.

(4) The court which receives a matter for adjudication must hear the matter. Jurisdictional disputes between courts are prohibited.

§ 77. Changing of jurisdiction of matter

If a matter was accepted correctly by a court, the court adjudicates on the merits of the matter even if the circumstances which constituted the basis for determination of jurisdiction have changed after acceptance of the petition.

§ 78. Filing of action with courts of different states

(1) If an action with the same content between the same parties has been accepted by a competent court of a foreign state by jurisdiction before the action was filed with an Estonian court, the Estonian court accepts the action provided that the other conditions for acceptance of the matter are fulfilled but suspends the proceeding if it may be presumed that the court of the foreign state makes a decision within a reasonable amount of time and such decision will be recognised in the Republic of Estonia.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(1^1) For the purposes of subsection (1) of this section, the time of filing an action with an Estonian court is deemed to be the time when the action, or the request specified in subsection 75 (3) of this Code reaches the court as well as the time when the petition specified in subsection 160 (2) of the General Part of the Civil Code Act reaches the court or the time of performance of some other act. This applies only if the action was served on the opposing party at a later time.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) A matter is deemed to have been accepted by a court of a foreign state after the court of the foreign state has performed the first procedural act with respect to the action.

(3) The court resumes a proceeding suspended on the grounds specified in subsection (1) of this section pursuant to the procedure provided in § 361 of this Code if the court of the foreign state has failed to make a decision within a reasonable amount of time or it becomes evident that the

decision which has been made or will be made will evidently not be recognised in the Republic of Estonia.

(4) The court makes a ruling on termination of a proceeding after a decision of a court of a foreign state subject to recognition in the Republic of Estonia is submitted to the court. An appeal may be filed against such ruling.

(5) The provisions of subsections (1)–(4) of this section apply correspondingly upon filing of petitions with courts of different states in proceedings on petition.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

Chapter 12 GENERAL JURISDICTION

§ 79. Jurisdiction over person

(1) An action against a natural person can be filed with the court of his or her residence and an action against a legal person can be filed with the court of its seat.

(2) If the residence of a natural person is not known, an action against the person can be filed with the court of his or her last known residence.

§ 80. Jurisdiction over citizens of Republic of Estonia residing in foreign state

(1) An action against a citizen of the Republic of Estonia living in a foreign state who is an extra-territorial person or against a citizen of the Republic of Estonia working in a foreign state who is a civil servant can be filed with the court of the person's last residence in Estonia.

(2) If a person specified in subsection (1) of this section has not had a residence in Estonia, an action can be filed against him or her with Harju County Court.

§ 81. Jurisdiction over Republic of Estonia and local governments

(1) An action can be filed against the Republic of Estonia or a local government with the court of the seat of the state agency or local government agency whose activity is the basis for the intended action against the state or local government agency.

(2) If the state agency specified in subsection (1) of this section cannot be determined, the action is filed with Harju County Court. If the local government agency specified in subsection (1) of this section cannot be determined, the action is filed with the court of the seat of the rural municipality or city government.

(3) A plaintiff can also file an action specified in subsection (1) or (2) of this section with the court of his or her residence.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 82. [Repealed - RT I 2008, 59, 330 - entry into force 01.01.2009]

Chapter 13 OPTIONAL JURISDICTION

§ 83. Jurisdiction by place of stay

An action involving a proprietary claim can be filed against a natural person also with the court of his or her place of stay if the person has stayed in such place for a longer period of time due to an employment or service relationship, studies or for other such reason.

§ 84. Jurisdiction by place of business

An action related to the economic or professional activities of the defendant can also be filed with the court of the place of business thereof.

§ 85. Jurisdiction by seat of legal person

A legal person based on membership, including a company, or a member, partner or shareholder thereof can file an action arising from membership or holding against a member, partner or shareholder of the legal person also with the court of the seat of the legal person.

§ 86. Jurisdiction by location of property
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(1) If a person has residence or seat in a foreign state, an action involving a proprietary claim can be filed against such person with the court of the location of the property with respect to which the claim is filed or with the court of the location of other property of the person.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) If property has been entered in a public register, the action specified in subsection (1) of this section can be filed with the court of the location of the register in which the property is registered.

(3) If the property is a claim under the law of obligations, the action specified in subsection (1) of this section can be filed with the court of the residence or seat of the debtor. If the claim is secured by a thing, the action can be filed with the court of the location of the thing.

§ 87. Jurisdiction of action involving claim secured by mortgage or encumbered with real encumbrance

An action for the collection of a claim secured by a mortgage or encumbered with a real encumbrance or another action involving a similar claim can also be filed with the court of the location of the immovable provided that the debtor is the owner of the registered immovable which is secured by the mortgage or encumbered with the real encumbrance.

§ 88. Jurisdiction of action arising from apartment ownership

An action against an apartment owner which arises from a legal relationship related to apartment ownership can also be filed with the court of the location of the immovable which is the object of the apartment ownership.
[RT I, 13.03.2014, 3 - entry into force 23.03.2014]

§ 89. Jurisdiction by place of performance of contract

(1) An action arising from a contract or an action for ascertainment of the invalidity of a contract can also be filed with the court of the place of performance of the contested contractual obligation.

(2) In the case of a contract for the sale of a movable, the place where the movable was delivered or had to be delivered to the buyer and, in the case of a contract for provision of a service, the place where the service was provided or had to be provided is deemed to be the place of performance of the obligation within the meaning of subsection (1) of this section. In other cases, the place of business or in the absence thereof, the residence or seat of the debtor is deemed to be the place of performance of the obligation within the meaning of subsection (1) of this section.

(3) The provisions of subsection (2) of this section apply in so far as the parties have not agreed otherwise.

§ 90. Jurisdiction by residence of consumer

An action arising from a contract or relationship specified in §§ 35, 46 or 52, subsection 208 (4), §§ 379 or 402, subsection 635 (4) or §§ 709, 734 or 866 of the Law of Obligations Act or an action arising from another contract concluded with an undertaking having a seat or place of business in Estonia can also be filed by a consumer with the court of the residence of the consumer. The above does not apply to actions arising from contracts of carriage.

§ 91. Jurisdiction of action arising from insurance contract

(1) A policyholder, beneficiary or other person entitled to demand performance from the insurer on the basis of an insurance contract can also file an action arising from the insurance contract against the insurer with the court of the residence or seat of the person.

(2) In the case of liability insurance, or insurance of a construction works, immovable or movables together with a construction works or immovable, an action can also be filed against the insurer with the court of the place of performance of the act or occurrence of the event which caused the damage or the place where the damage was caused.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 92. Jurisdiction by residence or place of work of employee

An employee can also file an action arising from his or her employment contract with the court of his or her residence or place of work.

§ 93. Jurisdiction of action arising from bill of exchange or cheque

An action arising from a bill of exchange or cheque can also be filed with the court of the place of payment for the bill of exchange or cheque.

§ 94. Jurisdiction of action arising from illegal causing of damage

An action for compensation for illegally caused damage can also be filed with the court of the place of performance of the act or occurrence of the event which caused the damage or the place where the damage was caused.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 95. Jurisdiction of action arising from maritime claim, rescue work or rescue contract

(1) An action arising from one or several maritime claims specified in the Law of Maritime Property Act can also be filed with the court of the location of the ship of the defendant or of the home port of the ship.

(2) An action arising from rescue works or a rescue contract can also be filed with the court of the place of performance of the rescue works.

§ 96. Jurisdiction over action for division of estate

(1) An action the object of which is the establishment of the right of succession, a successor's claim against the possessor of the estate, a claim arising from a legacy or succession contract or a claim for a compulsory portion or for division of an estate can also be filed with the court of the residence at the time of the death of the bequeather.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) If the bequeather was a citizen of the Republic of Estonia but at the time of death had no residence in Estonia, the action specified in subsection (1) of this section can also be filed with the court of the bequeather's last residence in Estonia. If the bequeather had no residence in Estonia, the action can be filed with Harju County Court.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 97. Action against co-defendants and several actions against same defendant

(1) An action against several defendants can be filed with the court of the residence or seat of one co-defendant at the plaintiff's choice.

(2) If several actions can be filed against one defendant on the basis of the same fact, the actions can also be filed with the court with which an action with one claim or some of the claims arising from the same fact could be filed.

§ 98. Jurisdiction of counterclaim and action by third person with independent claim

(1) A counterclaim can be filed with the court with which the action was filed provided that the conditions for filing a counterclaim are complied with and the counterclaim does not fall under exclusive jurisdiction. The above also applies in the cases where pursuant to general provisions, the counterclaim should be filed with a court of a foreign state.

(2) An action by a third party with an independent claim can be filed with the court hearing the main action.

§ 98[1]. Jurisdiction in bankruptcy proceedings

(1) An action concerning bankruptcy proceedings or bankruptcy estate against a bankrupt, trustee in bankruptcy or a member of the bankruptcy committee, including an action for exclusion of property from a bankruptcy estate, can also be filed with the court which declared the bankruptcy. An action for acceptance of a claim can also be filed with the court which declared the bankruptcy.

(2) A bankrupt can also file an action concerning the bankruptcy estate, including an action for recovery, with the court which declared the bankruptcy.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

Chapter 14 EXCLUSIVE JURISDICTION

§ 99. Jurisdiction by location of immovable

(1) An action with the following objects is filed with the court of the location of the immovable:
1) a claim related to the recognition of the existence of the right of ownership, limited real right or other real right encumbrance concerning an immovable, or recognition of absence of such rights or encumbrances, or a claim related to other rights in immovables;
2) determination of boundaries or division of an immovable;
3) protection of the possession of an immovable;
4) a claim with respect to a real right arising from apartment ownership;
5) a claim related to compulsory enforcement of an immovable;
6) a claim arising from a lease contract or commercial lease contract concerning an immovable or other contract for the use of an immovable under the law of obligations, or from the validity of such contracts.

(2) An action related to real servitude, real encumbrance or right of pre-emption is filed with the court of the location of the servient or encumbered immovable.

§ 100. Claim for termination of application of standard terms

An action for termination of application of an unfair standard term or for termination and withdrawal of recommendation of the term by the person recommending application of the term (§ 45 of the Law of Obligations Act) is filed with the court of the place of business of the defendant or, in the absence thereof, with the court of the residence or seat of the defendant. If the defendant has no place of business, residence or seat in Estonia, the action is filed with the court under whose territorial jurisdiction the standard term was applied.

§ 101. Jurisdiction of matter of revocation of decision of body of legal person or establishment of invalidity thereof

An action for revocation of a decision of a body of a legal person or for establishment of invalidity thereof is filed with the court of the seat of the legal person.

§ 102. Jurisdiction of matrimonial matters

(1) Matrimonial matters are civil matters for the adjudication of actions the object of which is:
1) divorce;
2) annulment of marriage;
3) establishment of existence or absence of marriage;
4) division of joint property or other claims arising from the proprietary relationship between the spouses;
5) other claims arising from the marital relationship of a spouse filed against the other spouse.

(2) An Estonian court is competent to adjudicate a matrimonial matter if:
1) at least one of the spouses is a citizen of the Republic of Estonia or was a citizen at the time of contracting the marriage;
2) the residences of both spouses are in Estonia;
3) the residence of one spouse is in Estonia, except where the judgment to be made would clearly not be recognised in the country of nationality of either spouse.

(3) In a matrimonial matter to be adjudicated by an Estonian court, an action is filed with the court of the joint residence of the spouses and in the absence thereof, with the court of the residence of the defendant. If the residence of the defendant is not in Estonia, the action is filed with the court of the residence of a common child of the parties who is a minor and, in the absence of a common child who is a minor, with the court of the residence of the plaintiff.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(4) If custody has been established over the property of an absent person due to the person going missing or a guardian has been appointed to a person due to his or her restricted active legal capacity or if imprisonment has been imposed on a person as punishment, a divorce action against such person can also be filed with the court of the residence of the plaintiff.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 103. Jurisdiction of filiation matter and maintenance matter

(1) A filiation matter is a civil matter where an action with the object of establishment of filiation or contestation of an entry concerning a parent in the birth registration of a child or in the population register is adjudicated.
[RT I 2009, 30, 177 - entry into force 01.07.2010]

(2) An Estonian court can adjudicate a filiation matter if at least one of the parties is a citizen of the Republic of Estonia or at least one of the parties has a residence in Estonia.

(3) In a filiation matter to be adjudicated by an Estonian court, the action is filed with the court of the residence of the child. If the residence of the child is not in Estonia, the action is filed with the court of the residence of the defendant. If the residence of the defendant is not in Estonia, the action is filed with the court of the residence of the plaintiff.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(4) The provisions of subsections (2) and (3) of this section also apply to maintenance matters. A maintenance matter is a civil matter for the adjudication of an action the object of which is a claim for:
1) performance of maintenance obligation of a parent arising from law with respect to a minor child;
2) performance of a maintenance obligation between parents;
3) performance of a maintenance obligation between spouses;
4) performance of other maintenance obligation arising from law.

Chapter 15 AGREEMENT ON JURISDICTION

§ 104. Agreement on jurisdiction

(1) A court can also hear a matter by jurisdiction in the case where the jurisdiction of such court is prescribed by an agreement between the parties and the dispute relates to the economic or professional activities of both parties, or the dispute relates to the economic or professional activities of one party and the other party is the state, a local government or another legal person in public law, or if both the parties are legal persons in public law.

(2) An agreement on jurisdiction may also be entered into if the residence or seat of one or both of the parties is not in Estonia.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) Notwithstanding the provisions of subsection (1) of this section, an agreement on jurisdiction applies also if:
1) such agreement was reached after the arising of the dispute;
2) jurisdiction was agreed upon for the event where the defendant settles in, or transfers the place of business or seat thereof to a foreign state after entry into the agreement, or if the residence, place of business or seat of the defendant is not known at the time of filing the action.

(4) Jurisdiction determined by agreement is exclusive jurisdiction, unless the parties have agreed otherwise.

§ 105. Jurisdiction in cases where defendant participates in proceeding without submitting objections

Among both international and Estonian courts, county courts have jurisdiction in the cases where the defendant responds to the action without contesting jurisdiction and also in the cases where the defendant does not respond to the action but participates in a court session without contesting jurisdiction.

§ 106. Invalidity of agreement on jurisdiction

(1) An agreement on jurisdiction is invalid if:
1) it is contrary to the provisions of subsection 104 (1) of this Code;
2) it does not concern a specific legal relationship or a dispute arising from such relationship;
3) it has been entered into in a format which cannot be reproduced in writing;
4) exclusive jurisdiction is prescribed by law for filing the action;
5) one of the parties has been deprived of Estonian jurisdiction contrary to the principles of good faith.

(2) In the case specified in clause (1) 4) of this section, the court shall not adjudicate a matter by jurisdiction even under the circumstances provided in § 105 of this Code.

§ 107. Change of jurisdiction during proceeding

A court of first instance may refer a matter to another court of first instance by a ruling if the parties submit a common petition to such effect before the first court session or, in the case of written proceedings, before the expiry of the term for submission of positions.

Chapter 16 JURISDICTION OF MATTERS ON PETITION

§ 108. Expedited procedure in matters of payment order

Expedited procedure in matters of payment order is conducted by Pärnu County Court Haapsalu courthouse.
[RT I, 29.06.2012, 3 - entry into force 01.07.2012]

§ 109. Declaration of person dead and establishment of time of death of person

(1) An Estonian court may declare a person dead and establish his or her time of death if:
1) at the time the missing person was last heard of, he or she was a citizen of the Republic of Estonia or had residence in Estonia at such time;
2) another legal interest exists for an Estonian court to declare the person dead and establish his or her time of death.

(2) A petition for declaring a person dead and establishing his or her time of death is filed with the court of the last residence of the missing person. If a person has gone missing in connection with a shipwreck registered in Estonia, the petition is filed with the court of the home port of the ship.

(3) In the cases not specified in subsection (2) of this section, a petition for declaring a person dead or establishing his or her time of death is filed with the court of the residence or seat of the petitioner. If the residence or seat of the petitioner is not in Estonia, the petition is filed with Harju County Court.

(4) A petition for amendment of the time of death or annulment of a declaration of death is filed with the court which established the time of death or declared the person dead.

§ 110. Guardianship matters

(1) A guardianship matter is a matter for appointment of a guardian for a person, or other matter related to guardianship. An Estonian court is competent to adjudicate a guardianship matter if:
1) the person in need of guardianship or the person under guardianship is a citizen of the Republic of Estonia, or his or her residence is in Estonia;
2) the person in need of guardianship or the person under guardianship needs the protection of an Estonian court due to another reason, including the case where the property of the person is located in Estonia.

(2) A guardian need not be appointed in Estonia if an Estonian court and a court of a foreign state are equally competent to establish guardianship and a guardian has already been appointed in a foreign state or a foreign court is conducting proceedings for appointment of guardianship, provided that the decision of the foreign court can be presumed to be recognised in Estonia and failure to appoint a guardian in Estonia is in the interests of the person in need of guardianship.

(3) A guardianship matter is adjudicated by the court of the residence of the person in need of guardianship.

(4) Appointment of a guardian for a child before the birth of the child is adjudicated by the court of the residence of the mother.

(5) If establishment of guardianship is sought for brothers or sisters who are residing or staying within the territorial jurisdiction of several courts, the guardian is appointed by the court of the residence of the youngest child. If the guardianship proceeding in such case is already conducted by a court, the guardianship matter is adjudicated by such court.

(6) If a person in need of guardianship has no residence in Estonia or if the residence cannot be established, the matter can be adjudicated by the court in whose territorial jurisdiction the person or his or her property is in need of protection, or by Harju County Court.

(7) A matter relating to a person under guardianship or his or her property is adjudicated by the court which appointed the guardian. Such matter can also be adjudicated, with good reason, by

the court of the residence of the person under guardianship or the court of the location of the property of such person.

§ 111. Placing of person in closed institution

(1) The matter of placing a person in a closed institution is adjudicated by the court which appointed the guardian for the person or the court conducting proceedings in the matter of guardianship. In other cases such matters are adjudicated by the court within the territorial jurisdiction of which the closed institution is located. The matter can also be adjudicated by the court that applied provisional legal protection.
[RT I, 23.02.2011, 1 - entry into force 01.09.2011]

(2) In the case specified in subsection (1) of this section, the provisions of subsections 110 (1) and (2) of this Code apply.

(3) Provisional legal protection in proceedings can be applied by each court within whose territorial jurisdiction a measure must be taken.

(4) Other matters related to placement of a person in a closed institution, including matters of suspension or termination of placement of a person in a closed institution and matters of change of the term of placement, are adjudicated by the court that adjudicated the placement of the person in a closed institution.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 112. Establishment of custody over property of absent person

(1) The matter of establishment of custody over the property of an absent person is adjudicated by the court of the residence of the absent person.

(2) If an absent person has no residence in Estonia, the matter of establishment of custody over the property of the absent person is adjudicated by the court of the location of the property for which custody is sought.

(3) Other matters related to establishment of custody over the property of an absent person, including matters of termination of custody and change of the administrator and duties thereof, are adjudicated by the court that appointed the administrator.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 113. Adoption

(1) A matter of adoption can be adjudicated by an Estonian court if the adoptive parent, one of the spouses wishing to adopt or the child is a citizen of the Republic of Estonia or the residence of the adoptive parent, one of the spouses wishing to adopt or the child is in Estonia.

(2) A petition for adoption is filed with the court of the residence of the adoptive child. If the adoptive child has no residence in the Republic of Estonia, the petition is filed with Harju County Court.

(3) A matter of declaring an adoption invalid is adjudicated by the court which decided on the adoption.

§ 114. Extension of active legal capacity of minor

(1) The matter of extension of the active legal capacity of a minor can be adjudicated by an Estonian court if the minor is a citizen of the Republic of Estonia or his or her residence is in Estonia.

(2) A petition for extension of the active legal capacity of a minor or a petition for annulment of a decision to extend the active legal capacity of a minor is filed with the court of the residence of the minor. If the minor has no residence in the Republic of Estonia, the petition is filed with Harju County Court.

§ 115. Establishment of filiation and contestation of entry concerning parent after death of person

If a person seeks establishment of his or her filiation from a person who is dead or a person contests an entry concerning a parent in the birth registration of a child or in the population register after the death of the person entered in the birth registration or in the population register as a parent, a petition to such effect is filed with the court of the last residence of the person the establishment of filiation from whom is sought or concerning whom the entry in the birth registration or in the population register is contested. If the last known residence of the person was not in Estonia or if the residence is unknown, the petition is filed with Harju County Court. [RT I 2009, 30, 177 - entry into force 01.07.2010]

§ 116. Other family matters on petition

(1) The provisions of § 110 of this Code apply to family matters on petition not specified in this Division, unless otherwise provided by law or dictated by the nature of the matter.

(2) A matter on petition relating to the legal relationship between spouses or divorced spouses is adjudicated by the court of the territorial jurisdiction of the common residence of the spouses or of the last common residence of the spouses.

(3) If, in the case specified in subsection (2) of this section, the spouses had no common residence in Estonia or if neither of the spouses currently have a residence within the jurisdiction of the court of their last common residence, the matter is adjudicated by the court of the residence of the spouse whose rights would be restricted by the requested ruling. If the residence of that spouse is not in Estonia or the residence cannot be established, the matter is adjudicated by the court of the residence of the petitioner.

(4) If jurisdiction cannot be determined on the basis of subsection (2) or (3) of this section, the matter is adjudicated by Harju County Court.

(5) Provisional legal protection in a family matter on petition can be applied by each court within whose territorial jurisdiction a measure must be applied.

§ 117. Application of estate management measures

(1) An Estonian court can apply management measures to an estate located in Estonia regardless of the state whose law is applicable to succession and the state whose authority or official is competent by general jurisdiction to conduct the succession proceeding.

(2) Estate management measures are applied by the court of the location of the opening of the succession. If a succession opens in a foreign state and the estate is located in Estonia, estate management measures can be applied by the court of the location of the estate.

§ 118. Jurisdiction of calling matters

(1) A petition for declaration of a security invalid is filed with the court of the place of redemption of the security and, in the absence of the place of redemption, with the court of general jurisdiction of the issuer of the security.

(2) A petition for initiation of calling proceedings for preclusion of the rights of the owner of an immovable is filed by the possessor of the immovable pursuant to the provisions of § 124 of the Law of Property Act with the court within the territorial jurisdiction of which the immovable is located.

(3) In the case provided by § 13 of the Law of Maritime Property Act, the entitled person files a petition for initiation of calling proceedings for the preclusion of the rights of the owner of a ship with Harju County Court.

(4) A petition for initiation of calling proceedings for preclusion of the rights of an unknown mortgagee (§ 331 of the Law of Property Act) is filed by the owner of the encumbered immovable with the court within the territorial jurisdiction of which the encumbered immovable is located. A petition for preclusion of the rights of an unknown maritime mortgagee or pledgee is filed by the owner of the encumbered ship or the owner of the pledged object encumbered with a registered security over movables pursuant to § 59 of the Law of Maritime Property Act with Harju County Court.
[RT I 2009, 30, 178 - entry into force 01.10.2009]

§ 119. Jurisdiction of registry matters and other matters on petition relating to legal persons in private law

(1) A petition for making an entry in the commercial register is filed according to the seat of the company or location of the undertaking of the sole proprietor. A petition to the registrar of the

non-profit associations and foundations register is filed according to the seat of a non-profit association or foundation.

(2) A petition for making an entry in the land register is filed according to the location of the registered immovable. A petition for making an entry in the ship register is filed according to the home port of the ship, the location of the non-propelled floating vessel or the place of construction of the ship under construction.

(3) A petition for making an entry in the commercial pledge register is filed according to the seat of the pledgor and, if the pledgor is a sole proprietor, according to the location of its undertaking.

(4) A petition for making an entry in the marital property register is filed according to the residence of the spouse.

(5) Matters on petition related to the activities of a company, non-profit association or foundation other than registry matters, including matters related to the appointment of a substitute member of the management board or supervisory board, auditor, auditor for a special audit or liquidator, or matters related to the determination of the amount of compensation to the partners or shareholders in a company are adjudicated by the court entitled to adjudicate registry matters.

§ 120. Apartment ownership and common ownership matters

A matter on petition related to apartment ownership or common ownership is adjudicated by the court of the location of the immovable.

§ 120[1]. Matters of access to public road and tolerating utility works

Matters of access to a public road and tolerating utility works are adjudicated by the court of the immovable from which access to a public road is sought or on which the utility works is located.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 121. Matters of recognition or enforcement of decisions of courts and arbitral tribunals of foreign states

A petition for recognition or enforcement of a decision of a court or arbitral tribunal of a foreign state, a petition specified in Article 19 or 21 of Council Regulation (EC) No 4/2009 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations, or other petition in enforcement proceedings is filed with the court of the residence or seat of the debtor, or with the court within whose territorial jurisdiction the conduct of enforcement proceedings is sought, unless otherwise provided by law or an international agreement.
[RT I, 14.03.2011, 2 - entry into force 18.06.2011]

§ 121[1]. Matters of declaring settlement agreement reached as result of conciliation proceeding enforceable

A settlement agreement reached as a result of a conciliation proceeding specified in subsection 14 (1) of the Conciliation Act is declared enforceable by the court within the territorial jurisdiction of which the conciliation proceeding was conducted.
[RT I 2009, 59, 385 - entry into force 01.01.2010]

Part 3 VALUE OF CIVIL MATTER, PROCEDURAL EXPENSES AND SECURITIES

Chapter 17 VALUE OF CIVIL MATTER

§ 122. Value of civil matter

(1) The value of a civil matter means the value of an action or the value of a matter on petition.

(2) The value of an action is the usual value of that which is sought by the action.

(3) The value of a matter on petition is the usual value of that which is petitioned in the matter on petition, or the usual value of the act made at the initiative of the court.

(4) Procedural expenses are not taken into account upon determination of the value of a civil matter.

§ 123. Time which constitutes basis for calculation of value of civil matter

The calculation of the value of a civil matter is based on the time of filing of the action or other petition.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 124. Value of action in case of financial claim

(1) In the case of an action for payment of money, the value of the action is determined by the amount of money claimed. A claim in a foreign currency is translated into euros for the purpose of determining the value of an action as at the time of filing of the action on the basis of the daily exchange rate of the European Central Bank.
[RT I 2010, 22, 108 - entry into force 01.01.2011]

(2) If the plaintiff requires the performance of an obligation other than a financial obligation from the defendant and also requests the determination of the amount of compensation for damage payable upon failure to perform the obligation, the value of the action is determined on the basis of the claimed amount of compensation for damage.

(3) The provisions of subsection (1) of this section also apply in matters on petition upon filing of petitions for expedited procedure in matters of payment order.

§ 125. Value of establishment action

The value of an establishment action is determined by the value of the benefit to which the plaintiff can be presumed to be entitled in the case of satisfaction of the action. If the value of the benefit cannot be determined, the claim of the action is deemed to be non-proprietary.

§ 126. Value of action in case of claims involving things or rights

(1) The value of an action in the case of reclamation of a thing from the possession of a person or other dispute relating to transfer of ownership of a thing or ownership or possession of a thing, including in the case of a dispute on amendment of an incorrect entry made in the land register concerning the owner, is determined based on the value of the thing. This applies regardless of whether the matter is adjudicated on the basis of a contract or a non-contractual legal relationship unless otherwise provided by law.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) The value of an action in a dispute relating to a right is determined based on the value of the right.

(2^1) [Repealed - RT I, 29.06.2012, 3 - entry into force 01.07.2012]

(3) The value of an action in a dispute relating to the securing of a claim and to the corresponding right of security is determined by the value of the claim. If the value of the pledged object is lower than the value of the claim, the value of the thing is taken as the basis.
[RT I, 29.06.2012, 3 - entry into force 01.07.2012]

§ 127. Value of action in dispute relating to real servitude

The value of an action in a dispute related to or arising from a real servitude is determined based on the value of the servitude for the dominant immovable. If the amount by which the value of the servient immovable is reduced by the real servitude is higher than such value, the amount by which the value of the servient immovable is reduced by the real servitude is deemed to be the value of the action.

§ 128. Value of action in case of contract for use

The value of an action in the case of a dispute relating to the validity or duration of a lease contract, commercial lease contract or other similar contract for use is the sum total of the user fees payable for the time under dispute which shall however not be longer than one year. In the case of a dispute relating to delivery of the possession of an immovable, construction works or part thereof due to the expiry of a contract, the value of the action is the sum total of the user fees payable for one year.

§ 129. Value of action upon recurring obligations

(1) The value of an action in a dispute concerning a claim directed at the performance of recurring obligations is the total value of the obligations which shall however not be higher than three times the total yearly value of such obligations.

(2) The value of an action in a dispute concerning the performance of a maintenance obligation arising from law, or a dispute involving a claim for regular monetary payments arising from the causing of death, bodily injury or damage to health is the sum total of the claimed payments which shall however not be higher than the amount which would be received for the nine months following the filing of the action.

§ 130. Value of action upon dispute for termination of application of standard terms

[Repealed - RT I, 29.06.2012, 3 - entry into force 01.07.2012]

§ 131. Value of action upon repeal or establishment of nullity of resolution of legal person

[Repealed - RT I, 29.06.2012, 3 - entry into force 01.07.2012]

§ 132. Value of action in case of non-proprietary claim

(1) The value of an action in the case of a non-proprietary claim is presumed to be 3500 euros unless otherwise prescribed by subsection (1^1) of this section.
[RT I, 29.06.2012, 3 - entry into force 01.07.2012]

(1^1) The value of an action in the case of a non-proprietary claim provided for in subsection (4) of this section is deemed to be 3500 euros.
[RT I, 29.06.2012, 3 - entry into force 01.07.2012]

(2) In the case of a non-proprietary claim, the court may determine the value of an action which is different from the value provided in subsection (1) of this section, taking account of all circumstances, including the extent and importance of the matter as well as the financial situation and income of the parties.

(3) For the purposes of the value of an action, a claim for compensation for non-proprietary damage caused by causing of death, bodily injury, damage to health or defamation is also deemed to be a non-proprietary claim, provided that the requested amount of compensation is not set out in the action and fair compensation at the discretion of the court is requested.

(4) For the purposes of the value of an action, the following claims are also deemed to be non-proprietary claims:
1) the claim for protection of possession (§§ 44 and 45 of the Law of Property Act);
2) the claim for protection of ownership in the case of a violation unrelated to loss of possession (§ 89 of the Law of Property Act);
3) the claim of the owner of an immovable entered in the land register for reclamation of the

immovable from illegal possession into the owner's possession, except in the case provided for in the second sentence of § 128 of this Code;
4) the claim for termination of common ownership;
5) the claim for division of joint property;
6) the claim for set-off of acquired assets;
7) the claim for termination of application of unfair standard terms or termination and withdrawal by the person recommending application of the term of recommendation of the term;
8) the claim for repeal or establishment of nullity of a resolution of a legal person;
9) the claim for recognition of a claim in a bankruptcy proceeding.
[RT I, 29.06.2012, 3 - entry into force 01.07.2012]

(5) For the purposes of the value of an action, the claim for the declaration of compulsory enforcement to be inadmissible is also deemed to be a non-proprietary claim. The court shall not determine the value of an action with such claim to be more than 6000 euros.
[RT I, 29.06.2012, 3 - entry into force 01.07.2012]

§ 133. Determination of value of action by principal and collateral claims

(1) The value of an action is calculated by the principal and collateral claims.

(2) For the purpose of calculating the value of an action for the collateral claim specified in § 367 of this Code, the amount corresponding to the sum of penalties for late payment accounted for one year is added to the sum of penalties for late payment accounted as at the filing of the action.
[RT I, 29.06.2012, 3 - entry into force 01.07.2012]

§ 134. Joinder of claims upon calculation of value of action

(1) Claims contained in an action are joined for the purpose of calculating the value of the action. If the claims are alternative, the value of the action is determined by the higher claim.

(2) If an action is filed against several jointly and severally liable defendants or if several plaintiffs file a joint claim against the same defendant in a joint statement of claim, the value of the action is determined by the value of the claim.

(3) If a proprietary claim is filed together with a related establishment claim, only the value of the proprietary claim is deemed to be the value of the action.

§ 135. Specification of value of civil matter by petitioner

The plaintiff or other petitioner specifies the value of the action in the statement of claim, other petition or appeal unless such value clearly arises from the object of the petition or an earlier petition or is exactly specified by law.

§ 136. Determination of value of civil matter by court

(1) The court determines the value of a civil matter if such value is not prescribed by law and is not indicated in the petition. The court may determine the value of a civil matter also if the court finds the value of the action specified by the plaintiff or other petitioner to be incorrect.

(2) For determination of the value of a civil matter, the court may request evidence from the participants in the proceeding, organise inspection or order evaluation by an expert.

(3) The bearing of the expenses of expert evaluation is prescribed by the ruling on determination of the value of the civil matter. The court may decide that such costs must be borne, in part or in full, by the party who caused the need for evaluation by failing to specify the value, presenting an incorrect value or contesting the value without basis.

(4) The court has the right amend a ruling on the value of a civil matter before the adjudication of the matter in that court instance. The court may also change the value by the court decision whereby the matter is adjudicated.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(5) [Repealed - RT I, 29.06.2012, 3 - entry into force 01.07.2012]

§ 137. Value of civil matter upon filing of appeal

(1) The value of a civil matter in filing an appeal against a court decision, appeal in cassation or appeal against a ruling is equivalent to the value of the matter in the court of first instance, taking account of the extent of the appeal.

(1^1) A higher court may change the value of the matter if it was determined incorrectly by a lower court.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) If a party has filed an appeal against a judgment in the part of both the action and the counterclaim, the values of the action and counterclaim adjudicated by the appealed judgment are joined, provided that the claims of action do not preclude each other. If the claims of action preclude each other, the action with the higher value is taken as the basis.

(3) The value of a joint appeal by several participants in a proceeding is determined based on the value of that which is requested by the appeal.

(4) [Repealed - RT I, 29.06.2012, 3 - entry into force 01.07.2012]

(5) In filing an appeal or appeal in cassation against a judgment made in documentary proceedings, an interim judgement or a partial judgment made with a reservation concerning set-off, the value of the matter is presumed to be 1/4 of the value of the matter in the court of first instance.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

Chapter 18 PROCEDURAL EXPENSES

Division 1 General Provisions

§ 138. Composition and calculation of procedural expenses

(1) Procedural expenses are the legal costs and extra-judicial costs incurred by a participant in a proceeding.

(2) Legal costs are the state fee, security and the costs essential to the proceeding.

(3) In each court instance, the court keeps record of the procedural expenses incurred in the matter, including of the costs essential to the proceeding.

§ 139. State fee

(1) A state fee is a sum of money which, pursuant to law, is payable to the Republic of Estonia for the performance of a procedural act.

(2) A state fee shall be paid on a procedural act for the performance of which a state fee is provided for in the State Fees Act.
[RT I, 29.06.2012, 3 - entry into force 01.07.2012]

(2^1) If pursuant to the State Fees Act a rate of the state fee which is lower than the full rate of the state fee is established for the filing of an action or appeal by electronic means through the website www.e-toimik.ee to the e-file proceedings information system (hereinafter *through the website www.e-toimik.ee*) and a participant in the proceeding cannot file a petition or appeal by electronic means through the specified website with a good reason, the court enables the performance of the procedural act at the lower rate of the state fee on the basis of a reasoned request.
[RT I, 29.06.2012, 3 - entry into force 01.07.2012]

(3) [Repealed - RT I, 29.06.2012, 3 - entry into force 01.07.2012]

(4) [Repealed - RT I, 29.06.2012, 3 - entry into force 01.07.2012]

(5) A state fee is not paid for a petition for initiation of proceedings in a matter on petition which the court is entitled to adjudicate at its own initiative. This does not preclude payment of a state fee on the basis of a court decision.

(6) A state fee is not paid for a request for procedural assistance.

§ 140. Security on cassation

(1) Instead of a state fee, security on cassation is paid for appeals in cassation, appeals against rulings and petitions for review filed with the Supreme Court.

(2) For an appeal in cassation and petition for review, a security of one percent of the value of the civil matter, which shall not be lower than 100 euros and not higher than 300 euros, is paid, taking account of the extent of the appeal. A security of 50 euros is paid for matters on petition, non-proprietary claims and appeals against rulings.
[RT I, 29.06.2012, 3 - entry into force 01.07.2012]

§ 141. [Repealed - RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 142. Security for petition to set aside default judgment, reopening of proceeding or restoration of term

(1) Instead of a state fee, a security is paid for petitions to set aside a default judgment, petitions for restoring a term and petitions for reopening a proceeding.

(2) For a petition to set aside a default judgment or a petition for reopening a proceeding, a security is paid in an amount equal to the state fee payable for one-half of the value of the action, which shall however not be lower than 100 euros and not higher than 1500 euros.

(3) For a petition for restoration of a term, a security is paid which:
1) in an action is equal to the state fee payable for one-quarter of the value of the action, which shall however not be lower than 50 euros and not higher than 1500 euros;
2) in a proceeding on petition is equal to one-quarter of the state fee payable for the matter on petition, which shall however not be lower than 25 euros.
[RT I, 29.06.2012, 3 - entry into force 01.07.2012]

§ 143. Costs essential to proceedings

Costs essential to proceedings are:
1) the costs related to witnesses, experts, interpreters and translators as well as the costs of persons not participating in the proceeding incurred in connection with examinations to be compensated for pursuant to the Forensic Examination Act;
[RT I 2010, 8, 35 - entry into force 01.03.2010]
2) the costs related to obtaining documentary evidence and physical evidence;
3) the costs related to inspection, including necessary travel expenses incurred by the court;
4) the costs of service and sending of procedural documents through a bailiff or in a foreign state or on or to extra-territorial citizens of the Republic of Estonia;
[RT I 2008, 59, 330 - entry into force 01.01.2009]
41) the costs of issuing procedural documents;
[RT I 2008, 59, 330 - entry into force 01.01.2009]
5) [repealed - RT I, 29.06.2012, 3 - entry into force 01.07.2012]
6) the costs related to the determination of the value of the civil matter.

§ 144. Extra-judicial costs

Extra-judicial costs are:
1) the costs related to the representatives and advisers of the participants in a proceeding;

2) travel, postal, communications, accommodation and other similar costs of the participants in the proceeding which are incurred in connection with the proceeding;
[RT I 2008, 59, 330 - entry into force 01.01.2009]
3) unreceived wages or salaries or other unreceived permanent income of the participants in the proceeding;
4) the costs of pre-trial proceedings provided by law unless the action was filed later than six months after the end of the pre-trial proceedings;
5) the bailiff's fee for securing an action and the costs related to the enforcement of a ruling on the securing of an action;
5^1) the bailiff's fee for the service of procedural documents;
[RT I, 29.06.2012, 3 - entry into force 01.07.2012]
6) the costs related to the processing of an application for procedural assistance in bearing procedural expenses.
7) the costs of expedited procedure in matters of payment order;
[RT I, 29.06.2012, 3 - entry into force 01.07.2012]
8) the costs of participation in a conciliation proceeding if the court imposed an obligation on the parties to participate in such proceeding pursuant to subsection 4 (4) of this Act or if it is a mandatory pre-trial conciliation proceeding pursuant to subsection 1 (4) of the Conciliation Act.
[RT I 2009, 59, 385 - entry into force 01.01.2010]

§ 145. Release from payment of state fee and security

The Republic of Estonia as a participant in a proceeding is released from payment of the state fee and the security.
[RT I 2005, 39, 308 - entry into force 01.01.2006]

Division 2 Bearing of Procedural Expenses

§ 146. Persons to bear procedural expenses

(1) The following persons bear procedural expenses:
1) a person requesting initiation of a proceeding or performance of another procedural act;
2) a person who, by way of a petition filed with the court or an agreement, has assumed the obligation to bear the costs;
3) a person who, based on the court decision, is required to bear the procedural expenses.

(2) The persons required to pay procedural expenses in advance who fail to make such advance payment bear, to the extent of the unpaid expenses, joint and several liability among themselves and the persons who are required by a court decision to pay such costs for the benefit of the state as well as any other persons obligated to bear the procedural expenses.

(3) In the relationship among the persons obligated to bear procedural expenses, the person obligated to bear the procedural expenses based on the court decision is responsible for payment of the procedural expenses.

§ 147. Payment of state fee

(1) A petitioner pays the state fee for performance of an act for which a state fee is charged in advance. An action is not served on the defendant and other procedural acts arising from an act for which a state fee is charged are not performed before payment of the state fee. A term for payment of the state fee is set for a petitioner and if the petitioner fails to pay the state fee by the due date, the petition is not accepted unless otherwise prescribed by law.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) If several claims or requests are filed by a petition, and the state fee has been paid for at least one of them, acceptance of such claim or request shall not be refused due to failure to pay the state fee.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) If the state fee paid for a claim which has been accepted by the court is less than the amount provided by law, the court demands payment of the state fee in the amount provided by law. If the plaintiff fails to pay the state fee by the due date set by the court, the court refuses to hear the action in the part of the claim.

(4) Upon an increase in the amount of a claim, a supplementary state fee is paid according to the increase in the value of the action. If a petition for the increase of the claim is not filed through the website www.e-toimik.ee, the state fee is paid according to the full rate of the increased value of the action. If a petition for the increase of the claim is filed through the website www.e-toimik.ee, the state fee is paid according to the lower rate of the state fee in respect of the full rate corresponding to the increased value of the action. If the plaintiff fails to pay a supplementary state fee, the action is deemed to be filed for the initial value.
[RT I, 29.06.2012, 3 - entry into force 01.07.2012]

(4^1) The provisions of subsections (3) and (4) of this section apply respectively to payment of the state fee for a petition or appeal in a proceeding on petition.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(5) Upon change of an expedited procedure in matters of payment order into an action, a supplementary state fee is paid on the action to the extent that is not covered by the state fee paid on the filing of a petition for application of expedited procedure in matters of payment order. In the case of filing a petition for changing an expedited procedure in matters of payment order into an action, the matter is not accepted for an action before the state fee for the action has been paid.
[RT I 2006, 61, 457 - entry into force 01.01.2007]

§ 148. Payment of costs essential to proceedings

(1) Unless the court rules otherwise, the costs essential to proceedings are paid in advance, to the extent ordered by the court, by the participant in the proceeding who filed the petition to which the costs are related. If a petition is filed by both parties or if a witness or expert is

summoned or an inspection is conducted at the initiative of the court, the costs are paid by the parties in equal amounts.

(2) [Repealed - RT I, 29.06.2012, 3 - entry into force 01.07.2012]

(3) Money to cover the costs specified in subsections (1) and (2) of this section is paid to the account prescribed for such purpose or at the court in cash or by means of an electronic payment instrument. The court accepts cash to the same extent as it accepts state fees.
[RT I, 31.01.2014, 6 - entry into force 01.04.2014]

(4) If the party who is required to pay for the costs specified in subsections (1) and (2) of this section in advance fails to do so by the due date set by the court, the court may refuse to perform the requested act.

(5) An appeal may be filed against a court ruling by which the action of the court is made dependent on the advance payment of the costs essential to the proceeding if the object of the appeal exceeds 640 euros. A ruling made by a circuit court concerning an appeal against a ruling is not subject to appeal to the Supreme Court.
[RT I 2010, 22, 108 - entry into force 01.01.2011]

(6) [Repealed - RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 149. Payment and refunding of security

(1) [Repealed - RT I, 29.06.2012, 3 - entry into force 01.07.2012]

(2) Security is paid in advance to the account prescribed for such purpose.
[RT I, 31.01.2014, 6 - entry into force 01.04.2014]

(3) Before a security is paid no procedural acts related to the security are performed. The petitioner is set a term for payment of the security and if the security is not paid within such term, the petition is not accepted.

(4) In the case of satisfaction of an appeal in cassation, appeal against a ruling or petition for review, in part or in full, the security is refunded based on a decision of the Supreme Court. In the case of refusal to accept or satisfy an appeal or petition for review, the security is transferred into the public revenues. The security is refunded if an appeal or petition for review is not accepted because it does not comply with the format requirements or because it contains other omissions and the omissions are not corrected by the due date set by the court, likewise if an appeal, petition for review, action or petition in a proceeding on petition is refused to be heard or the proceeding in the matter is terminated.

(5) In the case of satisfaction of a petition for setting aside a default judgment, reopening of a proceeding or restoration of a term, in part or in full, the security is refunded on the basis of a court ruling. If a petition is not satisfied, the security is transferred into the public revenues. The

security is also refunded if a petition is not accepted, likewise if a petition or action is refused to be heard or the proceeding in the matter is terminated.

(5^1) The security is not refunded if a petition to set aside a default judgment is satisfied in part or in full and it is transferred into the public revenues if an action or summons was served in conformity with the requirements provided for in this Code, including if it was served by public announcement, and the action could be satisfied by making a default judgment. The court may refund the security in the case specified above if the defendant could not respond to the action or appear in the court session due to an accident or illness, of which the defendant could not inform the court.
[RT I, 29.06.2012, 3 - entry into force 01.07.2012]

(6) In addition to payment to the account prescribed for such purpose, the security may also be paid in cash at the premises of the court, or by means of an electronic payment instrument. The court accepts cash to the same extent as it accepts state fees.
[RT I, 31.01.2014, 6 - entry into force 01.04.2014]

(7) The security is refunded if the paid amount exceeds the prescribed amount, to the extent of any overpaid amount.

(8) The security is refunded on the basis of a ruling of the court that adjudicates the petition to the participant in the proceeding who has paid it or for whom it has been paid or at the request thereof to another person. The costs essential to the proceeding are not deducted from the refundable amount. Upon filing a petition or appeal on which security is payable, it shall be indicated in the petition or appeal to whom and to which bank account the security is to be refunded.

(9) A claim for refunding security expires two years after the end of the year during which such security was paid, however not before the judgment to terminate the proceeding has entered into force.

(10) An appeal may be filed against a ruling to refuse to refund security made by a county court or circuit court if the security which refund is requested exceeds 64 euros. A ruling made by a circuit court concerning an appeal against a ruling is not subject to appeal to the Supreme Court.
[RT I 2010, 22, 108 - entry into force 01.01.2011]

(11) Compensation of security cannot be demanded from the opposing party or another participant in the proceeding regardless of the content of the court decision terminating the proceeding.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 150. Refunding of state fees and other legal costs

(1) A state fee already paid is refunded if:
1) the paid amount exceeds the prescribed amount, to the extent of any overpaid amount;
2) a petition is not accepted;

3) the hearing of a petition is refused, except in the cases where the hearing of an action is refused due to withdrawal of the action by the plaintiff, failure by both parties or the plaintiff to appear in a court session, failure of the plaintiff to comply with the court's request to find himself or herself an interpreter, translator or representative proficient in Estonian, or failure of the plaintiff to provide a security for covering the presumed procedural expenses of the defendant;
4) a petition for expedited procedure in matters of payment order is not satisfied in the cases provided for in subsections 483 (2) 1) and 2) of this Code;
5) an appeal is satisfied, to the person filing an appeal against a ruling, or to the person filing an appeal against a decision of the Industrial Property Committee with a county court, if there are no other participants in the proceeding who participate in the proceeding or if the court does not order another participant in the proceeding to pay the state fee;
6) an appeal against a ruling on refusal to restore a term is satisfied, to the person filing the appeal against the ruling.

(2) One half of the paid state fee is refunded if:
1) the parties or the participants in a proceeding on petition reach a compromise;
2) the plaintiff discontinues the action;
3) prior to the making public of a judgment of a court of first instance in full, the parties waive the right to file an appeal.

(3) Upon refusal to hear a petition or termination of a proceeding due to the approval of a compromise or discontinuance of the action, the state fee paid in the previous court instance is not refunded.

(4) The state fee is refunded by the court, in the proceeding of which the matter was last, only on the basis of a petition of the party in the proceeding who paid the state fee or for whom the state fee was paid. In the cases specified in clauses (1) 2) and 3) of this section, the costs essential to the proceeding are deducted from the refunded amount. The state fee is refunded to the participant in the proceeding who was required to pay it or upon the request thereof to another person.

(5) Discontinuance of an action by the plaintiff does not restrict the defendant's right to request that the court order payment by the plaintiff, in full, of the procedural expenses, including the paid state fees, pursuant to the procedure provided for in subsection 168 (4) of this Code.

(6) A claim for refunding state fees expires two years after the end of the year during which such state fees were paid, however not before the judgment to terminate the proceeding has entered into force.

(7) The costs essential to the proceeding paid by or for a participant in the proceeding at the request of the court are refunded to the extent of any overpaid amount, and also if the act which costs were paid in advance is not performed or if the state does not incur any costs in connection with the act. The amount is refunded pursuant to the procedure provided in subsections (4)–(6) of this section.

(8) An appeal may be filed against a ruling to refuse to refund state fees or costs essential to the proceeding made by a county court or circuit court if the amount which refund is requested exceeds 64 euros. A ruling made by a circuit court concerning an appeal against a ruling is not subject to appeal to the Supreme Court.
[RT I 2010, 22, 108 - entry into force 01.01.2011]

Division 3 Costs Related to Witnesses, Experts, Interpreters and Translators and Other Costs Related to Giving Evidence

§ 151. Compensation for witnesses, fees for experts, interpreters and translators

(1) Pursuant to the provisions of this Division, compensation is paid to witnesses and fees are paid to experts, interpreters and translators who participate in a proceeding.

(2) The provisions of this Division, except for § 159, do not extend to the employees of a court or another state agency involved in the capacity of interpreters, translators or experts who, by interpreting, translating or acting as experts, are performing their duties of employment. The extent of and procedure for compensation for the costs of a staff interpreter or translator shall be established by the Government of the Republic. The costs of making an expert assessment by a state forensic institution are compensated to the extent and pursuant to the procedure provided in the Forensic Examination Act.
[RT I 2010, 8, 35 - entry into force 01.03.2010]

(3) If a witness, expert, interpreter or translator has performed his or her duty, the court pays compensation or fees to them regardless of whether advance payment of the costs has been made by the participants in the proceeding or whether the court has collected the costs from the participants in the proceeding.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 152. Payment of compensation for witnesses

(1) A witness is paid compensation for a witness. Compensation for a witness is compensation for any unreceived salaries or wages or other unreceived permanent income. Compensation for a witness is also paid if a question about evidence is responded to in written form.

(2) The amount of compensation for a witness is calculated based on the hourly fee rate related to the gross average wages earned by the witness multiplied by the number of hours the witness was absent from work.

(3) The court determines the hourly rate of compensation for a witness within the limits of minimum and maximum hourly wages established by a regulation of the Government of the Republic.

(4) If giving testimony did not cause a loss of income to a witness or the witness has no source of income, compensation for a witness is paid to him or her according to the lowest rate.

§ 153. Payment of fees to experts, interpreters and translators

(1) Experts, interpreters and translators are paid fees for the performance of their duties in the form of hourly fees within the limits of minimum and maximum hourly wages established by a regulation of the Government of the Republic. Hourly fee payable to experts, interpreters and translators shall not be lower than the minimum permitted hourly wages payable to an employed person and shall not exceed such rate more than 50 times.
[RT I 2010, 8, 35 - entry into force 01.03.2010]

(2) Upon determination of the hourly fees, the court considers the qualifications of the expert, interpreter or translator, the complexity of the work, any unavoidable costs incurred upon use of necessary means and any special circumstances under which the expert assessment, interpretation or translation was made.

(3) A person who translated a document is paid for each translated page to the extent established by a regulation of the Government of the Republic. The Government of the Republic may also establish a fixed fee for certain types of expert assessment, interpretation or translation by a regulation.

(4) If an expert, interpreter or translator so desires, the fee may be paid to the employer of the expert, interpreter or translator or to another person with whom the expert, interpreter or translator has contractual relations based on an invoice presented thereby.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 154. Witnesses, experts, interpreters and translators from foreign states

A witness, expert, interpreter or translator residing in a foreign state may be paid compensation or fees according to a higher rate than the rates established by the Government of the Republic if such compensation or fee is usual in his or her state of residence and the person's participation in the proceeding is absolutely necessary. The Government of the Republic may establish the specific procedure for payment of compensation or fees at a higher rate by a regulation.
[RT I 2006, 7, 42 - entry into force 04.02.2006]

§ 155. Reimbursement of costs to experts

(1) The costs related to the preparation and compilation of an expert opinion, including necessary expenses for support staff, and for materials and means used upon expert assessment are also reimbursed to the expert.

(2) The costs specified in subsection (1) of this section are not reimbursed to a higher extent than 20% of the expert's fee.

§ 156. Reimbursement of travel expenses

(1) Travel expenses related to a proceeding are reimbursed to witnesses, experts, interpreters and translators to a reasonable extent.

(2) The Government of the Republic may establish limits on the travel expenses to be reimbursed and specify the composition of the costs subject to reimbursement by a regulation.

§ 157. Reimbursement of other costs

Other necessary costs arising from a court proceeding, above all the costs of accommodation and meals are reimbursed to witnesses, experts, interpreters and translators to the extent established by the Government of the Republic.

§ 158. Advance payment of costs

(1) If a witness, expert, interpreter or translator summoned to court lacks sufficient funds to travel to the court or he or she cannot be reasonably expected to cover such costs, the witness, expert, interpreter or translator is paid, at his or her request, such costs in advance.

(2) If an expert, interpreter or translator is fully or mainly absent from his or her professional activities at the request of the court for a period of at least 30 consecutive days, a reasonable advance payment is made to the expert, interpreter or translator at his or her request. An expert may also request advance payment if preparation of an expert opinion requires high expenses which the expert cannot be reasonably expected to be cover.

§ 159. Determination of costs

(1) The amount of compensation payable to a witness, the size of an expert's, interpreter's or translator's fee and the costs to be reimbursed to such persons are determined by the court which involved the witness, expert, interpreter or translator. The court sends a transcript of the ruling to the agency designated by a directive of the Minister of Finance.
[RT I, 28.12.2011, 1 - entry into force 01.01.2012]

(1^1) Compensation payable to a witness, expert's, interpreter's or translator's fee and compensations for costs include taxes provided by tax legislation which are withheld or if necessary paid by the agency making payment to the person participating in the proceeding. If, according to the recipient, the amounts payable to a natural person constitute business income of the person or the payment is made to the employer of the person entitled to receive payment, the agency executing the ruling transfers the entire amount prescribed by the ruling unless otherwise provided by tax legislation.
[RT I 2010, 8, 35 - entry into force 01.03.2010]

(2) A witness, expert, interpreter, translator, a participant in the proceeding or the Republic of Estonia through the Ministry of Justice may file an appeal against the ruling of a county court or circuit court specified in subsection (1) of this section or the ruling to refuse to determine costs if the amount requested or determined by the court exceeds 64 euros. A ruling of a circuit court concerning an appeal against a ruling of a county court is not subject to appeal to the Supreme Court.
[RT I 2010, 22, 108 - entry into force 01.01.2011]

§ 160. Procedure for payment of compensation and fees

(1) Compensation for witnesses and experts', interpreters' and translators' fees are paid only based on their request.

(2) Unless a witness files a request for payment of compensation and reimbursement of costs with the court, the claim for payment of compensation to a witness and reimbursement of his or her costs terminates three months after the date on which the witness participated in the proceeding for the last time. The court informs a witness of such term and the legal consequences of expiry of the term.

(3) The court may set an expert, interpreter or translator a term of at least 30 days for submission of the sum total of the claim. Upon setting the term, the court also informs an expert, interpreter or translator of the consequences of expiry of the term.

(4) The claim of an expert, interpreter or translator terminates unless he or she files the claim within the term set by the court. An expert, interpreter or translator may request restoration of the term if he or she had good reason for failing to respect the term. A petition for restoration of a term may be filed within 14 days after removal of the obstacle and substantiation of the conditions of restoration of the term. No fees or security is payable on the petition for restoration of the term.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(5) Notwithstanding the provisions of subsections (3) and (4) of this section, a claim of an expert, interpreter or translator terminates within one year after the arising thereof.

(6) Any overpaid compensation for a witness, or expert's, interpreter's or translator's fees, or reimbursed costs may be reclaimed on the basis of a court ruling if such ruling is delivered to the obligated person within one year after the date of overpayment. An appeal may be filed against a ruling of a county court or circuit court if the object of the appeal exceeds the amount of 64 euros. A ruling of a circuit court concerning an appeal against a ruling of a county court is not subject to appeal to the Supreme Court.
[RT I 2010, 22, 108 - entry into force 01.01.2011]

§ 161. Reimbursement of other costs related to submitting of evidence

(1) A person who submits a document or physical evidence to a court, enables inspection thereof, issues a thing for expert assessment or enables the conduct of expert assessment but who is not a participant in the proceeding has the right to claim reimbursement of necessary costs incurred by him or her in connection with the procedural act from the state. The costs incurred by a person in connection with an expert assessment are reimbursed on the conditions and pursuant to the procedure for reimbursement of the costs of persons not participating in proceedings incurred in connection with expert assessment provided in the Forensic Examination Act.
[RT I 2010, 8, 35 - entry into force 01.03.2010]

(2) The costs specified in subsection (1) of this section are determined, based on a petition, by the court which conducted the procedural act. The court also sends a transcript of the ruling to the agency designated by a directive of the Minister of Finance.
[RT I, 28.12.2011, 1 - entry into force 01.01.2012]

(3) A claim for reimbursement of costs terminates three months after the date on which the procedural act was conducted unless the person entitled to be reimbursed files a petition for reimbursement of the costs with the court. The court informs a person entitled to be reimbursed of such term and the legal consequences of expiry of the term.

(4) A person who has filed a petition, witness, expert, interpreter, translator, a participant in the proceeding or the Republic of Estonia through the Ministry of Justice may file an appeal against the ruling specified in subsection (2) of this section or the ruling to refuse to determine costs if the amount requested or determined by the court exceeds 64 euros. A ruling of a circuit court concerning an appeal against a ruling of a county court is not subject to appeal to the Supreme Court.
[RT I 2010, 22, 108 - entry into force 01.01.2011]

Division 4 Division of Procedural Expenses

§ 162. Division of procedural expenses in actions

(1) The costs of an action are covered by the party against whom the court decides.

(2) Among other, the party against whom the court decides is required to compensate the other party for any necessary extra-judicial costs which arose as a result of the court proceeding. A party is reimbursed for any extra-judicial costs, including compensation for unreceived wages or other unreceived permanent income on equal grounds and to the same extent as witnesses are compensated for their costs.

(3) The procedural expenses of a legal representative of a party are reimbursed pursuant to the same procedure as the procedural expenses of a party.

(4) In the cases where ordering payment of the opposing party's costs from the party against whom the court decides would be extremely unfair or unreasonable, the court may decide that the costs be covered, in part or in full, by the party who incurred the costs.

(5) If pursuant to the State Fees Act a rate of the state fee which is lower than the full rate of the state fee is established for the filing of an action or appeal through the website www.e-toimik.ee, the overpaid state fee must be covered by the party who incurred the fee.
[RT I, 29.06.2012, 3 - entry into force 01.07.2012]

§ 163. Division of procedural expenses upon satisfaction of action in part

(1) In the case an action is satisfied in part, the parties cover the procedural expenses in equal parts unless the court divides the procedural expenses in proportion to the extent to which the

action was satisfied or decides that the procedural expenses must be covered, in part or in full, by the parties themselves.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) If an action is satisfied in part, and to an extent similar to the compromise offered by one of the parties, the court may decide that all or most of the procedural expenses must be covered by the party who did not accept the compromise offer.

§ 164. Division of procedural expenses in contentious matters of family law

(1) Both parties cover their own procedural expenses in contentious matrimonial and filiation matters.

(2) The court may divide the procedural expenses differently from the provisions of subsection (1) of this section if the dispute arises from the division of marital property or if such division of the expenses would be unfair and, among other, if such division would excessively damage the essential needs of one of the spouses.

(3) In the case where the defendant in a maintenance matter has caused the proceeding by failing to provide complete information concerning his or her income or property, the court may decide, regardless of the outcome of the proceeding, that all or part of the procedural expenses must be covered by the defendant.

§ 165. Division of procedural expenses between co-plaintiffs and co-defendants

(1) If a decision is made against co-plaintiffs or co-defendants, the co-plaintiffs or co-defendants are liable for the procedural expenses in equal parts unless the court rules otherwise. If persons are participating in a proceeding to a different extent, the court may base the division of expenses on the extent of their participation.

(2) In a proceeding, a co-plaintiff or co-defendant is not required to cover additional procedural expenses arising from a petition, statement, evidence, appeal or contestation filed by another co-plaintiff or co-defendant. The above also applies if pursuant to subsection 207 (3) of this Code, a procedural act of a co-plaintiff or co-defendant is applicable to other co-plaintiffs or co-defendants.

(3) If the court decides against defendants who are solidary debtors, the defendants are also jointly and severally liable for covering the procedural expenses. This does not preclude or restrict the application of the provisions of subsection (2) of this section.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 166. Division of procedural expenses upon substitution of party in case of transfer of disputed object

Upon substitution of a party in the case of transfer of the disputed object or assignment of claim, the substituted party and the substituting party are jointly and severally liable for the

procedural expenses of the opposing party if the court decides in favour of the opposing party. The court determines a different division of costs if dividing the costs in the manner indicated above would clearly be unfair.

§ 167. Procedural expenses of third party without independent claim

(1) The procedural expenses of a third party without an independent claim or a representative thereof are compensated for by the opposing party of the party thereof according to the same rules applicable for compensation of the procedural expenses to such party in so far as the opposing party is liable for covering the procedural expenses pursuant to the provisions of this Division.

(2) If the opposing party is not required to compensate for the expenses, the expenses are covered by the third party without an independent claim. This does not preclude or restrict the right of a third party to claim compensation for the expenses on the grounds arising from private law.

(3) A third party without an independent claim covers the procedural expenses caused to other participants in the proceeding by a petition, request or appeal thereof unless such expenses are covered by the opposing party thereof.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 168. Division of procedural expenses upon refusal to accept matter, refusal to hear action, termination of proceeding and admission of claim

(1) The plaintiff covers the procedural expenses if the court refuses to accept the petition and returns it.

(2) The plaintiff covers the procedural expenses if an action is not heard or the proceeding is terminated by a ruling, unless otherwise provided by the provisions of subsections (3)–(5) of this section.

(3) In the case of a compromise, the parties cover their own procedural expenses unless they agree otherwise.

(4) If the plaintiff discontinues or withdraws an action, the plaintiff covers the defendant's procedural expenses, unless the plaintiff has discontinued or withdrawn the action because the defendant has satisfied the claim after the action was filed.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(5) If the plaintiff discontinues or withdraws an action because the defendant has satisfied the plaintiff's claim after the action was filed, the defendant covers the plaintiff's procedural expenses.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(6) If the defendant admits the action immediately, the plaintiff covers the procedural expenses unless the defendant has given reason for filing the action by his or her behaviour.

§ 169. Procedural expenses arising from delay of proceeding

(1) A participant in a proceeding who allows the term for performance of a procedural act to expire or causes the changing of the time of performance of a procedural act, postponement of hearing the matter or extension of a term by his or her belated submission of objections or evidence, or in any other manner, covers the additional procedural expenses arising therefrom. A participant in a proceeding may also be ordered to cover, regardless of the outcome of the proceeding, the expenses caused by service of procedural documents if the delay in service was caused by incorrect information entered in the population register, commercial register or non-profit associations and foundations register concerning the person.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) The procedural expenses related to the restoration of a term, filing of a petition to set aside a default judgment or reopening of a proceeding are covered by the person who files the petition for restoration of a term, for setting aside a default judgment or for reopening a proceeding regardless of whether or not the action is satisfied.

(3) The court may decide that the procedural expenses related to the filing and contesting of a petition which was not satisfied or a statement or evidence which was disregarded are covered, regardless of the outcome of the proceeding, by the participant in the proceeding who submitted the petition, statement or evidence.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 170. Expenses related to pre-trial taking of evidence

(1) The legal costs of pre-trial taking of evidence organised for preliminary safeguarding of evidence or preliminary establishment of facts are borne by the person at whose request the proceeding was initiated.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) [Repealed - RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) The costs of pre-trial taking of evidence are taken into consideration upon division of the expenses of the main proceeding.

§ 171. Specifications of covering procedural expenses in higher court

(1) The procedural expenses caused by the filing of an appeal against a court decision, appeal in cassation, appeal against a ruling or petition for review are covered by the person filing the appeal or petition if the appeal or petition is not satisfied.

(2) If the person who filed an appeal against a court decision or an appeal against a ruling wins the case based on a new fact presented thereby although such fact could have been relied on

already in the county court, the court may decide that the party in whose favour the court decided must cover all or a part of the costs related to the appeal against a court decision or appeal against a ruling.

(3) If the defendant against whom a judgment of a county court is made applies for the application of a limitation period in a circuit court and the defendant failed to apply for application of the limitation period in the county court and the circuit court applies the limitation period, the court may decide that the legal costs of the appeal proceeding must be covered by the defendant.

(4) In the case a petition for review is satisfied, the procedural expenses related to the review are deemed to be a part of the procedural expenses of the reviewed matter.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 172. Procedural expenses in proceedings on petition

(1) In a proceeding on petition, the procedural expenses are covered by the person in whose interests the decision is made. If several persons participate in a proceeding on petition, the court may decide that all or a part of the procedural expenses must be covered by a certain participant in the proceeding if this is fair considering the circumstances, including if the participant in the proceeding has submitted an unfounded petition, statement or evidence.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) If only a petitioner participates in a proceeding or unless the court decides that the procedural expenses must be covered by other participants in the proceeding, the procedural expenses are covered by the petitioner, including the costs of the petitioner's representative, even if the petition is satisfied. If an appeal against a ruling is satisfied, the state fee for the appeal against the ruling is refunded pursuant to the provisions of § 150 of this Code.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) The costs of placement of a person in a closed institution and the proceeding related thereto are covered by the state unless the court decides that all or a part of such costs must be covered by the person himself or herself or his or her guardian, because the court considers this to be fair and the person can be presumed to cover the costs. The court may decide that all or a part of the expenses related to a proceeding for appointment of a guardian for a person or annulment thereof or a proceeding for application of measures related to guardianship, likewise of the expenses related to a proceeding in a family matter on petition and imposition of a restraining order or another similar measure for protection of personality rights must be covered by the state.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(4) In a proceeding on petition, the costs arising from application of estate management measures are covered by the successors pursuant to the provisions concerning obligations of the estate provided by the Law of Succession Act.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(5) The expenses of a proceeding for determination of the amount of compensation payable to the partners and shareholders of a company are covered by the person required to pay the compensation. If this is fair considering the circumstances, the court may decide that all or a part of the expenses must be paid by the petitioner.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(6) The expenses of a proceeding of compulsory dissolution of a legal person and appointment of a substitute member of a management board or supervisory board, auditor, auditor for special audit or liquidator of a legal person and the proceeding related thereto are covered by the legal person. If this is fair considering the circumstances, the court may decide that all or a part of the expenses must be paid by the petitioner or another person.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(7) If the court initiates a proceeding on petition on the basis of an action or petition of a person, the court may decide that all or a part of the procedural expenses must be paid by the person if the proceeding is unfounded or was intentionally caused by the person or due to the person's gross negligence. If initiation of a proceeding is possible only based on a petition and the petition is not satisfied, the court decides that the procedural expenses must be covered by the petitioner, unless otherwise provided by law.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(8) In a proceeding on petition, necessary extra-judicial costs are compensated to the participants in the proceeding on the same basis as compensation payable to witnesses. Compensation for extra-judicial costs can be requested only if the court decides that these must be covered by a participant in the proceeding. Covering of extra-judicial costs by the state may be decided only if procedural assistance was granted to a person for covering extra-judicial costs. The above also applies in the case specified in subsection (3) of this section.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(9) The expenses of an expedited procedure in a matter of payment order are covered by the debtor in the case of making a payment order and in the case provided in § 4881 of this Code; and in other cases by the petitioner, unless otherwise provided by law. The provisions concerning procedural expenses in actions apply otherwise. If hearing of a matter of a payment order is continued in actions, the expenses of the expedited procedure in the matter of payment order are included in the procedural expenses for actions.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(10) The state fee payable upon filing a complaint against a decision of a bailiff and filing an application with the court for performance of a notarial act is covered by the participant in the proceeding against whom a decision is made.
[RT I 2010, 26, 128 - entry into force 14.06.2010]

Division 5 Determination of Procedural Expenses

§ 173. Determination of division of procedural expenses in court decision

(1) The court which adjudicates a matter sets out the division of the procedural expenses between the participants in the proceeding in the court judgement or in the ruling on termination of the proceeding, including in a ruling by which a petition in a proceeding on petition or a petition for review is adjudicated or an action or petition in a proceeding on petition or petition for review is not accepted or is refused to be heard or the proceeding in the matter is terminated. The court which is the next to adjudicate the matter sets out in its decision the division of all the procedural expenses which have already been covered. If necessary, the specifications of covering procedural expenses in court instances, including in pre-trial proceedings, are set out.

(2) The division of procedural expenses shall be set out in a court decision even if the participants in the proceeding fail to request it.

(3) If a higher court amends a decision which has been made or makes a new decision without referring the matter for a new hearing, the court amends, where necessary, the division of procedural expenses accordingly. If a higher court annuls a decision of a lower court and refers the matter for a new hearing, including if the Supreme Court satisfies a petition for review, the lower court is granted the right to decide on the division of procedural expenses.

(4) In the division of procedural expenses, the court specifies which procedural expenses are to be covered by each participant in the proceeding, except for the amount of the expenses in money. If necessary, the court determines a proportional division of the procedural expenses between the participants in the proceeding. If several participants in a proceeding, primarily co-plaintiffs or co-defendants, are ordered to cover procedural expenses jointly, the decision shall set out whether they are liable as joint obligors or solidary obligors.

(5) The court does not set out the division of procedural expenses in an interim judgement, in a partial judgement with a reservation concerning set-off and in a judgement with a reservation concerning contestation in documentary proceedings if the court continues to adjudicate these matters in these cases. In such case the division of procedural expenses is prescribed in the final judgement.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 174. Determination of procedural expenses

(1) A participant in a proceeding has the right to demand, within 30 days after the court decision concerning the division of costs enters into force, that the court of first instance which adjudicated the matter determine the procedural expenses in money based on the division of expenses provided in the decision. The court sets this out in the court decision prescribing the division of procedural expenses.

(2) If the matter of annulment of a decision of an arbitral tribunal is adjudicated in the first instance by the circuit court (subsection 755 (4) of this Code), the determination of the

procedural expenses pursuant to the procedure provided for in subsection (1) of this section may be demanded from the same circuit court. If a petition for review is not satisfied, not accepted or refused to be heard or if the proceeding is terminated, the determination of procedural expenses pursuant to the procedure provided for in subsection (1) of this section may be demanded from the Supreme Court.

(3) A petition for determination of the amount to be compensated is filed with the court of first instance which conducted proceedings in the matter, and in the event specified in subsection (2) of this section, with the circuit court or the Supreme Court, respectively. A list of procedural expenses, which sets out the composition of the costs in detail, is annexed to the petition. The petition must contain a confirmation that all the costs have been incurred in connection with the court proceeding.

(4) Compensation of procedural expenses to a participant in a proceeding is not precluded by the fact that these have been covered for the participant in the proceeding by another person.

(5) The court may set a participant in a proceeding a term for specification of the procedural expenses to be compensated for or require a participant in a proceeding to submit documents in proof of the procedural expenses. Documents in proof of the procedural expenses need not be submitted without a demand of the court.

(6) In order to be compensated for the value added tax on procedural expenses, a petitioner must confirm that the petitioner is not a person liable to value added tax or cannot recover the value added tax on the incurred expenses due to any other reason.

(7) A participant in a proceeding only has the right to file a claim against the participant in the proceeding required to cover the procedural expenses for compensation of costs, such as a claim for compensation for damage or similar, in the proceeding for determination of procedural expenses and to an extent determined in such proceeding.

(8) A ruling on determination of procedural expenses may also be made by an assistant judge.
[RT I 2008, 59, 330 - entry into force 01.01.2009]
[RT I, 06.02.2014, 13 - entry into force 04.02.2014 - The decision of the Supreme Court en banc declares subsection 125¹ (2) of the Courts Act and subsection 174 (8) of the Code of Civil Procedure in the part pursuant to which the procedure expenses in a civil proceeding may be determined by a judicial clerk to be in conflict with the Constitution and repealed.]

§ 174[1]. Determination of procedural expenses with division of costs

(1) Upon termination of the proceeding of a matter by way of compromise or due to discontinuance of the action or by making of a judgement based on the admission of the claim by the defendant, the court determines in the ruling on termination of the proceeding or in the decision based on the admission of the claim also the amount of the procedural expenses to be compensated for in money in addition to the division of procedural expenses. The court sets the participants in a proceeding a reasonable term for submission of a list of their procedural expenses before the making of a ruling or judgement.

(2) In the expedited procedure in a matter of payment order the court also determines the amount of the state fee in money to be compensated for in addition to the division of procedural expenses in the payment order or in the ruling on termination of the proceeding due to payment of the debt in the case prescribed in § 488^1 of this Code and orders payment of 20 euros to cover the petitioner's procedural expenses. Other procedural expenses incurred by the petitioner are not subject to compensation in the expedited procedure in a matter of payment order.
[RT I, 29.06.2012, 3 - entry into force 01.01.2013]

(3) The court also determines the procedural expenses to be compensated for by the defendant in a judgement by default at the request of the plaintiff if the plaintiff submits a list of procedural expenses by the due date set by the court.

(4) In the cases specified in subsections (1)–(3) of this section a participant in a proceeding may not demand compensation for costs pursuant to the procedure provided for in subsections 174 (1)–(3) of this Code, unless the court decision by which the procedural expenses were determined or had to be determined is annulled or, in the case of a judgment by default, the proceeding of the matter is reopened.
[RT I 2008, 28, 180 - entry into force 15.07.2008]

§ 175. Compensation of costs of contractual representatives

(1) If, by a court decision determining the division of procedural expenses, a participant in a proceeding is required to cover the costs of the contractual representative of another participant in the proceeding and the participant in the proceeding does not object to the petition for determination of the procedural expenses, the court may confine itself only to verification that the costs of the contractual representative do not exceed the maximum amount established on the basis of subsection (4) of this section. If a petition for determination of procedural expenses is clearly unreasoned or if an objection is filed against the costs of the contractual representative, the court also verifies whether the costs of the contractual representative are reasoned and necessary. A contractual representative is an advocate or another representative who represents a participant in a proceeding in the proceeding pursuant to the provisions of § 218 of this Code.
[RT I, 29.06.2012, 3 - entry into force 01.01.2013]

(2) Only travel expenses are compensated among the costs related to an employee representing a participant in a proceeding. The costs of advisers are not subject to compensation.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) Expenses made on several contractual representatives are compensated if the costs arose due to the complexity of the case or were caused by the need to change representatives.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3^1) The costs for legal assistance incurred by a bailiff in a proceeding for adjudication of a complaint filed against a decision of bailiff and the costs for legal assistance incurred by a notary in a proceeding for adjudication of an application for performance of a notarial act are not subject to compensation.
[RT I 2010, 26, 128 - entry into force 14.06.2010]

(4) The Government of the Republic shall establish the maximum amounts to the extent of which payment of expenses of contractual representatives can be claimed from other participants in the proceeding.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 176. Forwarding of petition for determination of procedural expenses to opposing party

(1) The court serves immediately a petition for determination of procedural expenses together with the list of procedural expenses and proof on the opposing party and sets the opposing party a term of at least seven days as of the date of service of the petition for submission of objections. The term shall not be shorter than the term for submission of petitions for determination of procedural expenses.

(2) If all or a part of the procedural expenses were divided using fractions or percentages, the court requests, after receiving the petition for determination of procedural expenses, that the opposing party submit, within the term specified in subsection (1) of this section, a list of the opposing party's procedural expenses and, where necessary, also the documents in proof thereof.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) If the court receives no objections or response within the term specified in subsection (1) or (2) of this section, the court makes a ruling only concerning the procedural expenses of the petitioner.

(4) The provisions of subsections (1)–(3) of this section do not apply if the procedural expenses are determined pursuant to the procedure provided for in § 1741 of this Code. However, in the case provided for in subsection 174^1 (1) of this Code, other participants in the proceeding are granted a reasonable opportunity to present their position on the list of procedural expenses of the other participants in the proceeding.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 177. Ruling on determination of procedural expenses

(1) A ruling on determination of procedural expenses is served on the participants in a proceeding.

(2) On the basis of a petition of a person requesting the determination of procedural expenses, the court sets out in the decision on determination of procedural expenses that a fine for delay to the extent prescribed in the second sentence of subsection 113 (1) of the Law of Obligations Act shall be paid on procedural expenses to be compensated beginning from the date on which the decision to determine the amount of procedural expenses enters into force until the date of compliance with such decision.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) If the court has not taken a position on all submitted expenses, a participant in the proceeding may request that the court supplement the ruling on procedural expenses. Supplementing of a ruling may be requested within ten days after the service of the ruling.

(4) The court adjudicates the determination of procedural expenses by a ruling without the descriptive part and the statement of reasons if no objections are filed to the court within the term specified in subsection 176 (1) or (2) of this Code and the court satisfies the petition in full.
[RT I, 29.06.2012, 3 - entry into force 01.01.2013]

§ 178. Contestation of determination of procedural expenses

(1) A court decision on division of procedural expenses can be contested only by filing an appeal against the court decision whereby the division of the procedural expenses was determined. If the amount of procedural expenses to be compensated was determined together with the division of procedural expenses, the amount of procedural expenses to be compensated can be contested by filing an appeal against this court decision.
[RT I 2008, 28, 180 - entry into force 15.07.2008]

(2) A person who requests the determination of procedural expenses and is ordered to cover such expenses has the right to file an appeal against a ruling on determination of procedural expenses or a ruling whereby such ruling is supplemented if the value of the appeal exceeds 200 euros.
[RT I 2010, 22, 108 - entry into force 01.01.2011]

(3) The expenses incurred upon the conduct of proceedings in the matter of an appeal against a ruling specified in subsection (2) of this section are not subject to compensation.

§ 179. Ordering payment and collection of procedural expenses in favour of Republic of Estonia

(1) Procedural expenses which must be paid to the state and which do not arise from the state's participation in a proceeding as a participant in the proceeding, including state fees which have not been paid or have been paid in an amount less than required or expenses for procedural assistance ordered to be paid in favour of the state, are ordered by the court adjudicating the matter to be paid by the obligated person in a decision made on the matter or by a separate ruling.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) After entry into force of the decision made on the matter, both the court in which proceeding the expenses arose and the county court which adjudicated the matter may order payment of the expenses specified in subsection (1) of this section by a ruling. A ruling shall not be made if more than two years have passed from entry into force of the court decision made on the matter.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) A person required to pay procedural expenses or the Republic of Estonia through the agency designated by a regulation of the Minister of Finance may file an appeal against a ruling of a county court or circuit court specified in subsections (1) and (2) of this section if the value of the appeal exceeds 64 euros. A ruling of a circuit court concerning an appeal against a ruling of a county court is not subject to appeal to the Supreme Court.
[RT I, 28.12.2011, 1 - entry into force 01.01.2012]

(4) After entry into force of a decision for ordering, in favour of the state, payment of procedural expenses which do not arise from the state's participation in the proceeding as a participant in the proceeding or a ruling which imposes a fine or another such decision on collection of money, the court sends immediately a transcript thereof to the agency designated by a regulation of the Minister of Finance.
[RT I, 28.12.2011, 1 - entry into force 01.01.2012]

(5) A person obligated, based on a court decision, to pay money into public revenues must comply with the decision within 15 days after entry into force of the decision unless the decision is subject to immediate enforcement or another term is prescribed by the decision.

(5^1) The procedural expenses specified in this subsection are paid and set off pursuant to the procedure specified in the Taxation Act.
[RT I, 31.01.2014, 6 - entry into force 01.04.2014]

(6) If the obligated person fails to comply with the court decision specified in subsection (4) of this section, the agency designated by a regulation of the Minister of Finance may refer the decision to compulsory enforcement.
[RT I, 28.12.2011, 1 - entry into force 01.01.2012]

(7) The claim for payment of procedural expenses which do not arise from the state's participation in the proceeding as a participant in the proceeding ordered to be paid in favour of the state by a court decision and the claim to comply with a ruling which imposes a fine or another such decision on collection of money expire three years after entry into force of the decision on ordering payment of money. The provisions of the General Part of the Civil Code Act concerning expiry of claims apply to the expiry of a claim.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(8) The provisions of § 209 of the Code of Enforcement Procedure concerning the enforcement of public claims for payment apply to the collection of claims specified in subsection (7) of this section unless otherwise provided by this section.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(9) Upon delaying with payment of the claim specified in subsection (7) of this section, a penalty for late payment to the extent prescribed in the second sentence of subsection 113 (1) of the Law of Obligations Act shall be paid beginning from the date of entry into force of the decision whereby payment of the procedural expenses was ordered until the date of compliance with such decision. The court also set this out in the decision whereby payment of procedural expenses is ordered.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

Division 6 Grant by State of Procedural Assistance for Covering Procedural Expenses

§ 180. Grant by state of procedural assistance for covering procedural expenses

(1) Procedural assistance means assistance by the state for covering procedural expenses. At the request of a person (hereinafter *recipient of procedural assistance*), the court may order that, as procedural assistance, a recipient of procedural assistance:

1) is released, in part or in full, from payment of the state fee or security, or from covering other legal costs or the costs of translating procedural documents or the court decision,

2) may pay the state fee or security, or other legal costs or the costs of translating procedural documents or the court decision in instalments within the term prescribed by the court;
[RT I 2010, 26, 128 - entry into force 14.06.2010]

3) is not required to pay for the legal aid provided by an advocate appointed by way of procedural assistance or is not required to pay it immediately or in full;

4) is released, if the recipient of procedural assistance is a claimant, from all or a part of the expenses related to enforcement proceedings on account of the Republic of Estonia or the costs of service of procedural documents through a bailiff in court proceedings, or payment of such expenses in instalments is prescribed within a term provided by the court;

5) is released from covering the costs related to the exercising of guardianship and from payment of remuneration to a guardian in full or in part on account of the Republic of Estonia;

6) is released, in part or in full, from payment of expenses related to mandatory pre-trial proceedings, or payment thereof in instalments is prescribed within a term provided by the court;
[RT I 2008, 59, 330 - entry into force 01.01.2009]

7) is released from all or part of the costs of conciliation proceedings on account of the Republic of Estonia in the case provided in subsection 4 (4) of this Code.
[RT I 2009, 59, 385 - entry into force 01.01.2010]

(2) Upon grant of procedural assistance in Estonia, a participant in a proceeding who is a citizen of another Member State of the European Union or who has residence in another Member State of the European Union may be released, on account of the Republic of Estonia, from covering the cost of translation of a document requested by the court and submitted by the person applying for procedural assistance, or he or she may be ordered to pay such costs in instalments within a term set by the court, provided that such document is necessary for adjudicating the matter.

(3) Upon grant of procedural assistance in Estonia, a participant in a proceeding who is a citizen of another Member State of the European Union or who has residence in another Member State of the European Union may be released from covering his or her travel expenses, or he or she may be ordered to pay such costs in instalments, provided that the need for the participant in the proceeding to be present in person is provided by law or the court deems it necessary.

(4) The provisions of this Division apply to the grant of procedural assistance for payment for legal aid provided by advocates (state legal aid) only insofar as the State Legal Aid Act does not provide otherwise.

§ 181. Conditions for grant of procedural assistance

(1) Procedural assistance is granted to the person requesting procedural assistance if:
1) the person requesting procedural assistance is unable to pay the procedural expenses due to his or her financial situation or is able to pay such expenses only in part or in instalments; and
2) there is sufficient reason to believe that the intended participation in the proceeding will be successful.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) Participation in a proceeding is presumed to be successful if the petition for the filing of which procedural assistance is requested sets out, to a legally satisfactory extent, the grounds therefor and the facts in proof thereof. The importance of the matter to the person requesting procedural assistance is also taken into consideration upon evaluating the success of the person's participation in the proceeding.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) A person is not granted procedural assistance if the person's participation in the proceeding is unreasonable and, above all, if that which is petitioned by him or her can be achieved in an easier, more expeditious or less costly manner.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3^1) If it appears upon a review of an application for procedural assistance that there are no grounds for granting procedural assistance due to the financial situation of the applicant, but the court finds that payment of the entire payable state fee at once hinders unreasonably, considering the circumstances of the specific case, the person's right of recourse to the court to protect his or her right or interest which is presumed and protected by law, the court may determine by way of procedural assistance that the state fee payable on the statement of claim or appeal is paid in instalments within the term provided by the court.
[RT I 2010, 26, 128 - entry into force 14.06.2010]

(4) Procedural assistance is not granted to a petitioner in the expedited procedure in a matter of payment order or for payment of a state fee payable on an entry application in a registry matter.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(5) The success or reasonableness of participation in the proceeding is not evaluated upon requesting procedural assistance for translation of a procedural document or court decision. Procedural assistance is not granted for the translation of procedural documents other than a court decision if a person is represented in the proceeding by a representative.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 182. Restrictions upon grant of procedural assistance to natural persons

(1) Procedural assistance is granted to a participant in a proceeding who is a natural person and who, at the time of filing the petition for grant of procedural assistance, has residence in the Republic of Estonia or another Member State of the European Union or is a citizen of the Republic of Estonia or another Member State of the European Union. Determination of the place

of residence within the meaning of this Division shall be based on Article 59 of EU Council Regulation 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters. Other participants in the proceeding who are natural persons are granted procedural assistance only if this arises from an international agreement.

(2) Procedural assistance is not granted to a natural person if:
1) the procedural expenses are not presumed to exceed twice the average monthly income of the person requesting procedural assistance calculated on the basis of the average monthly income of the last four months before the submission of the petition, from which taxes and compulsory insurance payments and amounts prescribed to fulfil a maintenance obligation arising from law, likewise reasonable expenses on housing and transport have been deducted;
[RT I 2008, 59, 330 - entry into force 01.01.2009]
2) the person requesting procedural assistance is able to cover the procedural expenses out of the existing assets which can be sold without any major difficulties and against which a claim for payment can be made pursuant to law;
3) the proceeding concerns the economic or professional activity of the person requesting procedural assistance and is not related to his or her rights which are not connected to his or her economic or professional activity.
[RT I, 10.11.2011, 5 - entry into force 01.11.2011 Decision of the Constitutional Review Chamber of the Supreme Court declares to be in conflict with the Constitution and repeals clause 182 (2) 3) of the Code of Civil Procedure in the part that it excludes the provision of procedural assistance to natural persons for the release, in part or in full, from payment of the state fee on recourse to the court if the proceeding concerns the economic or professional activity of the person requesting procedural assistance and is not related to his or her rights which are not connected to his or her economic or professional activity.]
[RT I, 21.04.2011, 17 - entry into force 14.04.2011 Decision of the Supreme Court en banc declares to be in conflict with the Constitution and repeals clause 182 (2) 3) of the Code of Civil Procedure in the part that it excludes the provision of procedural assistance to natural persons for the release, in part or in full, from payment of the state fee on the appeal if the proceeding concerns the economic or professional activity of the person requesting procedural assistance and is not related to his or her rights which are not connected to his or her economic or professional activity.]

(2^1) In the case of clauses (2) 1) and 2) of this section, the procedural expenses which may arise upon appealing against a decision made in the proceeding are not accounted for. The assets specified in clause (2) 2) of this section also include joint property to the extent that it may be presumed that the joint owners might reasonably use it to cover procedural expenses.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) The provisions of subsection (2) of this section do not preclude the granting of procedural assistance if the person requesting procedural assistance has residence in another Member State of the European Union and proves that he or she is unable to cover the procedural expenses immediately or in full due to subsistence expenses in the state of residence which are higher than in Estonia.

(4) Upon grant of procedural assistance, including state legal aid, in a proceeding conducted on the basis of Council Regulation (EC) No 4/2009 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations, the provisions of this Code concerning the grant of procedural assistance apply only to the extent that the specified regulation does not provide otherwise.
[RT I, 14.03.2011, 2 - entry into force 18.06.2011]

§ 183. Restrictions upon grant of procedural assistance to legal persons and bankrupts

(1) Of legal persons, only non-profit associations or foundations entered in the list of non-profit associations or foundations benefiting from income tax incentives or non-profit associations or foundations equal thereto which have a seat in Estonia or another Member State of the European Union have the right to apply for procedural assistance in order to achieve their objectives, provided that the applicants substantiate that they are applying for procedural assistance in the field of environmental or consumer protection or taking account of another predominant public interest in order to prevent possible damage to the rights protected by law of a large number of persons, provided that they cannot be presumed to cover the costs out of their assets or are able to pay for them only in part or in instalments. Other foreign legal persons are granted procedural assistance only on the basis of an international agreement.
[RT I, 21.04.2011, 16 - entry into force 12.04.2011 Decision of the Supreme Court en banc declares to be in conflict with the Constitution and repeals the first sentence of subsection 183 (1) of the Code of Civil Procedure in the part that it excludes the provision of procedural assistance in a civil proceeding to Estonian legal persons in private law not satisfying the criteria specified in this provision for the release, in part or in full, from payment of the state fee on the appeal.]

(2) An Estonian bankrupt may apply for grant of procedural assistance in covering the procedural expenses if no possibility or good reason exists to cover such costs out of the assets managed by the trustee in bankruptcy and the costs cannot be presumed to be covered by the persons who have proprietary interest in the matter and, among other, by the successors, members, partners or shareholders, or members of a directing body of the bankruptcy debtor, or by the creditors in the bankruptcy. Procedural assistance designated to cover the remuneration and expenses of a trustee in bankruptcy which are not ordered to be paid into the public revenues shall not exceed 397 euros.
[RT I 2010, 22, 108 - entry into force 01.01.2011]

(3) A bankrupt may also request the grant of state legal aid in the case specified in subsection (2) of this section. An additional prerequisite for the grant of state legal aid is that the trustee in bankruptcy cannot perform the requested procedural act himself or herself or he or she cannot be presumed to do it considering his or her qualifications and tasks.
[RT I 2006, 7, 42 - entry into force 04.02.2006]

§ 184. Submission of application for procedural assistance and continued provision of procedural assistance

(1) An application for procedural assistance is filed with the court which conducts or should conduct the proceedings for covering the costs for which the procedural assistance is requested.

(2) An application for procedural assistance for covering the expenses arising from an enforcement proceeding is filed with the court which would adjudicate a complaint against the action of a bailiff organising the enforcement proceeding, and an application for procedural assistance for covering the expenses arising from pre-trial proceedings is filed with the court within the territorial jurisdiction of which the pre-trial proceedings takes place.

(3) The court specified in subsections (1) and (2) of this section is also the authority receiving applications for procedural assistance for the purposes of Article 14 of EU Council Directive 2003/8/EC to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes (OJ L 026, 31.01.2003, pp. 41–47). The court shall not demand legalisation of the application or official certification thereof in another manner.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(4) If a participant in a proceeding has been granted procedural assistance and the person files an appeal against a court decision, the provision of procedural assistance is presumed to continue in every following court instance. However, upon accepting an appeal, the court verifies whether there is sufficient reason to presume that the intended participation in the proceeding will be successful and that the participation in the proceeding is clearly not unreasonable and the court has the right to verify in every court instance whether the economic prerequisites for the grant of procedural assistance have been complied with. The success or reasonableness of participation in the proceeding is not verified if the court decision has already been appealed by another participant in the proceeding and the appeal has been accepted.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(5) In the case specified in subsection (4) of this section, if the court so requests, the recipient of procedural assistance shall provide explanations on whether or not his or her financial situation has changed and shall submit corresponding proof. Where necessary, the court has the right, among other, to request information on the financial situation or solvency of the recipient of procedural assistance or of his or her family members from the Tax and Customs Board, credit institutions and other persons or agencies.

(6) If a claimant who has been granted procedural assistance in the proceeding of the matter also requests procedural assistance for covering the costs of an enforcement proceeding, the court need not verify additionally whether the economic prerequisites for the grant of procedural assistance have been complied with. The court shall verify the existence of all the prerequisites for the grant of procedural assistance if procedural assistance is requested later than within one year after entry into force of the decision made in the proceeding.

§ 185. Content of application for procedural assistance

(1) An application for procedural assistance sets out:
1) the proceeding for which procedural assistance is requested;
2) the status or desired status of the applicant in the proceeding and the petitions and requests which the applicant wishes to file;
3) the grounds on which the claim or objection of the applicant is based.

(2) An applicant appends to the application a signed statement which sets out his or her personal status and financial situation (relationship under family law, profession, assets, income and obligations) and provides the same information concerning his or her family members, and if possible, also submits other documents in proof of such situation.

(3) If a person's residence is not in Estonia, he or she appends to the application a statement concerning the income of the person and members of his or her family during the last three years from the competent authorities of the person's state of residence. If the applicant is unable to submit the statement with good reason, provision of procedural assistance may be decided without the statement.

(4) An applicant who is a legal person appends to the application for legal assistance, if possible, a transcript of the articles of association or statutes, and a certified transcript of the approved annual report for the preceding financial year.

(5) Sample forms for the application for procedural assistance and the statement specified in subsection (2) of this section, and a list of data to be contained therein shall be established by a regulation of the Minister of Justice, and the forms for the application for procedural assistance and statement shall be freely accessible to everybody on the website of the Ministry of Justice as well as in each court and advocate's law office. The Minister of Justice may also establish requirements for the documents which provide the grounds for the application to be submitted by an applicant.

(6) An application for procedural assistance is submitted in Estonian. An application may also be submitted in English if procedural assistance is requested by a natural person who has residence in another Member State of the European Union, is a citizen of another Member State of the European Union, or is a legal person whose seat is in another Member State of the European Union.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 186. Assessment of financial situation of applicant

(1) Upon assessing the financial situation of an applicant, his or her assets and income and the assets and income of family members who live together with the applicant, the number of persons maintained by the applicant, reasonable housing expenses and other relevant circumstances are taken into consideration.

(2) Upon assessing the financial situation of an applicant, the assets belonging to the applicant which, pursuant to law, cannot be subject to a claim for payment are not taken into consideration. Housing or a necessary vehicle belonging to an applicant for procedural assistance which is used daily by him or her and family members who live together with the applicant are not taken into consideration if the number and value of the housing and vehicles equitably correlate to the size, driving needs and income of the family.

(3) If an applicant for procedural assistance applies for procedural assistance in order to file a claim against a family member who lives together with him or her, neither the income of the said family member nor assets belonging to him or her are taken into consideration upon assessing the financial situation of the applicant.

(4) [Repealed - RT I 2006, 7, 42 - entry into force 04.02.2006]

(5) The court may request certification of submitted data or provision of additional documents or data from an applicant for procedural assistance, or request information on the financial situation or solvency of the applicant and family members living together with him or her from other persons or agencies, among others, from credit institutions. An inquiry must be responded to within the term set by the court.

(6) If an applicant fails to submit certified data concerning his or her personal status or financial situation, fails to reply to posed questions or gives incomplete replies, the court refuses to grant the person procedural assistance to the extent which is not substantiated.

(7) The Tax and Customs Board submits, at the request of a court, a statement concerning the income of an applicant for procedural assistance and members of his or her family during the last year or a statement concerning the lack of information on the income of an applicant for state legal aid and members of his or her family. A form for the statement shall be established by a regulation of the Minister of Finance.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(8) Upon the existence of technical means, the court must be provided with an opportunity to independently check the data necessary for evaluating applicants' financial situation from the databases of the Tax and Customs Board or a person or agency specified in subsection (5) of this section.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 187. Adjudication of application for procedural assistance

(1) An application for procedural assistance is adjudicated by a ruling. Where necessary, the court may seek the position of other participants in the proceeding before adjudication of the application.

(2) The court sends a transcript of a ruling on grant of procedural assistance immediately to the Ministry of Finance or to an agency in the area of administration of the Ministry of Finance designated by the Minister of Finance.

(3) If an application for procedural assistance was forwarded to the court by an agency of another Member State of the European Union which is competent to forward applications for procedural assistance, the court sends a transcript of the ruling made concerning the grant of procedural assistance also to such agency.

(4) An application for procedural assistance may also be adjudicated by an assistant judge.
[RT I 2005, 39, 308 - entry into force 01.01.2006]

(5) An application for the grant of procedural assistance does not suspend the running of the procedural term provided by law or set by the court. However, the court extends reasonably the term set by the court, in particular the term set for responding to an action, appeal or petition after adjudication of the application for the grant of procedural assistance if the application for the grant of procedural assistance was not submitted without good reason or for the purpose of extending the term.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(6) For compliance with the term provided by law, the applicant for procedural assistance shall, within the term, also perform the procedural act for which procedural assistance is requested, above all, file an appeal. A reasonable term for substantiation of the appeal or payment of the state fee or correction of such a omission in the appeal which is related to the request for procedural assistance is set by the court after adjudication of the application for procedural assistance if the specified application was not submitted without good reason or for the purpose of extending the term. This does not preclude the restoration of the procedural term.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 188. Suspension of payment of instalments and amendment of size of instalments

(1) If by way of procedural assistance, the court has ordered payment of procedural expenses in instalments, the court suspends payment of the instalments by a ruling, if:
[RT I 2008, 59, 330 - entry into force 01.01.2009]
1) it is evident that the payments hitherto made by the recipient of procedural assistance cover the procedural expenses;
[RT I 2008, 59, 330 - entry into force 01.01.2009]
2) a decision on the basis of which the procedural expenses must be paid by another participant in the proceeding enters in force.

(2) The court does not suspend payment of the instalments pursuant to clause (1) 2) of this section if the participant in the proceeding who is obligated to cover the procedural expenses based on a court decision has also been granted procedural assistance for covering procedural expenses, or if it is evident, due to another reason, that such participant in the proceeding is not able to cover the expenses.

(3) The court may amend the size and term for payment of the instalments of procedural expenses by a ruling if the financial situation of the recipient of procedural assistance has changed significantly. If the court so requests, the recipient of procedural assistance shall explain whether or not his or her financial situation has changed and shall submit corresponding proof.

Where necessary, the court has the right, among other, to request information on the financial situation or solvency of the recipient of procedural assistance or of his or her family members from the Tax and Customs Board, credit institutions and other persons or agencies.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(4) The provisions of subsection (3) of this section apply if the person, who is the recipient of procedural assistance, changes due to legal succession, including if the plaintiff who has received procedural assistance assigns the claim for the filing of which he or she has received procedural assistance and the legal successor is not entitled to procedural assistance to the same extent.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 189. Revocation of grant of procedural assistance

(1) The court may revoke the grant of procedural assistance if:
1) the recipient of procedural assistance has provided incorrect information in the application for procedural assistance;
2) the conditions for receipt of procedural assistance did not exist or have ceased to exist, including if the person, who is the recipient of procedural assistance, changes due to legal succession and the legal successor is not entitled to receive procedural assistance;
[RT I 2008, 59, 330 - entry into force 01.01.2009]
3) the recipient of procedural assistance has not paid the instalments ordered by the court for a period of more than three months;
4) the recipient of procedural assistance fails to provide explanations concerning a change in the financial situation thereof as requested by the court, or fails to submit the required proof.

(2) In the case of revocation of procedural assistance, the participant in the proceeding who received procedural assistance covers the procedural expenses thereof to the full extent.

§ 190. Grant of procedural assistance and division of procedural expenses

(1) Grant of procedural assistance does not preclude or restrict the obligation of the recipient of procedural assistance to compensate, based on a court decision, the costs incurred by the opposing party.

(2) The participant in a proceeding against whom a decision is made covers the procedural expenses thereof to the full extent also if the participant in the proceeding is released from payment of procedural expenses or the participant in the proceeding has been granted procedural assistance for covering the procedural expenses.

(3) If an action is satisfied, the court orders payment into the public revenues by the defendant, in proportion to the part of the action which is satisfied, of the procedural expenses from the covering of which the plaintiff was released or which the plaintiff was allowed to pay in instalments, regardless of whether the defendant received procedural assistance for covering procedural expenses. The same applies to the grant of procedural assistance to a third person participating in the proceeding in support of the plaintiff if the action is satisfied.

(4) If a plaintiff, or a third party participating in the proceeding in support thereof, or a petitioner in a proceeding on petition received procedural assistance for covering procedural expenses and the action or petition is not satisfied or the hearing is refused or the proceeding of the matter is terminated, such person is ordered to pay procedural expenses into the state revenues to the full extent. If the plaintiff discontinues or withdraws an action because the defendant satisfied the claim after the action was filed, the provisions of subsection (3) of this section apply.

(5) If the defendant or a third party participating in the proceeding in support thereof received procedural assistance for covering procedural expenses and the action is satisfied, such person is ordered to pay procedural expenses into the state revenues to the full extent. If an action is not satisfied or the hearing is refused or the proceeding of the matter is terminated, the court orders payment into the public revenues by the plaintiff, in proportion to the part of the action which was not satisfied, of the procedural expenses, from the payment of which the defendant or a third party participating in the proceeding in support thereof has been released or which the defendant or a third party participating in the proceeding in support thereof was allowed to pay in instalments, regardless of whether the plaintiff received procedural assistance for covering procedural expenses.

(6) If a participant in a proceeding was granted procedural assistance for covering procedural expenses in a proceeding on petition, the court may order payment of the procedural expenses into the state revenues by another participant in the proceeding on the conditions provided for in subsection 172 (1) of this Code.

(7) The court may prescribe in the court decision specified in subsections (3)–(6) of this section, with good reason, *inter alia* due to settlement of a matter by compromise, a later due date for payment of expenses into the state revenues or payment in instalments within the term set by the court, and it may also release a person from the obligation to pay procedural expenses into the state revenues.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(7^1) If pursuant to the State Fees Act a rate of the state fee which is lower than the full rate of the state fee is established for the filing of an action or appeal through the website www.e-toimik.ee, payment of the state fee into the public revenues is ordered at the lower rate of the state fee on the basis of the provisions of this section.
[RT I, 29.06.2012, 3 - entry into force 01.07.2012]

(8) If a participant in a proceeding was granted procedural assistance, including state legal aid, in a proceeding conducted on the basis of Council Regulation (EC) No 4/2009 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations, the provisions of this Code concerning the division of procedural expenses apply only to the extent that the specified regulation does not provide otherwise.
[RT I, 14.03.2011, 2 - entry into force 18.06.2011]

§ 191. Filing of appeal against ruling on procedural assistance

(1) An applicant for or recipient of procedural assistance or the Republic of Estonia through the Ministry of Finance or an agency within the area of administration of the Ministry of Finance designated by the Minister of Finance may file an appeal against a ruling of a county court or circuit court on grant of or refusal to grant procedural assistance, or a ruling on amendment or revocation of either of the above rulings. A ruling of a circuit court concerning an appeal against a ruling of a county court is not subject to appeal to the Supreme Court.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) A ruling on procedural assistance is not subject to appeal if the court decision made in the civil matter has entered into force.

(3) The costs related to processing of an appeal against a ruling are not subject to compensation.

(4) The provisions of § 179 of this Code apply to the rulings specified in subsections 190 (3)–(6) of this Code, whereby payment of procedural expenses into the state revenues by a participant in the proceeding is ordered, and to the filing of appeals against such rulings.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 192. Grant of procedural assistance for proceedings conducted in other Member States of European Union

Procedural assistance for ensuring legal aid by an advocate or for the translation of an application and appendixes thereof may be applied for, pursuant to §§ 33 and 34 of the State Legal Aid Act, from Harju County Court in the case of a proceeding conducted in another Member State of the European Union.

§ 193. Intermediation of applications for grant of procedural assistance to other Member States of European Union

(1) A person entitled to receive procedural assistance pursuant to the provisions of this Division may apply, by the intermediation of Harju County Court, for the grant of procedural assistance in a proceeding conducted in another Member State of the European Union.

(2) For the purpose of forwarding an application for procedural assistance, the application together with the documents appended thereto are submitted to the court in a language of the Member State in which the grant of procedural assistance is applied for, provided that the language is an official language of the European Union or that the Member State agrees to the use of such language pursuant to Article 14(3) of Directive 2003/8/EC.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) The court assists an applicant for procedural assistance upon applying for procedural assistance in another Member State of the European Union by verifying that all the documents which, according to the information at the disposal of the court, are necessary for adjudicating the application have been appended to the application and arranging, where necessary, for the

translation of the application and documents. The documents need not be legalised or officially certified in another manner.

(4) The court adjudicates an application for forwarding an application for procedural assistance by way of a proceeding on petition. The court may make a reasoned ruling on refusal to forward an application for procedural assistance if the application is clearly unfounded or evidently does not fall within the area of application of Directive 2003/8/EC.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(5) The court forwards an application for procedural assistance together with additional documents to the agency of the corresponding Member State of the European Union competent to receive such application within 15 days after the receipt or formalisation of the application and the additional documents in a language conforming to the requirements.

(6) Forwarding of applications for procedural assistance is not subject to a state fee. If an application for procedural assistance is not satisfied, the court may order, by a ruling, payment of other procedural expenses and, above all, of translation and interpretation fees by the person who submitted the application.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(7) An applicant may file an appeal against a ruling on refusal to forward the application. A ruling made by a circuit court concerning an appeal against a ruling is not subject to appeal to the Supreme Court.

(8) The Minister of Justice shall establish, by a regulation, standard forms for the applications for receipt of procedural assistance in other Member States of the European Union and for the forwarding thereof prescribed by Article 16(1) of Directive 2003/8/EC. If the standard forms exist, the applicant and the forwarder of the application shall use these.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(9) If an agency of another Member State of the European Union competent to receive an application rejects an application for the grant of procedural assistance due to the financial situation of the applicant or notifies of its intention to reject the application, the court issues, at the request of the applicant, a statement on the financial situation to him or her if he or she would be entitled to procedural assistance due to his or her financial situation in Estonia and forwards the statement as a supplement to the application and in the same language as the application to the agency competent to receive the application.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

Chapter 19 SECURITY

§ 194. Manner of provision of security and amount of security

(1) If law prescribes the obligation of a party to provide a security, the court determines the manner of providing the security and the amount thereof. If the court has failed to do so and the parties have not agreed otherwise, a security is provided by depositing money or securities in the

account prescribed for such purpose, or as an irrevocable and unconditional guarantee issued for an unspecified term by a credit institution of Estonia or another Member State of the European Union for the benefit of the other party.
[RT I, 31.01.2014, 6 - entry into force 01.04.2014]

(2) Securities having a market price may be used as a security. Securities are accepted as a security to an extent not higher than 3/4 of their market price.

(3) The provisions of the Law of Obligations Act concerning deposits apply to the making of deposits.
[RT I, 31.01.2014, 6 - entry into force 01.04.2014]

(4) Information concerning the account required for making a deposit is published on the website of the court.
[RT I, 31.01.2014, 6 - entry into force 01.04.2014]

§ 195. Return of security

(1) If the reason for provision of security ceases to exist, the court which required the security or enabled the provision thereof returns the security based on a petition by the person who provided the security. If the security was provided in the form of a guarantee, the court orders termination of the guarantee.

(2) Before making a ruling, the court sends the petition for the return of security to the party for whose benefit the security was provided for obtaining the position thereof.

(3) The petitioner may file an appeal against a ruling on refusal to return the security. The party for whose benefit a security was provided has the right to file an appeal against a ruling on return of the security.

§ 196. Provision of security for covering procedural expenses

(1) In an action, the court may require at the request of the defendant that the plaintiff provide a security to cover the expected procedural expenses of the defendant if:
1) the plaintiff is not a citizen of the Republic of Estonia, another Member State of the European Union or a state which is a contracting party to the EEA Agreement and he or she has no residence in Estonia, another Member State of the European Union or a state which is a contracting party to the EEA Agreement;
[RT I 2008, 59, 330 - entry into force 01.01.2009]
2) the plaintiff is a legal person whose seat is not in Estonia, another Member State of the European Union or a state which is a contracting party to the EEA Agreement;
[RT I 2008, 59, 330 - entry into force 01.01.2009]
3) due to the plaintiff's economic situation or for another reason, collection of the expected procedural expenses of the defendant is clearly impracticable and, above all, in the cases where the plaintiff has been declared bankrupt, a bankruptcy proceeding has been initiated against the plaintiff or if, within the year prior to the filing of the action, an enforcement proceeding has

been conducted in respect of the plaintiff's property and the claim filed in the enforcement proceeding was not satisfied.

(2) The court has no right to require the provision of a security from the plaintiff if the plaintiff has sufficient assets in Estonia to cover the procedural expenses or has claims in Estonia which are sufficiently secured by real rights. In the cases specified in clauses (1) 1) and 2) of this section, the court has no right to require the provision of a security by the plaintiff if:
1) based on an international agreement, a security cannot be demanded;
2) the decision on compensation of the procedural expenses to the defendant is subject to enforcement in the country of residence or seat of the plaintiff.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2^1) If the prerequisites for requiring a security are fulfilled, the court may still not require the security in full or in part or order its payment in instalments if the plaintiff due to economic or other reasons cannot be reasonably expected to provide a security and refusal to hear the action may result in grave consequences for the plaintiff or if requiring a security would be unfair in respect of the plaintiff due to another reason.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) The defendant may also require a security from the plaintiff specified in subsection (1) of this section if the prerequisites for the provision of a security arise only in the course of the proceeding unless the defendant admits the action. If it becomes evident in the course of a proceeding that the provided security is not sufficient, the defendant may require an additional security.

(4) The plaintiff may file an appeal against the ruling of the county court or circuit court which ordered the provision of a security. A ruling of a circuit court concerning an appeal against a ruling of a county court is not subject to appeal to the Supreme Court.

§ 197. Setting of term for provision of security

In the case specified in § 196 of this Code, the court sets the plaintiff a term for the provision of a security to cover the expected procedural expenses of the defendant. If the plaintiff fails to provide a security within such term, the court refuses to hear the action at the request of the defendant.

Part 4 PARTICIPANTS IN PROCEEDING AND THEIR REPRESENTATIVES

Chapter 20 GENERAL PROVISIONS

§ 198. Participants in proceeding

(1) The following are participants in a proceeding:
1) in actions – the parties and third parties;
2) in a proceeding on petition – the petitioner and other persons to whom the matter pertains.

(2) In the cases prescribed by law, a person or agency entitled to protect public interest is also a participant in a proceeding.

(3) In a proceeding on petition, the court involves the participants at its own initiative. It is presumed that the persons who are entitled by law to appeal against a ruling made in a proceeding on petition are the participants in the proceeding. A person is not a participant in a proceeding solely for the reason that he or she must be heard pursuant to law or that the court considers it necessary. The court may also involve other persons or agencies in a proceeding to provide a position if this is necessary in the opinion of the court for more correct adjudication of the matter.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 199. Rights of participants in proceeding

(1) The participants in a proceeding have the right to:
1) examine the file and obtain transcripts thereof;
2) know the composition of the court adjudicating the matter;
3) file petitions of challenge and submit requests;
4) submit statements and reasoning to the court concerning all questions which arise in the course of hearing the matter in court;
5) submit evidence and participate in the inspection and examination of evidence;
6) contest petitions and reasoning submitted by other participants in the proceeding;
7) submit questions to other participants in the proceeding, witnesses and experts;
8) receive certified transcripts of court judgments prepared as documents.

(2) The participants in a proceeding also have other procedural rights provided for in this Code.

§ 200. Obligations of participant in proceeding

(1) A participant in a proceeding is required to exercise the procedural rights in good faith.

(2) A court does not allow the participants in a proceeding, their representatives or advisers to abuse their rights, delay the proceeding or mislead the court.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) [Repealed - RT I 2008, 59, 330 - entry into force 01.01.2009]

(4) A participant in a proceeding and a representative thereof shall immediately inform the court and other participants in the proceeding of any changes to the address or telecommunications numbers thereof, including temporary changes thereto, during the court proceeding.
[RT I, 29.06.2012, 3 - entry into force 01.01.2013]

§ 201. Passive civil procedural legal capacity

(1) Passive civil procedural legal capacity is the capacity of a person to have civil procedural rights and discharge civil procedural obligations.

(2) Every person who has passive legal capacity under civil law has passive civil procedural legal capacity. Foreign associations of persons, foreign agencies and international organisations whose passive legal capacity is recognised in Estonia based on the provisions of private international law also have passive civil procedural legal capacity.

§ 202. Active civil procedural legal capacity

(1) Active civil procedural legal capacity is the capacity of a person to exercise civil procedural rights and perform civil procedural obligations in court by the person's acts.

(2) Persons with restricted active legal capacity do not have active civil procedural legal capacity, except if the restriction of active legal capacity of an adult does not relate to the exercise of civil procedural rights and performance of civil procedural obligations. A minor of at least 15 years of age has the right to participate in a proceeding together with his or her legal representative.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) If an adult with active civil procedural legal capacity is represented in a proceeding by his or her guardian, the represented person is deemed to have no active civil procedural legal capacity.

(4) In a proceeding for establishment of guardianship for an adult with restricted active legal capacity, the person with respect to whom establishment of guardianship is requested has active civil procedural legal capacity. In a proceeding for placing a person in a closed institution, the person has active civil procedural legal capacity regardless of his or her age, unless he or she is less than fourteen years of age.

§ 203. Active civil procedural legal capacity of aliens

An alien who, according to the law of his or her state, has no active civil procedural legal capacity, is deemed to have active civil procedural legal capacity if he or she has such capacity under Estonian law.

§ 204. Verification of passive civil procedural legal capacity and active civil procedural legal capacity

(1) The court verifies the existence of the passive civil procedural legal capacity and active civil procedural legal capacity of the participants in a proceeding and in the case of absence thereof does not permit the person to participate in the proceeding.

(2) If the court has doubts regarding the active civil procedural legal capacity of a participant in a proceeding who is a natural person, the court may demand that the person provide a doctor's opinion or to order an expert assessment. If the person refuses to comply with the directions of the court or the documents submitted fail to remove the doubts of the court, the court initiates a proceeding for appointing a guardian for the participant in the proceeding. If initiation of a proceeding for appointment of a guardian for a plaintiff, petitioner or appellant is impossible, the court refuses to hear the petition or appeal.

(3) The court may also permit a participant in a proceeding with no active civil procedural legal capacity to participate in the proceeding if prevention of participation in the proceeding endangers an essential interest of a participant in the proceeding. In such event, the court sets the person a term for appointment of a representative. A court decision on termination of the proceeding shall not be made in the proceeding before the expiry of such term.

(4) If the court has doubts regarding the active legal capacity of a participant in a proceeding, the court informs immediately the rural municipality or city government of the residence of the participant in the proceeding thereof.

Chapter 21 PARTIES

§ 205. Parties

(1) The parties in a civil proceeding are the plaintiff and the defendant.

(2) The plaintiff is a person who has filed an action. The defendant is a person against whom an action is filed.

§ 206. Rights of parties

(1) In addition to the rights of a participant in a proceeding, a plaintiff has the right to amend the cause or object of an action, increase or decrease a claim or discontinue an action, and a defendant has the right to admit a claim. A party has the right to appeal against a court decision and other procedural rights prescribed by this Code.

(2) Parties have the right to discontinue a matter by compromise.

(3) A party has the right to request compulsory enforcement of a court decision. A participant in a proceeding has the same right in a proceeding on petition.

§ 207. Participation of several plaintiffs or defendants in matter

(1) Several persons may file a joint action and an action may be filed jointly against several defendants if:
1) the object of the proceeding is a joint right of several persons;
2) several persons have rights or obligations arising from the same grounds;
3) similar claims or obligations which arise from the grounds which are essentially similar are the object of the proceeding.

(2) Each plaintiff or defendant participates in a proceeding independently with regard to the opposite party. Unless otherwise prescribed by law, an act of a plaintiff or defendant does not bear legal consequences for a co-plaintiff or co-defendant.

(3) If a disputed legal relationship can be established only with regard to all co-plaintiffs or co-defendants jointly, and even one of the co-plaintiffs or co-defendants adheres to a procedural

term, participates in the proceeding, files an appeal or participates in the performance of any other procedural act, the acts of such participant in the proceeding are deemed to be valid with respect to all the other co-plaintiffs or co-defendants.

§ 208. Substitution and involvement of defendant

(1) If a plaintiff finds that the action was erroneously filed against a person who should not be the defendant, the court may, at the request of the plaintiff, substitute the existing defendant with another defendant at the request of the plaintiff before the end of the court hearing of the matter in a court of first instance without discontinuing the proceeding. In such case the action against the initial defendant is deemed to be withdrawn.

(2) If a plaintiff finds that the action was not filed against all persons who are parties to the disputed legal relationship, the court may, before the end of the court hearing of the matter in a court of first instance, involve such persons as defendants at the request of the plaintiff.

(3) Following the substitution or involvement of a defendant, the plaintiff shall submit a transcript of the statement of claim together with annexes to the court for the substituted or involved defendant. Following the substitution or involvement of a defendant, the hearing of the matter commences from the beginning.

§ 209. Legal succession in proceeding

(1) In the case of the death of a party who is a natural person or dissolution of a party who is a legal person or in any other case where universal succession is created, the court permits the universal successor of such party to enter the proceedings unless otherwise prescribed by law. Universal succession is possible at every stage of a proceeding.

(2) Any procedural acts performed prior to the entry of a universal successor in the proceeding are binding on the universal successor to the same extent to which such acts would have been binding on the legal predecessor of the universal successor.

§ 210. Transfer of disputed object

(1) The filing of an action and the conduct of proceedings in an action do not interfere with a party's right to transfer a disputed object or to assign a disputed claim.

(2) Transfer of ownership of a disputed object or other such right related thereto, or assignment of a disputed claim to a third party (singular succession) does not affect, in itself, the conduct of proceedings in a matter.

(3) In the case specified in subsection (2) of this section, the legal successor may enter the proceeding to replace the legal predecessor thereof if the opposing party and the legal predecessor agree thereto. A legal successor may enter or be involved in a proceeding without the consent of the opposing party or the legal predecessor as a third party in support of the legal

predecessor thereof.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(4) If an object is transferred by the plaintiff and the judgment to be made in the matter would not apply to the legal successor pursuant to § 460 of this Code, the defendant may submit an objection to the plaintiff that the plaintiff has lost the right of claim.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 211. Transfer of immovables, ships and aircraft

(1) In the case of transfer of an immovable in the course of a dispute between the owner of the immovable and a third person over the existence or absence of a real right to the immovable or existence or absence of a notation guaranteeing such right, or over an obligation related to the immovable, the legal successor has the right and, if the opposing party requests it, the obligation to enter the proceeding as a party substituting for the current party at the time of transfer of the ownership of the immovable. The same applies to a dispute arising from a lease contract or commercial lease contract of an immovable or the absence of such contract if a notation concerning the contract has been made in the land register.

(2) If the opposing party requests that the legal successor of the other party enter the proceeding but, regardless of being served the request by the court, the legal successor fails to enter the proceeding, the legal succession is deemed to be admitted and the party is deemed to be substituted by serving the request.

(3) The provisions of subsections (1) and (2) of this section do not apply if the judgment to be made in the matter would not apply to the legal successor pursuant to § 460 of this Code. If the transferor in such case is the plaintiff, the defendant may submit an objection against the plaintiff that the plaintiff has lost the right of claim.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(4) The provisions of subsections (1)–(3) of this section also apply to disputes related to a right to a ship entered in the ship register or an aircraft entered in the register of civil aircraft.

Chapter 22 THIRD PARTIES

§ 212. Third party with independent claim

(1) If a third party files an independent claim concerning the object of the dispute between the plaintiff and defendant, the third party may file an action in the same proceeding against both parties before the hearing of the matter on the merits at a county court ends.

(2) A third party with an independent claim has the rights and obligations of the plaintiff.

§ 213. Third party without independent claim

(1) A third party who does not have an independent claim concerning the object of the proceeding but has legal interest in having the dispute resolved in favour of one of the parties may enter the proceeding in support of either the plaintiff or the defendant. On the grounds and pursuant to the procedure provided in § 216 of this Code, a third party without an independent claim may be involved in a proceeding also at the request of a party.

(2) A third party without an independent claim may enter or be involved in a proceeding at all stages of the proceeding in every court instance until the time the court judgment enters into force. A third party without an independent claim may also enter a proceeding by filing an appeal against a court decision. In such case, the involvement of the person is adjudicated simultaneously with adjudication of the acceptance of the appeal.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 214. Consequences of entry or involvement in proceeding of third party without independent claim

(1) Procedural acts performed before the entry or involvement in a proceeding of a third party without an independent claim are also valid with respect to the third party.

(2) A third party without an independent claim may perform all procedural acts except the acts which can be performed only by the plaintiff or the defendant, among other, a third party without an independent claim may file an appeal against a decision made in the matter. A petition, appeal or another procedural act made by a third party without an independent claim has legal effect only if it is not contrary to a petition, appeal or act of the plaintiff or the defendant in whose support the third party is participating in the proceeding. The same term for filing an appeal or making another procedural act applies to a third party as applies to the plaintiff or the defendant in whose support the third party is participating in the proceeding, unless otherwise provided by law.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) In the proceeding to follow, a third party without an independent claim has no right to rely, in respect of the plaintiff or defendant in whose support the third party entered or was involved in the proceeding, on an allegation that the conclusion of the decision made in the proceeding is incorrect or that the facts were incorrectly established.

(4) If a party initiates a proceeding against a third party without an independent claim on the basis of the proceeding conducted before, the third party also has the right to submit objections submitted thereby in the proceeding as a third party and which are contrary to the petitions of a party. A third party may also submit an objection that the third party could not submit a petition, allegation, evidence or appeal due to the fact that the third party entered or was involved in the proceeding too late, or that the third party could not submit them due to the petitions or acts of the plaintiff or defendant in whose support the third party participated in the proceeding. The third party may also submit an objection that the plaintiff or defendant failed, knowingly or due

to gross negligence, to submit a petition, allegation, evidence or appeal, and the third party was not aware of such fact.

§ 215. Entry in proceeding of third party without independent claim

(1) In order to enter a proceeding, a third party without an independent claim submits a petition to this effect to the court conducting proceedings in the matter.

(2) In addition to other information which a procedural document must contain (§ 338), a petition specified in subsection (1) of this section sets out the following:
1) information on the parties and the court action;
2) the reasons of the legal interest that the third party without an independent claim has in the matter;
3) a request for joining in the proceeding.

(3) The court serves the petition specified in subsection (1) of this section on both parties and sets them a term for forming a position.

(4) The court satisfies the petition of a third party without an independent claim and allows the third party to enter the proceeding if the petition conforms to the requirements provided by law and the third party provides reasons for the legal interest thereof.

(5) If it becomes evident that the third party has entered the proceeding without good reason, the court may remove the third party from the proceeding by a ruling.

(6) A ruling whereby the court permits a third party to enter a proceeding, refuses to give such permission or removes a third party from a proceeding is subject to appeal by the parties or the third party. A ruling of a circuit court concerning an appeal against a ruling of a county court is not subject to appeal to the Supreme Court.

§ 216. Involvement of third party

(1) A party who, upon adjudication of a court action against such party, has the right to file a claim against a third party arising from the circumstances which the party considers to be a breach of contract, or a claim for compensation of damage or for release from the obligation to pay damages, or who has reason to presume that such claim may be filed against the party by a third party, may file, until the end of pre-trial proceedings or during the term prescribed for submission of documents in written proceedings, a petition with the court conducting proceedings in the matter in order to involve the third party in the proceeding.
[RT I, 29.06.2012, 3 - entry into force 01.01.2013]

(1^1) After the end of pre-trial proceedings, a petition for involvement of a third party in the proceeding may be filed only with the consent of other participants in the proceeding or the court. After the end of pre-trial proceedings, the court consents to involvement of a third party only if there was good reason for the failure to file the petition in time and in the opinion of the

court involvement of the third party is in the interests of adjudication of the matter.
[RT I, 29.06.2012, 3 - entry into force 01.01.2013]

(2) A petition for involving a third party in support of the plaintiff or the defendant sets out:
1) the name of the third party;
2) the content and stage of the proceeding;
3) the reason and grounds for involving the third party in the proceeding.

(3) The court serves the petition on the third party, informs the other party of the petition and sets them a term for forming a position.

(4) If the petition conforms to the requirements provided by law and the party provides reasons for the need to involve the third party, the court involves the third party by a ruling. A third party is deemed to be involved in the proceeding in support of the party who involved the third party as of the date on which the ruling to involve the third party was served on the third party.

(5) If it becomes evident that the third party has been involved in the proceeding without good reason, the court may remove the third party from the proceeding by a ruling.

(6) A ruling whereby the court involves or refuses to involve a third party in the proceeding, or removes such party from the proceeding is subject to appeal by the parties or the third party. A ruling of a circuit court concerning an appeal against a ruling of a county court is not subject to appeal to the Supreme Court.

Chapter 23 REPRESENTATION

§ 217. Representation in court

(1) Unless otherwise provided by law, a participant in the proceeding may participate in the proceeding in person or through a representative with active civil procedural legal capacity.

(2) Personal participation in a matter does not deprive a participant in a proceeding of the right to have a representative or adviser in the matter. Participation of a representative in a matter does not restrict the personal participation in the matter of a participant in a proceeding with active civil procedural legal capacity.

(3) A participant in a proceeding without active civil procedural legal capacity is represented in court by his or her legal representative.

(4) Unless otherwise provided by this Code, the provisions of the General Part of the Civil Code Act concerning representation apply to representation in court.

(5) A representative has the rights and obligations of the participant in a proceeding whom he or she represents. A procedural act performed by a representative is deemed to have been performed by the participant in the proceeding who is represented. This applies to admitting a

fact or another statement in so far as the participant in the proceeding who is present does not immediately withdraw or amend the admission or statement.

(6) The behaviour and knowledge of a representative is deemed to be equivalent to the behaviour and knowledge of a participant in a proceeding.

(7) If a representative appointed for such purpose represents a child in a proceeding, the parents have no right to represent the child in the proceeding.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(8) If the court finds that a natural person who is a participant in a proceeding is unable to personally protect his or her rights or that his or her essential interests may be insufficiently protected without the assistance of an advocate, the court explains the possibility to receive state legal aid to such person.

§ 218. Contractual representative

(1) The following may act as contractual representatives in court:
1) an advocate;
2) another person who has acquired at least a state-recognised Master's Degree in the field of study of law, a corresponding qualification within the meaning of subsection 28 (2^2) of the Republic of Estonia Education Act or a corresponding foreign qualification;
[RT I 2008, 29, 189 - entry into force 01.07.2008]
2^1) [repealed - RT I 2008, 29, 189 - entry into force 01.07.2008]
3) a procurator in all court proceedings related to the economic activities of a participant in a proceeding;
4) one plaintiff based on the authorisation of the co-plaintiffs or one defendant based on the authorisation of the co-defendants;
5) an ascendant, descendant or spouse of a participant in a proceeding;
6) another person whose right to act as a contractual representative is provided by law.

(2) A public servant or employee of a participant in a proceeding may act as a contractual representative of the participant in the proceeding if the court considers him or her to have sufficient expertise and experience to represent the participant in the proceeding.

(3) In an action in the Supreme Court, a participant in the proceeding may perform procedural acts and file petitions and applications only through a sworn advocate. In a proceeding on petition in the Supreme Court, a participant in the proceeding may perform procedural acts and file petitions and applications personally or through an advocate.

(4) In an action in the Supreme Court a participant in the proceeding may personally file an application for being granted procedural assistance and likewise present positions on and objections to appeals or other petitions of another participant in the proceeding. A participant in a proceeding may present positions in a session of the Supreme Court together with a sworn advocate.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(5) The Minister of Justice or a representative appointed thereby may represent the Republic of Estonia in the Supreme Court even if he or she is not a sworn advocate. A bankrupt may also be represented in an action in the Supreme Court by the trustee in bankruptcy. A participant in a proceeding may be represented in a proceeding on petition in the Supreme Court by a notary pursuant to the procedure provided in § 30 of the Notaries Act.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 219. Representative appointed by court

(1) If a petition is filed by a person without active civil procedural legal capacity or an action is filed against a person without active civil procedural legal capacity who has no legal representative, the court appoints a temporary representative to him or her until the legal representative enters the proceeding if prevention of the participation of the party in the proceeding endangers an essential interest of a party.

(2) In a family matter, the court may appoint a representative to a person without active civil procedural legal capacity in a proceeding which concerns him or her if this is necessary for protection of the interests of the person without active civil procedural legal capacity. A representative must be appointed if:
1) the interests of the person without active civil procedural legal capacity are contrary, to a significant extent, to the interests of his or her legal representative;
2) the court conducts proceedings in a matter of placement of a person without active civil procedural legal capacity under guardianship;
3) the court conducts proceedings in a matter of applying measures in order to ensure the well-being of a child which involve separating the child from his or her family or deprivation of the right of custody over the person in full;
[RT I 2009, 60, 395 - entry into force 01.07.2010]
4) the court conducts proceedings in a matter of removal of a child from a foster family, a spouse or another person entitled to access the child.

(3) A representative need not be appointed to a person without active civil procedural legal capacity and a ruling made for appointment of a representative to such person may be annulled if the person is represented by an advocate or another appropriate representative.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(4) The right of representation of a representative appointed by court ends at the time of the entry into force of a decision whereby the proceeding is terminated, or at the time of discontinuance of the proceeding in another manner, provided that the court has not terminated the right of representation already earlier or has not appointed the representative for only one court instance. If a representative has been appointed only for one court instance, the representative's right of representation in such court instance also extends to the filing of appeals against the decisions made in such court instance.

(5) In the cases specified in subsections (1) and (2) of this section and also in other cases provided by this Code, the court appoint, pursuant to the procedure provided by the State Legal Aid Act, an advocate to represent the person in order to protect his or her interests. The name of

the advocate is specified to the court by the Estonian Bar Association which also guarantees his or her attendance in the proceeding. Upon appointment of an advocate, the court does not additionally check the existence of the prerequisites for the receipt of state legal aid.

(6) An advocate appointed by the court is remunerated by the state to the extent and pursuant to the procedure provided by the State Legal Aid Act. A person for the protection of whose interests an advocate was appointed may be required to return to the state any payment already received by the advocate if the person fails to protect his or her interests in court in any other reasonable manner except through the representative appointed to him or her by the court, or for another good reason. The above does not release a participant in a proceeding from the payment of procedural expenses if the participant in the proceeding is required to pay such expenses based on the court decision.

(7) In order to protect a person's interests in a proceeding, the court may appoint a person other than an advocate to act as his or her representative, if the court finds the person to have sufficient competence for such duty and the person agrees to it. Such person is not paid any remuneration but may request reimbursement of his or her costs from the participant in the proceeding required to pay procedural expenses based on the court decision.

§ 220. Representation of Republic of Estonia as participant in proceeding

(1) In an action filed against the Republic of Estonia arising from the activity of an executive authority, or upon involvement of the Republic of Estonia in a proceeding as a third party, or upon participation of the Republic of Estonia in a proceeding on petition, the Republic of Estonia is represented by the ministry whose activity, or the activity of an agency within the area of administration of which, or the activity of an official of which relates to the civil matter, or within whose area of administration the civil matter which is the object of the proceedings belongs. If the proceeding relates to an issue within the area of competence of a county governor, the relevant county governor represents the Republic of Estonia. If the petition pertains to the performance of the duties by the Government Office, the Republic of Estonia is represented by the Government Office.

(2) In an action filed against the Republic of Estonia which arises from the activity of another administrator of state assets or in a civil matter related to the activities of such administrator, the administrator of the state assets represents the Republic of Estonia.

(3) The Ministry of Justice has the right to represent the Republic of Estonia in all court proceedings.

(4) The court sends a statement of claim filed against the Republic of Estonia or a petition for involvement of the Republic of Estonia to the authorities specified in subsections (1) and (2) of this section. If the court cannot establish the ministry or another administrator of state assets within whose area of administration the petition belongs, the court sends the statement or petition to the Ministry of Justice.

§ 221. Certification of right of representation of representative

(1) The right of representation of a legal representative is certified by a document which provides for the capacity of the legal representative.

(2) The authorisation of a contractual representative is certified by an authorisation document which is submitted to the court. The court may demand submission of notarised or certified authorisation documents by the parties, as necessary.

(3) A person may also grant an oral authorisation in a court session. The grant of an authorisation is entered in the minutes.

§ 222. Scope of right of representation arising from law

(1) The right of representation gives a representative the right to perform all procedural acts in the name of the person represented, including the right to:
1) file actions and other petitions;
2) refer the matter to arbitration;
3) discontinue the action;
4) admit the claim;
5) amend the cause or object of the action;
6) file a counterclaim;
7) participate in a proceeding conducted in a matter of a third party with an independent claim;
8) settle the matter by compromise;
9) delegate the authorisation to other persons (delegation of authorisation);
10) file an appeal against a decision;
11) represent upon securing an action and in enforcement proceedings;
12) receive procedural expenses ordered to be compensated.

(2) The representative of a spouse who has no active civil procedural legal capacity has the right to submit a petition for divorce or annulment of marriage only with the consent of the guardianship authority.

(3) Authorisation granted in a family matter must be given expressly for acting in such family matter.

§ 223. Restrictions on right of representation

A participant in a proceeding may restrict the scope of the representative's right of representation arising from law. Restrictions on the scope of the right of representation arising from law of the representative of a participant in a proceeding apply with regard to the court and other participants in the proceeding only to the extent to which they concern the right to terminate the court action by judicial compromise, discontinue the action or admit the claim, provided that the court and participants in the proceeding have been informed of the restrictions.

§ 224. Right of representation of several contractual representatives

If a participant in a proceeding has several contractual representatives, every representative has the right to separately represent the participant in the proceeding. If the scope of the right of representation has been determined differently, this does not apply with regard to the court or the other participants in the proceeding.

§ 225. Termination of authority

(1) If the person represented withdraws the authorisation, the authorisation terminates with respect to the opposing party and the court as of the time the opposing party and the court are notified of the withdrawal of the authorisation. It is presumed that the authorisation of an advocate also terminates as of the time the opposing party and the court are notified of the appointment of a new advocate.

(2) If a representative terminates the contract which constitutes the basis for authorisation, the representative may continue to act in the interests of the principal until the time the principal arranges for the protection of the interests thereof in another manner.

(3) An authorisation does not terminate upon the death of the principal, upon the principal becoming devoid of active civil procedural legal capacity or upon the change of the principal's legal representative.

(4) In a proceeding, the represented party may rely on termination of the representative's authority due to expiry thereof only if the represented party or representative has informed the court and the opposing party separately of the termination of the authority.

§ 226. Verification of right or representation

(1) The court verifies the existence of a representative's right of representation and upon the absence of such right refuses to permit the person to participate in the proceeding in the capacity of a representative. A participant in a proceeding has the right to demand, in every court instance, verification of the right of representation of the representatives of the other participants in the proceeding. Advocates are presumed to have the right of representation.

(2) If the absence of the right of representation is established, the court may:
1) refuse to hear an action if the person who submitted the statement of claim on behalf of the plaintiff had no right of representation upon filing the action;
2) make a judgment if this is possible pursuant to law;
3) remove, by a ruling, the person without the right of representation from the proceeding, provided that the participant in the proceeding has several representatives;
4) permit the representative to participate in the proceeding pursuant to § 227 of this Code;
5) postpone the hearing of the matter.

(3) If during a proceeding, a representative is found to have no right of representation but the action was filed correctly, the participant in the proceeding represented is deemed not to have

participated in the proceeding to the extent to which such person was represented without the right of representation, unless the participant in the proceeding subsequently approves of the procedural acts performed by the person who appeared as the representative.

§ 227. Permission to temporarily enter proceedings for and approval of representation of persons with ambiguous right of representation

(1) If an action on behalf of the plaintiff is filed by a person who fails to certify his or her right of representation, the court does not serve the action on the defendant before the right of representation has been certified.

(2) If a representative of a participant in a proceeding is unable to certify his or her right of representation in court but claims that such certification will be possible at a later time, the court may postpone the hearing of the matter or permit the person to temporarily participate in the proceeding as a representative.

(3) If the hearing of the matter is postponed or the person with an ambiguous right of representation is permitted to enter the proceeding as a representative, the court sets such person a term for certification of his or her right of representation and may require a security from such person in order to cover for the procedural expenses and any expenses or damage which may arise to other participants in the proceeding.

(4) If a person without a right of representation is permitted to enter a proceeding, the court may make a judgment or a ruling on termination of the proceeding only after certification of the right of representation, submission of approval of representation without authorisation or expiry of the term set by the court for such purpose.

(5) If a person who appears on behalf of the plaintiff has not certified his or her right of representation or submitted an approval within the term set by the court, the court refuses to hear the action if the other prerequisites for refusal to hear the action are fulfilled. If a person who appears on behalf of the defendant has not certified his or her right of representation or submitted an approval within the term set by the court, the court makes a default judgment if the other prerequisites for making a default judgment are fulfilled. If a person who filed an appeal on behalf of a participant in a proceeding has not certified his or her right of representation or submitted an approval within the term set by the court, the court refuses to hear the appeal if the other prerequisites for refusal to hear the appeal are fulfilled.

(6) The court orders, by a decision specified in subsection (5) of this section, in favour of the other participants in the proceeding, payment by the person without the right of representation of the expenses which the other participants incurred as a result of permitting the person without the right of representation to enter the proceeding. This does not preclude or restrict the right of the participants in the proceeding to demand compensation for damage in an amount which exceeds the costs.

(7) Procedural acts performed on behalf of a participant in the proceeding are also deemed to be valid if the participant in the proceeding granted the right of representation to the representative

by any other means than by a written, notarised or certified document, or if the participant in the proceeding approves, expressly or tacitly, of the participation of the representative in the proceeding. It is presumed that a participant in a proceeding has approved of the authorisation of a person who represented him or her in a proceeding if the participant in the proceeding subsequently granted the authorisation to the representative.

§ 228. Adviser

(1) A participant in a proceeding may use a person with active civil procedural legal capacity as an adviser in a proceeding.

(2) An adviser may appear in the court session together with the participant in the proceeding and provide explanations. An adviser cannot perform procedural acts or file petitions.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) Anything presented by an adviser in a court session is deemed to have been presented by the participant in the proceeding unless the participant in the proceeding immediately withdraws or corrects it.

Part 5 EVIDENCE

Chapter 24 GENERAL PROVISIONS

§ 229. Definition of evidence

(1) Evidence in a civil matter is any information which is in a procedural form provided by law and on the basis of which the court, pursuant to the procedure provided by law, ascertains the existence or lack of facts on which the claims and objections of the parties are based and other facts relevant to the just adjudication of the matter.

(2) Evidence may be the testimony of a witness, statements of participants in a proceeding given under oath, documentary evidence, physical evidence, inspection or an expert opinion. In a proceeding on petition the court may also deem other means of proof, including a statement of a participant in the proceeding which is not given under oath, to be sufficient in order to prove the facts.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 230. Burden of proof and submission of evidence

(1) In actions, each shall party prove the facts on which the claims and objections of the party are based, unless otherwise provided by law. Unless otherwise prescribed by law, the parties may agree on a division of the burden of proof different from that which is provided by law and agree on the nature of the evidence whereby a certain fact may be proved.

(2) Evidence is submitted by the participants in the proceedings. The court may propose to the participants in the proceeding that they submit additional evidence.

(3) Unless otherwise provided by law, the court may take evidence at its own initiative in a matrimonial matter, filiation matter, a dispute related to the interests of a child or a proceeding on petition.

(4) In a maintenance matter, the court may require that a party provide data and documents on his or her income and financial status and caution the party that the inquiry specified in subsection (5) of this section may be conducted.

(5) In the case provided in subsection (4) of this section, the court may demand relevant information from:
1) the employer, including former employers, of a party;
2) the Social Insurance Board or another agency or person making payments related to old age or loss of capacity for work;
[RT I, 06.12.2012, 1 - entry into force 01.01.2013]
3) insurance companies;
4) the Tax and Customs Board;
5) credit institutions.

(6) The persons and agencies specified in subsection (5) of this section have the obligation to provide the court with information within the term set by the court. In the case of failure to perform such obligation, the court may impose a fine on the obligated person or agency.
[RT I 2005, 39, 308 - entry into force 01.01.2006]

§ 231. Bases for relief from burden of proof

(1) A fact which the court deems to be a matter of common knowledge need not be proved. A fact concerning which reliable information is available from sources outside the proceeding may be declared a matter of common knowledge by the court.

(2) An argument made by a party concerning on a fact need not be proven if the opposing party admits the fact. Admission means unconditional and express agreement to a factual allegation by means of a written statement addressed to the court, or made in a court session where such agreement is entered in the minutes. In matrimonial and filiation matters, the court evaluates admission together with other evidence.

(3) Admission may be withdrawn only with the consent of the opposing party if the party withdrawing the admission proves that the allegation concerning the existence or absence of a fact which was admitted is incorrect, and that admission was caused by an incorrect understanding of the fact. In such case the fact is not deemed to be admitted.

(4) Admission is presumed until the opposing party expressly contests the allegation made concerning the fact or the party's intent to contest becomes evident from any other statements made thereby.

§ 232. Evaluation of evidence

(1) The court evaluates all evidence pursuant to law from all perspectives, thoroughly and objectively and decides, according to the conscience of the court, whether or not an argument presented by a participant in a proceeding is proven considering, among other, any agreements between the parties concerning the provision of evidence.

(2) No evidence has predetermined weight for a court, unless otherwise agreed by the parties.

(3) Upon establishment of a disputed fact, the court is bound by the opinion provided by a qualified person appointed by agreement of the parties, if:
1) the dispute is related to an agreement entered into in the course of the economic or professional activities of both parties, and
2) no circumstances exist for removing the qualified person acting as an expert from the proceeding, and
3) the qualified person was appointed according to an agreement without giving any preference to either of the parties, and
4) the opinion of the qualified person is obviously not incorrect.

§ 233. Evaluation of amount of claim

(1) The court decides on the amount of damage according to the conscience of the court and taking account of all facts if causing of damage has been established in a proceeding but the exact amount of the damage cannot be established or establishment thereof would involve major difficulties or unreasonably high costs, including if the damage is non-patrimonial.

(2) The provisions of subsection (1) of this section also apply to other proprietary disputes if the parties disagree over the amount of the claim and full verification of all the facts necessary for the establishment thereof involves unreasonable difficulties.

§ 234. Proof of law of foreign states, international law and customary law

Proof of law in force outside of the Republic of Estonia, international law or customary law must be given only in so far as the court is not acquainted with such law. The court may also use other sources of information and perform other acts to ascertain the law. Upon ascertaining foreign law, the court is also guided by § 4 of the Private International Law Act.

§ 235. Substantiation

Substantiation of an allegation means giving the court the reasons for an allegation such that, presuming that the reasoning is correct, the court can deem such allegation to be plausible. Unless otherwise provided by law, a person required to substantiate may use all the evidence permitted by law for such purpose, including means of proof not deemed to be evidence by law or not in the procedural form prescribed for evidence, including signed confirmations.

Chapter 25 PROVISION, TAKING AND EXAMINATION OF EVIDENCE

§ 236. Provision and taking of evidence

(1) Provision of evidence means a request made by a participant in a proceeding requesting the court to evaluate an allegation of the participant in the proceeding based on the receipt and examination of the evidence indicated in the request.

(2) If a participant in a proceeding wishing to provide evidence is unable to do so, the participant in the proceeding may request the taking of the evidence by the court. Taking of evidence means an activity of the court performed with the aim to render evidence available and enable the examination thereof in the proceeding.

(3) A participant in a proceeding who provides evidence or requests the taking of evidence must substantiate which facts relevant to the matter the participant in the proceeding wishes to prove by providing the evidence or requesting the taking of evidence. A request for taking of evidence shall also set out any information which enables the taking of evidence.

(4) With the consent of both parties, evidence may be provided to the court and the court may take evidence in a manner or form different from that provided in this Code. A party may withdraw such consent only if significant changes in the procedural situation occur.

§ 237. Obligation of timely provision of evidence

(1) In the course of pre-trial proceedings, the court sets the participants in a proceeding a term for providing evidence and requesting the taking of evidence. If evidence is not provided or taking thereof is not requested before the expiry of the term, such evidence may be relied upon later only in adherence to the provisions of § 331 of this Code.

(2) If the request of a participant in a proceeding for taking of evidence is denied due to the failure of the participant to pay the costs related to the taking of evidence in advance notwithstanding the demand of the court, the participant does not have the right to request the taking of evidence later if satisfaction of the request would result in adjournment of the hearing of the matter.

§ 238. Relevance and admissibility of evidence

(1) The court accepts, organises the taking of and considers, in adjudicating a matter, only evidence which has relevance to the matter. Evidence has no relevance to a matter, above all, if:
1) the fact proven need not be proved, among other, if the fact is not disputed;
2) enough evidence has already been provided, in the opinion of the court, in proof of the fact.

(2) If pursuant to law or based on an agreement between the parties, a fact must be proven by evidence of a certain type or form, the fact shall not be proved by evidence of another type or form.

(3) In addition to the cases provided in subsections (1) and (2) of this section, the court may refuse to accept evidence and return the evidence, or refuse to take evidence, if:
1) the evidence has been obtained by a criminal offence or unlawful violation of a fundamental right;
2) the evidence is not accessible and, above all, if the witness's data or location of a document is unknown, or if the relevance of the evidence is disproportionate to the time necessary for taking the evidence or other difficulties related thereto;
3) the evidence is not provided or the request for taking the evidence is not made in a timely manner;
4) the need for providing or taking evidence is not substantiated;
5) the participant in the proceeding requesting the taking of evidence fails to make an advance payment demanded by the court in order to cover the costs incurred upon the taking of evidence.

(4) The court makes a reasoned ruling on refusal to accept evidence or refusal to take evidence.

(5) If the court has already accepted or taken evidence, the court may refuse to take account of such evidence upon adjudicating the matter in the cases provided in subsections (1)–(3) of this section. Evidence may be disregarded after its evaluation if the evidence is clearly not reliable.

§ 239. Organisation of taking evidence

(1) The taking of additional evidence in order to evaluate evidence is organised by a court ruling which is communicated to the participants in the proceeding. If evidence has to be taken outside of the territorial jurisdiction of the court conducting proceedings in a matter, the court hearing the matter may make a ruling for performance, by letter of request, of a procedural act by the court within the territorial jurisdiction of which the evidence can be taken. (2) A ruling on a letter of request sets out a brief description of the merits of the matter, the facts to be ascertained and the evidence to be taken.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) The court, including the court conducting proceedings in a matter based on a letter of request, may amend a ruling on taking of evidence if necessary. Where possible, the participants in the proceeding are given an opportunity to provide an opinion before amendment of such ruling. The participants in a proceeding are immediately informed of amendment of a ruling on taking of evidence.

§ 240. Procedure for compliance with letter of request

(1) A letter of request is complied with pursuant to the procedure established for performance of the procedural act applied for in the letter of request. The participants in the proceeding are notified of the time and place of the procedural act; however, the absence of a participant in the proceeding does not prevent compliance with the letter of request.

(2) Minutes of procedural acts and evidence taken upon compliance with a letter of request are sent promptly to the court hearing the matter.

(3) If, upon taking of evidence by the court conducting proceedings in a matter on the basis of a letter of request, a dispute arises which cannot be settled by such court but continuation of taking of evidence depends on the settlement of the dispute, the court conducting proceedings in the main case settles the dispute.

(4) If the court complying with a letter of request finds that in order to better adjudicate the matter, it would be reasonable to transfer the duty of taking evidence to another court, the court submits a request to this effect to the other court and informs the participants in the proceeding thereof.

§ 241. Taking of evidence outside Estonia

(1) Evidence taken in a foreign state pursuant to the legislation of such state may be used in a civil proceeding conducted in Estonia unless the procedural acts performed in order to obtain the evidence are in conflict with the principles of Estonian civil procedure.

(2) Evidence is taken in another Member State of the European Union with the assistance of a court of the other state or directly pursuant to the procedure provided by Council Regulation 1206/2001/EC relating to co-operation between the judicial authorities of the Member States in the taking of evidence in civil and commercial matters.

(3) The panel of the court which requested the taking of evidence pursuant to the regulation specified in subsection (2) of this section or a judge acting on the basis of an order may, in accordance with such regulation, be present at and participate in the taking of evidence by a court of a foreign state. The participants in the proceeding, their representatives and experts may participate in the taking of evidence to the same extent as they may participate in the taking of evidence in Estonia. The court panel adjudicating the matter, a judge acting on the basis of an order or an expert appointed by the court may participate in such direct taking of evidence by an Estonian court in another Member State of the European Union, which is permitted by Article 17.3 of the regulation mentioned above.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(4) For taking of evidence elsewhere than in a Member State of the European Union, the court requests the taking of evidence through a competent authority pursuant to the Convention on the Taking of Evidence Abroad in Civil or Commercial Matters.

(5) The court may also take evidence in a foreign state by intermediation of the ambassador representing the Republic of Estonia in such state or a competent consular official unless it is prohibited pursuant to law of the foreign state.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 242. Withdrawal of evidence

The party who has provided evidence or requested the taking thereof may waive and withdraw evidence only with the consent of the opposing party, unless otherwise provided by law.

§ 243. Examination of evidence

(1) The court examines evidence directly and evaluates evidence upon making a decision.

(2) The court determines the sequence of examination of evidence in a court session after hearing the opinions of the participants in the proceeding.

(3) The participants in a proceeding have the right to attend the examination of evidence in court sessions. Absence of a participant in a proceeding summoned to court from a court session in which evidence is examined does not prevent the examination of the evidence unless the court rules otherwise.

(4) The court may order new or additional examination of evidence at the request of a participant in a proceeding who was absent from a court session in which the evidence was examined if the participant in the proceeding substantiates to the court that he or she was absent from the court session with good reason and that due to his or her absence the evidence taken or examined is materially incomplete.

(5) The minutes concerning the taking of evidence compiled upon compliance with a letter of request or by a judge acting based on an order are made public at a session of the court hearing the matter. The participants in the proceeding may provide an opinion concerning the taking of evidence.

(6) Evidence taken and the minutes of procedural acts performed outside of a court session are made public in a court session and communicated to the experts and witnesses as necessary. Thereafter the participants in the proceeding may give statements with regard to such evidence.

Chapter 26 PRE-TRIAL TAKING OF EVIDENCE FOR SAFEGUARDING EVIDENCE AND PRE-TRIAL ESTABLISHMENT OF FACTS

§ 244. Pre-trial taking of evidence

(1) Pre-trial taking of evidence may be organised by a court ruling during court proceedings at the request of a party or, if good reason exists therefor, also before proceedings are initiated if the opposing party agrees to this or if it can be presumed that evidence could be lost or using the evidence afterwards could involve difficulties. The court also initiates pre-trial taking of evidence in order to safeguard evidence if a person substantiates that the copyright and related rights, or industrial property rights thereof have been infringed, or that a danger of infringement exists.

(2) Inspections may be organised, witnesses may be heard, and expert assessments and other procedural acts may be conducted in the course of pre-trial taking of evidence. If pre-trial taking of evidence is initiated in order to safeguard evidence due to an infringement or danger of infringement of copyright and related rights or industrial property rights, the court may, among other, organise an inspection of samples and recording of a detailed description of samples with or without storing the samples, or seize the infringing goods, or the raw materials, equipment and

related documents necessary for the production or marketing of the goods pursuant to the procedure for securing actions.

(3) Before the beginning of a proceeding, a person may request that the court order expert assessment in pre-trial taking of evidence if the person has a legal interest in the establishment of:
1) the state of a person, or the condition or value of an object;
2) the reason for damage or defect of an object;
3) the costs or measures for elimination of damage or correction of defects of an object.

(4) Legal interest exists in the case specified in subsection (3) of this section if establishment would clearly help to prevent a judicial dispute.

(5) The provisions concerning provision and taking of evidence also apply to pre-trial taking of evidence unless the provisions of this Chapter provide otherwise.

§ 245. Application for initiation of pre-trial taking of evidence

(1) If a court proceeding has begun in a civil matter, an application for initiation of pre-trial taking of evidence is filed with the court which conducts proceedings in the matter.

(2) If a proceeding has not begun, the application is filed with the court which, according to the applicant, is competent to hear the main case. If pre-trial taking of evidence is followed by a court proceeding, the applicant cannot rely on the fact that the matter does not actually belong under the jurisdiction of that court.

(3) The application may also be filed, with good reason, with the county court within the territorial jurisdiction of which the person, the hearing of whom or conduct of expert assessment in respect of whom is requested, stays, or within the territorial jurisdiction of which the thing that is the object of inspection or expert assessment, is located.

§ 246. Content of application for initiation of pre-trial taking of evidence

(1) An application for initiation of pre-trial taking of evidence shall set out the following information:
1) the names, addresses and telecommunications numbers of the participants in the proceeding or the persons presumed to be the participants in the proceeding;
2) a description of the facts concerning which the applicant wishes evidence to be taken;
3) the names of witnesses or designation of other evidence;
4) the facts which substantiate the permissibility of pre-trial taking of evidence and jurisdiction thereof.

(2) If the person who requests the taking of evidence fails to specify the opposing party, the person shall provide the court with good reason for failure to do so.

§ 247. Initiation of pre-trial taking of evidence

(1) The court adjudicates an application for initiation of pre-trial taking of evidence by a ruling. The ruling sets out the facts concerning which evidence must be taken and specifies the evidence which must be taken.

(2) If due to an infringement or danger of infringement of copyright and related rights or industrial property rights, pre-trial taking of evidence is initiated in order to safeguard evidence before an action is filed, the court sets a term, by a ruling, within which the person must file the action. The term shall not be longer than one month. If an action is not filed on time, the court cancels the acts performed in the course of pre-trial taking of evidence.

(3) If due to an infringement or danger of infringement of copyright and related rights or industrial property rights, pre-trial taking of evidence is requested or initiated before an action has been filed, the court may make the initiation or continuation of the pre-trial taking of evidence dependent on the provision of a security for compensation of the costs which may be incurred by the opposing party. The security must be provided by the due date set by the court. If the security is not provided by the set due date, the court refuses to initiate pre-trial taking of evidence or cancels the acts performed in the course of the pre-trial taking of evidence.

(4) A ruling on refusal to initiate pre-trial taking of evidence is subject to appeal. A ruling made by a circuit court concerning an appeal against a ruling is not subject to appeal to the Supreme Court.

§ 248. Protection of opposing party in pre-trial taking of evidence

(1) The court does not initiate pre-trial taking of evidence if the applicant fails to provide the court with a good reason why the applicant cannot specify the opposing party in such proceeding.

(2) If pre-trial taking of evidence is initiated on the basis of an application which does contain the name of the opposing party, the court may, to protect the interests of the future opposing party in the pre-trial taking of evidence, appoint an advocate who protects the interests of the future opposing party at the taking of evidence. The court makes a ruling to order payment by the applicant of the advocate's fee and expenses to the extent prescribed by the State Legal Aid Act and may require that the applicant make, prior to the beginning of pre-trial taking of evidence, a reasonable advance payment to the account prescribed for such purpose. If the advance payment is not made, the court may refuse to initiate pre-trial taking of evidence.
[RT I, 31.01.2014, 6 - entry into force 01.04.2014]

(3) The court serves the application for initiation of pre-trial taking of evidence and the court ruling on initiation of the proceeding on the opposing party and the representatives thereof in a manner which enables the opposing party to protect the interests thereof in such proceeding.

(4) If due to an infringement or danger of infringement of copyright and related rights or industrial property rights of a person, pre-trial taking of evidence is requested in order to

safeguard evidence before an action has been filed, the court initiates and completes the pre-trial taking of evidence without informing the opposing party thereof if a delay could result in irreparable damage to the applicant or if the evidence could otherwise be destroyed or lost. In such case, the application and ruling specified in subsection (3) of this section, and a ruling on application of a measure are served on the opposing party immediately after application of the necessary measures.

(5) In the case specified in subsection (4) of this section, the opposing party may request from the court the substitution or cancellation of a measure for safeguarding evidence provided that the evidence was safeguarded without good reason. The court informs the applicant of such request and the applicant has the right to file objections against the request with the court. A ruling made concerning such request is subject to appeal by the parties. A ruling made by a circuit court concerning an appeal against a ruling is not subject to appeal to the Supreme Court.

(6) Filing of the appeal specified in subsection (5) of this section does not suspend the enforcement of a ruling on securing of evidence. The filing of an appeal against a ruling on the cancellation of the application of a measure for securing evidence or the substitution of one measure for securing evidence with another suspends the enforcement of the ruling.

§ 249. Relying on evidence obtained in pre-trial taking of evidence

(1) Evidence taken in pre-trial taking of evidence may be relied on in a proceeding on the same bases with evidence obtained in the main proceeding.

(2) If the opposing party did not participate in the court session of the pre-trial taking of evidence or in the performance of another procedural act, relying on the outcome of pre-trial taking of evidence is not permitted if the opposing party had not been summoned to the court session or the performance of such other procedural act in a timely manner or the rights of the opposing party were materially violated in the pre-trial taking of evidence due to another reason and the opposing party contests the evidence on such grounds.

(3) Relying on the outcome of pre-trial taking of evidence is permitted if the opposing party was not informed of the pre-trial taking of evidence pursuant to the provisions of subsection 248 (4) of this Code.

§ 250. Compensation for damage caused by pre-trial taking of evidence

(1) The party who applied for initiation of pre-trial taking of evidence shall compensate for the damage caused to the other party if:
1) a court decision on refusal to satisfy or hear the action enters into force, or if the proceeding in the matter is terminated on any other grounds except due to the approval of the compromise of the parties;
2) it becomes evident that no grounds for pre-trial taking of evidence existed at the time of initiating the pre-trial taking of evidence;
3) the acts performed in the course of pre-trial taking of evidence carried out prior to filing the action are annulled on the grounds that the action was not filed on time.

(2) A security ordered for compensation of damage likely to be caused by pre-trial taking of evidence is returned to the party who applied for the conduct of pre-trial taking of evidence if the other party has not filed an action for compensation for damage within two months as of the time specified in subsection (1) of this section.

Chapter 27 TESTIMONY OF WITNESS

§ 251. Testimony of witness

(1) Every person who may be aware of the facts relevant to a matter may be heard as a witness unless the person is a participant in the proceeding or a representative of a participant in the proceeding in the matter.

(2) Instead of hearing a witness, the court may use the record of hearing the same witness in another court proceeding, if this clearly simplifies the proceeding and the court may be presumed to be able to evaluate the record to a necessary extent without directly interrogating the witness.

§ 252. Summoning of witness to court session

The court summons a witness to a court session and serves a summons on him or her. A summons shall contain at least the following information:
1) the participants in the proceeding and the object of the dispute;
2) the matter in which the person is to be heard;
3) an order to appear at the time and place indicated in the summons in order to give testimony;
4) a warning that coercive measures provided by law will be applied if the witness fails to appear for the hearing.

§ 253. Written testimony

(1) The court may make a ruling whereby a witness is required to provide written answers to the questions posed to him or her within the term prescribed by the court, if appearing before the court is unreasonably cumbersome to the witness and, taking account of the contents of the questions and the personal characteristics of the witness, giving written testimony is, in the court's opinion, sufficient for providing proof.

(2) In the case specified in subsection (1) of this section, the witness shall be informed that regardless of giving written testimony, he or she may also be summoned to a court session to provide oral testimony. A witness shall be explained the contents of § 256. – § 259. of this Code and the obligation of a witness to tell the truth. A witness shall also be cautioned against refusal to give testimony without good reason and against giving knowingly false testimony, and shall be required to sign the text of the testimony and the caution.

(3) A participant in a proceeding has the right to submit written questions to a witness through the court. The court determines the questions for which an answer by a witness is requested.

(4) After receiving the answers of a witness, the court forwards them immediately to the participants in the proceeding together with a signed text of the caution.

(5) If necessary, the court may summon a witness to a court session in order to give oral testimony.

§ 254. Obligation of witness to appear before court and provide truthful testimony

A person summoned as a witness is required to appear in court and give truthful testimony before the court with regard to the facts known to him or her.

§ 255. Hearing of witness outside of court

(1) If a person is unable to appear in court due to an illness, old age, a disability or other good reason, or if it is necessary due to another reason, the court may go to the witness to hear the witness.

(2) A court acting based on a letter of request or a judge acting on the basis of an order shall be assigned the task of hearing a witness only if there is reason to believe that the court conducting proceedings in the matter will be able to evaluate the outcome of the hearing appropriately without directly participating in the hearing, and if:
1) on-the-site hearing of the witness is presumed to be necessary for ascertaining the truth or if, pursuant to law, the witness must be heard elsewhere than the place where the trial is held;
2) the witness is unable to appear in court due to an illness, old age, a disability or other good reason;
3) in proportion to the importance of the testimony to be given by the witness, appearing before the court which conducts proceedings in the matter is not acceptable to the witness due to the disproportionate length of the journey and the witness cannot be heard by way of procedural conference.
[RT I 2008, 59, 330 - entry into force 01.01.2009]
4) [repealed - RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) If a witness fails to appear or refuses to give testimony, the judge who received an order or a letter of request for taking evidence has the right to give and annul orders arising from the law, to decide on the permissibility of the questions posed to the witness and to decide on repeated hearing of the witness.

§ 256. Prohibition on giving testimony

(1) A minister of a religious association registered in Estonia or support staff thereof shall not be heard or questioned with regard to circumstances confided to them in the context of spiritual care.

(2) The following shall not be heard as witnesses without the permission of the person in whose interests the duty to maintain confidentiality is imposed:
1) representatives in civil or administrative matters, counsels in criminal or misdemeanour

matters and notaries with regard to facts which have become known to them in the performance of their professional duties;
[RT I 2008, 59, 330 - entry into force 01.01.2009]
2) doctors, pharmacists or other health care providers, with regard to facts which a patient has confided to them, including facts related to the descent, artificial insemination, family or health of a person;
3) other persons who, due to their occupation or professional or economic activities, have been confided information which the persons are obliged to keep confidential pursuant to law.

(3) Professional support staff of the persons specified in subsection (2) of this section shall also not be heard as witnesses without the permission of the person in whose interests the duty to maintain confidentiality is imposed.

(4) A court may refuse to hear as a witness a person of less than fourteen years of age or a person who due to a physical or mental disability is unable to comprehend the facts relevant to the matter properly or to give truthful testimony with regard thereto.

§ 257. Right of witness to refuse to give testimony

(1) The following persons have the right to refuse to give testimony as witnesses:
1) the descendants and ascendants of the plaintiff or defendant;
2) a sister, stepsister, brother or stepbrother of the plaintiff or defendant, or a person who is or has been married to a sister, stepsister, brother or stepbrother of the plaintiff or defendant;
3) a step parent or foster parent or a step child or foster child of the plaintiff or defendant;
4) an adoptive parent or an adopted child of the plaintiff or defendant;
5) the spouse of or a person permanently living together with the plaintiff or defendant, and the parents of the spouse or person, even if the marriage or permanent cohabitation has ended.

(2) A witness may refuse to give testimony also if the testimony may lay blame on him or her or a person specified in subsection (1) of this section for the commission of a criminal offence or a misdemeanour.

(3) A witness has the right to refuse to give testimony concerning the fact to which the State Secrets and Classified Information of Foreign States Act applies.
[RT I 2007, 16, 77 - entry into force 01.01.2008]

(4) A person processing information for journalistic purposes has the right to refuse to give testimony concerning the fact which enables to identify the person who has provided the information.
[RT I, 21.12.2010, 1 - entry into force 31.12.2010]

(5) A person who comes professionally into contact with the facts that may identify the person who has provided information to the person processing information for journalistic purposes has the right to refuse to give testimony in the case provided in subsection (4) of this section.
[RT I, 21.12.2010, 1 - entry into force 31.12.2010]

§ 258. Obligation to testify in exceptional cases

Regardless of the provisions of § 257 of this Code, a witness shall not refuse to give testimony concerning:
1) the performance and content of a transaction which he or she was invited to witness;
2) the birth or death of a family member;
3) a fact related to a proprietary relationship which arises from a relationship under family law;
4) an act related to the disputed legal relationship which the witness himself or herself performed as the legal predecessor or representative of a party.

§ 259. Procedure for refusing to give testimony

(1) A witness who refuses to give testimony shall present, not later than in the court session prescribed for his or her questioning, the facts on the basis of which the witness refuses to testify, and shall substantiate such facts to the court.

(2) A witness who gives advance notice of his or her refusal to testify need not appear in the court session prescribed for giving the testimony. The court informs the participants in the proceeding of the receipt of a petition on refusal to give testimony.

(3) The court makes a ruling concerning the legality of the refusal of a witness to give testimony after hearing the participants in the proceeding. If the court does not consider the refusal to give testimony to be legal, the court requires the witness to give testimony by a ruling. The witness has the right to file an appeal against such ruling. A ruling made by a circuit court concerning an appeal against a ruling is not subject to appeal to the Supreme Court.

(4) If a witness refuses to give testimony in order to protect a state secret or classified information of foreign states, the court requests the agency in possession of the state secret or classified information of foreign states to confirm classification of the facts as state secret or classified information of foreign states. If the agency in possession of a state secret or classified information of foreign states does not confirm classification of the facts as state secret or classified information of foreign states or does not respond to the request within 20 days, the witness is required to give testimony.
[RT I 2007, 16, 77 - entry into force 01.01.2008]

§ 260. Safeguarding of hearing witness

(1) Every witness is heard individually. Witnesses who have not been heard shall not be present in the courtroom during the hearing of the matter. A witness who has been heard stays in the courtroom until the end of the hearing of the matter unless the court gives the witness permission to leave earlier.

(2) If a court has reason to believe that a witness is afraid or has other reason not to speak the truth before the court in the presence of a participant in the proceeding or if a participant in a proceeding leads the testimony of a witness by interference or in any other manner, the court

may remove such participant in the proceeding from the courtroom for the time the witness is heard.

(3) After the return of such participant in the proceeding, the testimony of the witness is read to the participant in the proceeding and the participant in the proceeding has the right to question the witness.

§ 261. Hearing of witness who is minor

(1) If necessary, a witness of less than fourteen years of age is heard in the presence of a child protection official, social worker, psychologist, parent or guardian who, with the permission of the court, may also question the witness. The court may involve a child protection official, social worker or psychologist in the hearing of a minor over fourteen years of age.

(2) If necessary, a court may remove a witness of less than fourteen years of age from the courtroom after he or she has been heard.

§ 262. Procedure for hearing of witness

(1) The court ascertains the identity of a witness and his or her area of activity, education, residence, connection to the matter and relationships with the participants in the proceeding. Before giving testimony, the court explains the obligation of a witness to tell the truth and the contents of § 256. – § 259. of this Code to the witness.

(2) A witness of at least fourteen years of age is cautioned against refusal to give testimony without a legal basis and giving knowingly false testimony, and the witness confirms this by signing the court minutes or the text of the caution. A witness is not cautioned if the witness does not understand the meaning of the caution due to mental illness, mental disability or other mental disorder.

(3) If a witness is heard repeatedly in the same matter, the witness need not be cautioned repeatedly. The court reminds the witness of the force of the caution.

(4) The court explains the object of the hearing to the witness and urges the witness to disclose everything that he or she knows concerning the object of the hearing.

(5) The participants in a proceeding have the right to pose questions to a witness which are necessary in their opinion in order to adjudicate the matter or establish the witness's connection to the matter. A participant in the proceeding poses questions through the court. With the permission of the court, a participant in a proceeding may pose questions directly.

(6) A participant in a proceeding who applies for the summoning of a witness is the first to question the witness; thereafter, the witness is questioned by the other participants in the proceeding. A witness summoned at the initiative of the court is questioned first by the plaintiff.

(7) The court excludes leading questions and the questions which are not relevant to the matter as well as the questions which are posed in order to reveal new facts which have not yet been presented before and repeated questions.

(8) If necessary, the court has the right to pose additional questions during the entire questioning in order to clarify or supplement the testimony, or to establish the basis for the witness's knowledge.

§ 263. Repeated hearing of witness and confrontation thereof

(1) A witness is heard in the court session to which he or she is summoned unless there is good reason not to hear the witness in this court session. Absence of a participant in a proceeding is not, as a rule, deemed to be good reason. The repeated summoning of a witness who has been heard to the next court session in a court of the same instance shall be reasoned.

(2) If necessary, a court may hear a witness repeatedly in the same court session and confront witnesses if their testimony is contradictory.

§ 264. Notes of witness

(1) While giving testimony, a witness may use notes and other documents concerning numerical data, names and other information which is difficult to memorise. The court may prohibit a witness from using notes in a court session.

(2) If the court so requires, notes are presented to the court and the participants in the proceeding and the court may annex the notes to the file with the witness's consent.

§ 265. Disclosure of testimony of witness

(1) The testimony of a witness who has been heard during previous court sessions on the basis of a letter of request or order, in the course of pre-trial taking of evidence or in the case of the adjournment of the matter is disclosed in a court session. The testimony of a witness is deemed to be disclosed if the court and the participants in the proceeding do not consider the reading out of the testimony necessary.

(2) If witnesses who have been heard in previous court sessions appear in a court session, the court may hear the witnesses again.

§ 266. Liability of witness

(1) If a witness fails to appear in court upon a summons without good reason, the court may impose a fine or compelled attendance on the witness.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) If a witness refuses to give testimony or sign a caution without good reason, the court may impose a fine or detention of up to 14 days on the witness. The witness is released immediately if

the witness gives the testimony or the signature on being cautioned, or if the hearing of the matter has ended or the need for the witness to be heard has ceased to exist.

(3) A witness bears the procedural expenses caused by his or her refusal to give a signature on being cautioned, refusal to give testimony or failure to attend a court session without good reason.

(4) A ruling of a county court or circuit court made under the circumstances specified in subsections (1)–(3) of this section is subject to appeal by a witness. A ruling of a circuit court concerning an appeal against a ruling of a county court is not subject to appeal to the Supreme Court.

Chapter 28 STATEMENTS OF PARTICIPANTS IN PROCEEDING GIVEN UNDER OATH

§ 267. Hearing under oath of participants in proceedings at request of party required to provide evidence

(1) A party who has not been able to prove, by any other evidence, a fact which needs to be proven by him or her or who has not provided any other evidence, has the right to request the hearing of the opposing party or a third person under oath in order to prove the fact. In the case of a legal person, a representative thereof may be heard under oath.

(2) A third person may also be heard under oath at his or her own request.

§ 268. Hearing under oath of party required to provide evidence

The court may also hear under oath a party required to provide evidence concerning a disputed fact if one party requests it and the other party agrees.

§ 268[1]. Hearing of party at initiative of court

Regardless of the parties' requests and the division of the burden of proof, the court may at its own initiative hear under oath either or both parties if on the basis of the earlier proceedings and the evidence provided and taken the court is not able to form a position on the truth of a stated fact subject to be proven. The court may also hear a party under oath at its own initiative if the party required to provide evidence wishes to give statements under oath, but the opposing party does not agree with it.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 269. Procedure for hearing participants in proceeding

(1) The provisions concerning hearing of witnesses correspondingly apply to hearing of participants in proceeding under oath unless the provisions of this Chapter provide otherwise.

(2) A participant in a proceeding takes the following oath before giving testimony: "I, (name), swear by my honour and conscience that I shall disclose the whole truth about the matter without concealing, adding or changing anything". A participant in a proceeding takes the oath orally and signs the text of the oath.

§ 270. Refusal by participant in proceeding to take oath or give statements under oath

(1) If a party refuses to take the oath or to give statements under oath or, regardless of the court's demand, refuses to make a statement concerning such refusal, the court may deem, taking account of, among other, the reasoning for the refusal to take the oath or to give statements, the fact stated by the opposing party to be proven.

(2) If a party fails to appear in the court session set for his or her hearing under oath without good reason, the court may deem, taking account of the reasons for his or her failure to appear, that he or she has refused to give statements.

(3) The provisions concerning the refusal of a witness to give testimony and the liability prescribed therefor apply to the refusal of a third party without an independent claim to give statements or take the oath.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 271. Hearing of participant in proceeding without active civil procedural legal capacity

(1) The legal representative or representatives of a participant in a proceeding who has no active civil procedural legal capacity are heard under oath on his or her behalf.

(2) A minor or an adult with restricted active legal capacity may be heard by the court without taking the oath concerning a fact directly related to his or her action or which was the object of his or her direct experience if the court deems it reasonable under the circumstances.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

Chapter 29 DOCUMENTARY EVIDENCE

§ 272. Definition of documentary evidence

(1) Documentary evidence is a written document or other document or similar data medium which is recorded by way of photography, video, audio, electronic or other data recording, contains information on facts relevant to the adjudication of a matter and can be submitted in a court session in a perceptible form.

(2) Official and personal correspondence, decisions in other cases and opinions of persons with specific expertise submitted to the court by participants in the proceeding are also deemed to be documents.

(3) [Repealed - RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 273. Submission of written documents

(1) A written document is submitted as an original document or a transcript.

(2) If a participant in a proceeding submits an original document together with a transcript, the court may return the original document and include in the file the transcript certified by the judge.

(3) At the request of a person who submits a written document, the original document included in the file may be returned after the entry into force of the court decision terminating the proceeding. The transcript, certified by the judge, of the original document submitted by the person to whom the original document is returned is kept in the file.

(4) The court may set a term for examination of a submitted document after the expiry of which the court returns the document. In such case the transcript of the document is kept in the file.

(5) If a document has been submitted in the form of a transcript, the court has the right to request the submission of the original document or substantiation of the circumstances which prevent the submission of the original document. If the demand of the court is not complied with, the court decides on the probative value of the transcript of the document.

§ 274. Submission of electronic documents

Electronic documents are submitted to the court in the form of printouts or are transmitted electronically in a format which permits examination and safe storage thereof in the information system of the court.

§ 275. Submission of excerpts of documents and examination of documents at their place of storage

(1) If a document is highly voluminous and mainly includes facts not relevant to the proceeding or if a document contains information deemed to be state or business secret or classified information of foreign states, and the court finds that for such reason or other similar reason, submission of the document in its entirety is not reasonable considering the danger of the document being lost or damaged, a certified excerpt of a part of a document may be submitted or the place where the court and the participants in the proceeding may examine the document may be indicated. The court may demand the submission of the document in its entirety.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) In the case specified in subsection (1) of this section, the court may inspect and examine a document at the place of its storage or assign such duty to a court acting on the basis of a letter of request or a judge acting on the basis of an order.

§ 276. Documents prepared by administrative agencies and persons entitled to perform public duties

(1) If the court doubts the authenticity of a document prepared by an administrative agency or a person entitled to perform public duties, the court may request verification of its authenticity by the agency or person who pursuant to the document has prepared the document.

(2) For authentication of a foreign public document, it suffices to have an apostille on the document pursuant to the provisions of the Convention Abolishing the Requirement of Legalisation for Foreign Public Documents or have the document legalised by a competent consular official or envoy of the Republic of Estonia. A foreign public document which does not bear an apostille and has not been legalised is evaluated by the court according to its conscience.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 277. Contestation of authenticity of documents

(1) If a participant in the proceeding is able to prove that a submitted document has been falsified, the participant in the proceeding may contest the authenticity of the document and request that the court refuse to consider the document as evidence.

(2) The authenticity or falsification of a document may, among other, be proven by comparison of documents. If a document needed for comparison is in the possession of the opposing party or a third person, submission of such document may be required on the same bases as submission of documentary evidence.

(3) Authenticity of an electronic document bearing a digital signature may be contested only by substantiating the circumstances which give reason to presume that the document has not been prepared by the holder of the digital signature. The above also applies to electronic documents prepared in any other secure manner enabling establishment of the person who prepared the document and the time it was prepared.

(4) The court may disregard, upon making the judgment, a document the authenticity of which is contested or exclude such document from among the evidence by a ruling. The court may order expert assessment or require submission of other evidence in order to clarify whether a document has been falsified.

(5) A document whose authenticity has been contested or whose contents may have been changed is kept in the file until the end of the proceeding unless, in the interest of public order or in order to prevent the loss of the document, such document needs to be transferred to another administrative agency. The court informs the Prosecutor's Office of any doubts regarding falsification of a document.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 278. Requiring submission of documents

If a person requests that the court require submission of a document by another person, the person shall describe such document and its content in the request and set out the reason why he or she believes the document to be in the possession of such person.

§ 279. Obligation to submit documents

(1) A person in possession of a document has the obligation to submit the document to the court at the court's request within the term set by the court.

(2) If a person is in the possession of information relevant to the adjudication of a matter, the person shall, on the demand of the court, prepare a document on the basis of the information and submit it to the court. A person may refuse to prepare a document for the same reason as he or she may refuse to submit a document.

(3) Upon requiring the submission of a document, the court also specifies the time, place and manner of submission of the document or requires the reasons for not submitting the document. The court may fine a person who fails to submit a document without good reason.

§ 280. Obligation to provide information in action related to intellectual property

(1) If an action is filed due to an infringement or danger of infringement of copyright and related rights or industrial property rights, the court may require at the reasoned request of the plaintiff that the defendant or another person provide written information concerning the origin and distribution channels of the goods or services infringing a right arising from intellectual property.

(2) The court may request, pursuant to the provisions of subsection (1) of this section, information from a person infringing the rights or from another person who:
1) is or has been in possession of the goods infringing the rights;
2) has used the services which infringe the rights;
3) has provided services used for any activities infringing the rights;
4) has participated, based on the information provided by the persons specified in clauses 1)–3) of this subsection, in the production or distribution of such goods, or provision of such services.

(3) The information specified in subsection (1) of this section may include, among other, the following data:
1) the names and addresses of the producers, manufacturers or distributors of the goods or services, the names and addresses of the suppliers of the goods or services or the previous possessors of the goods or services, and the names and addresses of the persons who ordered the goods or services or the points of sale thereof;
2) the quantities of the goods which were manufactured, produced, distributed, received and the prices paid for the goods or services.

(4) The information specified in subsection (3) of this section shall not be used outside of the court proceeding in the course of which such information was requested.

(5) The provisions of subsections (1)–(4) of this section do not restrict the right of the court to hear the persons specified in subsection (2) of this section in the proceeding in the capacity of witnesses. The persons may refuse to submit information in the manner specified in subsection (1) of this section on the same grounds as they may refuse to give testimony as a witness. The court shall explain such right to the persons at the time of requesting the information.

§ 281. Refusal to submit document

(1) A state or local government agency or a public servant employed thereby shall not be required to submit a document concerning the content of which the public servant cannot be heard as a witness.

(2) Regardless of the demand of the court, a document need not be submitted:
1) by an advocate who has received the document in connection with the provision of a legal service;
2) if the document contains information concerning which the possessor of the document cannot be heard as a witness or with regard to which the possessor of the document has the right to refuse to give testimony as a witness;
3) by a person who has the right to refuse to submit the document due to another reason arising from law.

(3) A person other than a party may file objections arising from law to a requirement to submit documents, including objections based on substantive law. Objections shall be substantiated.

(4) If the person from whom submission of a document is required informs the court that the document is not in the possession thereof, the court may hear the person as a witness at the request of a participant in the proceeding in order to establish the whereabouts of the document. The above does not apply in case submission of the document is requested from a party.

(5) The court makes a ruling on the legality of the refusal to submit a document after having heard the participants in the proceeding. The ruling is subject to appeal by the participants in the proceeding and the person who was required to submit the document. A ruling made by a circuit court concerning an appeal against a ruling is not subject to appeal to the Supreme Court.

§ 282. Filing of action for requiring submission of document

(1) If a person files a substantiated and lawful objection to a requirement to submit a document, the person who requested the submission of the document may file an action against the person in possession of the document in order to require submission of the document on the basis of the provisions of the Law of Obligations Act, another Act or a contract, and to request suspension of the proceedings in the main case until such action has been adjudicated. In such event the court sets the person requesting the document a term for requiring submission thereof.

(2) The opposing party may request continuation of the proceedings before the expiry of the term for submission of the document in the possession of another person if the action filed against the possessor of the document has been adjudicated or the person requesting the

document delays the proceeding in the filed action or complying with the decision whereby the action was satisfied.

§ 283. Failure by opposing party to submit document

(1) If the opposing party denies possession of a document, such party is heard under oath concerning the failure to submit the document. If the court is convinced that the opposing party is in possession of a document, the court makes a ruling whereby the opposing party is required to submit the document to the court.

(2) If the opposing party fails to perform the obligation to submit a document to the court or the court is convinced after hearing the opposing party that the party has not looked for the document carefully, the court may approve the transcript of the document submitted to the court by the person providing the evidence. If no transcript of the document has been presented, the court may deem the statements concerning the nature and content of the unsubmitted document made by the person who requested the evidence to be proven.

§ 284. Consequences of removal of document

If a party, in order to prevent the opposing party from relying on a document, removes a document or renders it unusable, the court may deem the statements of the opposing party concerning the nature, preparation and content of the document to be proven.

Chapter 30 PHYSICAL EVIDENCE

§ 285. Definition of physical evidence

Physical evidence means a thing the existence or characteristics of which may facilitate ascertainment of the facts relevant to the adjudication of a civil matter. A document with the above characteristics is also deemed to be physical evidence.

§ 286. Obligation to submit physical evidence

The provisions concerning submission of documents also apply to submission and requiring the submission of physical evidence unless otherwise provided by this Chapter.

§ 287. Storage of physical evidence

(1) Physical evidence is admitted into a matter by a ruling.

(2) Physical evidence is stored in the file or given to the physical evidence storage facility of the court. A notation thereof is made in the file.

(3) Physical evidence which cannot be delivered to the court is stored at its location or is deposited with a participant in the proceeding or third party who shall guarantee the preservation thereof.

(4) A court stores physical evidence such that the physical evidence and its evidential characteristics are preserved. If necessary, physical evidence is sealed.

(5) The procedure for registration, storage, transfer and destruction of physical evidence and for evaluation, transfer and destruction of highly perishable physical evidence by the court shall be established by the Government of the Republic.

§ 288. Inspection of physical evidence

(1) The court inspects physical evidence in a court session and submits the physical evidence to the participants in the proceeding and, if necessary, to experts and witnesses.

(2) Physical evidence stored at its location is inspected at its location. An expert or other qualified person may be asked to be present at the examination. The examination of physical evidence is recorded in the minutes of the court session.

(3) Highly perishable physical evidence or physical evidence the return of which the person submitting the physical evidence requests with good reason is inspected by the court promptly and returned to the person from whom it is obtained or to whom it belongs.

(4) Upon the inspection of the physical evidence specified in subsections (1)–(3) of this section, the physical evidence is described in detail. If necessary and possible, physical evidence is photographed or its relevant characteristics are recorded in some other manner. Minutes are taken of an inspection.

(5) The minutes concerning the inspection of physical evidence are made public in a court session. Thereafter the participants in the proceeding may give statements with regard to the physical evidence.

§ 289. Return of physical evidence

(1) After the entry into force of the court decision terminating the proceeding, physical evidence is returned to the person from whom it was obtained or to whom it belongs, or is given to the person whose right thereto has been recognised by the court, unless the court orders earlier return.

(2) A thing which, pursuant to law, shall not be in the possession of a person, is delivered to a competent state agency.

(3) At the request of a person, physical evidence obtained from the person may also be returned to the person before the entry into force of the court decision after the evidence is inspected and examined.

Chapter 31 INSPECTION

§ 290. Definition of inspection

Inspection means any direct collection by the court of data concerning the existence or nature of a circumstance, including the inspection of an area or the scene of an event.

§ 291. Organisation of inspection

(1) In order to organise inspection, the court makes a ruling which sets out the object of the inspection and the time and place of organising the inspection. One or several experts may be invited to be present at an inspection by a ruling. The court may also organise an inspection at its own initiative.

(2) The court which conducts proceedings in a matter may assign the right to perform an inspection, including the right to appoint the experts to be invited to be present at the inspection, to a judge acting on the basis of an order or a court acting based on a letter of request.

(3) The participants in the proceeding are informed of organising an inspection but their absence does not prevent the conduct of the inspection.

(4) The participants in the proceeding taking part in an inspection may draw the court's attention to circumstances relevant to the completeness of the inspection and to the matter being heard.

(5) In the course of an inspection, an object, area or the scene of an event is described in detail and, if necessary and possible, its relevant characteristics are photographed or recorded in some other manner. Minutes are taken of the course of an inspection and the notices made by the participants in the proceeding are entered in the minutes.

§ 292. Obligation to enable inspection

(1) The court may impose an obligation to enable inspection to a participant in the proceeding or another person and set the person a term for such purpose. Other persons may refuse to enable inspection on the same grounds as the possessor of a document may refuse to submit the document at the demand of the court.

(2) The court has the right to impose a fine on a person who refuses to enable inspection without good reason.

Chapter 32 EXPERT OPINION

§ 293. Organisation of expert assessment and opinion of person with specific expertise

(1) In order to clarify circumstances relevant to a matter which require specific expertise, the court has the right to obtain the opinion of experts at the request of a participant in the proceeding. In order to ascertain the law in force outside the Republic of Estonia, international

law or common law, the court may ask the opinion of an expert in legal matters at the request of a participant in the proceeding or at the initiative of the court.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) The provisions concerning hearing of witnesses apply to hearing persons with specific expertise with the aim to prove a circumstance or event which requires specific expertise in order to be correctly interpreted. If a participant in the proceeding has submitted the written opinion of a person with specific expertise to the court and the person is not heard as a witness, such opinion is evaluated as documentary evidence.

(3) Instead of ordering an expert assessment, the court may use an expert opinion submitted at the order of the court in an another court proceeding or an expert opinion prepared at the order of the body conducting proceedings in criminal or misdemeanour proceedings if this simplifies the proceeding and the court is presumed to be able to evaluate the expert opinion to a necessary extent without organising a new expert assessment. In such case, the expert may be posed additional questions or summoned to court for questioning.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 294. Appointment of expert

(1) An expert assessment is conducted by a forensic expert or another qualified person employed by a state forensic institution, an officially certified expert or another person with specific expertise appointed by the court. The court may appoint a person as an expert if the person has the knowledge and experience necessary to provide an opinion. The court considers the opinions of the parties in the appointment of an expert.

(2) If an officially certified expert is available for conducting an expert assessment, other persons are appointed as experts only with good reason.

(3) The court may demand that the parties name the persons suitable to conduct an expert assessment.

(4) If the parties agree on an expert, the court appoints such person as expert if he or she may act in the capacity of an expert pursuant to law.

(5) The court may appoint additional experts or substitute appointed experts.

(6) The court may also appoint a forensic institution or another person conducting expert assessments as expert and leave the decision on appointment of a specific expert to the institution or person.

§ 295. Obligation to conduct expert assessment

(1) A person appointed as expert is required to conduct an expert assessment if he or she is a forensic expert, is officially certified for the conduct of the required expert assessments or if he

or she conducts professional or economic activities in the field, the knowledge in which is a prerequisite for conducting the expert assessment.

(2) A person who has offered the court his or her services in the conduct of an expert assessment in a matter is also required to conduct the expert assessment.

(3) The consent of an expert need not be obtained for the conduct of an expert assessment.

§ 296. Right to refuse to conduct expert assessment

(1) An expert may refuse to conduct an expert assessment due to the same reasons as a witness is entitled to refuse to give testimony. The court may also release an expert from the obligation to conduct an expert assessment due to other reasons.

(2) A person who participated in the making of a previous decision in the matter, including in an arbitral tribunal or pre-trial proceedings, shall not be appointed as expert unless such person participated in the proceeding as an expert or witness.

(3) A person appointed as expert may also refuse to conduct an expert assessment in other cases provided by law or for good reason.

§ 297. Conduct of expert assessment

(1) If the presence of the participants in a proceeding upon the conduct of an expert assessment is necessary and possible, the court indicates so in the ruling on the expert assessment. In such case, absence of the participants in the proceeding does not prevent the conduct of the expert assessment if the expert finds that he or she is able to provide an opinion without the presence of the participants in the proceeding.

(2) The court may give orders concerning an expert assessment.

(3) If the circumstances which constitute the cause of an action are disputable, the court determines the circumstances which the expert takes a basis in providing an opinion.

(4) If necessary, the court determines to which extent an expert has the right to examine a circumstance which needs to be proven, whether the expert is permitted to contact the participants in the proceeding and whether and at what time the expert must allow the participants in the proceeding to participate in the expert assessment.

(5) The participants in the proceeding shall be informed of the orders given to an expert.

§ 298. Questions to expert and requests and objections of participants in proceeding related to expert assessment

(1) A participant in a proceeding has the right to pose questions to an expert through the court. The court determines the questions for which an expert opinion is requested. The court reasons

the rejection of a question of a participant in a proceeding.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) If necessary, the court hears the opinion of an expert concerning the expert assessment before posing questions to him or her and, if the expert so desires, explains the circumstances related to his or her duties to him or her.

(3) The participants in a proceeding shall submit any objections concerning the conduct of an expert assessment, any requests concerning the conduct of an expert assessment and any additional questions related to an expert assessment to the court within a reasonable time. The court may set them a term for such purpose. The court shall take account of any objections, requests or questions submitted after the expiry of such term only if this does not delay the adjudication of the matter in the opinion of the court or if the participant in the proceeding had good reason for the delay and he or she has substantiated it adequately.

§ 299. Requiring delivery of thing for expert assessment

(1) The court may impose an obligation on a participant in a proceeding or another person to deliver a thing for an expert assessment or to allow the conduct of an expert assessment, and to set the person a term for such purpose. A person other than a participant in a proceeding has the right to refuse to deliver a thing on the same grounds as he or she may refuse to submit a document, and may refuse to tolerate expert assessment on the same grounds as a witness may refuse to give testimony.

(2) The court may fine a person who, without good reason, refuses to deliver a thing or organise an expert assessment.

§ 300. Expert assessment for establishment of filiation

(1) A person shall tolerate expert assessment conducted for the establishment of filiation and, above all, the taking of blood samples for blood-grouping and genetic analysis if establishment of filiation is possible based on recognised principles and methods of science and the examination is not likely to cause health damage to the person examined and his or her close relatives.

(2) If a person refuses to undergo expert assessment for establishment of filiation, the court has the right to order mandatory conduct of the expert assessment. If a person repeatedly and without good reason refuses examination, the expert assessment may be conducted by way of compulsory enforcement based on a court ruling, involving the police as necessary.

(3) The ruling specified in subsection (2) of this section is subject to appeal. Filing of an appeal against the ruling suspends the enforcement of the ruling.

§ 301. Expert opinion

(1) An expert submits an expert opinion to the court in writing unless the court orders oral provision of opinion or with the expert's consent, in another form. An expert opinion shall contain a detailed description of examinations, conclusions reached as a result of examinations and reasoned answers to the questions of the court.

(2) If a court appoints several experts and the experts reach a common opinion, they may prepare a joint opinion. If the experts fail to reach a common opinion, they submit separate expert opinions.

(3) If, during an expert assessment, an expert ascertains facts concerning which no questions have been posed to him or her but which are relevant to the matter, he or she may also provide an opinion on such facts.

§ 302. Obligations and rights of expert

(1) An expert shall provide a correct and reasoned opinion on the questions posed to him or her.

(2) In order to provide an expert opinion, an expert may examine the records of the matter to the extent necessary, participate in the examination of evidence in court and request reference materials and additional information from the court.

(3) An expert has no right to assign the conduct of an expert assessment to another person. If an expert uses the assistance of another person, he or she shall disclose the name of such person and the extent of the assistance to the court unless the assistance is of minor importance.

(4) An expert refuses to provide an expert opinion if the information submitted to him or her is incomplete or if the expert assignments set out in the ruling on the expert assessment are outside his or her specific expertise or if answering to the questions does not require expert examinations or conclusions based on specific expertise. An expert verifies without delay whether the expert assignment is related to his or her speciality or specific expertise and whether fulfilling the assignment is possible without involving additional experts, and shall inform the court immediately of his or her refusal or any doubts.

(5) If an expert has doubts concerning the content or extent of the assignment given to him or her, the expert addresses the court immediately for clarification. An expert informs the court without delay if it becomes evident that the costs of expert assessment are likely to exceed the value of the civil matter or are significantly higher than the advance payment made for covering the costs of expert assessment.

(6) An expert has the obligation to maintain the confidentiality of the facts which have become known to him or her in the course of the expert assessment. Such facts may be disclosed only with the permission of the court unless otherwise prescribed by law.

§ 303. Hearing and cautioning of experts

(1) An expert opinion is disclosed in a court session.

(2) Unless an expert opinion is submitted in writing or in a format which can be reproduced in writing, the expert provides the expert opinion in a court session. The court may summon an expert who submitted an expert opinion in writing or in a format which can be reproduced in writing to a court session for questioning. The court summons an expert who provided an expert opinion to a court session if so requested by a party.

(3) After examining an expert opinion, the participants in a proceeding may pose questions to the expert in a court session in order to clarify the opinion provided that the expert has been summoned to court. The questions may also be submitted to the court beforehand and the court forwards them to the expert. The court excludes the questions which are irrelevant and beyond the competence of the expert.

(4) An expert shall appear in court when summoned and shall provide a correct and reasoned opinion on the questions posed to him or her.

(5) The provisions concerning the hearing of witnesses also apply to the hearing of experts unless otherwise prescribed by this Chapter. An expert who is not a forensic expert or an officially certified expert is cautioned, before he or she submits the expert opinion, against knowingly providing an incorrect expert opinion, and the expert confirms this by signing the court minutes or the text of the caution. The signed caution is sent to the court together with the expert opinion.

§ 304. Reassessment and further expert assessment

(1) If an expert opinion is ambiguous, contradictory or insufficient and cannot be corrected by additional questions, the court has the right to order a reassessment. A reassessment is assigned to the same expert or another expert.

(2) In the case of removal of an expert, the court assigns the reassessment to another expert.

(3) If an expert fails to provide an answer to a question relevant to the matter and the expert is unable to answer such question in a court session, the court has the right to order further expert assessment. Further expert assessment may be assigned to the same expert or another expert.

§ 305. Liability of expert

(1) The court may, by a ruling, fine an expert and demand compensation of the procedural expenses by the expert if the expert, without good reason:
1) fails to appear in a court session when summoned by the court;
2) refuses to give a signature about being cautioned of his or her liability;
3) refuses to provide an opinion;
4) fails to submit an opinion by the due date set by the court;

5) refuses, without good reason, to answer the questions posed to him or her;
6) refuses to submit materials related to the expert assessment.

(2) An appeal may be filed by an expert against a ruling specified in subsection (1) of this section.

Part 6 SERVICE OF PROCEDURAL DOCUMENTS

Chapter 33 GENERAL PROVISIONS

§ 306. Definition of service of procedural documents

(1) Service of a procedural document means delivery of a document to its recipient in a manner which enables the recipient to examine the document in time in order to exercise and protect the rights thereof. The recipient is a participant in a proceeding or another person to whom the procedural document is addressed.

(2) Upon service of a procedural document, the act of delivery must conform to the formal requirements provided by law and be documented in the format prescribed for such purpose.

(3) The court arranges for the service of procedural documents through a person providing postal services as its economic activity, a bailiff, a court security guard or, in conformity with the internal rules of the court, another competent court official or in another manner specified by law.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(4) In order to serve a procedural document, the court has the right to demand that the chief processor or an authorised processor of a state or local government database, a previous or current employer of the person, a credit institution, an insurance company or another person or institution provide information concerning the residence of a participant in a proceeding or a legal representative of a participant in a proceeding who is a legal person or a witness and other contact information. The chief processor or authorised processor of a database or such other person or institution is required to provide the information without delay and free of charge on paper or electronically. Upon existence of technical means, the court must be provided with an opportunity to check the necessary information from the database of the person or institution independently.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(5) The court shall serve the statement of claim, appeal and supplements thereto, summonses as well as the court judgment and a ruling on termination of the proceeding in a matter and any other procedural documents specified by law on the participants in a proceeding.
[RT I 2005, 39, 308 - entry into force 01.01.2006]

§ 307. Deeming of procedural documents to be served

(1) A procedural document is deemed to be served as of the time the document or a certified transcript or printout thereof is delivered to the recipient, unless otherwise prescribed by law.

(2) Transcripts of procedural documents specified in subsection (1) of this section may be certified by competent court officials in conformity with the internal rules of the court or advocates. Transcripts of appendices to procedural documents and transcripts of procedural documents submitted or delivered to the court by the participants in a proceeding need not be certified.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) If a document reached a participant in a proceeding on whom the document had to be served or on whom the document could be delivered pursuant to law but there was no possibility to certify the delivery, or if the procedure for service provided by law was violated, the document is deemed to be served on the participant in the proceeding as of the time the document actually reached the recipient.

(4) The dispatch of a procedural document for service shall be entered in the court file.

§ 308. [Repealed - RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 309. Time and place of service of procedural document

A procedural document may be served on a person on any day of the week, at any time and in any place where the person stays.

§ 310. Transmission of procedural documents without service on participants in proceeding

(1) A procedural document which need not be served on a participant in a proceeding pursuant to the procedure provided for in this Part but which concerns the rights of the participant in the proceeding is transmitted to the participant in the proceeding in a manner chosen by the court.

(2) If a procedural document specified in subsection (1) of this section is sent by post, the document is deemed to have been received three days after the posting, and in the case of sending a document to a foreign state, the document is deemed to have been received fourteen days after the posting, unless the participant in the proceeding substantiates to the court that he or she received the document later or did not receive the document. The court may set a longer term for deeming a document to be received.

Chapter 34 MANNERS OF SERVICE OF PROCEDURAL DOCUMENTS

§ 311. Service of procedural documents in court premises

A procedural document may be served on the recipient in the court premises provided that the time of issue is specified in the file and the recipient gives a signature about receipt of the document. Service of a document in a court session is indicated in the minutes of the session.

§ 311[1]. Electronic service of procedural documents

(1) A court may serve procedural documents electronically through the designated information system by transmitting a notice on making the document available in the system:
1) to the e-mail address and phone number notified to the court;
2) to the e-mail address and phone number registered in the information system of a register maintained in Estonia concerning sole proprietors or legal persons;
3) to the e-mail address and phone number of the addressee and his or her legal representative entered in the population register;
4) to the e-mail address and phone number of the addressee and his or her legal representative in the database of another state register where the court can check information independently by making an electronic query;
5) upon the existence of Estonian personal identification code, to the e-mail address personal-identification-code@eesti.ee.

(2) The court may also send a notice on making the document available to the phone number or e-mail address found in the public computer network, on the presumed user account page of a virtual social network or on a page of another virtual communication environment which the addressee may be presumed to use according to the information made available in the public computer network or where, upon sending, such information may be presumed to reach the addressee. If possible, the court makes the notice available on the presumed user account page of a virtual social network or on a page of another virtual communication environment in such a manner that the notice cannot be seen by any other persons than the addressee.

(3) A procedural document is deemed to be served when the recipient opens it in the information system or confirms the receipt thereof in the information system without opening the document and also if the same is done by another person, whom the recipient has granted access to see the documents in the information system. The information system registers the service of the document automatically.

(4) If a recipient cannot be expected to be able to use the information system used for the service of procedural documents or if service through the information system is technically impossible, the court may also service procedural documents on the recipient electronically in another manner, complying with the requirements for notification provided in clauses 1)–5) of subsection (1) of this section and the requirement for search of information.

(5) A procedural document is deemed to be served on the recipient pursuant to the procedure provided in subsection (4) of this section when the recipient confirms the receipt of the

procedural document in writing, by fax or electronically. The confirmation shall set out the date of receipt of the document and bear the signature of the recipient or representative thereof. A confirmation prepared in electronic form shall bear the digital signature of the sender or be transmitted in another secure manner which enables identification of the sender and establishment of the time of sending, unless the court has no reason to doubt that the confirmation without a digital signature has been sent by the recipient or representative thereof. A confirmation prepared in electronic form may be sent to the court by e-mail if the e-mail address of the recipient is known to the court and it can be presumed that unauthorised persons have no access to it and also if the court has already transmitted documents to this e-mail address in the course of the same case or if the participant in the proceeding has provided his or her e-mail address to the court independently. The recipient shall send the confirmation specified in this subsection to the court without delay. The court may fine a participant in a proceeding or representative thereof who has violated this obligation.

(6) Procedural documents may be served on advocates, notaries, bailiffs, trustees in bankruptcy and state or local government agencies in any other manner than electronically through the designated information system only with good reason.

(7) The court makes all procedural documents, including court decisions, immediately available to the participants in the proceeding in the designated information system, regardless of the manner of service thereof on the participants in the proceeding.

(8) More detailed requirements on the electronic service of documents and making them available through the information system may be established by a regulation of the Minister of Justice.
[RT I, 29.06.2012, 3 - entry into force 01.01.2013]

§ 312. Service of procedural documents through postal service provider

(1) A procedural document may be served on the recipient through a person providing postal services as an economic activity by sending a registered letter with a delivery notice or an unregistered letter.

(2) [Repealed - RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 313. Service of procedural documents by registered letter

(1) Service of a document sent by registered letter is certified by the delivery notice which must be returned to the court without delay.

(2) A procedural document which is served may be handed over to a person who is not the recipient only in the cases provided by this Part. Such person shall hand over the document to the recipient at the earliest opportunity. He or she may refuse to accept the document for delivery thereof to the recipient only if he or she substantiates that he or she is unable to deliver the document to the recipient. The obligation to deliver the document shall be explained to the person. The document is deemed to be served regardless of whether or not such explanation is

given.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) A delivery notice shall set out the following information:
1) the time and place of service of document;
2) the name of the person on whom the document had to be served;
3) if the document was served on a person who is not the recipient, the name of the person to whom the document was handed over and the reason why the document was handed over to such person;
4) the manner of service;
5) in the case of refusal to receive the document, a notice to such effect and information on where the document was left;
6) the name, position and signature of the person who served the document;
7) the name and signature of the person who received the document and information concerning identification of the person and, above all, identity document number, and the date of receipt of the document unless, due to a reason specified by law, the document was actually not delivered.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(4) The Minister of Justice may establish the format for a delivery notice.

(5) A delivery notice which does not meet the format requirements provided in subsections (3) and (4) of this section may be deemed adequate for the purpose of service if service is still reliably documented in the delivery notice.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(6) If a court cannot deem a procedural document served due to the fact that the provider of postal services failed to use all the options provided for in this Act upon service of the procedural document by registered letter, delivered the procedural document to the person to whom its delivery was not permitted pursuant to the provisions of this Part, failed to comply with the provisions of §§ 326 and 327 of this Code or failed to document the service in such manner that service could be deemed effected, the court may give the procedural document to the provider of postal services for a new service, without paying any additional fee therefor.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 314. Service of procedural documents by unregistered letter or fax

(1) A procedural document may be served by sending an unregistered letter or fax provided that a notice concerning the obligation of immediate return of the confirmation of receipt is annexed to the letter or fax, and the names and addresses of the sender and the recipient, and the name of the court official who sent the document are indicated in the letter or fax.

(2) The official who sends a document by unregistered letter or fax indicates in the file where and when the document was sent for the purpose of its service.

(3) A document sent by unregistered letter or fax is deemed to have been served if the recipient sends the court a confirmation on the receipt of the document by letter or fax or electronically, as

chosen by the recipient. The confirmation shall set out the date of receipt of the document and bear the signature of the recipient of the document or representative thereof.

(4) If a procedural document is delivered by unregistered letter or fax, the recipient must send the confirmation specified in subsection (3) of this section to the court without delay. The court may fine a participant in a proceeding or representative thereof who has violated this obligation.
[RT I, 29.06.2012, 3 - entry into force 01.01.2013]

§ 315. Service of procedural documents through bailiff, court official, another person or institution

(1) A procedural document may also be served through a bailiff, court security guard or, in conformity with the internal rules of the court, another competent court official or police authority or another state agency or local government or its agency, likewise through another person to whom the court assigns the duty of service upon agreement. A participant in a proceeding who has submitted a document which is subject to service or in whose interests another procedural document is subject to service may apply to the court for service of the document through a bailiff.

(1^1) In expedited procedure in a matter of payment order and in actions, a procedural document may be served through a bailiff only pursuant to the procedure provided in § 315^1 of this Code. In actions pertaining to the interests of a child or another natural person requiring special protection in the proceeding, likewise in expedited procedure in a matter of payment order in a claim for support for a child, a procedural document may also be served through a bailiff pursuant to the procedure provided for in this section.
[RT I, 29.06.2012, 3 - entry into force 01.01.2013]

(2) The court hands over a procedural document to a police authority or another state agency or local government or its agency for service only if other options for service, except public service, have not yielded any results or are not likely to yield a result and, above all, if service in the same or another matter through a provider of postal services has lately failed. Violation of this requirement does not affect the validity of the service.

(3) In order to serve a procedural document, the court transmits the document subject to service to the person or institution specified in subsection (1) of this section and provides it with information at its disposal concerning earlier attempts of service and any known contact information concerning the person. A notation is made in the file concerning when and to whom the document was handed over for service.

(4) The manner of service is chosen independently by the person or institution specified in subsection (1) of this section from among the manners provided in this Part unless such instructions are given by the court. They shall not organise public service.

(5) A delivery notice is prepared concerning service which shall set out the data specified in subsection 313 (3) of this Code. After service, the delivery notice is returned to the court without delay. The Minister of Justice may establish the format for a delivery notice.

(6) A delivery notice which does not meet the format requirements provided in subsection (5) of this section may be deemed adequate for the purpose of service if service is still reliably documented.

(7) A procedural document which is served may be handed over to a person who is not the recipient only in the cases provided by this Part. Such person shall hand over the document to the recipient at the earliest opportunity. He or she may refuse to accept the document for delivery thereof to the recipient only if he or she substantiates that he or she is unable to deliver the document to the recipient. The obligation to deliver the document shall be explained to the person. The document is deemed to be served regardless of whether or not such explanation is given.

(8) If a court cannot deem a procedural document served due to the fact that the person or institution specified in subsection (1) of this section failed to comply with the instructions of the court upon service of the procedural document or failed to use for this purpose all the options provided for in this Act, delivered the procedural document to the person to whom its delivery was not permitted pursuant to the provisions of this Part, failed to comply with the provisions of §§ 326 and 327 of this Code or failed to document the service in such manner that service could be deemed effected, the court may hand over the procedural document for a new service.

(9) A court may grant the person or institution specified in subsection (1) of this section a term of up to 60 days, during which the procedural document must be served or, upon failure to serve, a report on the causes of the failure of service must be submitted to the court.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 315[1]. Service of procedural documents arranged by participant in proceeding

(1) A participant in a proceeding who has submitted a document which is subject to service or in whose interests another procedural document is subject to service may apply to the court for arranging the service of the document independently. A participant in a proceeding may serve procedural documents only through a bailiff.

(2) In the case specified in subsection (1) of this section the court sets a term for service of the procedural document during which the participant in the proceeding arranging the service shall notify the court about the results of the service.

(3) In order to serve a procedural document, the court delivers the procedural document subject to service to the participant in the proceeding arranging the service in an envelope sealed by the court and likewise a delivery report form subject to be returned to the court and explains to him or her the consequences of knowingly submitting incorrect information to the court.

(4) The procedure provided for in subsections 315 (4)–(7) of this Code applies to the service of procedural documents through a bailiff and documentation thereof.

(5) If the plaintiff or the petitioner in the expedited procedure in a matter of payment order fails to notify the court about the results of the service within the term set on the basis of subsection

(2) of this section, the hearing of the petition is refused.
[RT I, 29.06.2012, 3 - entry into force 01.01.2013]

§ 316. Service of procedural documents in foreign states and on extra-territorial citizens of Republic of Estonia

(1) [Repealed - RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) A procedural document may also be served in a foreign state pursuant to the Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters or another international agreement.

(3) A procedural document may also be served in a foreign state by sending a registered letter with a delivery notice which need not comply with the format requirements provided for in this Code. Return of the delivery notice is sufficient to certify service. A procedural document may also be served in a foreign state pursuant to the procedure provided in § 314 of this Code.

(4) The court may also serve a procedural document in a foreign state through a competent administrative agency of the foreign state or through a competent consular official or envoy representing the Republic of Estonia in such state.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(5) Service of procedural documents on citizens of the Republic of Estonia living in a foreign state who are extra-territorial persons and belong to the staff of a foreign mission of the Republic of Estonia may also be organised through the Ministry of Foreign Affairs of the Republic of Estonia.

(6) A request for service of a procedural document on a person specified in subsection (4) or (5) of this section is submitted by the court hearing the matter. Service of the document is certified by a written confirmation to such effect issued by the administrative agency or official who acted as intermediary upon service of the document.

(7) If a procedural document needs to be translated in order to serve it in a foreign state, the court may demand that the participant in the proceeding, due to whom or in whose interests the procedural document needs to be served, submit such translation or cover the translation costs. If the participant in the proceeding fails to do it, the court may refuse to serve the procedural document.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 316[1]. Implementation of Regulation (EC) No 1393/2007 of the European Parliament and of the Council

(1) The provisions of this Code apply to the service of procedural documents in another Member State of the European Union unless otherwise provided by Regulation (EC) No 1393/2007 of the European Parliament and of the Council on the service in the Member States of judicial and

extrajudicial documents in civil or commercial matters (service of documents), and repealing Council Regulation (EC) No 1348/2000 (OJ L 324, 10.12.2007, pp. 79–120).

(2) On the basis of Article 2(1) of the regulation specified in subsection (1) of this section, the agencies transmitting judicial documents are county courts of Estonia which conduct proceedings in the matter in which the document is to be served and the agency transmitting extrajudicial documents is the Ministry of Justice. On the basis of Article 2(2) of the regulation specified in subsection (1) of this section, the agency receiving judicial and extrajudicial documents is the county court in the territorial jurisdiction of which the document is to be served.

(3) On the basis of Article 3 of the regulation specified in subsection (1) of this section, the Ministry of Justice has the responsibilities of the central body.

(4) On the basis of Articles 4(3) and 10(2) of the regulation specified in subsection (1) of this section, the standard forms completed either in Estonian or English are accepted in Estonia.

(5) On the basis of the regulation specified in subsection (1) of this section, documents are served in Estonia pursuant to the procedure prescribed for the service of procedural documents provided for in the Code of Civil Procedure. Documents shall not be served by public announcement.

(6) In conformity with Article 13(2) of the regulation specified in subsection (1) of this section, documents may be served in Estonia through diplomatic or consular agents of another Member State in Estonia only if documents are to be served on a national of the Member State in which the documents originate.

(7) The service of documents in the manner specified in Article 15 of the regulation specified in subsection (1) of this section is not permitted in Estonia.

(8) An Estonian court may adjudicate a matter under the conditions provided in Article 19(2) of the regulation specified in subsection (1) of this section even if there is no certificate concerning the service of the procedural document on the defendant. In conformity with the third sentence of Article 19(4) of the regulation specified in subsection (1) of this section, an application for relief may be filed with the court within one year after making a court decision whereby the proceeding in the matter is terminated.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 317. Public service of procedural documents

(1) Based on a court ruling, a participant in a proceeding may be served a procedural document by public announcement if:
1) the address of the participant in the proceeding is not entered in the register or the person does not live at the address entered in the register and the court has otherwise no knowledge of the address or place of stay of the person, and the document cannot be delivered to a representative of the person or a person authorised to receive the document or in any other

manner provided for in this Part;
[RT I 2006, 61, 457 - entry into force 01.01.2007]
2) service of the document in a foreign state in conformity with the requirements is presumed to be impossible;
3) the document cannot be served because the place of service is the dwelling of an extra-territorial person.

(1^1) Notwithstanding the provisions of subsection (1) of this section, a procedural document may be served by public announcement on a participant in a proceeding which is a legal person based on a court ruling if electronic service and service by a registered letter to the postal address entered in the register maintained about legal persons have yielded no results. If a legal person has submitted the Estonian address of the person provided for in subsection 63^1 (1) of the Commercial Code to the registrar, an attempt shall also be made to serve the document to such address before public service of the procedural document.
[RT I, 29.06.2012, 3 - entry into force 01.01.2013]

(1^2) Regardless of the provisions of subsection (1) of this section, upon change of an expedited procedure in a matter of payment order into an action, a statement of claim may be served by public announcement on the basis of a court ruling in conformity with the provisions of clause 486 (1) 2) of this Code if the court which has prepared the proposal for payment has fulfilled the prerequisites for public service provided for in clause (1) 1) of this section upon service of the proposal for payment on the debtor.
[RT I, 29.06.2012, 3 - entry into force 01.01.2013]

(2) The court may demand that a participant in the proceeding who requests the public service of a procedural document submit a confirmation by a police authority, rural municipality or city government that such authority has no knowledge of the whereabouts of the recipient, or other proof on the circumstances specified in subsection (1) of this section. A police authority, rural municipality or city government shall provide the participant in the proceeding with such confirmation at his or her request. If necessary, the court also makes inquiries independently for establishment of the address of the recipient.

(3) An excerpt from a document subject to public service is published in the publication *Ametlikud Teadaanded*. The court hearing the matter may make a ruling on allowing publication of the excerpt also in other publications.
[RT I 2006, 55, 412 - entry into force 01.01.2007]

(4) The excerpt specified in subsection (3) of this section shall set out:
1) the court hearing the matter, the party to the proceeding and the object of the proceeding;
[RT I 2008, 59, 330 - entry into force 01.01.2009]
2) the petition contained in the document to be served;
3) in the case of service of a decision, the conclusion thereof;
4) in the case of service of a summons, the purpose of summoning to court and the time for appearance;
5) in the case an action is served, a proposal to respond to the action, the contents of the proposal and the requisite explanation.

(5) A document is deemed to be served by public announcement when 15 days have passed from the date of publishing the excerpt in the publication *Ametlikud Teadaanded*. The court hearing the matter may set a longer term for deeming a document to be served. In such case the term is published together with the public service of the document.
[RT I, 29.06.2012, 3 - entry into force 01.01.2013]

(6) A court may refuse to serve a procedural document by public announcement if there are probably intentions to have the decision to be made in the proceeding recognised or enforced in a foreign state and it is probable that the decision would not be recognised or enforced due to the public service. (4) A ruling on refusal to refuse public service is subject to appeal. A ruling made by a circuit court concerning an appeal against a ruling is not subject to appeal to the Supreme Court.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

Chapter 35 SERVICE OF PROCEDURAL DOCUMENT ON REPRESENTATIVE OF RECIPIENT

§ 318. Service of procedural document on legal representative of recipient

(1) A procedural document is deemed to be served on a recipient with restricted active legal capacity if the document is served on the legal representative of the recipient.

(2) In the case of a legal person or administrative agency, a procedural document is served on the legal representative of the legal person or administrative agency unless otherwise provided in this Code.
[RT I, 29.06.2012, 3 - entry into force 01.01.2013]

(3) If a person specified in subsection (2) of this section has several legal representatives, the document need to be served on only one of them.
[RT I 2005, 39, 308 - entry into force 01.01.2006]

§ 319. Service of procedural document on authorised person

(1) A procedural document is deemed to be served on the recipient if the document is served on a person duly authorised by the recipient. A procurator of the recipient of a document, a person who holds general authorisation by the recipient and a person who usually receives documents on behalf of the recipient are presumed to have the right to receive procedural documents.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) A procedural document is also deemed to be served on a sole proprietor, a legal person in private law and a branch of a foreign company if the document is served on the person authorised to receive procedural documents entered in the commercial register or the non-profit associations and foundations register.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 320. Obligation of participant in proceeding to appoint representative for receipt of procedural documents

(1) If a procedural document is served through a competent authority of a foreign state, a competent consular official or envoy representing the Republic of Estonia in a foreign state or the Republic of Estonia Ministry of Foreign Affairs, the court may demand that the recipient of the document appoint a person residing or staying in Estonia who is authorised to receive procedural documents unless the recipient has appointed a representative for the proceeding.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) The court may require a participant in a proceeding by a ruling to appoint a person authorised to receive procedural documents also in other cases where service of documents is likely to be unreasonably inconvenient.

(3) If a participant in a proceeding who is required to appoint a person authorised to receive procedural documents fails to do so, procedural documents are served on the participant in the proceeding by unregistered letter at the address thereof until the time the participant in the proceeding appoints such person.

(4) In the case specified in subsection (3) of this section, the document is deemed to have been served after 15 days have passed from posting even if the parcel is returned. The court may set a longer term for deeming a document to be served.

(5) In the case of serving a document by post as specified in subsection (3) of this section, the time of posting and the address at which the document was posted shall be indicated in the file.

§ 321. Service of procedural document on representative in court proceeding

(1) If a participant in a proceeding is represented by a representative in a court proceeding, the documents in the matter in which the proceedings are conducted are served on and other notices are sent only to the representative unless the court deems it necessary to send them personally to the participant in the proceeding. If there are several representatives, the document need to be served on only one of them.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) An appeal against a court decision is served on the representative who represented the participant in the proceeding in the court instance which made the decision against which the appeal is filed. If a party has already appointed a representative for a higher instance of court which is to hear the appeal, the appeal may also be served on such representative.

(3) A procedural document is also deemed to be served on an advocate representing a participant in a proceeding by placing the procedural document in a post box assigned to the advocate in the court premises and agreed upon with the advocate in advance.

Chapter 36 SERVICE IN SPECIAL CASES

§ 322. Service of procedural document in dwelling or place of stay and on recipient's employer, lessor or building manager

(1) If the recipient of a procedural document cannot be reached in his or her dwelling, the document is also deemed to be served on the recipient if the document is delivered to a person of at least fourteen years of age who resides in the dwelling of the recipient or serves the family thereof.

(2) Instead of serving a procedural document on the recipient, it may be served on the apartment association managing the apartment building, where the recipient's dwelling or business premises are located, the administrator of the object of common ownership or the lessor of the recipient, likewise on the recipient's employer or another person to whom the recipient provides services under a contract.

(3) A procedural document is deemed to be served on the recipient even if it is served on the representative of the recipient in the manner specified in subsections (1) and (2) of this section.

(4) A document is also deemed to be served on a person serving in the defence forces, serving a sentence in prison or staying in a health care institution or other such place for a longer period of time upon delivery of the document to the head of such institution or a person appointed thereby, unless otherwise prescribed by law.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 323. Service of procedural document in business premises

(1) A document is also deemed to be served on a natural person engaging in economic or professional activity if the document is delivered to a person usually staying in the business premises of the recipient or to a person usually providing services to the recipient on similar contractual basis if the natural person does not stay in the business premises during regular working hours or is unable to receive the document.

(2) The provisions of subsection (1) of this section also apply to service of documents on legal persons, administrative agencies, notaries and bailiffs, likewise in the case of service of a document on a representative of the recipient or another person on whom the document can be served instead of the recipient.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 324. Restrictions on service of procedural document

In the cases specified in §§ 322 and 323 of this Code, a document is not deemed to be served if, instead of the recipient, the document is served on a person who participates in the proceeding as the recipient's opposing party.

§ 325. Refusal to accept procedural document

If a person refuses to accept a document without good reason, the document is deemed to be served on the person as of the refusal to accept the document. In such case the document is left in the dwelling or business premises of the recipient or placed in the post box of the recipient. In the absence of such premises or post box, the document is returned to the court.

§ 326. Service of procedural document by placement in post box

(1) A procedural document which cannot be served because it cannot be delivered in the dwelling or business premises of the recipient or representative thereof is deemed to be served by placing the document in the post box which belongs to the dwelling or business premises or in another such place which the recipient or representative thereof uses to receive mail and which usually ensures the preservation of the parcel. A procedural document may be served on a person specified in subsection 322 (2) of this Code only if service on the recipient or representative thereof in person is impossible.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) Service in the manner described in subsection (1) of this section is permitted only in case an effort to deliver the procedural document personally to the person has been made at least on two occasions at least three days apart at significantly different hours and service of the procedural document on another person staying in the dwelling or business premises in conformity with subsection 322 (1) or § 323 of this Act is impossible.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) In the case specified in subsection (1) of this section, the date of service is entered on the envelope of the served parcel.

§ 327. Service of procedural document by depositing

(1) On the conditions provided in § 326 of this Code, a document may also be deposited with the post office, rural municipality or city government of the location of the place of service of the document or with the office of the county court within the territorial jurisdiction of which the place of service of the document is located.

(2) A written notice concerning depositing is left or sent at the address of the recipient and if this is impossible, the notice is attached to the door of the dwelling, business premises or place of stay of the recipient or issued to a person residing in the neighbourhood for forwarding it to the recipient. The notice shall clearly state that the document deposited has been sent by the court and that as of the time of depositing, the document is deemed to be served and terms in the proceeding may begin to run as of such time.

(3) A document is deemed to be served when three days have passed from the forwarding or leaving of the written notice specified in subsection (2) of this section. The date of service is entered on the envelope of the document.

(4) A document delivered for service is returned to the sender within 15 days after the date on which the document is deemed to be delivered unless the court has set a longer term for this purpose.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

Part 7 PETITIONS AND APPLICATIONS OF PARTICIPANTS IN PROCEEDING

Chapter 37 GENERAL PROVISIONS

§ 328. Correctness of petitions and guarantee of response to petitions

(1) Petitions by the participants in a proceeding concerning the factual circumstances related to a matter shall be correct.

(2) The court grants a party an opportunity to respond to the applications and factual allegations of the opposing party unless otherwise provided by law.

§ 329. Timely filing of petitions

(1) The participants in a proceeding shall file their petitions, applications, evidence and objections in a proceeding as early as possible depending on the stage of the proceeding and the need for the expeditious and just adjudication of the matter. New petitions, applications, evidence and objections may be filed after the end of pre-trial proceedings only if earlier filing thereof was impossible for a good reason.

(2) If a matter is adjudicated in a court session, the participants in the proceeding shall file their main arguments and applications before the court session.

(3) The court shall make, in a timely manner, all the necessary preparations for adjudicating a matter. At each stage of a proceeding, the court endeavours to create the conditions needed by the parties in order to file their petitions on time and to the full extent, and to contribute to the adjudication of the matter in the minimum possible time and at the minimum possible cost.

(4) In pre-trial proceedings, the court may give the participants in the proceeding orders for the submission, amendment or clarification of documents, for providing opinions on the documents submitted by the opposing party, and for submission of evidence within the term set by the court. Participants in a proceeding shall be informed of all the orders of the court.

§ 330. Terms for filing of petitions

(1) Any petitions, applications, evidence and objections shall be filed before the end of pre-trial proceedings or, in written proceedings, before the expiry of the term for filing applications.

(2) All objections to the legality of filing of a petition or appeal shall be submitted to the court together in the response to the petition or appeal or, if a response is not given, in the first hearing or upon the filing of the first petition on the merits of the matter.

(3) Petitions containing new circumstances or requests, likewise evidence submitted after the end of pre-trial proceedings or, in written proceedings, after the expiry of the term for submission of applications are accepted to the proceeding in the cases and pursuant to the procedure provided in § 331 of this Code.
[RT I, 29.06.2012, 3 - entry into force 01.01.2013]

§ 331. Belated filing of petitions

(1) If a participant in a proceeding files a petition, application, evidence or objection after the expiry of the term set for such purpose by the court or in violation of the provisions of § 329 or § 330 of this Code, the court hears it only if in the court's opinion, accepting it to the proceeding does not cause a delay in the adjudication of the matter or the participant in the proceeding provides good reason for the delay.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) If a participant in a proceeding was not notified of a petition, application, evidence or objection of the opposing party in time before the court session and, due to such fact, the opposing party is unable to form a sufficiently clear position concerning such submissions, the court may set the opposing party a term during which the opposing party may provide a position.

§ 332. [Repealed - RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 333. Filing of objections to activity of court

(1) The participants in a proceeding may file objections to the activity of the court in directing the proceeding and also objections to the violation of procedural provisions and above all, to the violation of the formal requirements on performance of procedural acts. The court adjudicates an objection by a ruling.

(2) If a participant in a proceeding does not file an objection at the latest at the end of a court session where the violation took place, or in the first procedural document submitted to the court after the violation took place, and the participant in the proceeding was aware or should have been aware of the error, the party has no right to file the objection at a later time.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) In the case specified in subsection (2) of this section, the participant in the proceeding also has no right to rely on the error in the activity of the court upon filing an appeal against the court decision.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(4) The provisions of subsections (2) and (3) of this section do not apply if the court has violated an essential principle of civil procedure.

§ 333[1]. Application for expedition of court proceeding

(1) If a court has been conducting proceedings in a civil matter for at least nine months and the court fails to perform a necessary procedural act without good reason, including fails to schedule a court session in a timely manner in order to ensure the conducting of the court proceeding within a reasonable period of time, a party to the court proceeding may request the court to take a suitable measure for expediting the completion of the court proceeding.

(2) If the court considers the application reasoned, it orders, within 30 days from receipt of the application, the implementation of such a measure which is presumed to enable to complete the court proceeding within a reasonable period of time. The court is not bound by the application upon choosing a measure.

(3) Refusal to satisfy the application or implementation of a measure other than that stated in the application for expediting the court proceeding is formalised by a reasoned ruling within the term provided in subsection (2) of this section. A ruling whereby implementation of the measure for expediting the court proceeding indicated in the application is decided need not be reasoned.

(4) An appeal may be filed against the ruling made upon reviewing the application for expedition of the court proceeding. A ruling made by a circuit court concerning an appeal against a ruling is not subject to appeal to the Supreme Court.

(5) Upon adjudication of an appeal against a ruling, the court may order the implementation of such a measure which is presumed to enable to complete the court proceeding within a reasonable period of time. The court is not bound by the limits of the appeal upon choosing a measure.

(6) A new application may be filed when six months have passed from the entry into force of the court ruling made concerning the previous application, except if the application is filed due to the reason that the court hearing the matter has failed to implement the measure prescribed by the ruling in time.
[RT I, 23.02.2011, 1 - entry into force 01.09.2011]

Chapter 38 FORMAT OF PROCEDURAL DOCUMENTS SUBMITTED BY PARTICIPANTS IN PROCEEDING

§ 334. Submission of written documents

(1) All petitions, applications, objections and appeals are submitted to the court in legible typewritten form in A4 format. Petitions, applications, positions and objections presented in a court session are entered in the minutes.

(2) Where possible, the participants in the proceeding provide the court with electronic copies of the submitted procedural documents.

§ 335. Submission of documents in format which can be reproduced in writing

(1) For compliance with the term for filing a written petition or appeal, it is sufficient to send the court the petition or appeal by fax or e-mail at the address prescribed for such purpose or in another format which can be reproduced in writing, provided that thereafter, the original of the written document is delivered to the court without delay, however, not later than at the time of the hearing of the matter in a court session or, in written proceedings, during the term prescribed for the submission of documents.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) In the case of filing an appeal against a court decision, the original of the appeal shall be submitted within ten days.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) The provisions of subsection (1) of this section do not apply in the case of sending a document electronically provided that the document is submitted in conformity with the requirements of § 336 of this Code.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 336. Electronic submission of documents

(1) Petitions and other documents which must be in written form may also be submitted to the court electronically if the court is able to make printouts and copies of the submitted document. A document shall bear the digital signature of the sender or be transmitted in another similar secure manner which enables the sender to be identified. The sender is deemed to be clearly identifiable if a certificate of authenticity created with the aid of the private key of the sender is added to the e-mail.

(2) An electronic document is deemed to be submitted to the court when it is saved in the database prescribed for the receipt of court documents. The sender of the document is sent an electronic confirmation thereof. If the court is unable to make printouts or copies of the document, the sender of the document is immediately informed thereof.

(3) The specific procedure for the submission of electronic documents to the court and the requirements for the document formats shall be established by a regulation of the Minister of Justice.

(4) The court may deem a petition or another procedural document submitted by e-mail by a participant in a proceeding to be sufficient even if it fails to comply with the requirements provided in subsections (1)–(3) of this section and, above all, the requirement of bearing a digital signature, unless the court has doubts about the identity of the sender and the sending of the document, especially if documents with a digital signature have been sent earlier from the same e-mail address to the court in the proceeding of the same matter by the same participant in the proceeding, or if the court has agreed that petitions or other documents may also be submitted thereto in such manner.
[RT I 2008, 28, 180 - entry into force 15.07.2008]

(5) Contractual representatives, notaries, bailiffs, trustees in bankruptcy, state and local government agencies and other legal persons provided in clauses 218 (1) (1)–(3) and in subsection 218 (2) of this Code submit documents to the court electronically unless there is good reason to submit the document in another form.
[RT I, 29.06.2012, 3 - entry into force 01.01.2013]

(6) If petitions and other documents can be submitted to the proceedings information system maintained on a computer through the portal created for the purpose, these shall not be submitted by e-mail, unless there is good reason therefor. The Minister of Justice shall establish the list of documents to be submitted through the portal by a regulation.
[RT I 2009, 67, 460 - entry into force 01.01.2010]

§ 337. Documents sent by advocates

If several participants in a proceeding are represented in the proceeding by advocates, the documents and appendixes thereto to be sent to the court shall be sent by an advocate to the advocates of the other participants in the proceeding independently and the advocate shall inform the court thereof. In such case the documents are deemed to be served on the other participants in the proceedings at the time indicated to the court. The court may fine an advocate who has violated the obligation to send documents or to inform the court thereof.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 338. Content of procedural document submitted to court

(1) A procedural document, including an action, objection and appeal, submitted to the court by a participant in a proceeding sets out:
[RT I 2008, 59, 330 - entry into force 01.01.2009]
1) the names, addresses and telecommunications numbers of the participants in the proceeding and their potential representatives;
2) the name of the court;
3) the merits of the case;
4) for a case being heard, the number of the civil matter;
5) the petition filed by the participant in the proceeding;
6) circumstances on which the petition is based;
7) a list of appendices to the procedural document;
8) the signature of the participant in the proceeding or representative thereof or, for a document transmitted electronically, a digital signature or other means of identification in conformity with the provisions of § 336 of this Code.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) A procedural document shall set out the personal identification codes and in the absence thereof, dates of birth of natural persons. For legal persons entered in a public register, the document shall set out the registry code and, in the absence thereof, the legal grounds for operation.

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

(4) In addition to the data listed in subsection (1) of this section, a petition for the merits of the matter and a response to a petition or argument of the opposing party set out:
1) the position on the factual allegations of the opposing party;
2) the evidence which the participant in the proceeding intends to use in order to substantiate the arguments thereof or to refute the allegations of the opposing party;
3) the position on the evidence submitted by the opposing party.

§ 339. Appendices to procedural documents

(1) If the procedural documents are signed by a representative of a participant in a proceeding, an authorisation document or another document certifying his or her right of representation is annexed to the first procedural document which the representative submits in the matter. An authorisation document need not be submitted if the procedural documents are signed by an advocate acting as a representative but the court is entitled to demand the submission of the authorisation document.

(2) The originals or transcripts of the documents referred to in a petition and of the documents in the possession of the participant in the proceeding are annexed to the petition unless they have already been submitted to the court.

(3) If performance of a procedural act requested in a procedural document is subject to state fee or security, information which enables verification of the payment thereof shall be specified in the procedural document, or certification on the grant of procedural assistance or an application for grant of procedural assistance upon payment of the state fee or security shall be annexed to the document.

§ 340. Transcripts to other participants in proceeding

(1) A participant in a proceeding must, upon submission of written documents and appendices thereto to the court, provide a requisite number of transcripts of such documents to be served on the other participants in the proceeding.

(2) The provisions of subsection (1) of this section do not apply to the documents or appendices thereto which the other participants in the proceeding possess in the form of original documents or transcripts. In such case, the documents which transcripts are not provided shall be specified to the court and the participant in the proceeding shall substantiate why he or she believes that the other participant in the proceeding is in possession of such documents or transcripts.

(2^1) The provisions of subsection (1) of this section do not apply to the electronic submission of documents.
[RT I, 29.06.2012, 3 - entry into force 01.01.2013]

(3) The provisions of subsection (1) of this section do not apply if an advocate sends transcripts of procedural documents to the advocate representing the other participant in the proceeding and confirms this to the court.

(4) The court organises the making of transcripts or printouts of a document submitted to the court electronically if it can be presumed that an electronic document cannot be forwarded to the other participant in the proceeding or he or she is presumed to be unable to examine the content of the document or to be unable to print it out. In the case specified in the first sentence of this subsection no state fee is charged for the making of transcripts or printouts.
[RT I 2009, 67, 460 - entry into force 01.01.2010]

(5) [Repealed - RT I 2009, 67, 460 - entry into force 01.01.2010]

§ 340[1]. Correction of omissions in procedural document

(1) If a petition, application, objection or appeal does not comply with the formal requirements or contains other omissions which can be corrected, including upon failure to pay the state fee or security, the court sets a term for correction of the omissions and refuses to accept the procedural document until such time.

(2) If the omissions are not corrected by the due date set by the court, the petition, application or appeal is not accepted and is returned, and a petition, application or appeal which is already accepted is refused to be heard. An appeal may be filed against a ruling of a county court or circuit court made thereon unless otherwise provided by law. A ruling made by a circuit court concerning an appeal against a ruling is not subject to appeal to the Supreme Court unless otherwise provided by law.

(3) If the omissions in objections are not corrected by the due date set by the court, the court disregards the objections.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

Part 8 COURT SESSION

§ 341. Adjudication of matter in court session

(1) A civil matter is heard and adjudicated in a court session unless otherwise prescribed by law.

(2) The rights and obligations prescribed to the court by this Chapter also apply to courts acting on the basis of a letter of request and judges acting on the basis of an order.

§ 342. Scheduling of court session

(1) The court schedules a court session in order to adjudicate a petition or application, unless the petition or application can be adjudicated without holding a court session.

(2) A court session is scheduled immediately after receipt of a petition or application and the response thereto or upon expiry of the term set for responding. The court may also schedule a court session before receiving a response or before expiry of the term set for responding if it may be presumed that a court session is required for adjudication of the matter regardless of the response or if immediate scheduling of the session is reasonable under the circumstances due to other reasons. If the court does not require a response, it schedules the court session immediately after receipt of a petition or application.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) If possible, the court obtains and considers the opinion of the participants in the proceeding upon scheduling a court session.

§ 343. Sending of summonses and publication of time of court session on website of court

(1) In order to notify the time and place of a court session, the court serves summonses on the participants in the proceeding and other persons to be invited to the court session.

(2) The interval between the date of service of summonses and the date of the court session shall be at least ten days. Such interval may also be shorter if the participants in the proceeding agree thereto.

(3) The time of holding the court session is also published on the website of the court, setting out the number of the civil matter, the names of the participants in the proceeding and the general description of the civil matter. If a court session is closed, only the time of holding the court session, the number of the civil matter and a notation that the court session is closed are published. The time of holding the court session is removed from the website when seven days have passed from the holding of the court session.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 344. Content of summonses

(1) A summons sets out at least:
1) the name of the person summoned to court;
2) the name and address of the court;
3) the time and place of the court session;
4) the merits of the case;
5) the capacity in which the person is being summoned;
6) the duty to give notice of reasons for failure to appear in court;
7) the consequences of failure to appear in court.

(2) If in actions, a participant in a proceeding is summoned to a session of the Supreme Court and the summons is not sent to a sworn advocate, it is also indicated in the summons that the participant in the proceeding is permitted to perform procedural acts, and file petitions and applications in the Supreme Court only through a sworn advocate.

(3) The first summons served on a person in a civil matter sets out the obligation to bring to the court session an identity document. The first summons sent in a matter to a representative sets out the representative's obligation to bring to the court session a document certifying his or her right of representation unless the representative is an advocate.

(4) A summons sent to a witness also refers to the right of a witness to receive compensation for a witness and compensation for expenses.

(5) A summons need not be signed.

(6) A single form for summonses shall be established by a regulation of the Minister of Justice.

(7) A summons need not be in the form prescribed in subsections (1)–(6) of this section if the summons is delivered in a court session or if a person signs in a court session the minutes concerning the time of holding a court session. If necessary, the court explains the circumstances related to the summons.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 345. Notification of failure to appear in court session

A participant in a proceeding, witness, expert, interpreter or translator summoned to a court session who is unable to appear in court shall give the court timely notice thereof and provide the court with reasons for his or her impediment to appear in court.

§ 346. Personal presence of participants in proceeding in court session
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(1) The court may require, by a ruling, the personal appearance of a participant in a proceeding or representative thereof in a court session if, in the opinion of the court, this is necessary for clarification of circumstances relevant to the adjudication of the matter or for ending the dispute by compromise. The court does not require the personal appearance of a participant in a proceeding in a court session if personal appearance of the party cannot be demanded due to the disproportionate length of the journey or another good reason.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) In marital and filiation matters, a county court requires the personal appearance of the parties and shall hear the parties unless the parties have a good reason not to appear in court. If a party is unable or cannot be expected to appear in court, the party may be heard and his or her statements may be obtained by a court conducting proceedings in the matter on the basis of a letter of request.

(3) A participant in a proceeding is personally notified by a summons of the obligation to appear in court in person even if he or she has appointed a representative for the proceeding.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(4) If a participant in a proceeding fails to appear in a court session regardless of the order of the court, the court may fine him or her on the same basis as it may fine a witness who fails to appear in a court session for hearing, or apply compelled attendance on him or her.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(5) The provisions of subsection (4) of this section do not apply if the participant in the proceeding sends to the court session a representative who is able to explain the factual circumstances and is authorised to make the required statements and, above all, to agree on a compromise. Even in such case the court has the right to fine the party or apply compelled attendance on the party in matrimonial and filiation matters.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 347. Commencement of court session

(1) When the court enters or leaves the courtroom, the persons present in the room stand up.

(2) Upon commencement of a court session, the court announces the matter to be heard. At the beginning of a court session, the court ascertains:
1) who of the summoned persons have appeared in the court session, and their identity;
2) whether the persons absent from the court session have been notified of the holding of the court session pursuant to law or whether they have been summoned to court pursuant to law;
3) whether the representatives of the participants in the proceeding hold the right of representation.

(3) In a court session prescribed for hearing a matter, the court introduces the content of the proceeding and the procedural situation.

(4) In a session organised solely for the purpose of announcing a decision, the persons who are present need not be established and their identity need not be checked.

(5) In the cases where a participant in a proceeding is not represented by an advocate, the court explains the consequences of performance of or failure to perform a procedural act to the participant in the proceeding or his or her representative. If the consequences of performance of or failure to perform a procedural act have been explained once, repetition thereof at a later time is not required.

§ 348. Course of court session

(1) The court directs a court session and ascertains the opinion of the participants in the proceeding on the circumstances relevant to the matter and removes from the hearing everything that is irrelevant to the adjudication of the matter.

(2) The court undertakes to ensure that a matter is heard to a sufficient extent and without deferral.

(3) Prior to adjudicating a petition of a party, the court hears the opinion of the other participants in the proceeding on such issue. The court provides the participants in a proceeding with an opportunity to provide their opinion on any circumstance relevant to the adjudication of the matter.

(4) If a participant in a proceeding is represented by another person, the court also hears the participant in the proceeding in person if the participant in the proceeding so desires.

(5) If a matter is heard by a collegial court panel, the presiding judge has the rights of the court upon organising the court session. At the request of the other members of the court panel, the presiding judge provides them with an opportunity to pose questions.

§ 349. Oral hearing of matter

(1) Court hearing of a matter is oral unless otherwise prescribed by law.

(2) The petitions, applications and other documents submitted to the court and forwarded to the participants in the proceeding are read out aloud in a court session only if the wording of the statement to be read out is relevant to the matter or if the court deems it necessary due to another reason. Otherwise, only a reference is made to the documents.

§ 350. Court session held in form of procedural conference

(1) The court may organise a session in the form of a procedural conference such that a participant in the proceeding or his or her representative or adviser has the opportunity to stay at another place at the time of the court session and perform the procedural acts in real time at such place.

(2) A witness or expert who stays in another place may also be heard, and a participant in the proceeding who stays in another place may pose questions to them, in the manner specified in subsection (1) of this section.

(3) In a court session organised in the form of a procedural conference, the right of every participant in the proceeding to file petitions and applications and to formulate positions on the petitions and applications of other participants in the proceeding shall be guaranteed in a technically secure manner and the conditions of the court session in respect of the real time transmission of image and sound from the participant in the proceeding not present in court premises to the court and vice versa must be technically secure. With the consent of the parties and the witness and, in a proceeding on petition, with the consent of the witness alone, the witness may be heard by telephone in a procedural conference.

(4) The Minister of Justice may establish specific technical requirements for conducting a court session in the form of a procedural conference.

§ 351. Ascertaining of facts in court session

(1) The court discusses the disputed facts and relationships with the participants in the proceeding to the necessary extent from both the factual and legal point of view.

(2) The court enables the parties to provide their position on the circumstances relevant to the matter in a timely manner and to the full extent.

(3) If a party is unable to provide an opinion concerning a position or doubt which the court has pointed out to the party, the court may set the party a term for providing the opinion.

§ 352. Altering time of court session and adjournment of hearing of matter

(1) With good reason, the court may cancel a court session or alter the time thereof, or adjourn a session. Failure to complete the adjudication of a matter in a court session is permitted only for a reason which prevents the completion of the adjudication of the matter in the court session.

(2) The court does not adjourn the hearing of a matter on the grounds that a party is unable to personally attend the court session if the representative of the party is present in the court session and the court has not required personal appearance of the party. The hearing of a matter is not adjourned due to the circumstance that a third party without an independent claim is not attending the hearing.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) If possible, the court schedules immediately a new court session in the case provided in subsection (1) of this section in order to continue the proceeding. A new session is organised as soon as possible in order to continue the hearing of the matter, taking account, within good reason, of the opinion of the participants in the proceeding.

(4) If the hearing of a matter is adjourned, the court may hear the statements of the participants in the proceeding who have appeared in the court session and the court hears the testimony of the witnesses and opinions of the experts, especially if their appearance at a later court session would be excessively expensive for such persons or it would be otherwise inconvenient for them. If the hearing of the persons specified above necessarily involves the examination of other evidence or the performance of another act, such act is also performed.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(5) If a county court adjourns the hearing of a matter for a period longer than three months without the consent of the parties, a party may file an appeal against the ruling if the party finds that the hearing of the matter is adjourned for an unreasonably long period of time. A ruling of a circuit court concerning an appeal against such ruling is not subject to appeal to the Supreme Court.

(6) The court adjudicates a petition for adjournment of a court session or another procedural act immediately and, if necessary, before the court session or performance of such other procedural

act and notifies the participants in the proceeding thereof immediately.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

Part 9 SUSPENSION OF PROCEEDING

§ 353. Suspension of proceeding in case of death of party who is natural person or dissolution of party who is legal person

(1) In the case of the death of a party who is a natural person or the dissolution of a party who is a legal person, and universal succession exists, the proceeding is suspended until the time it is continued by the universal successor of the party or another person entitled to do so. A successor is not required to continue the proceeding before acceptance of the succession or the expiry of the term for refusing to accept the succession.

(2) In the case specified in subsection (1) of this section, the proceeding is not suspended if the party is represented in the proceeding by a contractual representative. In such case the court suspends the proceeding at the request of the representative or the opposing party.

(3) If upon suspension of proceeding, the universal successor delays the continuation of the proceeding, the court invites, based on a petition of the opposing party, the universal successor to continue the proceedings within the term set by the court and to participate in the hearing of the matter. The invitation and the petition are served on the universal successor. In the case specified in subsection (2) of this section, the invitation is served on both the universal successor and representative thereof.

(4) If, in the case specified in subsection (3) of this section, the universal successor fails to appear in the court session, the alleged legal succession is deemed to have been accepted by the universal successor based on the petition of the opposing party and the hearing of the matter is continued.

§ 354. Suspension of proceeding due to loss of active civil procedural legal capacity

(1) If a party loses active civil procedural legal capacity or the legal representative of a party dies or the right of representation of the legal representative expires before the party has regained active civil procedural legal capacity, the proceeding is suspended until the legal representative or the new legal representative informs the court of his or her appointment.

(2) In the case specified in subsection (1) of this section, the proceeding is not suspended if the party is represented in the proceeding by a contractual representative. In such case the court suspends the proceeding at the request of the representative or the opposing party.

(3) If, in the case specified in subsection (1) or (2) of this section, a legal representative has been appointed but fails to inform the court of his or her appointment and the opposing party informs the court of a wish to continue the proceeding, the proceeding is continued after the court has served the notice on the representative.

§ 355. Suspension of proceeding with good reason

The court may suspend the proceeding due to a good reason arising from a party until the time such reason ceases to exist. In the case of a serious illness of a party, the proceeding may be suspended until the party regains his or her health unless the disease is chronic.

§ 356. Suspension of proceeding due to another proceeding

(1) If the judgment fully or partially depends on the existence or absence of a legal relationship which is the object of a court proceeding conducted in another matter or which existence must be established by an administrative proceeding or another court proceeding, the court may suspend the proceeding until the end of the other proceeding.

(2) The court may suspend a proceeding during the time when the constitutional review matter is adjudicated in the proceeding of the Supreme Court until the entry into force of the judgment of the Supreme Court if this may affect the validity of legislation of general application subject to application in the civil matter.

(3) If a court refers a question arisen in a matter to the European Court of Justice for a preliminary decision, the court suspends the proceeding until the entry into force of the decision of the European Court of Justice.
[RT I 2006, 31, 235 - entry into force 01.09.2006]

§ 357. Suspension of proceeding for divorce

(1) The court suspends a proceeding for divorce if there is reason to believe that the marriage can be preserved. The court does not suspend a proceeding if the spouses have lived separately for a lengthy period of time and neither of them agrees to the suspension of the proceeding.

(2) If a proceeding is suspended on the grounds specified in subsection (1) of this section, the court draws the parties' attention to the possibility of reconciliation and the possibility to receive guidance from a family counsellor.

(3) On the grounds specified in subsection (1) of this section, a proceeding may be suspended on one occasion for the period of up to six months.

§ 358. Consequences of suspension of proceeding

(1) In the case of suspension of a proceeding, the running of all procedural terms is suspended and, upon the expiry of the suspension of the proceeding, such terms start to run again from the beginning.

(2) Any procedural acts performed during the period when a proceeding is suspended are null and void. This does not preclude the securing of an action or the conduct of pre-trial taking of evidence in order to safeguard evidence.

(3) Suspension of a proceeding after the hearing of a matter is terminated does not prevent the making public of the judgment in the proceeding.
[RT I 2005, 39, 308 - entry into force 01.01.2006]

§ 359. Suspension of proceeding on joint request of parties or due to absence of both parties from court session

(1) The court may suspend a proceeding based on a joint request of the parties if this is presumed to be necessary due to unfinished negotiations concerning compromise or for other good reasons, as well as due to the absence of both parties from the court session.

(2) Suspension of a proceeding on the grounds specified in subsection (1) of this section does not affect the running of procedural terms.

§ 360. Ruling on suspension of proceeding and appeal against such ruling

(1) The court suspends a proceeding by a ruling.

(2) A ruling by a county court or circuit court for suspension of proceedings is subject to appeal. A ruling of a circuit court concerning an appeal against a ruling of a county court is not subject to appeal to the Supreme Court.

§ 361. Resumption of proceeding

(1) The court resumes a suspended proceeding based on the request of a party or at the initiative of the court after the circumstances which constituted the grounds for suspension of the proceeding have ceased to exist. If a proceeding was suspended due to the absence of both parties from a court session, the proceeding is resumed only at the request of a party.

(2) In the case provided by § 356 of this Code, the proceeding may also be resumed if the other proceeding which was the reason for the suspension of the proceeding is disproportionately delayed and the adjudication of the suspended matter is possible.

(3) A proceeding is deemed to be resumed as of the time the ruling on resumption of the proceeding is served on the parties.

(4) A resumed proceeding is continued from the point at which it was suspended.

Part 10 ACTIONS

Chapter 39 COMMENCEMENT OF MATTERS

§ 362. Filing of actions

(1) The time of filing an action means the time when the action arrives at the court. This applies only if the action was served on the defendant at a later time.

(2) The provisions of subsection (1) of this section also apply to the filing of another petition or application to the court unless otherwise provided by law. A claim or petition filed in a court session is deemed to be filed at the time of its disclosure in the court session.

(3) The provisions of subsections (1) and (2) of this section apply to the evaluation of the consequences related to the filing of an action under both procedural and substantive law, and also to the evaluation of compliance with and suspension of running of a term.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 363. Content of statement of claim

(1) In addition to other requisite information to be included in procedural documents, a statement of claim sets out:
1) the clearly expressed claim of the plaintiff (object of action);
2) the factual circumstances which constitute the basis of the action (cause of action);
3) the evidence in proof of the circumstances which constitute the cause of the action, and a specific reference to the facts which the plaintiff wants to prove with each piece of evidence;
4) whether or not the plaintiff agrees to the conduct of written proceedings in the matter or wishes the matter to be heard in a court session;
5) the value of the action unless the action is directed at payment of a certain sum of money.

(2) If the plaintiff wishes the action to be heard in documentary proceedings (§ 406), the plaintiff shall so indicate in the action.

(2^1) If the plaintiff does not agree to the making of a default judgment in accordance with § 407 of this Code in the event of receiving no response to the action, the plaintiff shall so indicate in the action.
[RT I, 29.06.2012, 3 - entry into force 01.01.2013]

(3) If the plaintiff is represented in the proceeding by a representative, the action shall also set out the data of the representative. If the plaintiff wishes to be assisted in the proceeding by an interpreter or translator, the plaintiff shall so indicate in the statement of claim and set out, if possible, the data of the interpreter or translator.

(4) Filing of an action with a different court than the court of the defendant's general jurisdiction must be justified to such court.

(5) In addition to the data specified in subsection (1) of this section, a statement of claim in a divorce case also sets out the names and dates of birth of the common minor children of the spouses, the person who maintains and raises the children, the person with whom the children reside, the arrangement requested concerning the parental rights and a proposal on how the upbringing of the children would be arranged after the divorce.

(6) If the plaintiff or defendant is a legal person entered in a public register, a transcript of the registry card, excerpt from the register or registration certificate is annexed to the action, unless

the court is able to check such data from the register independently. Concerning other legal persons, other evidence on the existence and legal capacity of such person is provided.

§ 364. Action for submission of inventory of assets, report or confirmation

(1) The plaintiff may request, by the statement of claim, the submission of an inventory of assets from the defendant who is obligated to deliver a pool of assets or to provide information on the status of assets.

(2) The plaintiff may request that the defendant obligated to report on the income and expenditure related to the administration of assets provide a structured calculation of such income and expenditure together with the documents and other evidence related thereto.

(3) If the plaintiff has reasoned doubts that the data set out in the inventory specified in subsection (1) of this section or the calculation specified in subsection (2) of this section may be incorrect or could have been compiled with insufficient diligence, the plaintiff may also demand that the defendant take an oath that, based on the information at the defendant's disposal, the calculation or inventory is correct. Such oath is taken pursuant to the procedure prescribed for giving statements under oath.

(4) If the plaintiff files an action for the receipt of money or for the performance of another act as well as for the receipt of an inventory of assets or a calculation of income or expenditure related thereto or for an oath to be taken, the plaintiff has the right not to expressly specify the claim directed at the receipt of money or performance of another act before the inventory or list is received, confirmation is obtained or a partial judgment is made concerning that claim.

§ 365. Additional claims concerning setting of term and compensation for damage

(1) The plaintiff may request in the statement of claim that together with obligating the defendant to perform the duty or act requested by the action, the court set the defendant a term for compliance therewith in the judgment.

(2) If, upon expiry of the term specified in subsection (1) of this section, the plaintiff has the right to demand compensation for the damage caused by the violation of an obligation or the right to terminate a contract, the plaintiff may also request, in the statement of claim, the determination of the amount of compensation or deeming the contract terminated in the same judgment.

§ 366. Action for compensation for non-proprietary damage

In an action for compensation for non-property damage, the plaintiff has the right not to specify the amount of the compensation claimed and to request fair compensation at the discretion of the court.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 367. Claim for penalty for late payment as collateral claim

Together with the principal claim of an action, the plaintiff has the right to file a claim for a penalty for late payment which has not yet fallen due by the time of filing the action such that the plaintiff does not specify the amount of the penalty for late payment but requests the court to impose such penalty for late payment partly or fully in the form of a percentage of the value of the principal claim until the principal claim is fulfilled. Above all, a penalty for late payment may be claimed such that the court would order payment thereof in a fixed amount until the making of a judgment and thereafter as a percentage of the principal claim.
[RT I 2008, 28, 180 - entry into force 15.07.2008]

§ 368. Establishment action

(1) If the plaintiff has a legal interest in the establishment of the existence or absence of a legal relationship, the plaintiff may file an action for establishment thereof.

(2) If in an enforcement proceeding a dispute concerning the interpretation of an enforcement instrument arises, the claimant or debtor has the right to file an action against the other party with the claim to establish whether a certain right or obligation arises to the plaintiff from the enforcement instrument. An establishment action with such claim may also be filed in order to clarify the meaning of an enforcement instrument in other cases when a dispute has arisen between the participants in the proceeding concerning the enforcement or effect of the enforcement document.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 369. Filing of action before claim falls due

An action for a future claim may be filed in the case there is reason to believe that the debtor will not perform the obligation on time. On the same grounds, among other, an action for the future vacation of an immovable or space may be filed if the fulfilment of the claim involves a certain due date and likewise the future performance of recurring obligations falling due after the filing of the action may be claimed.

§ 370. Several claims in action

(1) The plaintiff may file several different claims against the defendant in one action, and combined proceedings may be conducted in such claims if all the filed claims are within the jurisdiction of the court conducting proceedings in the matter and the same type of procedure is permitted. The same applies to claims which are based on different circumstances.

(2) Several alternative claims may be filed in an action, or several claims may be filed such that the plaintiff requests satisfaction of one of the subsequent claims only if the first claim is not satisfied.

§ 371. Grounds for refusal to accept action

(1) The court refuses to accept a statement of claim if:
1) the court is not competent to adjudicate the matter;
2) the matter does not fall within the jurisdiction of that court;
3) an interested party who has taken recourse to the court has failed to comply with the mandatory procedure provided by law for prior extra-judicial adjudication of such matter;
4) there is a judgment of an Estonian court which has entered into force or a ruling on termination of proceedings, or a decision of a court of a foreign state subject to recognition in Estonia, or a decision in pre-trial proceedings which has entered into force, including an agreement approved by the Chancellor of Justice, which has been made in a dispute between the same parties concerning the same object of the action on the same grounds and which precludes recourse to another court in the same matter;
5) a matter between the same parties concerning the same object of the action on the same grounds is being heard by a court;
6) a matter between the same parties concerning the same claim on the same grounds is being heard by a lease committee or labour dispute committee or in another pre-trial proceeding provided by law where a decision can be made in the form of an enforcement instrument;
7) a valid decision has been made in arbitration proceedings in a matter between the same parties concerning the same object of action on the same grounds, or arbitration proceedings are being conducted in such matter;
8) the parties have entered into an agreement for referral of the dispute to arbitration except in the case where the action contests the validity of the arbitral agreement;
9) the statement of claim lacks the signature of a competent person or other essential formal requirements for statements of claim have been violated;
10) a state fee has not been paid on the claim filed in the statement of claim;
11) the data concerning the plaintiff or defendant presented in the statement of claim do not enable their identification;
12) the person who submits the statement of claim in the name of the entitled person has not proven his or her right of representation.

(2) The court may refuse to accept a statement of claim if:
1) based on the factual circumstances presented as the cause of the action, violation of the plaintiff's rights is impossible, presuming that the factual allegations of the plaintiff are correct;
2) the action has not been filed for protecting the plaintiff's right or interest protected by law, or with an aim subject to legal protection by the state, or if the objective sought by the plaintiff cannot be achieved by the action.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 372. Deciding on acceptance of action

(1) The court adjudicates, by a ruling, the acceptance of a statement of claim or refusal to accept a statement of claim, or the setting of a term for correction of omissions within a reasonable period of time.

(2) [Repealed - RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) If necessary, the court may obtain the defendant's position in order to adjudicate on the acceptance of the action, and to hear the parties. In such case the court adjudicates on the acceptance of the action immediately after obtaining the position or hearing the parties.

(4) A ruling on refusal to accept a statement of claim shall set out the reason for refusal to accept the statement of claim. If the court refuses to accept a statement of claim, the court does not serve the statement of claim on the defendant but returns it to the plaintiff together with any appendixes thereto and the ruling on refusal to accept the statement of claim.

(5) The plaintiff may file an appeal against a ruling by which acceptance of a statement of claim is refused. A ruling of a circuit court concerning an appeal is not subject to appeal to the Supreme Court if acceptance of the action was refused on the grounds specified in clause 371 (1) 9), 11) or 12) of this Code.

(6) If the court refuses to accept a statement of claim and returns it by a ruling, the statement of claim is deemed to be not submitted and the action is deemed not to have been heard by the court.

(7) If a matter is not within the jurisdiction of the court where the action was filed, the provisions of § 75 of this Code apply to the refusal of its acceptance.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(8) If a court finds that adjudication of a statement of claim falls within the competence of an administrative court and the administrative court has previously found in the same matter that the matter does not fall within the competence of the administrative court, the court promptly submits a request to a Special Panel formed by the Civil Chamber and the Administrative Chamber of the Supreme Court in order to determine the court which is competent to adjudicate the matter and notifies the participants in the proceeding thereof.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 373. Filing of counterclaim

(1) Until the end of pre-trial proceedings or, in a written proceeding, until the expiry of the term prescribed for submission of petitions, a defendant has the right to file a procedural claim (counterclaim) against the plaintiff to be heard together with the main action if:
[RT I, 29.06.2012, 3 - entry into force 01.01.2013]
1) the counterclaim is aimed at setting off against the main action;
2) satisfaction of the counterclaim wholly or partially precludes satisfaction of the main action;
3) the counterclaim and the main action are otherwise mutually connected and a joint hearing thereof would allow for a just and more expeditious hearing of the matter.

(2) If a counterclaim is filed later than within the period indicated in subsection (1) of this section, the counterclaim is heard together with the main action only if there was good reason for the failure to file the counterclaim on time and if, in the court's opinion, acceptance of the counterclaim for joint hearing is in the interests of the adjudication of the matter.

(3) The provisions concerning a statement of claim apply to a counterclaim. If an action filed in the form of a counterclaim is not accepted as a counterclaim, it is accepted as a separate action unless the person filing the counterclaim has specifically requested hearing of the action in the form of a counterclaim only.

§ 374. Joinder of claims

If several claims of the same type which involve the same parties, or which are filed by one plaintiff against different defendants or by several plaintiffs against the same defendant are subject to concurrent court proceedings, the court may join such claims in one proceeding if the claims are legally related or the claims could have been filed by a single action and this allows for a more expeditious or facilitated hearing of the matter.

§ 375. Severance of claims of action

(1) If the court finds that the separate hearing of claims filed in one statement of claim, or of an action and a counterclaim would ensure a more expeditious or facilitated hearing of the matter, or if actions have been joined unreasonably, the court may sever the claims by a ruling and conduct independent proceedings.

(2) The court may cancel the severance of claims if it becomes clear that severance was not reasoned.
[RT I 2005, 39, 308 - entry into force 01.01.2006]

§ 376. Amendment of action

(1) After acceptance of an action and serving thereof on the defendant, the plaintiff may amend the object or cause of the action only with the consent of the defendant or the court. The defendant's consent is presumed if the defendant does not immediately file an objection to the amendment of the action.

(2) The court agrees to amend the action only with good reason and above all if the factual allegations and evidence already submitted in the proceeding are likely to enable adjudication on the amended action more expeditiously and economically.

(3) The provisions concerning a statement of claim apply to a petition for amendment of action. If in pre-trial proceedings the plaintiff presents new facts related to the action, it is presumed that the plaintiff amends the cause of action thereby.

(4) The following is not deemed to be amendment of action:
1) amendment or correction of presented factual or legal allegations without amending the main circumstances which constitute the cause of the action;
2) increase, reduction, extension or limitation of the principal claim or collateral claim of the plaintiff;
3) demanding another object or another benefit instead of the object which was originally demanded due to a change in the circumstances.

(5) The court may demand the submission of the entire text of the statement of claim if, due to making repeated amendments thereto or for another reason, the action lacks clarity and submission of the entire text of the statement of claim facilitates the hearing of the matter.

(6) The plaintiff may also submit a petition or amendment specified in subsection (4) of this section without submission of a petition in a format corresponding to the statement of claim and, among other, orally in a court session.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

Chapter 40 SECURING OF ACTION

§ 377. Basis for securing action

(1) The court may secure an action at the request of the plaintiff if there is reason to believe that failure to secure the action may render enforcement of a court judgment difficult or impossible. If enforcement of a court judgment will evidently take place outside of the European Union and the enforcement of court judgments is not guaranteed on the basis of an international agreement, it is presumed that failure to secure the action may render enforcement of the court judgment difficult or impossible.

(2) In order to secure an action which object is not a monetary claim against the defendant, the court may provisionally regulate a disputed legal relationship and, above all, the manner of use of a thing, if this is necessary for the prevention of significant damage or arbitrary action or for another reason. This may be done regardless of whether there is reason to believe that failure to secure the action may render enforcement of the court judgment difficult or impossible. The measures specified in subsection 378 (3) of this Code may also be applied at the initiative of the court.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) An action which includes a future or contingent claim, or an establishment action may also be secured. A contingent claim is not secured if the condition is presumed not to occur during the time of the proceeding.

(4) A circuit court or the Supreme Court hears a petition for securing an action or a petition for amendment or annulment of a ruling on securing an action if such court is conducting proceedings in the matter in relation to which securing of action, or cancellation or amendment of the securing of an action is requested, or if an appeal against the decision of a lower court has been filed with such court.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(5) A measure for securing an action may also be applied for securing several claims by the same plaintiff against the same defendant.

§ 378. Measures for securing action

(1) The measures for securing an action are:
1) establishment of a judicial mortgage on an immovable, ship or aircraft belonging to the defendant;
2) seizure of the defendant's property which is in the possession of the defendant or another person and, on the basis thereof, making of such notation concerning prohibition in the land register, by which the prohibition on disposal is made visible, or making of such other entry in another property register, by which the prohibition on disposal is made visible;
[RT I 2008, 59, 330 - entry into force 01.01.2009]
3) prohibition on the defendant to perform certain transactions or perform certain acts, including imposition of a restraining order;
4) prohibition on other persons to transfer property to the defendant or to perform other obligations with regard to the defendant, which may also include an obligation to transfer property to a bailiff or to pay money into the account prescribed for such purpose;
[RT I, 31.01.2014, 6 - entry into force 01.04.2014]
5) imposition of an obligation on the defendant to deposit a thing with the bailiff;
6) suspension of the enforcement proceeding, permitting the continuation of the enforcement proceeding only against a security, or revocation of the enforcement action if the enforcement instrument has been contested by filing of an action, or if a third party has filed an action for the release of property from seizure or for declaration of inadmissibility of compulsory enforcement due to another reason;
7) prohibition on the defendant to depart from his or her residence, taking the defendant into custody and imposition of detention on the defendant;
8) imposition of an obligation on the defendant and above all, an insurer, to make payments to the extent of the minimum amounts likely to become payable in the course of a proceeding conducted in a matter of illegal causing of damage or in a matter of an insurance contract;
9) imposition of an obligation on the defendant to terminate the application of an unfair standard term or that the person recommending application of the term terminate or withdraw the recommendation of the term in an action for termination of application of an unfair standard term or for termination and withdrawal by the person recommending application of the term of recommendation of the term;
10) another measure considered necessary by the court.

(2) In order to secure an action based on infringement of copyright or related rights or industrial property rights, the court may, among other, seize the goods concerning which there is doubt of infringement of intellectual property rights or impose an obligation to hand over such goods to prevent the putting on the market or distribution of such goods. If seizure of the defendant's bank account or other assets is sought to secure an action based on infringement of copyright or related rights or industrial property rights for commercial purposes, the court may impose an obligation to hand over banking, financial or commercial documents or to enable to inspect these.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) In a matrimonial matter, maintenance matter or other family matter, the court may also regulate the following for the time of the proceeding:

1) parental rights in respect of a common child;
2) communication of a parent with a child;
3) surrender of a child to the other parent;
4) compliance with a maintenance obligation arising from law and among other, imposition of an obligation on the defendant to pay support during the time of the proceeding or to provide security therefor;
5) use of objects of the shared household and of the common housing of the spouses;
6) surrender or use of objects, which are intended for personal use by a spouse or child;
7) other matters related to marriage and family which need to be settled expeditiously due to the circumstances.

(4) A measure for securing an action shall be chosen such that the measure, when applied, would burden the defendant only in so far as this can be considered reasonable taking account of the legitimate interests of the plaintiff and the circumstances. The value of the action shall be taken into account upon securing an action involving a monetary claim.

(5) A court may apply several measures concurrently to secure an action.

(6) The plaintiff may exercise the rights arising to the plaintiff from the securing of the action and above all, the plaintiff may waive a right or grant consent to the conducting of a transaction which would be prohibited due to the restraint on disposition.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 379. Application of detention or prohibition to depart from residence
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(1) Detention or prohibition on a person to depart from his or her residence in order to secure an action may be applied only if this is necessary for ensuring compliance with a court judgment and other measures for securing an action would clearly be insufficient to secure the claim and above all, if there is reason to believe that the person is likely to depart to a foreign state or take his or her assets to a foreign state.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) The measure specified in subsection (1) of this section may be used for securing a proprietary claim only if the value of the action exceeds 32,000 euros.
[RT I 2010, 22, 108 - entry into force 01.01.2011]

(3) In the case of a legal person, the measure specified in subsection (1) of this section may be applied to a member of a managing body of the legal person.

(4) Detention of a person is arranged by the police based on a court ruling.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(5) Prohibition to depart from residence means the obligation of a person not to leave his or her residence for a longer period than twenty-four hours without the permission of the court. In order to apply a prohibition to depart from the residence, the court summons the defendant who is a

natural person, or a member of the managing body of a defendant who is a legal person and obtains his or her signature to such effect.

§ 380. Securing of action in case of object prescribed for performance of public duties

A measure for securing an action shall not be imposed with respect to an object belonging to a legal person in public law which is needed for the performance of public duties or the disposal of which is contrary to public interest.

§ 381. Petition for securing action

(1) A petition for securing an action shall set out at least the following information:
1) the object of the action and value of action;
2) the circumstances which constitute the basis for securing;
3) the requested measure for securing the action;
4) the data of the party against whom the petition is filed;
5) if establishment of judicial mortgage on several things at one time is requested, the division of the claim between the different things encumbered with the mortgage.

(2) The claim, which securing is requested, and the circumstances which constitute the basis for securing shall be substantiated in the petition for securing an action.

§ 382. Securing of action without filing action

(1) The court may also secure an action based on a petition before the action is filed. The petition shall set out the reasons for not filing the action immediately. The petition is filed with the court with which the action should be filed pursuant to the provisions concerning jurisdiction.

(2) If the court secures an action in the case specified in subsection (1) of this section, the court shall set a term during which the petitioner must file the action. The term shall not be longer than one month. If the action is not filed on time, the court cancels the securing of the action.

(3) If it is necessary for securing an action, a measure for securing an action may also be imposed by the court within the territorial jurisdiction of which the property, with respect to which application of a measure for securing an action is requested, is located, even if the action has been filed or should be filed with another Estonian court, a court of a foreign state or arbitral tribunal. With respect to property which has been entered in a public register, a measure for securing an action may also be applied by the court of the location of the register and, in case of a ship, by the court of the location of the home port of the ship.

(4) The court specified in subsection (3) of this section may also substitute or cancel the securing of an action, or to demand a security for securing an action or for continuation of securing an action.

(5) In the cases provided by law, the court may also secure petitions submitted to an authority engaging in pre-trial resolution of disputes.

§ 383. Securing of action against security

(1) The court may make the securing of an action or continuation of securing an action dependant on the provision of security in order to compensate for possible damage caused to the opposing party.

(1^1) The court secures an action involving a monetary claim only in case a security is provided in the amount of at least 5 percent of the amount of claim, but not less than 32 euros and not more than 32,000 euros. If detention of a defendant or prohibition on a defendant to depart from his or her residence is sought in order to secure an action, the security is provided in the amount not less than 3200 euros and not more than 32,000 euros.
[RT I 2010, 22, 108 - entry into force 01.01.2011]

(1^2) If the prerequisites for requesting a security have been fulfilled, the court may still refuse to require the security in full or in part or order its payment in instalments if the plaintiff due to economic or other reasons cannot be reasonably expected to provide a security, and failure to secure the action may result in grave consequences for the plaintiff or if requiring the security would be unfair to the plaintiff due to another reason.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) A security shall be provided by the due date set by the court. If a security is not provided by the set due date, the court refuses to secure the action or cancels the securing of the action.

§ 384. Adjudication of petition for securing action

(1) The court adjudicates, by a reasoned ruling, a petition for securing an action not later than on the working day following the date of submission of the petition. The court may adjudicate the petition for securing an action at a later time if it wishes to hear the defendant beforehand.

(2) If a petition for securing an action does not conform to the requirements of law but the omission can clearly be corrected, the court sets the petitioner a term for correcting the omission. The court refuses to satisfy the petition for securing an action if the omission is not corrected on time.

(3) The defendant and other participants in the proceeding are not notified of the hearing of a petition for securing an action. If this is clearly reasonable and, above all, if provisional regulation of the disputed legal relationship is requested by the petition, the court may first hear the defendant.

(4) Before the court regulates, by way of securing an action, parental rights in respect of a child, communication between a parent and child, or obligates the defendant to surrender a child, the court shall hear a child of at least ten years of age and the competent rural municipality or city government. If the urgency of the matter prevents such hearing, they shall be heard at the first opportunity thereafter.

(5) If circumstances endangering the well-being of a child become evident, the court may provisionally regulate the disputed legal relationship based on an application of the competent rural municipality or city government or at its own initiative regardless of whether or not a petition for securing an action has been filed.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 385. Substitution of securing of action with payment of money

If the court imposes detention or prohibition to depart from his or her residence on a person by a ruling on securing an action involving a monetary claim or a ruling on securing an action, the court determines the sum of money, upon payment of which to the account prescribed for such purpose or upon the provision of a bank guarantee to the extent of which the enforcement of the ruling on securing the action is terminated. In such case, the court cancels, based on the defendant's application, the measure for securing the action and substitutes it with a sum of money or a bank guarantee. The provisions of subsection 386 (3) of this Code do not apply in the case specified in this section.
[RT I, 31.01.2014, 6 - entry into force 01.04.2014]

§ 386. Substitution or cancellation of securing of action

(1) At the request of a party, a court may, by a ruling, substitute one measure for securing an action with another.

(2) If the circumstances change and, above all, the cause for securing an action ceases to exist or a security is offered, or due to another reason provided by law, the court may cancel the securing of an action based on the request of a party. Non-monetary securing of an action may be cancelled or amended by substitution with a monetary payment only with the consent of the plaintiff or for a good reason.

(3) The court notifies the other party of an application for substitution of a measure for the securing of an action or cancellation of the securing of an action. The other party has the right to submit objections to the court with regard to the application.

(4) The court cancels the securing of an action by a court judgment if the action is not satisfied, or by a ruling if the action is not accepted or the proceeding in the matter is terminated. The court also cancels the securing of an action if the securing of the action was decided by another court unless otherwise provided by the law.

(5) A ruling on securing an action made under the circumstances specified in subsection 378 (3) of this Code may also be amended or annulled at the initiative of the court.

§ 387. Communication of ruling on securing action

(1) The court sends the ruling on securing an action immediately to the plaintiff, and serves it on the defendant. At the request of the plaintiff, the court may postpone the serving of the ruling on

securing the action on the defendant.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) If the plaintiff has to contact a bailiff, registrar or another person or agency for the enforcement of the ruling on securing an action, this shall be set out in the ruling on securing the action. The court sends the ruling on securing an action to a registrar or another agency or person for enforcement only at the request of the plaintiff. In such case no additional application need to be submitted to the registrar or another agency or person. The court does not send a ruling to the bailiff independently.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) A ruling on refusal to secure an action or for demanding a security from the plaintiff is sent only to the petitioner.

§ 388. Establishment of judicial mortgage

(1) Unless otherwise provided by law, a judicial mortgage established on an immovable, a ship entered in the ship register or an aircraft entered in the civil aircraft register gives the person who requested the securing of the action the same rights with regard to the other rights encumbering the thing as the rights of a mortgagee arising from a mortgage or maritime mortgage or the rights of a pledgee arising from a registered security.

(2) The sum of mortgage is the amount of the secured claim which is entered in the land register, ship register or civil aircraft register. If the principal claim remains under 640 euros, a judicial mortgage is not established if other measures for securing the action can be applied which are less cumbersome to the defendant.
[RT I 2010, 22, 108 - entry into force 01.01.2011]

(3) A judicial mortgage is entered in the land register, ship register or civil aircraft register to the benefit of the plaintiff on the basis of the plaintiff's petition and the ruling on the securing of the action. At the request of the plaintiff, the court forwards the ruling for the purpose of entry of the judicial mortgage in the register independently pursuant to the procedure provided for in subsection 387 (2) of this Code. The mortgage is created upon entry thereof in the register.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(4) Upon establishment of a judicial mortgage on a ship or aircraft, the bailiff takes the ship or aircraft under his or her supervision based on an application of the person who requested the securing of the action. In such case, the bailiff prohibits the use of the ship in part or in full and may give orders in respect of the ship.

(5) If a judicial mortgage is established on several immovables, ships or aircraft, the court indicates in the ruling on securing the action a sum of money for each encumbered thing upon the payment of which to the account prescribed for such purpose or upon the provision of a bank guarantee to the extent of which the securing of the action is cancelled.
[RT I, 31.01.2014, 6 - entry into force 01.04.2014]

(6) If the securing of an action is cancelled or a measure for securing the action is substituted, the owner of the immovable, ship or aircraft becomes the owner of the mortgage. At the request of the owner, the judicial mortgage is deleted from the land register, ship register or civil aircraft register on the basis of a ruling on cancellation of securing the action.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 389. Seizure of property

(1) In the case of seizure of property, the defendant shall not dispose of the property. In addition to the seizure of other movable property except a ship entered in the ship register or an aircraft entered in the civil aircraft register, the right of security upon seizure is created.

(2) If the value of the principal claim is under 640 euros, the court does not seize an immovable, a ship entered in the ship register or an aircraft entered in the civil aircraft register if other measures for securing the action can be applied which are less cumbersome to the defendant.
[RT I 2010, 22, 108 - entry into force 01.01.2011]

(3) If several things are seized, the court sets out, in the ruling on securing the action, a sum of money for each encumbered thing upon the payment of which to the account prescribed for such purpose or upon the provision of a bank guarantee to the extent of which the securing of the action is cancelled.
[RT I, 31.01.2014, 6 - entry into force 01.04.2014]

(4) Upon seizure of an immovable or a registered movable or another object, a notation concerning a prohibition on disposal of property is entered in the land register or another register to the benefit of the plaintiff on the basis of the plaintiff's petition and the ruling on securing the action. At the request of the plaintiff, the court forwards the ruling for the purpose of entry of the notation concerning the prohibition in the register independently pursuant to the procedure provided for in subsection 387 (2) of this Code.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(5) Based on an application by the plaintiff or defendant, the court may order the sale of a seized object and depositing of the money received from the sale in the account prescribed for such purpose if the value of the object may decrease significantly or storage of the object would involve unreasonable costs.
[RT I, 31.01.2014, 6 - entry into force 01.04.2014]

(6) Seizure of property is arranged by a bailiff. The bailiff takes the seized object under his or her supervision based on an application of the person who petitioned for securing of the action. In such case, the bailiff prohibits the use of the object in part or in full and may give orders in respect of the object and, among other, organise the storage of the object.
[RT I 2005, 39, 308 - entry into force 01.01.2006]

§ 390. Filing of appeal against ruling

(1) A party may file an appeal against a ruling by which a county court or circuit court secures an action, substitutes one measure for securing an action with another or cancels the securing of an action. A ruling of a circuit court concerning an appeal against a ruling of a county court is subject to appeal to the Supreme Court only if the value of the secured action exceeds 63,900 euros or if detention or prohibition on a person to depart from his or her residence was applied as a securing measure.
[RT I 2010, 22, 108 - entry into force 01.01.2011]

(2) The filing of an appeal against a ruling does not suspend the enforcement of the ruling on securing the action. The filing of an appeal against a ruling on cancelling the securing of an action or the substitution of one measure for securing an action with another suspends the enforcement of the ruling.

§ 391. Compensation for damage caused by securing of action

(1) The party who applied for securing an action shall compensate for the damage caused to the other party by the securing of the action, if:
1) a court decision on refusal to satisfy or hear the secured action enters into force, or if the proceeding in the matter is terminated on any other grounds except due to the approval of a compromise of the parties;
2) it becomes evident that no claim for securing the action or no cause for securing the action existed at the time of securing the action;
3) a ruling on securing the action which was made before the action was filed is annulled due to the reason that the action was not filed on time.

(2) A security for compensation for damage likely to be caused by securing an action which is imposed on the person who requested the securing of the action is returned to such party if the other party has not filed an action for compensation for damage within two months as of the time specified in subsection (1) of this section.

Chapter 41 PRE-TRIAL PROCEEDINGS

§ 392. Aims of pre-trial proceedings

(1) Above all, the court ascertains the following in a pre-trial proceeding:
1) the claims of the plaintiff and the positions of the participants in the proceeding in respect of the claims;
2) the requests of the participants in the proceeding and where necessary, the positions of the other participants in the proceeding in respect of the requests;
[RT I 2008, 59, 330 - entry into force 01.01.2009]
3) the factual and legal allegations of the participants in the proceeding concerning the claims which have been filed and allegations which have been made;
[RT I 2008, 59, 330 - entry into force 01.01.2009]
4) evidence to be provided by the participants in the proceeding in proof of their factual

allegations and concerning the permissibility of the provided evidence;
5) possibility to settle the matter by way of compromise or in another manner by a ruling or in written proceedings;
6) the participants in the proceeding and whether and how to summon them to a court session.

(2) If a matter is to be heard in a court session, the court prepares the hearing of the matter thoroughly so that it can be adjudicated without interruptions in one court session.

(3) In order to achieve the aims of pre-trial proceedings, the court may demand statements from the participants in the proceeding and question them.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(4) In pre-trial proceedings, the court also verifies the correctness of acceptance of the matter and the prerequisites for permissibility of the proceeding.

(5) A matter can be adjudicated in pre-trial proceedings in the cases prescribed by law.

§ 393. Notification of participants in proceeding of action

(1) If the court accepts a statement of claim, the court notifies the participants in the proceeding thereof immediately and serves a transcript of the statement of claim together with any appendixes thereto and the ruling on acceptance of the matter on the defendant and third parties.

(2) Upon notification of the defendant of acceptance of an action, the court informs the defendant of the following:
1) the obligation of the defendant to provide a written response to the action by the due date set by the court;
2) the mandatory contents of the response to the action;
3) the consequences of failure to respond to the action, admittance of the claim or acceptance of the plaintiff's allegations, including the possibility of making a default judgment against the defendant and the defendant's obligation to cover the procedural expenses;
4) the consequences of absence from court session if the matter is to be heard in a court session;
5) the consequences of failure to submit evidence by the due date set by the court.

(2^1) The court explains to a third party without an independent claim the right of the party to submit a position on the action within the term set by the court.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) In the case of an action for termination of application of a standard term or for termination and withdrawal by the person recommending application of the term of recommendation of the term against a defendant whose activity is subject to supervision by a designated state agency, the court also forwards the action to such agency and requests that the agency provide the court with a written position on such matter. Where necessary, the court also hears the position of the agency orally.

(4) If adjudication of a matter may involve several people or if it may be reasonable due to another reason upon adjudication of a matter, the court may also forward the action to a competent state or local government agency for obtaining a position in other cases than those provided in subsection (3) of this section or ask for a position of such agency on an issue necessary for adjudication of a matter.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 394. Defendant's response to action

(1) The defendant shall provide the court with a written response to an action.

(2) Among other, the defendant shall set out the following in the response to an action:
1) whether the defendant has any objections to the court's acceptance of the matter or there is reason to refuse to hear the action or to terminate the proceeding in the matter, unless the defendant has already provided a position thereon;
2) whether the defendant admits the action by approving the correctness of the claims filed against the defendant in the statement of claim;
3) all the defendant's requests and allegations, and evidence in proof of each factual allegation;
4) whether the defendant wishes to file a counterclaim;
5) the opinion of the defendant on how to divide the procedural expenses;
[RT I 2008, 59, 330 - entry into force 01.01.2009]
6) whether the defendant agrees to the conduct of a written proceeding or wishes the matter to be heard in a court session;
7) whether the defendant considers it possible to settle the matter by way of compromise or in any other manner by an agreement.

(3) If in the proceeding, the defendant is to be represented by a representative, the response shall also set out the data of the representative. If the defendant wishes to be assisted by an interpreter or translator in the proceeding, this shall be indicated in the response, and if possible, the data of the interpreter or translator shall be provided.

(4) If the information on the defendant as set out in the statement of claim is inaccurate, the defendant shall communicate the accurate information to the court.

(5) The term for submitting a response to an action shall be at least 14 days as of the service of the action, and upon service of an action in a foreign state, at least 28 days as of the service of the action.

(6) The court forwards the defendant's response to the action together with transcripts of the documents annexed to the response to other participants in the proceeding.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 395. Oral response of defendant

The court may permit the defendant to respond to an action orally in a court session if, in the court's opinion, this is in the interests of the expeditious adjudication of the matter. In such case,

the court obligates the defendant to thoroughly prepare the presentation of the response to the action in the court session, schedules the session and explains the possible consequences of failure to respond and failure to use other legal remedies in the session to the defendant.

§ 396. Plaintiff's position on response to action

If this is necessary for the expeditious and more correct adjudication of the matter, the court demands a written position concerning the response to the action from the plaintiff and sets the plaintiff a reasonable term for compliance with the demand.

Chapter 42 COURT SESSION IN ACTIONS

§ 397. Scheduling of court session

If a matter is heard in a court session, the period between the service of the action on the defendant and the date of the court session shall be at 30 thirty days and in documentary proceedings, such period shall be at least 14 days. If the defendant has been set a term for responding to the action in writing, the court session must not be scheduled before the response of the defendant has been received and forwarded to the plaintiff, or before the term for responding expires.

§ 398. Preliminary hearing

(1) The court may schedule a court session to be organised in the form of a preliminary hearing in pre-trial proceedings if, in the opinion of the court, this is in the interests of the preparation of hearing the matter in the main session or if the possibility to end the proceeding by way of compromise or in another manner by agreement is higher in a preliminary hearing.

(2) The court holds a court session where a matter is heard as a continuation of the preliminary hearing and adjudicates on the merits of the matter unless the court finds that the facts relevant to the matter have been ascertained to a sufficient extent.

(3) Unless the hearing of a matter is terminated in the preliminary hearing, the court makes further arrangements to prepare for the main session and schedules the main session.

§ 399. Procedure for hearing of matter in court session

Matters are heard in court sessions prescribed for the hearing of the matters pursuant to the following procedure:
1) the parties submit the evidence which was not submitted in pre-trial proceedings if permitted by the court;
2) the plaintiff submits the claims;
3) the defendant makes known whether the defendant admits or contests the claim;
4) the participants in the proceeding give statements to justify their positions and submit their objections to the positions of the opposing party;

5) the court examines all accepted evidence;
6) the participants in the proceeding are given the floor for summations.

§ 400. Statements of participants in proceeding

(1) The court gives the plaintiff and any third parties participating in support of the plaintiff and the defendant and any third parties participating in support of the defendant an opportunity to add to the submissions made in the course of preliminary proceedings. The participants in the proceeding have the right to question one another.

(2) A participant in a proceeding who is unable to give statements orally due to reasons of health may give statements in writing or in another comprehensible manner.

(3) Where necessary, the court announces the positions of the participants submitted in writing. The court announces the positions and petitions which the participants in the proceeding have presented in pre-trial proceedings only if they differ from the submissions made in a court session.

(4) If only one of the parties participates in a court session, the court announces the position of the other party on the basis of previous submissions, if necessary.

(5) After hearing the statements, the court makes a short summary of the statements and discusses the possible rendering of a legal opinion on the facts presented in the statements with the participants in the proceeding.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 401. Termination of hearing on merits of matter

(1) After examining the evidence, the court hearing the matter discusses the status of the proceeding and prospects of terminating the proceeding with the participants in the proceeding.

(2) After examining all evidence in a matter, the court asks the participants in the proceeding whether they want a further hearing of the matter.

(3) If upon examining the evidence, a fact becomes evident which a party could not have taken into consideration earlier, the party may request and the court may grant the parties additional time to prepare for summations.

(4) If the participants in a proceeding do not apply for a further hearing of the matter on the merits or if the court denies such application, the court terminates the hearing of the matter on the merits.

§ 402. Summations

(1) After the hearing of the matter on the merits is terminated, the court hears the summations if a participant in the proceeding so requests.

(2) A participant in a proceeding has the right, in the summations, to make closing arguments which contain a short summary of the circumstances relevant to the adjudication of the matter. Closing arguments may only refer to the circumstances which have been presented in the hearing on the merits of the matter and to the evidence which has been examined in a court session.

(3) A court may limit the duration of closing arguments, ensuring that all participants in the proceeding have equal time to speak. The time granted to a participant in a proceeding for closing arguments shall not be less than ten minutes.

(4) The plaintiff is the first to speak in the summations and thereafter the defendant speaks. A third party with an independent claim speaks after the parties. A third party without an independent claim speaks after the plaintiff or the defendant in support of whom the third party is participating in the matter.

(5) The court may also specify a different order of appearance than the order provided in subsection (4) of this section.

(6) After the closing arguments, a participant in the proceeding may rebut the closing arguments of other participants in the proceeding. The duration of a rebuttal shall not exceed three minutes. The defendant has the right of last rebuttal.

(7) During the summations, a participant in the proceeding may submit the positions set out in the closing arguments to the court in written form or on another durable medium for inclusion in the minutes of the court session.

(8) After the summations, the court retires to make a judgment, and gives notice of the time and manner the judgment is to be made public.

Chapter 43 TYPES OF SIMPLIFIED PROCEDURE

§ 403. Written proceeding with consent of parties

(1) With the consent of the parties, the court may adjudicate a matter without hearing it in a court session. In such case the court sets, as soon as possible, a term during which petitions and documents may be submitted and the time for making public of the judgment, and notifies the participants in the proceeding thereof. The ruling shall also set out the judge adjudicating the matter.
[RT I 2005, 39, 308 - entry into force 01.01.2006]

(2) The parties have the right to withdraw the consent specified in subsection (1) of this section only if significant changes in the procedural situation occur.

(3) If a party fails to inform the court of consenting to a written proceeding, it is presumed that the party wishes to have the matter heard in a court session.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 404. Written proceeding ordered by court

(1) The court may make a ruling on the conduct of a written proceeding in the matter of a monetarily appraisable action if the value of the action does not exceed an amount which corresponds to 3,200 euros on the main claim and to 6,400 euros together with collateral claims. [RT I, 29.06.2012, 3 - entry into force 01.07.2012]

(2) In the case specified in subsection (1) of this section, the court sets a due date for submission of petitions and documents, and determines the time for announcing the judgment, and notifies the participants in the proceeding thereof. The court may change the due date if this is necessary because changes have occurred in the procedural situation.

(3) The court cancels the conduct of a written proceeding if, in the opinion of the court, the personal appearance of the parties is unavoidable for ascertaining the circumstances which constitute the cause of the action or if the party due to whom the written proceeding was ordered applies for adjudication of the matter in a court session. At the request of the other party, such party shall be heard regardless of whether or not a written proceeding has been ordered. [RT I 2005, 39, 308 - entry into force 01.01.2006]

§ 405. Simplified proceeding

(1) The court adjudicates an action by way of simplified proceeding at the discretion of the court, taking account of only the general procedural principles provided by this Code if the action concerns a proprietary claim and the value of the action does not exceed an amount which corresponds to 2,000 euros on the main claim and to 4,000 euros together with collateral claims. Among other, upon conducting proceedings in such action, it is permitted:
[RT I, 29.06.2012, 3 - entry into force 01.07.2012]

1) to enter procedural acts in the minutes only to the extent the court deems it necessary, and preclude the right to file any objections to the minutes;

2) to set a term which differs from the term provided by law;

3) to prescribe the amount of procedural expenses already in the court decision which terminates the proceeding, allowing the participants in the proceeding to present their lists of procedural expenses beforehand;

4) to recognise persons not specified by law as contractual representatives of participants in the proceeding;

5) to deviate from the provisions of law concerning the formal requirements for provision and taking of evidence and to recognise as evidence also the means of proof not provided by law, including a statement of a participant in the proceeding which is not given under oath;

6) to deviate from the provisions of law concerning the formal requirements for serving procedural documents and for documents to be presented to the participants in the proceeding, except for serving an action on the defendant;

7) to waive written pre-trial proceedings or a court session;

8) to take evidence at its own initiative;

9) to make a judgment in a matter without the descriptive part and statement of reasons;

10) to declare a decision made in a matter to be immediately enforceable also in other cases than those specified by law or without a security prescribed by law.

(2) In the case specified in subsection (1) of this section, the court guarantees that the fundamental rights and freedoms and the essential procedural rights of the participants in the proceeding are observed and that a participant in the proceeding is heard if he or she so requests. A court session need not be held for this purpose.

(3) The court may conduct proceedings in a matter in the manner specified in subsection (1) of this section without a need to make a separate ruling thereon. The participants in the proceeding shall still be notified by the court of their right to be heard by the court.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 405[1]. Implementation of Regulation (EC) No 861/2007 of the European Parliament and of the Council

(1) The provisions of this Act concerning the simplified proceeding, including upon filing an appeal against a decision made in such proceeding, also apply to the adjudication of a civil matter under Regulation (EC) No 861/2007 of the European Parliament and of the Council establishing a European Small Claims Procedure (OJ L 199, 31.07.2007, pp. 1–22) to the extent that it is not regulated by the specified regulation. Under the specified regulation, a matter may be adjudicated by the competent county court according to jurisdiction.

(2) In conformity with Article 4(1) of the regulation specified in subsection (1) of this section, a petition for initiation of a proceeding may be filed in the form provided in § 334. – § 336. of this Code.

(3) In conformity with Article 21(2)(b) of the regulation specified in subsection (1) of this section, a decision made in the court proceeding conducted under the regulation is accepted for enforcement in Estonia only if it is prepared in Estonian or English or if Estonian or English translation is annexed to the certificate.

(4) The provisions concerning enforcement proceedings in Estonia apply to the enforcement in Estonia of a court decision of a foreign state made under the regulation specified in subsection (1) of this section in so far as not prescribed otherwise by the specified regulation.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 406. Documentary proceeding

(1) At the request of the plaintiff, an action for payment of money arising from a bill of exchange or cheque, or an action for compulsory enforcement arising from a mortgage or maritime mortgage or registered security over movables is heard by way of documentary proceeding if all the facts in proof of the claim can be supported by documents and all necessary documents are annexed to the action or the plaintiff submits them to the court within the term set thereby.
[RT I 2009, 30, 178 - entry into force 01.10.2009]

(2) In addition to the submissions provided in subsection (1) of this section, no other claims or counterclaims shall be filed in documentary proceedings.

(3) In documentary proceedings, only documents submitted by the parties and statements given under oath by the parties are accepted as evidence. Only the facts specified in subsection (1) of this section and the authenticity or falsification of documents may be proven. Other documents and objections are not accepted.

(4) In order to prove a collateral claim arising from a bill of exchange or cheque, it is sufficient to substantiate the claim.

(5) At the request of the plaintiff, the court makes a ruling on changing a documentary proceeding into ordinary action. The plaintiff may submit such request until summations are held in the matter in a county court or, in written proceedings, until the term for filing of petitions expires. Based on the ruling of the court, the proceeding continues without the specifications of documentary proceedings.

Chapter 44 CONSEQUENCES OF FAILURE TO RESPOND TO COURT OR ABSENCE OF PARTICIPANT OF PROCEEDING FROM COURT SESSION

§ 407. Judgment by default in case of failure to respond to action

(1) With the consent of the plaintiff, the court may satisfy an action by making a judgement by default to the extent specified by the statement of claim and legally justified by facts if the defendant who has been set a term for responding by the court has failed to do so on time even if the action was served on the defendant in a foreign state or by public announcement. In such case the defendant is deemed to have accepted the factual allegations made by the plaintiff.
[RT I, 29.06.2012, 3 - entry into force 01.01.2013]

(2) The consent of the plaintiff provided in subsection (1) of this section is presumed unless the plaintiff has informed the court that he or she does not wish a judgment by default to be made.
[RT I, 29.06.2012, 3 - entry into force 01.01.2013]

(3) In the case specified in subsection (1) of this section, the judgment by default may be made without holding a court session.

(4) The court does not make a judgment by default on the grounds specified in subsection (1) of this section in a matrimonial matter or a filiation matter. However, a judgment by default may be made in a matter of dividing joint property or an action related to another type of proprietary relationship between the spouses if the matter can be adjudicated separately from the rest of the matrimonial matter.

(5) A default judgment shall not be made if:
1) the term for responding to the action given to the defendant was clearly too short;
2) the defendant was not informed of the consequences of failure to respond to the action;
2^1) the defendant has requested the grant of state legal aid during the term for submitting a response in order to respond through an advocate;
[RT I 2008, 59, 330 - entry into force 01.01.2009]
2^2) the action has been accepted incorrectly and, among other, if the matter does not fall within

the jurisdiction of this court;
[RT I 2008, 59, 330 - entry into force 01.01.2009]
3) the defendant has provided good reason for failure to respond to the action and substantiated it to the court.

(5^1) A court may also refuse to make a judgment by default if the action was served on the defendant by public announcement and there are probably intentions to have the decision to be made in the proceeding recognised or enforced in a foreign state and it is probable that the decision would not be recognised or enforced due to the public service of the action.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(6) If the plaintiff has consented to the making of a judgment by default but the action is not legally justified to the extent specified by the statement of claim and by facts, the court makes a judgment whereby the court refuses to satisfy the action.
[RT I, 29.06.2012, 3 - entry into force 01.01.2013]

§ 408. Absence of both parties from court session

If neither party appears in the court session, including a preliminary hearing, the court may:
[RT I 2008, 59, 330 - entry into force 01.01.2009]
1) adjudicate on the merits of the matter;
2) refuse to hear the action;
3) suspend the proceeding;
4) postpone the hearing of the matter.

§ 409. Absence of plaintiff from court session

(1) If the plaintiff fails to appear in the court session, including a preliminary hearing, the court, at the request of the defendant who has appeared in the court session:
[RT I 2008, 59, 330 - entry into force 01.01.2009]
1) refuses to hear the action;
2) adjudicates the matter based on admittance of the claim if the defendant admits the claim;
3) adjudicates on the merits of the matter;
4) postpones the hearing of the matter.

(2) If the defendant does not submit the request specified in subsection (1) of this section or the court refuses to satisfy the request, the court postpones the hearing of the matter.
[RT I 2005, 39, 308 - entry into force 01.01.2006]

§ 410. Absence of defendant from court session

If the defendant fails to appear in the court session, including a preliminary hearing, the court, at the request of the plaintiff who has appeared in the court session, makes a judgment by default, adjudicates on the merits of the matter or postpones the hearing of the matter. If the plaintiff does not submit such request or the court refuses to satisfy the request, the court

postpones the hearing of the matter.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 411. Absence of other participants in proceeding from court session

If a participant in the proceeding who is not a party fails to appear in a court session although he or she was served the summons, the matter is heard without him or her.

§ 412. Restrictions to refusal to hear action and reopening of proceeding

(1) Regardless of the plaintiff's failure to appear in a court session, the court does not refuse to hear an action if:
1) the plaintiff had consented to written proceedings or to the hearing of the action without his or her presence;
2) the plaintiff who failed to appear in the court session was not summoned to the session in time, the summons did not set out the consequences of absence from a session or other requirements for summoning persons to court sessions were violated;
3) the plaintiff had informed the court beforehand of the existence of a good reason for his or her failure to appear in the court session and substantiated it to the court;
4) the plaintiff requests adjudication of the matter on the merits, and adjudication of the matter on the merits is possible;
5) the defendant has admitted the claim.

(2) Among other, the court may refuse to hear an action if the plaintiff fails to appear before the court in person although the court had obligated him or her to appear in person, and the plaintiff or his or her representative has not informed the court of the existence of a good reason therefor and has not substantiated it to the court. The court has the right to do so even if the representative of the plaintiff participates in the session.

(3) If hearing of an action was refused, the plaintiff may request, within 14 days after the ruling whereby hearing of the action was refused was served on him or her, the reopening of the proceeding in part or in full by the same court, provided that the plaintiff is able to substantiate to the court that he or she had good reason for failure to appear in the session and he or she was unable to notify the court thereof in time. If the ruling on refusing to hear an action is to be served outside of the Republic of Estonia or by making it public, reopening of the proceeding may be requested within 28 days after the service of the ruling.

(4) If the summons was served on the plaintiff or representative thereof in any other manner except by personal delivery against a signature or delivery in a court session or if hearing of the action could not have been refused for a reason specified in subsection (1) of this section, provision of a good reason for reopening of the proceeding and substantiation thereof to the court is not necessary.

(5) An appeal may be filed against a ruling on refusal to reopen proceeding. A ruling made by a circuit court concerning an appeal against a ruling is subject to appeal to the Supreme Court only

if the circuit court refused to satisfy the appeal against the ruling.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(6) Upon filing an appeal against a decision made later in the proceedings, the appellant cannot rely on incorrect reopening of the proceeding.

(7) A proceeding which is reopened is continued, in the part in which it is reopened, from the point at which the proceeding was before refusing to hear the action.

§ 413. Judgment by default in case of failure of defendant to appear in court session

(1) If the plaintiff requests judgment by default against the defendant who fails to appear in the court session, the court makes a judgment by default in favour of the plaintiff provided that the action is legally justified to the extent specified by the statement of claim and by facts. In such case the defendant is deemed to have accepted the factual allegations made by the plaintiff. If the action is not legally justified, the court makes a judgment by which it refuses to satisfy the action.

(2) Among other, the court may make a judgment by default if the defendant fails appear before the court in person although the court had obligated him or her to appear in person, and the defendant or his or her representative has not informed the court of the existence of a good reason therefor and has not substantiated it to the court. The court has the right to do so even if the representative of the defendant participates in the session.

(3) The court does not make a judgment by default if:
1) the defendant who failed to appear in the court session was not summoned to the session in time, the summons did not set out the consequences of absence from a session or other requirements for summoning persons to court sessions were violated;
2) the defendant has provided good reason for failure to appear in the court session and substantiated it to the court;
3) the defendant had consented to the conduct of written proceedings in the matter or adjudication of the matter without his or her presence.

(3^1) A court may also refuse to make a judgment by default if the summons was served on the defendant by public announcement and there are probably intentions to have the decision to be made in the proceeding recognised or enforced in a foreign state and it is probable that the decision would not be recognised or enforced due to the public service of the summons.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(4) The court does not make a judgment by default in matrimonial or filiation matters. However, a judgment by default may be made in a matter of dividing joint property or an action related to another type of proprietary relationship between the spouses if the matter can be adjudicated separately from the rest of the matrimonial matter.

§ 414. Adjudication of matter on merits in absence of party

(1) Upon absence of one party or both parties from a court session, the court may adjudicate on the merits of a matter if the circumstances which constitute the cause of the action have been, in the opinion of the court, ascertained to a sufficient extent in order to make such judgement. The court may also adjudicate matrimonial and filiation matters in such manner.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) The court shall not adjudicate on the merits of the matter without the participation of a party if:
1) the party who failed to appear in the court session was not summoned to the session in time, the summons did not set out the consequences of absence from a session or other essential requirements for summoning persons to court sessions were violated;
2) the party has provided good reason for failure to appear in the court session, substantiated it to the court and has not requested hearing of the matter without his or her presence.

(3) The court may adjudicate on the merits of the matter in the absence of a party even if the party has provided a good reason for his or her failure to appear in the court session provided that the party has consented to written proceedings or the hearing of the matter has already been postponed once due to the absence of the party from the court session with a good reason and the party has been given the opportunity to file petitions, submit allegations and evidence on all facts relevant to the matter.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 415. Filing of petition to set aside default judgment

(1) The defendant may file a petition to set aside a default judgment if the defendant's failure to act which constituted the basis for making the judgment by default was due to a good reason. A petition to set aside a default judgment may be filed regardless of whether a good reason existed if:
1) in the case of failure to respond to an action, the action was served on the defendant or representative thereof in any other manner except by personal delivery against a signature or electronically;
[RT I, 29.06.2012, 3 - entry into force 01.01.2013]
2) in the case of failure to appear in a court session, the summons was served on the defendant or representative thereof in any other manner except by personal delivery against a signature or delivery in a court session;
3) pursuant to law, the default judgment could not have been made.

(2) A petition to set aside a default judgment may be filed within 30 days after the service of the default judgment. If a default judgment is served by public announcement, a petition to set aside a default judgment may be filed within 30 days after the date on which the defendant became aware of the default judgment or of the enforcement proceedings commenced to enforce the default judgment.
[RT I, 29.06.2012, 3 - entry into force 01.01.2013]

§ 416. Requirements for petition to set aside default judgment

(1) A petition to set aside a default judgment is filed with the court which made the default judgment. The petition to set aside default judgment shall set out:
1) a reference to the default judgment against which the petition is filed;
2) a declaration that the petition is filed against that default judgment;
3) the circumstances which prevented the petitioner from responding to the action or appearing in the court session and notifying the court thereof, together with the reasons therefor, except in the case where good reason need not be provided in order to file a petition to set aside a default judgment.

(2) If a default judgment in a pre-trial proceeding is made due to the failure of the defendant to respond to the court by the due date or to appear in a preliminary hearing, all materials necessary for the completion of preparation of the matter shall be annexed to the petition to set aside the default judgment.

(3) [Repealed - RT I 2008, 59, 330 - entry into force 01.01.2009]

(4) [Repealed - RT I 2008, 59, 330 - entry into force 01.01.2009]

(5) The court serves a petition to set aside a default judgment on the other participants in the proceeding, providing information on the dates of serving the default judgment and filing of the petition to set aside the default judgment, and sets them a term for presenting a position on the petition to set aside a default judgment.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 417. Adjudication of petition to set aside default judgment

(1) The court adjudicates a petition to set aside a default judgment by a ruling. Where necessary, a petition to set aside a default judgment is heard in a court session.

(2) If a petition to set aside a default judgment has been submitted in the correct form and at the correct time, and the petitioner has substantiated the good reason for failure to perform the procedural act which constituted the basis for the default judgment and for failure to inform the court thereof or if there are other grounds why the default judgement could not have been made, the court satisfies the petition to set aside the default judgment and reopens the proceeding, to the extent of the petition to set aside the default judgment, at the point in which the proceeding was before the petitioner's failure to perform the act which constituted the basis for making the default judgment. A good reason is not required for reopening the proceeding if a good reason is not required for filing a petition to set aside a default judgment.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) If a court session has been scheduled for hearing a petition to set aside a default judgment and the petitioner does not participate in the session or in the hearing of the matter, the court refuses to satisfy the petition and refuses to reopen the proceeding.

(4) A ruling on refusal to reopen a proceeding is subject to appeal. A ruling made by a circuit court concerning an appeal against a ruling is subject to appeal to the Supreme Court only if the circuit court refused to satisfy the appeal against the ruling.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(5) Upon filing an appeal against a decision made later in the proceedings, the appellant cannot rely on incorrect reopening of the proceeding.

(6) Before adjudicating on a petition to set aside a default judgment, the court may, by a ruling, suspend the enforcement proceeding or permit it to be continued only against a security, or revoke the enforcement action.

§ 418. Continuation of reopened proceedings

(1) If a proceeding is reopened, a default judgment does not enter into force and it cannot be enforced. A reopened proceeding continues, according to the extent of the petition to set aside the default judgment, at the point in which the proceeding was before failure to perform the act which constituted the basis for making the default judgment.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) If the court decides to reopen a proceeding in a court session, the hearing of the matter continues in the same court session.

§ 419. Second judgment by default

If a party fails to appear in a court session in a reopened proceeding and a new default judgment is made against the party, the party does not have the right to submit a new petition to set aside the default judgment.

§ 420. Appeal against default judgment

(1) A defendant cannot file an appeal against a default judgment but may file a petition to set aside the default judgment. A judgment is subject to appeal by the plaintiff if the default judgment was made on the basis of the plaintiff's petition or if the plaintiff's petition for making a default judgment against the defendant was not satisfied and the plaintiff's action was not satisfied.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) If after reopening of a proceeding, another default judgment is made against the defendant, the defendant may file an appeal against such judgment only if the defendant relies on failure to verify the prerequisites for making a default judgment.

(3) If the defendant submits a petition to set aside a default judgment and the plaintiff files an appeal, the matter is heard by way of the reopening of the proceeding in the court which made the default judgment. If the petition to set aside the default judgment is not satisfied, the hearing of the appeal is continued.

§ 421. Failure to participate in proceeding and leaving court session without permission

(1) A participant in a proceeding is deemed to be absent from a court session even if the participant in the proceeding appears in the court session but fails to participate in the conduct of proceedings in the matter.

(2) If a participant in a proceeding leaves a court session, it does not prevent the hearing of the matter. The court may fine a participant in a proceeding who leaves the court session without permission or impose compelled attendance on him or her if the court finds that personal attendance of the participant in the proceeding is necessary in the hearing of the matter.

§ 422. Good reason for absence from court session or for failure to perform other procedural acts

(1) A good reason for failure to respond to an action or to appear in a court session and for failure to notify the court thereof is above all, a breakdown of transportation, unexpected illness of a party or unexpected serious illness of a person close to a party due to which the party failed to respond to the action or to appear in court and to send a representative to the court.

(2) In order to prove the illness due to which a participant in a proceeding was prevented from responding to an action or appearing in a court session, the participant in the proceeding or his or her representative submits a certificate to the court which indicates that the illness can be deemed to be an impediment to responding to an action or appearing in a court session. A form for the certificate and the conditions and procedure for the issue thereof shall be established by a regulation of the Minister of Social Affairs.

(3) Absence of or omissions in the certificate specified in subsection (2) of this section do not preclude substantiation of the illness by other evidence.

Chapter 45 REFUSAL TO HEAR ACTION

§ 423. Grounds for refusal to hear action

(1) A court refuses to hear an action if:
1) the person who has taken recourse to the court fails to comply with the mandatory procedure established by law for the prior extra-judicial adjudication of such matter and the term for applying such procedure has not expired;
2) the plaintiff withdraws the action;
3) a matter between the same parties concerning the same claim on the same grounds is being heard by way of pre-trial proceedings and, pursuant to law, recourse to the court is not permitted in the matter before the end of pre-trial proceedings;
4) a matter between the same parties concerning the same object of the action on the same grounds is being heard by a court;
5) arbitration proceedings have been initiated concerning the same object of dispute on the same grounds;
6) the parties have entered into an agreement for referral of the dispute to arbitration unless the

validity of the arbitral agreement is contested by the action;
7) the data concerning the plaintiff or defendant presented by the plaintiff do not enable the identification of the plaintiff or defendant and the court cannot identify such person within a reasonable period of time;
8) despite the demand of the court, the plaintiff fails to submit, by the due date set by the court, information which is necessary for serving procedural documents on the defendant and, despite reasonable efforts, the court is unable to find the information independently, and also if the plaintiff fails to pay the expenses necessary for serving the action or other procedural documents on the defendant, including the bailiff's fee, by the time prescribed by the court, except if the plaintiff is granted state procedural assistance for covering the expenses;
[RT I 2008, 59, 330 - entry into force 01.01.2009]
8^1) the plaintiff fails to inform the court of the results of the service within the term set to him or her on the basis of subsection 315^1 (2) of this Code;
[RT I, 29.06.2012, 3 - entry into force 01.01.2013]
9) the person who files an action in the name of the entitled person fails to prove his or her right of representation;
10) the plaintiff fails to comply with the court's demand to find an interpreter, translator or representative proficient in Estonian to himself or herself;
11) a state fee has not been paid on the filed claim by the due date set by the court;
12) the plaintiff fails to provide, within the term set by the court, a security for covering the defendant's presumed procedural expenses;
13) the court is not competent to adjudicate the matter.
[RT I 2005, 39, 308 - entry into force 01.01.2006]

(2) The court may also refuse to hear an action if it becomes evident that:
1) based on the factual circumstances presented as the cause of the action, violation of the plaintiff's rights is impossible, presuming that the factual allegations of the plaintiff are correct;
2) the action has not been filed for protecting the plaintiff's right or interest protected by law, or with an aim subject to legal protection by the state, or if the objective sought by the plaintiff cannot be achieved by the action.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) A court may also refuse to hear an action in other cases specified by law.

§ 424. Withdrawal of action

(1) Until the end of pre-trial proceedings, the plaintiff may withdraw an action without the defendant's consent. With the defendant's consent, an action may be withdrawn until the time the court decision made concerning the action enters into force.

(2) The court is informed of withdrawal of an action and the defendant's consent to the withdrawal of the action in writing, or such fact is entered in the minutes.

(3) A petition to withdraw an action which is filed with the court is served on the defendant if the defendant's consent is needed for the withdrawal. If the defendant fails to file an objection

within ten days after the petition is served on him or her, the defendant is deemed to have given his or her consent.

§ 425. Procedure for refusal to hear action

(1) The court refuses to hear an action by a ruling. The ruling sets out how to eliminate the circumstances which hinder the hearing of the matter, provided that hearing of the matter has been refused due to such circumstances.

(2) If necessary, the court holds a court session to decide on refusal to hear an action.

(3) If a higher court refuses to hear an action, the court also annuls the decision or decisions of a lower court by the ruling. If the court that has adjudicated the matter refuses to hear the action on the basis of a petition filed within the term for appeal, the court annuls the decision or decisions made in the matter.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(4) If a court finds that the hearing of the action must be refused due to the circumstance that adjudication of the statement of claim falls within the competence of an administrative court and the administrative court has previously found in the same matter that the matter does not fall within the competence of the administrative court, the court promptly submits a request to a Special Panel formed by the Civil Chamber and the Administrative Chamber of the Supreme Court in order to determine the court which is competent to adjudicate the matter and notifies the participants in the proceeding thereof.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 426. Consequences of refusal to hear action

(1) If the court refuses to hear an action, the action is deemed not to have been heard by the court and the plaintiff has the right of recourse to the court with an action against the same defendant in a dispute concerning the same object of action on the same grounds.

(2) If an action which has been withdrawn is filed again, the defendant has the right not to respond to the action and not to participate in the proceeding until the defendant's existing procedural expenses for which the defendant has demanded compensation and which the plaintiff has been obligated to pay have been paid. The defendant shall notify the court immediately of failure to pay the procedural expenses.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) In the case specified in subsection (2) of this section, the proceeding is deemed to have been suspended. The court may set the plaintiff a term for compensation of the defendant's procedural expenses. If the plaintiff fails to compensate for the costs within such term, the court refuses to hear the action.

§ 427. Appeal against ruling on refusal to hear action

A ruling by a county court or circuit court to refuse to hear an action is subject to appeal. A ruling of a circuit court concerning an appeal against a ruling of a county court is not subject to appeal to the Supreme Court if hearing of the action was refused on the grounds specified in clauses 423 (1) 2), 7)–10) or 12) of this Code.

Chapter 46 TERMINATION OF PROCEEDING

§ 428. Grounds for termination of proceeding

(1) The court terminates a proceeding without making a judgment if:
1) the person who has taken recourse to the court fails to comply with the mandatory procedure established by law for the prior extra-judicial adjudication of such matter, and such procedure can no longer be applied;
2) in a dispute between the same parties on the same grounds concerning the same object of action, there is a decision of an Estonian court or a decision of a court of a foreign state subject to recognition in Estonia or a decision of an arbitral tribunal which has terminated the proceeding and has entered into force, or a decision in pre-trial proceedings which has entered into force, including an agreement approved by the Chancellor of Justice, which precludes recourse to another court in the same matter;
3) the plaintiff has discontinued the action;
4) the parties have settled the dispute by compromise and the court approves the compromise;
5) the legal relationship under dispute does not enable legal succession in the case of the death of a natural person who is a party in the matter, or a legal person is dissolved without legal succession.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) The court also terminates proceedings on other grounds provided by law.

§ 429. Discontinuance of action

(1) The plaintiff may discontinue an action until the decision made concerning the action enters into force by filing a petition for such purpose. The court accepts discontinuance of an action by a ruling which also terminates the proceeding in the matter.

(2) If the plaintiff discontinues the action in a court session, such fact is entered in the minutes. If the wish to discontinue an action is submitted to the court in a written petition, such document is included in the file.

(3) If a petition to discontinue an action is submitted to the court outside of a court session, the court, prior to making a decision on termination of the proceeding, informs the defendant of the filing of the petition and sets the defendant a term for responding. If the defendant wants the court to order that the plaintiff pay the procedural expenses, the defendant shall so indicate in the response.

(4) The court does not accept discontinuance of an action by the legal representative of a plaintiff who has no active civil procedural legal capacity if the discontinuance of the action is clearly contrary to the interests of the person without active civil procedural legal capacity, and also refuses to accept discontinuance of an action in any other case where discontinuance of the action would result in the violation of a significant public interest.

(5) If the court refuses to accept discontinuance of an action, the court makes a reasoned ruling to such effect. In such case, the hearing of the matter is continued.

(6) If the court refuses to accept discontinuance of an action by the legal representative of a plaintiff who has no active civil procedural legal capacity as this would clearly be contrary to the interests of the person without active civil procedural legal capacity, the court appoints a new representative to the plaintiff pursuant to the procedure provided in § 219 of this Code.

§ 430. Compromise

(1) Until the time a court decision concerning the action enters into force, the parties have the right to terminate the proceeding by a compromise. The court approves a compromise by a ruling which also terminates the proceeding in the matter. The ruling on approval of a compromise sets out the conditions of the compromise.

(2) The parties submit a signed compromise agreement to the court or communicate it to the court in order to enable entry thereof in the minutes.

(3) The court refuses to approve a compromise if this is contrary to good morals or the law, if this violates a significant public interest or if the conditions of the compromise cannot be enforced. The court is not bound by and need not approve a compromise in a family matter.

(4) If the court refuses to approve a compromise, the court makes a reasoned ruling to such effect. In such case, the hearing of the matter is continued.

(5) A compromise applies as an enforcement instrument also with regard to a person not participating in the court proceeding who has assumed an obligation based on the compromise.

(6) Entry into an agreement in the form of a compromise approved by the court substitutes for attestation of the agreement by a notary.

(7) A compromise may be conditional.

(8) A compromise can be declared null, and its nullity may be relied upon on the grounds specified in the General Principles of the Civil Code Act, and a party may withdraw from or cancel a compromise on the grounds specified in the Law of Obligations Act. A compromise can be declared null, and its nullity may be relied upon, or a party may withdraw from or cancel a compromise only in the course of a proceeding based on an action for declaring the inadmissibility of enforcement proceedings carried out on the basis of a compromise as an enforcement instrument. If the court satisfies such action, the compromise is deemed, in its

entirety or in part, not to have any legal consequences, and the proceeding in the matter in which the compromise was reached continues.

(9) A compromise can be declared invalid by way of recovery procedure in the bankruptcy proceeding or enforcement proceeding.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 431. Procedure for termination of proceeding

(1) The court terminates a proceeding by a ruling. If necessary, the court holds a court session to decide upon the termination of a proceeding. In the cases where a participant in a proceeding is not represented by an advocate, the court explains the consequences of termination of the proceeding beforehand to the party or representative thereof.

(2) If a higher court terminates a proceeding, the court also annuls the decision or decisions of a lower court by the ruling. If the court that has adjudicated the matter terminates the proceeding on the basis of a petition filed within the term for appeal, the court annuls the decision or decisions made in the matter.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 432. Consequences of termination of proceeding

After termination of a proceeding, the plaintiff has no further recourse to the court with an action against the same defendant in a dispute concerning the same object of action on the same grounds. If a proceeding is terminated due to discontinuance of the action or by way of a compromise, the termination has the same consequences under substantive law and procedural consequences as in the case of termination of a proceeding by a court judgment, unless otherwise provided by law.

§ 433. Appeal against ruling on termination of proceeding

(1) An appeal may be filed against a ruling on the termination of a proceeding.

(2) An appeal may be filed against a ruling of a county court or circuit court on refusal to terminate a proceeding for the reason that the court does not accept the discontinuance of the action or does not approve the compromise of the parties. A ruling of a circuit court concerning an appeal against a ruling of a county court is not subject to appeal to the Supreme Court.

Chapter 47 COURT DECISION

Division 1 Court Judgment

§ 434. Court judgment as decision on merits of matter

A court judgment is a decision on the merits of a matter made in the name of the Republic of Estonia resulting from a court proceeding.

§ 435. Making of judgment

(1) The court makes a judgment if, in the opinion of the court, the matter has been heard to a sufficient extent and the case is ready for making a final decision.

(2) By a court judgment, the proceeding in that instance of court is terminated.

(3) The date of a court judgment is the date on which the judgment is made public.

§ 436. Lawful and reasoned judgment

(1) A court judgment shall be lawful and reasoned.

(2) The court bases a judgment only on the evidence provided and taken in the case. If the court adjudicates a matter in a court session, the court bases the judgment only on the evidence which was examined in the session.

(3) In making a judgment, the court may only rely on the evidence which the parties could examine and on the circumstances concerning which the parties could present their positions.

(4) In making a judgment, the court shall not rely on the circumstances which have not been discussed in the proceeding. The court shall also not evaluate, in a judgment, a presented circumstance differently from its presentation by both parties, unless the court has brought such possibility to the attention of the parties beforehand and given the parties an opportunity to present their positions.

(5) The provisions of subsection (4) of this section do not apply in the case of a collateral claim.

(6) In a family matter, the court is not bound by the presented circumstances and positions.

(7) In making a judgment, the court is not bound by the legal allegations made by the parties.

§ 437. Rehearing of matter

The court may make a ruling on rehearing a matter if, before the conclusion of the hearing of the matter and before making a decision:
1) the court establishes an error in the proceeding which is relevant to the making of the judgment and the error can be corrected;
2) a fact which could cause the filing of a petition to set aside the default judgment becomes known upon making a default judgment;
3) a fact which could cause the proceeding to be reopened becomes known upon refusal to hear an action.

§ 438. Issues resolved upon making of judgment

(1) Upon making a judgment, the court evaluates the evidence, decides which facts are established, which legislation applies in the matter and whether the action should be satisfied. If several claims are filed in a matter, the court makes a judgment concerning all of the claims.

(2) The court also decides on the division of procedural expenses.

§ 439. Limits of adjudication of action

A court shall not exceed the limits of a claim in a judgment or make a judgment concerning a claim which has not been filed.

§ 440. Admittance of claim

(1) The court satisfies an action if the defendant admits the plaintiff's claim in a court session or in a petition filed with the court.

(2) Admittance of a claim in a court session is entered in the minutes.

(3) If admittance of a claim is submitted to the court by way of a petition, such document is included in the file. If the defendant informs the court of admittance of the claim in the course of pre-trial proceedings, the court adjudicates the matter without holding a court session.

(4) In matrimonial matters and filiation matters, the court is not bound by admittance of the claim. The court is also not bound by admittance of the claim in matters in which several defendants participate and in which the disputed legal relationship can be established only with regard to all defendants but all defendants do not accept the claim. If the court refuses to accept the admittance of a claim, the court makes a reasoned ruling to such effect. In such case, the hearing of the matter is continued.

§ 441. Preparation of judgment

(1) The court prepares a judgment electronically in the Estonian language and signs it with the digital signature of the judge who has made the judgment. The court registers the judgment promptly in the information system of the courts.
[RT I, 29.06.2012, 3 - entry into force 01.01.2013]

(2) The court may prepare and sign a judgment on paper if, due to reasons not depending on the court or judge, the requirements provided in subsection (1) of this section cannot be complied with.
[RT I, 29.06.2012, 3 - entry into force 01.01.2013]

§ 442. Content of judgment

(1) A judgment consists of an introduction, conclusion, descriptive part and statement of reasons.

(2) The introduction of a judgment sets out:
1) the name of the court which made the judgment;
2) the name of the judge who made the judgment;
3) the time and place of making the judgment public;
4) the number of the civil matter;
5) the object of the action;
51) the value of the civil matter;
[RT I 2008, 59, 330 - entry into force 01.01.2009]
6) the names and personal identification codes or registry codes of the participants in the proceeding;
7) the addresses of the participants in the proceeding if this is clearly necessary for enforcement or recognition of the judgment;
8) the names of the representatives of the participants in the proceeding and in the case of substitution of the representatives, the names of the latest representatives;
[RT I 2008, 59, 330 - entry into force 01.01.2009]
9) the time of the last court session or a reference to adjudication of the matter by way of written proceedings.

(3) If a natural person has no personal identification code, his or her date of birth is indicated in the judgment. If a legal person has no registry code, a reference to the legal grounds of the legal person is made in the judgment as necessary.

(4) If a judgment is made by default or is based on admittance of the claim, such fact shall be indicated in the introduction of the judgment.

(5) In the conclusion of a judgment, the court clearly and unambiguously adjudicates the claims of the parties and any requests of the parties which have not yet been adjudicated as well as any issues related to the measures for securing the action which have been applied. The conclusion shall be clearly understandable and enforceable even without the text of the rest of the judgment.

(6) The conclusion also sets out the procedure and term for appealing against the judgment and, among other, specifies the court with which an appeal should be filed, and makes a reference to the fact that unless adjudication in a court session is requested in an appeal, the appeal may be adjudicated in a written proceeding. A judgment by default sets out the right to file a petition to set aside the default judgment. The conclusion also explains the contents of subsection 187 (6) of this Code.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(7) The descriptive part of a judgment indicates, concisely and in a logical order, the relevant content of the filed claims and the allegations, counterclaims and provided evidence concerning such claims. If, in addition to the participants in the proceeding, a competent state or local

government agency has also provided its position on the matter at the request of the court, such position shall also be indicated in the descriptive part.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(8) The statement of reasons of a judgment sets out the facts established by the court, the conclusions reached on the basis thereof, the evidence on which the conclusions of the court are based and the Acts which were applied by the court. In a judgment, the court shall substantiate its reasons for not agreeing with the factual allegations of the plaintiff or the defendant. The court shall analyse all evidence in a judgment. If the court disregards any evidence, it shall justify this in the judgment. If an alternative claim is satisfied, refusal to satisfy another alternative claim need not be substantiated.

(9) A judgment shall also set out the replacement of participants in the proceeding and the information concerning the previous participants in the proceeding as necessary.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(10) A county court may set out in a judgment made in the matter specified in subsection 405 (1) of this Code that it grants permission to appeal the judgment. The court grants such permission above all if, in the opinion of the county court, the decision of the court of appeal is necessary for the purpose of obtaining the position of the circuit court concerning a legal provision. The grant of a permission to appeal need not be reasoned in the judgment.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 443. Conclusion of court judgment for termination of application of standard terms

(1) In addition to the mandatory content of a court judgment, the conclusion of a court judgment for termination of application of an unfair standard term or for termination and withdrawal by the person recommending application of the term of recommendation of the term shall set out:
1) the wording of the standard term which is being prohibited;
2) types of transactions to which the standard term must not be applied;
3) a clearly expressed requirement to refrain from further application or recommendation of similar standard terms.

(2) The conclusion of a court judgment whereby the person recommending application of a standard term is obliged to terminate recommending and to withdraw the recommendation of the term shall, in addition, set out the requirement to communicate the court judgment in the same manner as the recommendation was communicated. The court may require that the user of the standard terms communicate the court judgment specified in subsection (1) of this section in the manner determined by the court or may determine an additional manner for communication of the judgment.

§ 444. Simplification and omission of descriptive part and statement of reasons of judgment

(1) In the descriptive part of a judgment the court may omit the allegations made about claims, the objections and provided evidence, likewise the position of a state or local government agency.

(2) If the court conducts simplified proceedings in an action, it may confine itself in the statement of reasons of a judgment to setting out only the legal reasoning and the evidence on which the conclusions of the court are based.

(3) The court may make a judgment by default or a judgment based on admittance of the claim without the descriptive part and statement of reasons.

(4) The court may omit the descriptive part and statement of reasons from a judgment not specified in subsection (3) of this section if the participants in the proceeding have consented thereto or if the court conducts simplified proceedings in the action. In such case the judgment shall set out that the court supplements the judgment in accordance with the provisions of subsection 448 (41) of this Code if a participant in the proceeding notifies the court, within ten days after service of the judgment, of his or her wish to file an appeal against the judgment. The court explains in the judgment the consequences of failure to provide a notice of the wish to file an appeal.

(5) In order to ascertain the position of a participant in the proceeding concerning the omission of the descriptive part and statement of reasons, the court may announce the conclusion of the judgment orally in the court session and explain the reasons of the judgment orally. The consent of a participant in the proceeding to omit the descriptive part and statement of reasons from the judgment is indicated in the minutes of the court session.
[RT I, 29.06.2012, 3 - entry into force 01.01.2013]

§ 445. Determination of procedure for and term of compliance with judgment

(1) In the judgment, the court may determine, at the request of a party, the manner of and procedure for compliance with the judgment, set out the term or due date therefor, and indicate the fact that the judgment is subject to immediate enforcement or that compliance with the judgment is secured by a measure for securing an action. If the parties have filed claims against each other in the proceeding which are subject to a set-off and the court satisfies the claims of both parties in full or in part, the claims of the parties are set off in the conclusion to the extent such claims are satisfied.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) If an action is satisfied by a judgment or the court terminates a proceeding by a compromise, the court leaves the applied measure for securing the action in force as a measure to secure compliance with the court decision, provided that this is clearly necessary for securing compliance with the decision and the party in favour of whom the court decided or the parties to the compromise agreement do not request cancellation of the measure.

(3) If a judgment or a part thereof is subject to immediate enforcement, the conclusion of the judgment shall indicate such fact.

(4) At the request of the defendant who is a successor, the court may make a judgment with a reservation with regard to limited liability of the successor.

(5) If the court has established infringement of copyright or related rights or industrial property rights or disclosure of incorrect information regarding a person in a judgment, the court may, at the request of the plaintiff, prescribe by the judgment that the information contained therein must be made public at the expense of the defendant in the manner determined by the court, or that the judgment must be published in part or in full.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 446. Judgment in favour of several plaintiffs or against several defendants

(1) In a judgment in favour of several plaintiffs, the court indicates the extent to which a claim is satisfied in favour of each plaintiff. If a claim is satisfied jointly and severally in favour of several plaintiffs, this shall be indicated in the judgment.

(2) In a judgment against several defendants, the court indicates the extent to which each defendant shall comply with the judgment. If the liability is joint and several, this shall be indicated in the judgment.

§ 447. Correction of mistakes in judgment

(1) A court which makes a judgment cannot annul or amend the judgment after it is made public unless otherwise provided by law.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) The court corrects at all times any spelling or calculation mistakes or obvious inaccuracies in a judgment if such corrections do not affect the content of the judgment. The court corrects mistakes by a ruling. The court may hear the participants in the proceeding prior to making the ruling.

(3) A notation concerning a ruling on the correction of mistakes in a judgment is made on the judgment and on any transcripts thereof issued after the ruling is made. The court serves the ruling on the correction of mistakes in the judgment on all persons on whom the judgment was served.

(4) An appeal may be filed against a ruling on the correction of mistakes in a judgment.

§ 448. Supplemental judgment

(1) A court which adjudicates a matter may, at the request of a participant in the proceeding or at its own initiative, make a supplemental judgment if:
1) some of the filed claims or petitions have not been resolved,

2) the court which decided to recognise the right of the plaintiff has failed to indicate the amount of money which is to be paid by the defendant, the thing which is to be delivered by the defendant or the act which the defendant is obligated to perform;
3) the court has failed to adjudicate the division of procedural expenses;
[RT I 2008, 59, 330 - entry into force 01.01.2009]
4) the court has failed to indicate a reservation on setting off claims in a partial judgment;
5) the court has failed to indicate a reservation on further protection of the defendant's rights in a judgment made in a documentary proceeding.

(2) A petition for making a supplemental judgment may be filed within ten days after a judgment is served. A court may make a supplemental judgment at its own initiative within 20 days after the judgment is made public.

(3) If there is desire to enforce a judgment lacking a descriptive part or statement of reasons outside of the Republic of Estonia, a party may request that the court supplement the judgment with the descriptive part or statement of reasons even after the expiry of the term specified in subsection (2) of this section.

(4) The court holds a session for making a supplemental judgment unless the matter has been adjudicated without holding a court session. The participants in the proceeding are notified of the time and place of the session at least three days in advance; however, their absence from the court session does not prevent the making of the supplemental judgment. A petition for making a supplemental judgment is served on the opposing party in advance.

(4^1) The court supplements a judgment made without the descriptive part or statement of reasons on the basis of subsection 444 (4) of this Code with the omitted part if a participant in the proceeding notifies the court within ten days after service of the judgment of his or her wish to file an appeal against the judgment. The wish to file an appeal need not be reasoned. The supplementation of a judgment is adjudicated in written proceedings. The other participant in the proceeding is not notified about the supplementation of the judgment. The court may also prepare the court judgment in accordance with the provisions of subsections 444 (1) and (2) of this Code. In the case of supplementation of a judgment with the omitted part, the term for filing an appeal commences again from the service of the supplemental judgment.
[RT I, 21.12.2012, 1 - entry into force 01.01.2013]

(4^2) If a participant in a proceeding fails to notify the court of his or her wish to file an appeal against a judgment without the descriptive part and statement of reasons within the term provided in subsection (4^1) of this section, it is deemed that he or she has waived the right to file an appeal.
[RT I, 29.06.2012, 3 - entry into force 01.01.2013]

(5) A supplemental judgment constitutes a part of the judgment which is supplemented. A supplemental judgment may be appealed like any other judgment. In the case of filing an appeal against a judgment which is supplemented it is presumed that the supplemental judgment is also appealed.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(6) If a petition for making a supplemental judgment is not satisfied, the court makes a ruling to such effect. A ruling by a county court or circuit court on refusal to make a supplemental judgment is subject to appeal. A ruling of a circuit court concerning an appeal against a ruling of a county court is not subject to appeal to the Supreme Court.

§ 449. Interim judgment

(1) Upon hearing an action for receiving money and above all, an action for compensation for damage, where proving the amount of the claimed sum is extremely costly or difficult but the court is able to decide on whether the claim is found to be reasoned or unreasoned then, at the request of a party, the court may make an interim judgment on whether the claim is found to be reasoned or unreasoned.

(2) For the purposes of filing appeals, an interim judgment on whether a claim is found to be reasoned or unreasoned is deemed to be equal to a final judgment. If a claim is found to be reasoned by an interim judgment, the court continues the proceeding to determine the amount of the claim and makes a corresponding judgment. If the court finds the claim to be unreasoned, the court makes the final judgment and discontinues the proceeding in the matter.

(3) The court may also make an interim judgment concerning a petition for application of a limitation period regarding a petition which, for the purposes of filing appeals, is equal to a final judgment. If the court refuses to apply a limitation period, the court makes an interim judgment to such effect and continues the proceeding. If the court finds the claim to be expired, the court makes the final judgment and discontinues the proceeding in the matter.

§ 450. Partial judgment

(1) If several separate, related claims are combined in one proceeding or if one claim, or a part of a claim filed in one action or in the case of filing of a counterclaim, only the claim or counterclaim is ready for making the final judgment, then the court may make a separate judgment on each claim if this expedites the hearing of the matter. The court continues the proceeding with regard to the claims which have not been adjudicated.

(2) If the court satisfies, by a partial judgment, an action against which a counterclaim or objection for setting off the claim of the action has been filed, the court indicates in the conclusion of the judgment that the judgment may be annulled or amended upon adjudication of the counterclaim or objection for set-off (reservation).

(3) A partial judgment made with a reservation concerning set-off is a final judgment for the purposes of the filing of appeals and compulsory enforcement.

(4) If, in the case of a partial judgment with a reservation concerning set-off, the counterclaim for set-off is satisfied or, based on the objection for set-off, the action is refused to be satisfied in part or in full, the court also annuls the judgment with the reservation to the extent of the set-off or amends it.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(5) In the case specified in subsection (4) of this section, the plaintiff shall compensate the defendant for the damage caused by the compulsory enforcement of the judgment or the measures applied for prevention of compulsory enforcement thereof.

§ 451. Judgment in documentary proceeding

(1) In the case of a documentary proceeding, an action is also dismissed if the plaintiff fails to prove the claim thereof by the evidence permitted in documentary proceedings. In such case the action may be filed again in ordinary proceedings.

(2) If, regardless of the defendant's objections, the court satisfies a claim in a documentary proceeding, the court makes a judgment with a reservation whereby the defendant is granted the right to protect the interests thereof in the future.

(3) For the purposes of filing of appeals and compulsory enforcement, a judgment with a reservation is deemed to be a final judgment.

(4) If a judgment with a reservation is made in documentary proceedings concerning the rights of the defendant, the dispute is continued by way of ordinary actions. If the plaintiff's claim is found to be unreasoned, the provisions of subsections 450 (4) and (5) of this Code apply. If an objection, the submission of which was permitted in documentary proceedings, is adjudicated by a judgment with a reservation, the defendant may resubmit the objection at a later time only if the judgment with a reservation is annulled or amended.

§ 451[1]. Adjudication of petitions during term for filing of appeals

(1) If, after the making of a decision and before the entry thereof into force and filing of an appeal in the matter, a petition for refusal to hear the action or for termination of the proceeding in the matter, including due to discontinuance of the action or a compromise, is filed or a petition related to securing the action or another similar petition is filed, the petition is adjudicated by the court that has made the decision. In the case of satisfying the petition for refusal to hear the action or termination of the proceeding, the court may, by a ruling, annul the decision made and refuse to hear the action or terminate the proceeding in the matter.

(2) After the filing of an appeal, the acts specified in subsection (1) of this section may be made by a circuit court even if the appeal has not been accepted yet.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 452. Making public of judgment

(1) A court judgment is made public by pronouncement or through the court office.

(2) A judgment is pronounced in a session which concludes the hearing of the matter or is made public immediately after the court session through the court office.

(3) If a judgment is not made in the court session in which the matter is heard, the court announces the time and manner of the making public of the court judgment in the session in which the hearing of the matter is concluded. If a matter is adjudicated without holding a court session or if a participant in the proceeding fails to participate in the court session, the court communicates the time of the making public of the judgment to the participants in the proceeding. The court also informs the participants in the proceeding of any changes to the time of the making public of the judgment.

(4) A judgment may be made public later than within 20 days after the last session for hearing the matter or, in the case of written proceedings, after the expiry of the due date for the submission of petitions and documents only with good reason, above all, due to the large volume or particular complexity of the case. The date for the making public of a judgment shall not be set for a later time than within 40 days after the last session in which the matter is heard or, in the case of written proceedings, after the expiry of the due date for the submission of petitions and documents.

(5) The date for the making public of a judgment and any changes therein are also published on the website of the court immediately after determining such date, setting out the number of the civil matter, the names of the participants in the proceeding and the general description of the civil matter. If a judgment is made in a closed proceeding, only the date for the making public of the judgment and any changes therein, the number of the civil matter and a notation that the proceeding is closed are published. The date for the making public of a judgment is removed from the website when 30 days have passed from the date of making the judgment public.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(6) For the reason specified in subsection 38 (1) or (2) of this Code, the court has the right to make public, based on a reasoned ruling, only the conclusion of a judgment.

(7) Within the term for the making public of a judgment, the court may at first communicate the judgment without the descriptive part and statement of reasons and, among other, it may pronounce orally the conclusion of the judgment only. A judgment need not be made public in its entirety if, prior to the making public of the entire judgment, the parties inform the court in writing or in a court session that they waive the right to file an appeal against the judgment or if the parties are deemed to have waived the right to file an appeal pursuant to this Code. The court explains such right during the making public of the judgment in part.
[RT I, 29.06.2012, 3 - entry into force 01.01.2013]

§ 453. Procedure for making public of judgment through court office and issue of transcripts of judgment

(1) A judgment is made public through the court office where, during the term for the filing of appeals, the participants in the proceeding have the right to examine the judgment and obtain a transcript thereof. If a judgment is prepared electronically, the participants in the proceeding are issued a printout. A transcript or printout is signed and certified by the seal of the court by an authorised employee of the court office. A judgment which is certified in the information system of the court and made available to a person through the e-file system is not signed and certified

with the seal.
[RT I 2009, 67, 460 - entry into force 01.01.2010]

(2) The provisions of subsection (1) of this section do not preclude or restrict the obligation of the court to serve a judgment on the participants in the proceeding unless the judgment is delivered to the participants in the proceeding in the manner specified in subsection (1) of this section.

(3) [Repealed - RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 454. Procedure for pronouncing judgment

(1) A judgment is pronounced by reading out the conclusion of the judgment.

(2) Where necessary, the court also pronounces a judgment by reading out the statement of reasons or making a summary of the essential contents thereof.

(2^1) The text of the judgment need not be duly prepared and signed by the time of pronouncing the judgment, but the pronouncing shall be entered in the minutes. In such case the judgment shall be prepared in writing within ten days after the pronouncing thereof.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) Upon pronouncing a judgment, the court explains the procedure and term for filing appeals against the judgment to the participants in the proceeding who are present.

(4) The validity of pronouncement of a judgment is not affected by the presence of the participants in the proceeding. A judgment is also deemed to have been pronounced with regard to the participant in the proceeding who was absent from the session in which the judgment was pronounced.

(5) A judgment by a collegial court panel is pronounced by the presiding judge.

§ 455. Service of court judgments

(1) The court serves a judgment on the participants in the proceeding.

(2) If personal data subject to entry in a register are altered by a court judgment, the court sends a transcript of the court judgment to the registrar.

§ 456. Entry into force of court judgment

(1) A court judgment enters into force when it can no longer be contested in any other manner except by review procedure.

(2) A judgment of a county court enters into force above all, if:
1) the term for filing appeals has expired and no appeal has been filed during the term;

2) the circuit court does not accept an appeal, or refuses to hear or satisfy an appeal, or appeal proceedings are terminated and, within the term for filing appeals in cassation, an appeal in cassation is not filed against the decision of the circuit court;
3) the circuit court does not accept an appeal, or refuses to hear or satisfy an appeal, or appeal proceedings are terminated and an appeal in cassation filed against the decision of the circuit court is not accepted, hearing thereof is refused or the appeal in cassation is not satisfied, or the cassation proceedings are terminated.

(3) A judgment by default enters into force if against such judgment, no petition to set it aside or no appeal is filed, or if the petition to set aside the default judgment is not heard or satisfied, or if a decision of a circuit court concerning the appeal enters into force.

(4) Lawful contestation of a court judgment suspends the entry into force of the court judgment. If a part of a court judgement is contested, the uncontested part of the court judgment enters into force.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 457. Consequences of entry into force of judgment

(1) A court judgment which has entered into force is binding on the participants in the proceeding in the part, where a claim filed by an action or counterclaim is adjudicated on the basis of circumstances which constitute the cause of the action unless otherwise provided by law.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) If, in the course of a proceeding, the defendant has filed an objection for set-off against the claim of action, the judgment is binding on the participants in the proceeding also to the extent to which the existence and set-off of the counterclaim is not recognised.

(3) The descriptive part of a court judgment is presumed to certify the petitions made by the participants in the proceeding in the course of the proceeding.

(4) A judgment made in a family matter or a filiation matter which entered into force during the lifetime of the parties concerning the existence, termination or absence of a legal relationship applies to all persons. A court judgment establishing filiation or curatorship of a parent does not apply to a person who considers himself or herself to have such right but who was not a participant in the proceeding.

(5) A court judgment concerning revocation or establishment of invalidity of a decision of a body of a legal person applies to all the partners, shareholders and members of such legal person and to all of its bodies and members thereof even if they did not participate in the proceeding.

(6) If in the case of obligatory liability insurance, a court judgment which has entered into force has established with respect to the insurer or the policyholder that the injured party has no claim for compensation for damage, the judgment applies to both the insurer and the policyholder irrespective of whether or not they both participated in the proceeding.

(7) If a person applying a standard term violates a court judgment whereby termination of the application of the standard term is required, the standard term is deemed to be invalid if the other contracting party relies on the court judgment. The above does not apply if the person applying the term has the right to file an action for declaration of inadmissibility of compulsory enforcement of the court judgment.

§ 458. Notation on entry into force of judgment

(1) A notation certifying the entry into force of a judgment is issued, based on the application of a participant in the proceeding and the court file, by the court office of the county court which adjudicated the matter. The notation is entered on a transcript or printout of the court judgment. The notation is signed and certified by the seal of the court.

(2) A notation on entry into force may be issued electronically by the person prescribed in the internal rules of the court who signs it with the digital signature. An electronic notation on entry into force is not certified by the seal of the court.
[RT I 2009, 67, 460 - entry into force 01.01.2010]

(3) A court which issues notations on entry into force keeps account of the entry into force of court judgments and the notations on entry into force which have been issued.
[RT I 2009, 67, 460 - entry into force 01.01.2010]

(4) The Minister of Justice may establish specific requirements for the format for electronic notations on entry into force, the issue thereof and keeping account of notations on entry into force by a regulation.
[RT I 2009, 67, 460 - entry into force 01.01.2010]

§ 459. Amendment of judgment which has entered into force in part of recurring obligations

(1) After the entry into force of a judgment whereby the defendant is ordered to make payments by instalment or to perform other recurring obligations, a party has the right to require the alteration of the amounts or terms of payment in the judgment by a new action, if:
1) the circumstances based on which the judgment satisfying the claim was made and which affect the amount or duration of payments have changed significantly; and
2) the circumstances which caused the filing of the action arose after the hearing of the matter, during which the claim of action could have increased or objections could have been filed, ended.

(2) The judgment may be amended as of the time of filing a new action unless, according to law, amendment of the judgment may also be demanded retroactively.

§ 460. Validity of judgment in respect of legal successors

(1) A judgment which has entered into force also applies to the persons who became the legal successors of the participants in the proceeding after the action was filed. A judgment also

applies to the direct possessor of a contested thing if the person acquired possession of the thing because one of the parties or a legal successor thereof acquired indirect possession of the thing.

(2) A judgment does not apply to a legal successor of a participant in a proceeding if the person acquired a contested thing and was not aware of the court judgment or the filing of the action at the time of the acquisition.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) In the case of transfer of an encumbered immovable, a judgment concerning a claim arising from a real encumbrance or mortgage applies to a legal successor even if the legal successor was not aware of the filing of the action. If an auction is held in the course of compulsory enforcement, the judgment applies to the person who acquires the immovable only if the filing of the action was announced not later than the call for submission of tenders.

(4) The provisions of subsection (3) of this section also apply to a court judgment concerning a claim arising from a maritime mortgage entered in the ship register or a right of security entered in the register of civil aircraft.

§ 461. Enforcement of judgment

(1) A judgment is enforced after entry into force thereof unless the judgment is subject to immediate enforcement.

(2) If, according to a judgment, the Republic of Estonia or a local government is the debtor, the court judgment shall be complied with within 30 days after entry into force thereof unless the judgment is subject to immediate enforcement or a different term is prescribed by the judgment.
[RT I 2009, 68, 463 - entry into force 10.01.2010]

(3) A judgment is enforced on the basis of a petition of a claimant.

(4) [Repealed - RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 462. Publication of court judgment entered into force in computer network

(1) A court judgment which has entered into force is published in the computer network at a place prescribed for such purpose. This does not affect the entry into force of the judgment.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) At the request of a data subject or on the initiative of the court the name of the data subject is replaced in a court judgment which has entered into force with initials or a character and the personal identification code, date of birth, registry code and address of the data subject are not published. The data of the state or local government agency, a legal person in public law or other public authority are not concealed in a court decision.
[RT I 2007, 12, 66 - entry into force 25.02.2007]

(3) The court publishes on its own initiative or at the request of the data subject only the conclusion of the judgment or does not publish the judgment if the judgment contains sensitive personal data and publication of the judgment together with the personal data may materially breach the inviolability of private life of the person even if the provisions of subsection (2) of this section are applied. The court adjudicates the request by a ruling.
[RT I 2007, 12, 66 - entry into force 25.02.2007]

(4) A court publishes on its own initiative or at the request of an interested party only the conclusion of a judgment which has entered into force if the judgment contains information regarding which another restriction on access is prescribed by law.

(5) A person who submitted a request may file an appeal against a ruling of a county court or circuit court on the refusal to satisfy a request specified in subsections (2)–(4) of this section. A ruling of a circuit court concerning an appeal against a ruling of a county court is not subject to appeal to the Supreme Court.
[RT I 2007, 12, 66 - entry into force 25.02.2007]

Division 2 Court Ruling

§ 463. Court ruling

(1) The court adjudicates the procedural petitions of the participants in the proceeding and directs and organises the proceeding by way of rulings. In the cases provided by law, a court may adjudicate a matter by a ruling.

(2) The provisions concerning judgments apply correspondingly to rulings unless otherwise provided by law or determined by the nature of the ruling.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 464. Making of ruling

(1) A ruling may be made without holding a court session and without hearing the participants in the proceeding unless otherwise prescribed by law.

(2) The court may make oral and written rulings in a court session. Oral rulings are pronounced promptly and recorded in the minutes. If a court ruling is subject to appeal pursuant to law, the ruling shall be made in writing in the Estonian language and shall be signed.

(3) A ruling which the court makes outside of a court session is made in writing. If formalising the entire ruling pronounced in a court session requires more time, the court may postpone the formalising for up to ten days.

(4) [Repealed - RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 465. Content of ruling

(1) A ruling shall set out the person concerning whom the ruling was made as well as the content of the ruling.

(2) A written ruling which is subject to appeal sets out:
1) the name of the court which made the ruling and the name of the judge;
2) the time and place of making the ruling;
3) the number of the civil matter;
4) the names of the participants in the proceeding and their representatives if the participants in the proceeding can be determined at the time the ruling is made;
5) the object of the proceeding in which the ruling is made;
6) the object of the ruling;
7) the conclusion, and the procedure and term for appeal;
8) the reasons on the basis of which the court reached its conclusions and the legislation pursuant to which the court acted.

(3) If a ruling is to be made public, the ruling also sets out the time and place of making the ruling public.

(4) The personal identification codes or registry codes and addresses of the participants in the proceeding are specified in a ruling only if this is presumed to be necessary for enforcing the ruling. If a natural person has no personal identification code, his or her date of birth is indicated in a ruling where necessary. If a legal person has no registry code, a reference to the legal grounds of the legal person is made in a ruling where necessary.

§ 466. Communication and entry into force of ruling

(1) Rulings which are enforcement instruments and rulings subject to appeal are served on the participants in the proceeding. Other written rulings which concern a participant in the proceeding are communicated to the participants in the proceeding in a manner selected by the court.

(2) A ruling whereby the court refuses to hear an action or terminates the proceeding is also made public pursuant to the procedure for making public of court judgments.

(3) A ruling which is subject to appeal enters into force after the ruling is no longer subject to appeal pursuant to law or after the entry into force of a court decision, whereby the court refuses to accept or hear an appeal against the ruling. Other rulings enter into force as of their service or communication unless otherwise prescribed by law.

(4) Only rulings on termination of proceedings or refusal to hear an action which have entered into force are made public in the computer network.

Division 3 Immediate Enforcement of Decision

§ 467. Immediate enforcement

(1) A court judgment declared to be subject to immediate enforcement is enforced prior to the entry into force of the judgment. The court declares a judgment to be subject to immediate enforcement in the judgment itself or by a ruling.

(2) A judgment made in a matrimonial or filiation matter, except in a proprietary dispute related to marriage, shall not be declared to be subject to immediate enforcement.

(3) After the expiry of a term for appeal, the declaration of a judgment of a court of first instance against which an appeal has been filed to be subject to immediate enforcement is decided by the circuit court.

(4) After the expiry of a term for cassation, the declaration of a decision of a circuit court against which an appeal has been filed to be subject to immediate enforcement is decided by the Supreme Court.

(5) A court ruling is subject to immediate enforcement unless otherwise provided by law.

§ 468. Immediate enforcement without security

(1) The following is declared to be subject to be immediate enforcement on the initiative of the court without ordering a security:
1) a judgment based on admittance of claim;
2) a judgment by default;
3) a judgment made in documentary proceedings;
4) a judgment for elimination of the violation of possession or prevention of further violation of possession, or for restoration of possession made in accordance with § 44 or § 45 of the Law of Property Act.

(2) In the case of the declaration of a judgment to be subject to immediate enforcement in the case specified in clause (1) 3) or 4) of this section, the court also prescribes a security the provision of which prevents immediate enforcement of the judgment.

(3) A judgment for ordering support or for compensation for damage caused by an injury or other damage to a person's health is declared to be subject to immediate enforcement by the court at the request of the plaintiff to the extent considered to be of urgent necessity for the plaintiff. [RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 469. Immediate enforcement against security

(1) The court declares a judgment not specified in § 468 of this Code to be subject to immediate enforcement at the request of a party on the condition that such party provides a security for enforcement. Such request may be filed before or after the judgment is made.

(2) A security for immediate enforcement shall cover the damage which may be caused to the debtor by the immediate enforcement of the judgment or as a result of measures taken in order to prevent immediate enforcement.

(3) If a party is unable to provide a security to the extent specified in subsection (2) of this section, the court may, at the request of the party, release the party from the obligation to provide a security, reduce the amount of security, order its payment in instalments or declare the judgment to be subject to immediate enforcement in part if the postponement of the enforcement would be unfair to the claimant and above all if this would significantly interfere with the satisfaction of the vital needs or performance of the economic or professional activities of the claimant, or would otherwise clearly result in considerable damage.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(4) [Repealed - RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 470. Adjudication of immediate enforcement by ruling

(1) If immediate enforcement was not decided by a judgment or a corresponding request was submitted after the judgment was made, the court hears the request of the party for immediate enforcement of the judgment in a court session, unless the matter was adjudicated without holding a court session. The request is adjudicated by a ruling.

(2) Upon the filing of a request for immediate enforcement, the court serves such request on the opposing party and gives such party an opportunity to formulate a position on the request.

(3) If the petition is subject to adjudication in a court session, the participants in the proceeding are immediately notified of the time and place of the court session in which the petition will be adjudicated, but their absence does not interfere with the adjudication of the immediate enforcement.

(4) A ruling of a county court or circuit court on immediate enforcement is subject to appeal. A ruling of a circuit court concerning an appeal against a ruling of a county court is not subject to appeal to the Supreme Court.

(5) Appeal against a ruling on the declaration of a judgment to be subject to immediate enforcement does not suspend the immediate enforcement of the judgment.

§ 471. Return of security

The court which decided on the provision of a security makes a ruling on the return of the security on the basis of a petition of the party who requested immediate enforcement of a judgment upon the submission of proof concerning the entry into force of the judgment declared to be subject to immediate enforcement. If the security was a surety or guarantee, the court orders termination thereof.

§ 472. Contestation of decision subject to immediate enforcement

(1) In the case where an appeal or an appeal against a ruling is filed against a decision subject to immediate enforcement, the circuit court, and also the county court in the case of an appeal against a ruling, may order, based on a reasoned appeal, that:
[RT I 2008, 59, 330 - entry into force 01.01.2009]
1) enforcement of the decision is suspended without a security or against a security;
2) enforcement of the decision may be continued only against a security;
3) the enforcement action is revoked against a security.

(2) In the case specified in subsection (1) of this section, the court may suspend, without ordering the provision of security, the enforcement proceeding pursuant to the procedure prescribed for the grant of procedural assistance only if the debtor substantiates that he or she is unable to provide the security and enforcement of the decision would result in damage which clearly cannot be compensated for.

(3) If a petition to set aside a default judgment is filed against a default judgment which has been declared to be subject to immediate enforcement, the petition specified in subsection (1) of this section is adjudicated by the court hearing the petition to set aside the default judgment. Enforcement proceedings which are based on a default judgment are suspended only against a security.

(4) If an appeal in cassation or an appeal against a ruling is filed with the Supreme Court against a decision subject to immediate enforcement, the Supreme Court suspends the enforcement proceeding based on a reasoned petition of the debtor if enforcement would result in significant damage to the debtor and the interests of the claimant do not justify immediate enforcement.

§ 473. Prevention of immediate enforcement by debtor

(1) The court may order on the basis of a petition of the debtor that the debtor may prevent immediate enforcement either by providing a security or, in the case of compulsory enforcement of a restitution claim, by depositing the claimed object in the account prescribed for such purpose or with the bailiff unless the claimant provides a security prior to enforcement.
[RT I, 31.01.2014, 6 - entry into force 01.04.2014]

(2) A security provided in order to prevent immediate enforcement of a decision must cover any possible damage likely to be caused to the claimant as a result of failure to immediately comply with the decision.

§ 474. Annulment and amendment of decision subject to immediate enforcement

(1) If a decision to annul or amend a decision has been made public, such decision shall not be subject to immediate enforcement. In the case of amendment of a decision, the unamended part of the decision may be enforced immediately.

(2) If a decision subject to immediate enforcement is amended or annulled, the claimant is required to return to the debtor that which the claimant received by way of compulsory enforcement or to compensate the debtor for the costs incurred thereby in order to prevent compulsory enforcement. The debtor also has the right to demand compensation for damage to an extent exceeding such amount.

(3) If in a proprietary dispute, a decision of a circuit court subject to immediate enforcement is amended or annulled, the debtor may, instead of following the course of action provided for in subsection (2) of this section, demand, pursuant to the provisions concerning unjust enrichment, that the claimant return that which was paid or handed over based on the decision. It is presumed upon adjudication of an action for delivery of the object of unjust enrichment that the recipient was aware of the circumstances which provide the basis for claiming the return of that which was received.

(4) The security provided by the claimant for compensation for damage likely to be caused to the debtor is returned to the claimant if, within two months after the entry into force of the annulment or amendment of the decision subject to immediate enforcement, the debtor has not filed an action for compensation for damage or for claiming the object of unjust enrichment.

Part 11 PROCEEDINGS ON PETITION

Chapter 48 GENERAL PROVISIONS

§ 475. Matters on petition

(1) Matters on petition are:
1) expedited procedure in matters of payment order;
2) calling proceedings;
3) declaration of a person dead and establishment of time of death of a person;
4) establishment of custody over property of an absent person;
5) appointment of a guardian for an adult with restricted active legal capacity;
6) placing of a person in a closed institution;
7) imposition of a restraining order and other similar measures for the protection of personality rights;
8) family matters on petition;
9) application of estate management measures;
10) registry matters,
11) appointment of a substitute member of a management board or supervisory board, auditor, auditor for special audit or liquidator of a legal person;
12) determination of the amount of compensation payable to the partners or shareholders of a company;
12^1) compulsory dissolution of a legal person;
[RT I 2008, 59, 330 - entry into force 01.01.2009]
12^2) initiation of a bankruptcy proceeding, declaration of bankruptcy and matters related to bankruptcy proceedings which cannot be adjudicated in actions;
[RT I 2008, 59, 330 - entry into force 01.01.2009]

13) apartment ownership and common ownership matters;
13[1]) matters of access to public road and tolerating utility works;
[RT I 2008, 59, 330 - entry into force 01.01.2009]
14) recognition and enforcement of decisions of foreign courts;
14[1]) matters in arbitration proceedings to be adjudicated by the court;
[RT I 2008, 59, 330 - entry into force 01.01.2009]
15) complaints against decisions of bailiffs;
151) appeals against decisions of the Industrial Property Committee;
[RT I 2008, 59, 330 - entry into force 01.01.2009]
15[2]) adjudication of an application for performance of a notarial act;
[RT I 2010, 26, 128 - entry into force 14.06.2010]
16) deciding on the grant of state legal aid on the basis of an application submitted in extrajudicial proceedings and determination of the state legal aid fee and state legal aid costs in extrajudicial proceedings pursuant to the State Legal Aid Act;
17) other civil matters provided by law as matters on petition.

(2) The court also hears such other matters in proceedings on petition which are placed within their jurisdiction by law and which cannot be heard in actions.

§ 476. Initiation of proceeding on petition

(1) A proceeding on petition is initiated at the initiative of the court, or based on a petition of an interested party or agency.

(2) In the cases prescribed by the law, the court initiates a proceeding on petition only on the basis of a petition of an entitled person or agency.

§ 477. Hearing of matters on petition

(1) The court hears a matter on petition pursuant to the provisions concerning actions, taking into account the specifications provided for proceedings on petition.

(2) The court may hear and adjudicate matters on petition without holding a court session unless the obligation to organise a court session is prescribed by law.

(3) Absence of the persons summoned to the court session does not prevent the hearing or adjudicating of a matter unless otherwise ordered by the court. A matter on petition shall not be adjudicated by a ruling by default.

(4) A participant in a proceeding shall be heard at the request thereof unless otherwise provided by law. A person is heard personally and orally. A court session need not be organised for this purpose and the hearing need not be conducted in the presence of other participants in the proceeding unless otherwise provided by law. The court may also hear a person by phone or deem a written or electronically presented position of a person to be sufficient for the purpose of hearing the person if the information and position obtained from the person in such manner can

be sufficiently evaluated in the opinion of the court. The hearing of a person and any significant circumstances related thereto shall be indicated in the ruling which terminates the proceeding.

(5) Unless otherwise provided by law, the court is not bound by the petitions submitted by the participants in the proceeding or by any circumstances, and the evaluation by the participants in the proceeding of the circumstances.

(6) If a proceeding can be initiated only on the basis of a petition, the petitioner may withdraw the petition like an action in actions. In proceedings on petition, the participants in the proceeding may agree on a compromise if they are able to dispose of the right which is the object of the action.

(7) The court shall verify the conformity of a petition to law and whether the petition is proven even if no objection is submitted to the petition. If necessary, the court orders the petitioner to submit evidence or takes evidence at its own initiative.

(8) In matters on petition, a procedural act is entered in the minutes only if the court considers it necessary and to the extent the court considers it necessary. The participants in the proceedings have no right to apply for correction of the minutes in accordance with the provisions of § 53 of this Code. Objections to the minutes can be filed by filing an appeal against the decision made on the matter. If no minutes are prepared, the significant circumstances related to the procedural acts shall be set out in the court decision.

(9) An application filed by an applicant, petitions filed by the petitioners and other procedural documents as well as summonses are communicated in the proceedings on petition to the participants in the proceeding in the manner selected by the court. The manner of communication shall be set out in the file. Procedural documents shall be served in the proceedings on petition on the participants in the proceeding only if this is prescribed by law.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 477[1]. Provisional legal protection

(1) Provisional legal protection can be applied in proceedings on petition only in the cases provided by law.

(2) Provided that provisional legal protection can be applied pursuant to law, this can be done if it is necessary for the preservation or temporary regulation of an existing situation or status unless otherwise provided by law. Unless otherwise provided by law, the provisions concerning securing an action apply to provisional legal protection.

(3) If a proceeding can be initiated only on the basis of a petition, the court may apply provisional legal protection and annul or amend the ruling on provisional legal protection only on the basis of a petition unless otherwise provided by law.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 477[2]. Supervision over persons appointed by court

(1) If the court has appointed a guardian, administrator, liquidator or such other person in a proceeding on petition, the court also conducts supervision over these persons unless otherwise provided by law. For this purpose, the court may also give orders to the person for the performance of assignments and demand from such person the submission of reports on the performance of the assignments. A person may ask the court for explanations concerning the performance of the assignments. After performance of the assignments, a respective report shall be submitted to the court unless the court rules otherwise.

(2) If a person appointed by the court fails to perform his or her assignments duly or fails to comply with the orders given by the court, the court may impose a fine on the person and release the person from office. The person may file an appeal against such ruling.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 478. Ruling made in proceeding on petition and entry into force thereof

(1) A court ruling is the decision in a proceeding on petition. Unless otherwise provided by law, the provisions concerning court rulings made in actions apply to the court rulings.

(2) A ruling need not be reasoned if a petition is satisfied and no rights of any participant in the proceeding are restricted by the ruling. This is not applied in the matters of placement of a person in a closed institution, adoption and guardianship as well as if there is reason to presume that the ruling is subject to recognition and enforcement outside of the Republic of Estonia.

(3) A ruling enters into force according to the provisions of subsection 466 (3) of this Code.

(4) Unless otherwise provided by law, a ruling takes effect and is subject to enforcement, regardless of its entry into force, immediately on the day of its communication to the persons concerning whom, according to the content of the ruling, the ruling was made. Unless otherwise provided by law, the court may determine that a ruling is subject to enforcement in part or in full from a later time, but not later than upon entry into force thereof. A ruling, whereby consent or approval was granted for making a transaction or a declaration of intention of a person was replaced, is subject to enforcement upon entry into force thereof.

(4[1]) If a ruling is made public, it takes effect and is subject to enforcement from the making of the ruling public unless otherwise provided by law.
[RT I, 06.12.2010, 1 - entry into force 05.04.2011]

(5) Rulings made in proceedings on petition which grant a right to a person or amend or terminate such right, including rulings on appointment of a person in office and rulings granting consent for making a transaction, apply with regard to all persons.

(6) At the request of a participant in a proceeding, the court may provide explanations on a ruling on termination of the proceeding made in a proceeding on petition, without amending the

content thereof, if this is necessary for enforcement, whereas the action specified in subsection 368 (2) of this Code cannot be submitted for explanations.

(7) A court ruling on providing or refusal to provide explanations concerning a ruling is subject to appeal. A ruling made by a circuit court concerning an appeal against a ruling is not subject to appeal to the Supreme Court.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 479. Communication of ruling

(1) A ruling in a matter on petition is made public only in the cases prescribed by law. Rulings which are subject to be made public are published pursuant to the procedure for publication of judgments prescribed by this Code also on the website of the court and in the computer network at the place prescribed for such purpose according to the provisions of § 462 of this Code. Rulings of the circuit court and the Supreme Court which terminate the proceedings on petition and have entered into force are published in the computer network even if they are not made public.

(2) A ruling made in a proceeding on petition which is subject to appeal is served by the court on the participants in the proceeding whose rights are restricted by the ruling. If a matter could be adjudicated on petition and the petition is not satisfied, the ruling on refusal to satisfy the petition is served on the petitioner.

(3) The ruling specified in subsection (2) of this section is communicated to the participants in the proceeding not specified in this provision in the manner selected by the court, including orally, by reading it out. The same applies to the communication of rulings not specified in subsection (2) of this section to the participants in the proceeding. The manner of communicating a ruling shall be set out in the file. A ruling shall also be communicated to a participant in the proceeding in writing at the request thereof.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 480. Amendment and annulment of ruling

(1) Unless otherwise provided by law, the court may amend a ruling whereby the court has granted or refused to grant consent for making a transaction or accepting a declaration of intention, or annul such ruling. The court may also annul a ruling or amend it if the ruling has a continual and not single effect and the circumstances serving as its basis or the legal situation have significantly changed.

(2) If a ruling may be made only based on a petition and the petition was not satisfied, such ruling may be amended or annulled only based on a petition.

(3) Annulment or amendment of a ruling whereby a person is granted the right to make a transaction or to accept a declaration of intention, including a ruling whereby the court grants consent for making a transaction does not affect the validity of any transactions made by or with regard to the person before the annulment or amendment.

(4) Unless otherwise provided by law, the provisions concerning rulings apply respectively to the validity and enforcement of a ruling on amendment or annulment of a ruling and to the filing of an appeal against such ruling.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

Chapter 49 EXPEDITED PROCEDURE IN MATTERS OF PAYMENT ORDER

Division 1 General Provisions

§ 481. Prerequisites for expedited procedure in matters of payment order

(1) A claim against another person arising from a private law relationship directed at the payment of a certain sum of money is adjudicated by the court based on a petition by way of expedited procedure prescribed for matters of payment order. This does not restrict the petitioner's right to file a claim in actions; however, such claim shall not be filed at the same time the matter of the payment order is being heard by expedited procedure.

(1^1) Expedited procedure in matters of payment order is not applied to non-contractual claims, except for:
1) the claims arising from §§ 6 and 48 of the Motor Third Party Liability Insurance Act;
2) the claims concerning which the debtor has issued an acknowledgement of obligation or concerning which another agreement obligating performance has been entered into.
3) [Repealed - RT I, 13.03.2014, 3 - entry into force 23.03.2014]

(2) Expedited procedure in matters of payment order is not applied if:
1) the claim has not yet fallen due at the time the petition is filed, except for the claims for penalties for late payment specified in § 367 of this Code, or the filing of the claim depends on the performance of a mutual obligation and such obligation has not yet been performed;
[RT I 2006, 61, 457 - entry into force 01.01.2007]
2) [repealed - RT I 2008, 28, 180 - entry into force 15.07.2008]
3) the object of the claim is compensation of non-proprietary damage;
4) the claim is filed against a bankrupt;
5) the claim which is filed against several debtors does not arise from the same basis or obligation.
[RT I, 29.06.2012, 3 - entry into force 01.01.2013]

(2^1) Expedited procedure in matters of payment order is not applied to the collateral claims to the extent which exceeds the main claim.
[RT I 2008, 28, 180 - entry into force 15.07.2008]

(2^2) Expedited procedure in matters of payment order is not applied to the claims which amount exceeds 6400 euros. This amount includes both the main and collateral claims.
[RT I 2010, 22, 108 - entry into force 01.01.2011]

(3) In expedited procedure in matters of payment order, claims for support may be filed only taking account of the specifications provided in Division 2 of this Chapter.

§ 482. Petition for application of expedited procedure in matters of payment order

(1) A petition for application of expedited procedure in matters of payment order shall set out at least the following data:
1) the data of the parties and their representatives;
2) the data of the court with which the petition is filed;
3) the sum of money claimed, whereas the main claim and any collateral claims shall be set out separately, and in case a penalty for late payment is calculated, the rate of the penalty for late payment and the period for which it is calculated shall be indicated;
4) a short description of the circumstances which constitute the basis for the claim;
5) a short description of the evidence which the petitioner would be able to use in actions in proof of the claim;
6) a confirmation that the claim is collectible and does not depend on the performance of a mutual obligation, or that such obligation has been performed;
61) a confirmation that the petitioner has presented the information honestly and according to his or her best knowledge, and that he or she is aware of the fact that presentation, knowingly, of false information to the court may result in criminal liability;
[RT I 2008, 28, 180 - entry into force 15.07.2008]
7) the data of the court which according to jurisdiction is entitled to adjudicate the claim which is the object of the payment order in actions or, in a matter arising from apartment ownership or common ownership, in a proceeding on petition.

(2) If the petitioner wishes the proceeding to be terminated if an objection is filed to the proposal for payment, the petitioner shall so indicate in the petition.
[RT I, 29.06.2012, 3 - entry into force 01.01.2013]

(3) If a petition for application of expedited procedure in a matter of a payment order is filed by a representative, he or she shall confirm in the petition that he or she holds the right of representation and shall make a reference to the basis of such right.

(4) A petition for application of expedited procedure in a matter of a payment order shall be filed with the court electronically such that processing thereof by the court would be possible, and the petition shall bear the digital signature of the petitioner, or be submitted in another similar secure manner which enables establishment of the person who sent the petition as well as the time the petition was sent. The Minister of Justice may establish, by a regulation, additional formal and technical requirements for a petition for application of a procedure in matters of payment order, as well as for the filing thereof and conducting proceedings thereon.

§ 483. Adjudication of petitions

(1) The court adjudicates a petition for application of expedited procedure in a matter of a payment order within ten working days after the receipt thereof.
[RT I, 29.06.2012, 3 - entry into force 01.01.2013]

(1[1]) The provisions of this Code concerning the suspension of proceedings do not apply to expedited procedure in matters of payment order.
[RT I 2009, 67, 460 - entry into force 01.01.2010]

(2) The court refuses to satisfy a petition for application of expedited procedure in a matter of a payment order by a ruling if:
1) application of expedited procedure is not permitted in the matter of the payment order pursuant to § 481 of this Code;
[RT I 2009, 67, 460 - entry into force 01.01.2010]
2) the petition does not comply with the requirements provided for in § 482 of this Code;
3) the service of the proposal for payment on the debtor within a reasonable time has failed and it cannot be served by public announcement and the petitioner has explicitly asked for termination of the proceeding in the case an objection is filed;
[RT I, 29.06.2012, 3 - entry into force 01.01.2013]
3[1]) the petitioner fails to inform the court of the results of the service within the term set to him or her on the basis of subsection 315[1] (2) of this Code;
[RT I, 29.06.2012, 3 - entry into force 01.01.2013]
4) any of the bases for the suspension of proceedings provided for in this Code become evident.
[RT I 2009, 67, 460 - entry into force 01.01.2010]

(3) [Repealed - RT I 2008, 28, 180 - entry into force 15.07.2008]

(4) If the petition has an omission which can clearly be corrected, the court sets the petitioner a term for correcting the omission.

(5) A ruling on refusal to satisfy a petition for application of a procedure in a matter of a payment order is not subject to appeal. Refusal to satisfy a petition does not restrict the right of the petitioner to file the claim in actions or in expedited procedure in matters of payment order.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(6) If, by service on the debtor of a proposal for payment petitioned in an expedited proceeding, a term would have been complied with, or a limitation period would have been suspended then, upon refusal to satisfy the petition for application of expedited procedure in the matter of the payment order, such term is deemed to be complied with or the limitation period is deemed to be suspended as of the time of receipt of the petition for application of expedited procedure, provided that the hearing of the matter is continued in actions, or the petitioner files an action concerning the same claim within 30 days after the petition for application of expedited procedure in the matter of the payment order was refused to be satisfied, and the action is served on the defendant.

§ 484. Proposal for payment in expedited proceeding

(1) If the court satisfies a petition for application of expedited procedure in a matter of a payment order, the court makes a ruling to propose payment.
[RT I 2008, 28, 180 - entry into force 15.07.2008]

(2) A proposal for payment shall contain at least the following information:
1) the data contained in the petition specified in subsection 482 (1) of this Code;
2) an explanation that the court has not conducted an in-depth examination of whether or not the petitioner is entitled to file the claim;
3) a proposal to pay the alleged debt together with a penalty for late payment and the procedural expenses indicated in the proposal for payment within 15 days or, in the case of service of the proposal for payment abroad, within 30 days after the service of the proposal for payment if the debtor considers the filed claim to be justified, or a proposal to inform the court, within the same term, of whether and to which extent the debtor intends to submit objections to the claim;
[RT I 2008, 28, 180 - entry into force 15.07.2008]
4) an explanation that if the debtor fails to submit an objection to the proposal for payment, the court may prepare a payment order in the form of an enforcement instrument based on the proposal for payment;
5) an explanation that upon submission of a petition for application of expedited procedure in a matter of a payment order, the limitation period of the claim is suspended in the same way as upon filing an action;
6) for the purpose of filing an objection, information concerning the court to which the matter will be referred for conduct of proceedings together with a notice that such court has the right to verify whether or not the action falls under its jurisdiction.

(3) The court delivers the proposal for payment and a form for an objection to the debtor, and also informs the petitioner of the forwarding of the proposal for payment. A standard form for an objection shall be established by a regulation of the Minister of Justice. A proposal for payment shall not be served by public announcement on a debtor who is a natural person.
[RT I, 29.06.2012, 3 - entry into force 01.01.2013]

§ 484[1]. Making of proposal for payment concerning part of claims or part of claim

(1) If the prerequisites for preparing a payment order are fulfilled only for a part of claims or a part of a claim, the court informs the petitioner thereof and sets the petitioner a term for taking a position on whether to make a proposal for payment to the extent indicated. In doing so, the court refers to the consequences of responding or failing to respond.

(2) If a petitioner agrees with the proposal of the court, the proposal for payment is made concerning the claim or a part thereof to which the petitioner agrees. The court refuses to satisfy the remaining part of the petition for application of a procedure in a matter of a payment order.

(3) If a petitioner does not agree to the making of a proposal for payment concerning a part of the claims or a part of a claim or fails to respond to the petition within the term set by the court, the court refuses to satisfy the petition for application of a procedure in a matter of a payment order in its entirety.
[RT I 2008, 28, 180 - entry into force 15.07.2008]

§ 485. Filing of objection

(1) The debtor has the right to file an objection to a claim or a part thereof with the court which made the proposal for payment within 15 days or, in the case of service of the proposal for payment abroad, within 30 days after service thereof.
[RT I 2008, 28, 180 - entry into force 15.07.2008]

(2) An objection may be submitted on the form annexed to the proposal for payment, or in another form. An objection need not be substantiated.

(3) The court informs the petitioner of an objection and of the time of filing thereof.

(4) If the petitioner has explicitly asked for termination of the proceeding in the case an objection is filed, the proceeding is terminated.
[RT I, 29.06.2012, 3 - entry into force 01.01.2013]

§ 486. Changing of expedited proceeding into action

(1) The court which prepared the proposal for payment continues to hear the matter in actions or transfers the matter to the court specified in the petition for application of expedited procedure in the matter of the payment order or to the court specified in a joint application of the parties, if:
1) the debtor files an objection to the proposal for payment on time and the petitioner has not explicitly asked for termination of the proceeding in the case an objection is filed;
2) the service of the proposal for payment on the debtor within a reasonable time has failed and it cannot be served by public announcement and the petitioner has not explicitly asked for termination of the proceeding in the case an objection is filed;
3) the petitioner and the debtor have submitted a written contract of compromise to the court before making a payment order.

(2) For the purposes of actions, an action is deemed to be filed as of the filing of a petition for application of expedited procedure in the matter of the payment order.

(3) In matters of apartment ownership or common ownership, proceedings on petition are continued unless the petitioner has requested conduct of actions or termination of proceedings.

(4) The court conducts proceedings on a contract of compromise in accordance with the provisions of §§ 430 and 431 of this Code. If the court refuses to approve the compromise, it continues to conduct a proceeding in the matter in actions in accordance with the provisions of § 487 of this Code.

(5) The court which has made the proposal for payment also transfers to the judge who is to continue to conduct a proceeding in the matter information concerning the address or the data of the means of communications used for service of the proposal for payment on the debtor or, in the case specified in clause (1) 2) of this section, what the court or a bailiff has done in order to serve the proposal for payment. A notation is made in the payment order information system

concerning the transfer of a matter to actions or a proceeding on petition.
[RT I, 29.06.2012, 3 - entry into force 01.01.2013]

§ 487. Commencement of actions

(1) If a petition for application of expedited procedure in a matter of a payment order does not conform to the requirements set for a statement of claim, the court hearing the matter in actions requires that the petitioner submit a claim and substantiate it within 14 days in the form prescribed for statements of claim. In a matter of apartment ownership or common ownership, substantiation of the claim is also required if the proceeding in the matter is continued on petition.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(1^1) If the debtor has admitted the petitioner's claim in part in the objection filed to the proposal for payment, the court hearing the matter in actions makes a payment order by way of a ruling to call in the amount admitted by the debtor and continues to hear the remaining part of the matter in actions or on petition in accordance with the provisions of subsections (1), (2) and (3) of this section.
[RT I, 29.06.2012, 3 - entry into force 01.01.2013]

(2) After substantiation of a claim, the proceeding is continued in the same manner as after filing an action. Upon service of the reasoning of the claim on the defendant, the defendant is also set a term for responding to the action.

(3) If the petitioner fails to submit the reasoning of the claim on time, the court refuses to accept the claim by a ruling.

§ 488. Withdrawal of objection

The debtor may withdraw, based on a petition filed with the court, an objection to the payment order until the time the action is responded to or another procedural act which is the first in the proceeding is performed. If an objection is withdrawn, the expedited procedure in the matter of the payment order continues.

§ 488^1. Termination of proceeding in case of payment of debt
[RT I 2006, 61, 457 - entry into force 01.01.2007]

(1) If the petitioner confirms in a written petition filed with the court that the debtor has paid the debt, the court terminates the expedited procedure in the matter of the payment order by a ruling. The petitioner may file a petition with the court until the payment order is made.
[RT I 2006, 61, 457 - entry into force 01.01.2007]

(1^1) The ruling specified in subsection (1) of this section is not subject to appeal.
[RT I 2009, 67, 460 - entry into force 01.01.2010]

(2) [Repealed - RT I 2008, 28, 180 - entry into force 15.07.2008]

§ 489. Making of payment order

(1) If the debtor has failed to pay the amount indicated in the proposal for payment and has not filed an objection to the proposal for payment on time, the court makes a payment order for such amount by way of a ruling. If the matter has been transferred to another court, such court makes the payment order.

(2) [Repealed - RT I 2009, 67, 460 - entry into force 01.01.2010]

(2^1) If the petitioner and debtor have filed a written petition with the court for payment of the debt in instalments and annexed to the petition a payment schedule for paying the debt indicated in the proposal for payment, the court may approve the payment schedule together with making the payment order. The payment schedule shall include the due dates for payment of debt, the amounts of instalments and the procedure for payment of instalments, but it shall not contain any other conditions for the payment of debt. The amount of instalments is indicated as a sum of money. A payment schedule which is approved together with making a payment order is valid as an enforcement instrument. The provisions of this Code concerning compromise do not apply to the payment schedule and the approval thereof by the court.
[RT I, 29.06.2012, 3 - entry into force 01.01.2013]

(2^2) If the debtor has admitted the proposal for payment in the objection, but is unable to pay the debt due to his or her financial situation and the parties fail to reach an agreement on entry into the payment schedule, the court which prepared the proposal for payment transfers the matter to the court specified in the petition for application of expedited procedure in the matter of the payment order for continuation of hearing the matter in actions.
[RT I 2009, 67, 460 - entry into force 01.01.2010]

(3) The court may make a payment order in a simplified form, as an inscription for enforcement made on the proposal for payment.

(4) [Repealed - RT I 2008, 28, 180 - entry into force 15.07.2008]

(5) A payment order shall include an explanation for the debtor concerning the debtor's right to file an appeal against the ruling within 15 days or, in the case of service of the proposal for payment abroad, within 30 days after service thereof. An explanation is provided to the debtor that an appeal against the ruling may be filed only in the cases specified in subsection 489^1 (2) of this Code.
[RT I 2009, 68, 463 - entry into force 10.01.2010]

(6) A payment order is served on the debtor and the petitioner is also informed thereof.
[RT I 2006, 61, 457 - entry into force 01.01.2007]

(7) A payment order is subject to immediate enforcement regardless of the service of the payment order on the debtor.
[RT I 2008, 28, 180 - entry into force 15.07.2008]

(8) [Repealed - RT I 2008, 28, 180 - entry into force 15.07.2008]

§ 489[1]. Filing of appeal against payment order

(1) The debtor may file an appeal against a payment order within 15 days or, in the case of service of the payment order abroad, within 30 days after service thereof. If a payment order is served by public announcement, the appeal against the ruling may be filed within 30 days after the day when the debtor learnt about the payment order or about the enforcement proceeding initiated for its enforcement.
[RT I, 29.06.2012, 3 - entry into force 01.01.2013]

(2) In an appeal against a ruling, the debtor may rely on one of the following circumstances:
[RT I 2006, 61, 457 - entry into force 01.01.2007]
1) the proposal for payment was served on the debtor in any other manner except by personal delivery against a signature or electronically and, by no fault of the debtor, it was not served in time and therefore the debtor was unable to file an objection in time;
[RT I, 29.06.2012, 3 - entry into force 01.01.2013]
2) the debtor was unable to file an objection to the proposal for payment due to good reason not depending on the debtor;
[RT I 2006, 61, 457 - entry into force 01.01.2007]
3) the prerequisites for expedited procedure in matters of payment order were not fulfilled or the conditions of the expedited procedure in matters of payment order were otherwise materially violated or the claim, for the calling in of which the expedited procedure in the matter of the payment order was conducted, is clearly unfounded.
[RT I 2008, 28, 180 - entry into force 15.07.2008]

(2[1]) A legal representative of the debtor or the universal successor of the debtor may file an appeal against the payment order within two months after learning about the payment order if grounds for suspension have become evident which existed at the time the court decision was made but which the court did not or could not know. The person filing an appeal against the ruling shall rely on one of the circumstances specified in subsection (2) of this section.
[RT I 2009, 67, 460 - entry into force 01.01.2010]

(3) In the case an appeal is filed against a payment order, the court may suspend the enforcement proceeding or perform other procedural acts pursuant to the procedure provided in § 472 of this Code.
[RT I 2006, 61, 457 - entry into force 01.01.2007]

(4) If the court satisfies the appeal against the ruling, the court annuls the payment order by a ruling. In the case of annulment of a payment order the court terminates the expedited procedure in the matter of the payment order or initiates actions. Annulment of a payment order does not restrict the petitioner's right to file the claim in actions.
[RT I 2009, 67, 460 - entry into force 01.01.2010]

(5) A ruling made by a circuit court concerning an appeal against a ruling is not subject to appeal to the Supreme Court.
[RT I 2006, 61, 457 - entry into force 01.01.2007]

§ 489[2]. Competence of assistant judge in expedited procedure in matters of payment order and making of rulings in automated manner

(1) A proposal for payment, payment order or another ruling related to expedited procedure in matters of payment order, including a ruling specified in § 179 of this Code, may also be made by an assistant judge.

(2) The ruling specified in subsection (1) of this section may also be made in an automated manner through the information system of the court if the fulfilment of the prerequisites for making the ruling can be verified in an automated manner. In such case, a ruling need not be signed.
[RT I 2008, 28, 180 - entry into force 15.07.2008]

§ 490. [Repealed - RT I 2006, 61, 457 - entry into force 01.01.2007]

§ 490[1]. Implementation of Regulation (EC) No 1896/2006 of the European Parliament and of the Council

(1) The provisions of this Act concerning expedited procedure in matters of payment order also apply to the conduct of expedited procedure in matters of payment order under Regulation (EC) No 1896/2006 of the European Parliament and of the Council creating a European order for payment procedure (OJ L 399, 30.12.2006, pp. 1–32) to the extent that it is not regulated by the specified regulation.

(2) The authority competent to declare an European order for payment subject to enforcement is the county court which has made the payment order in the procedure prescribed in this Division for the making of payment orders unless otherwise provided in the regulation specified in subsection (1) of this section. A European order for payment which has been declared to be subject to enforcement may be contested by filing an appeal against a ruling pursuant to the procedure provided in § 489[1] of this Code.
[RT I, 29.06.2012, 3 - entry into force 01.01.2013]

(3) In conformity with Article 21(2)(b) of the regulation specified in subsection (1) of this section, a European order for payment is accepted for enforcement in Estonia only if it is prepared in Estonian or English or if Estonian or English translation is annexed to the order for payment.

(4) A European order for payment is subject to enforcement in the enforcement proceeding in Estonia and the provisions concerning enforcement proceedings in Estonia apply to the debtor's legal remedies in so far as not prescribed otherwise by the regulation specified in subsection (1) of this section.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

Division 2 Expedited Procedure in Matters of Payment Order in Claims for Support for Child

§ 491. Expedited procedure in claims of support for child

(1) The court also applies expedited procedure in matters of payment order for adjudicating a petition for a claim of support for a minor child from the parent living apart from the child. Payment of support shall not be claimed retroactively in expedited procedure in the matters of payment order. This does not preclude the claiming of support retroactively to the extent provided by law in actions.
[RT I 2008, 28, 180 - entry into force 15.07.2008]

(1^1) Expedited procedure in matters of payment order on the grounds specified in subsection (1) of this section is not applied if the debtor is not entered in the birth registration of a child as a parent of the child.
[RT I 2006, 61, 457 - entry into force 01.01.2007]

(2) Expedited procedure in matters of payment order on the grounds specified in subsection (1) of this section is not applied if the support claimed for is higher than 200 euros per month.
[RT I 2010, 22, 108 - entry into force 01.01.2011]

(3) Unless otherwise provided by this Division, the general provisions concerning expedited procedure in matters of payment order apply to expedited procedure in matters of payment order in claims of support for a child.

§ 492. Petition for application of expedited procedure in matters of payment order

A petition for application of expedited procedure in matters of payment order in a claim of support for a child shall set out at least the following data:
1) the data of the parties and their representatives;
2) the data of the court with which the petition is filed;
3) the date of birth of the child;
4) the date as of which payment of support is claimed;
5) [repealed - RT I 2005, 39, 308 - entry into force 01.01.2006]
6) the amount of the support which is claimed;
7) the data of the birth registration or birth certificate of the child and a confirmation that the debtor is entered in the birth registration of the child as a parent of the child;
[RT I 2008, 28, 180 - entry into force 15.07.2008]
8) a confirmation that the debtor does not participate in the maintenance of the child;
[RT I 2006, 61, 457 - entry into force 01.01.2007]
9) a confirmation that no legal impediment exists for application of expedited procedure in matters of payment order.

§ 493. Proposal for payment in expedited procedure in claim of support for child

A proposal for payment made in expedited procedure in a claim of support for a child shall set out at least the following data:
1) the data contained in the petition specified in § 492 of this Code;
2) an explanation that the court has not verified whether or not the petitioner is entitled to file the claim;
3) the date as of which payment of support may be ordered and the amount of support which payment may be ordered;
4) an explanation that the court has the right to make a payment order in the form of an enforcement instrument if the debtor fails to submit a substantiated objection to the proposal for payment within 15 days or, in the case of service of the proposal for payment abroad, within 30 days after service thereof;
[RT I 2008, 28, 180 - entry into force 15.07.2008]
5) the objections to the proposal for payment which the debtor may file pursuant to law;
6) an explanation that the debtor may file an objection which relies on the impossibility or a restricted possibility to pay support only if a confirmation of the status of the debtor's assets, income and financial situation in the form prescribed therefor together with appropriate proof has been annexed to the objection.

§ 494. Filing of objection

(1) The debtor may file a substantiated objection to a claim of support or a part thereof with the court which made the proposal for payment within 15 days or, in the case of service of the proposal for payment abroad, within 30 days after service thereof.
[RT I 2008, 28, 180 - entry into force 15.07.2008]

(2) The debtor may submit only the following objections to a claim for support:
1) that he or she is not the child's parent;
2) that he or she lives together with the child and participates in the child's maintenance;
3) that he or she has performed his or her maintenance obligation;
4) that expedited procedure in the matter of payment order is not permitted by law;
5) that the date as of which payment of support is claimed for has been determined incorrectly;
6) that the amount of the support has been determined incorrectly.

(3) [Repealed - RT I 2008, 28, 180 - entry into force 15.07.2008]

(4) [Repealed - RT I 2005, 39, 308 - entry into force 01.01.2006]

(5) The debtor has the right to file an objection which relies on the impossibility or a restricted possibility to pay support only if information concerning the debtor's assets, income and financial situation in the form established therefor by a regulation of the Minister of Justice together with appropriate proof is annexed to the objection.

(6) The court informs the petitioner of an objection and of the time of filing thereof. If an objection, in full or in part, precludes satisfaction of the claim for support by way of expedited

procedure in matters of payment order, the hearing of the matter continues in actions unless the petitioner has asked for termination of the proceeding in such case.

§ 495. Objections of debtor in actions

If a claim for support is adjudicated by way of actions, the debtor's objections to the claim for support are deemed to be the defendant's response to the action. The court sets the defendant an additional term for responding to the action if necessary, including in the event the plaintiff alters the claim or provides additional substantiation thereto.

§ 496. Payment order

(1) The court makes a payment order in the form of a ruling whereby the debtor is required to pay support in the prescribed amount if the debtor has not filed an objection to the support claim within the prescribed term, or has filed an objection which cannot be filed in expedited procedure in matters of payment order, or if the objection is not substantiated.

(2) [Repealed - RT I 2008, 28, 180 - entry into force 15.07.2008]

(3) The ruling shall also set out the petitioner's right to demand, in the future, alteration of the amount of support by way of actions.
[RT I 2006, 61, 457 - entry into force 01.01.2007]

(4) The debtor may file an appeal against a payment order in a claim for support within 15 days or, in the case of service of the payment order abroad, within 30 days after service of the payment order. The general provisions concerning payment orders apply to the filing of an appeal against a payment order in a claim for support and the adjudication thereof.
[RT I 2009, 68, 463 - entry into force 10.01.2010]

(5) [Repealed - RT I 2008, 28, 180 - entry into force 15.07.2008]

§ 497. Alteration of amount of support

If the circumstances which constitute the basis for a claim for support change, either party may demand alteration of the amount of support by way of actions.
[RT I 2005, 39, 308 - entry into force 01.01.2006]

Chapter 50 CALLING PROCEEDING

§ 498. Calling proceeding

In the cases provided by law, the court may make a public call by way of a calling proceeding for filing claims or presentation of other rights which, upon failure to notify of a claim or a right, will result in extinguishment of a right or another legally negative result.

§ 499. Initiation of calling proceeding

(1) The court initiates a calling proceeding only based on a substantiated petition. If filing of a petition is permissible, the court initiates a calling proceeding by a ruling on calling.

(2) A ruling on calling sets out at least the following:
1) the name of the court;
2) the data of the petitioner;
3) a call on persons concerned to inform the court of claims or other rights by the due date set by the court;
4) consequences of failure to notify of a claim or right.

(3) The court may join several calling proceedings of the same type.

(4) The petitioner may file an appeal against the ruling on refusal to initiate a proceeding. A ruling of a circuit court concerning an appeal against such ruling is not subject to appeal to the Supreme Court.

(5) An assistant judge is also competent to conduct a calling proceeding.
[RT I 2005, 39, 308 - entry into force 01.01.2006]

§ 500. Publication of call and term for calling

(1) A call containing the data specified in the ruling on calling is published in the publication *Ametlikud Teadaanded*. The court may make a ruling on the repeated publication of the call or additional publication of the call in another publication or for broadcasting the call.

(2) Unless otherwise provided by law, the term for calling is at least six weeks before the due date for notification of a claim or other rights.

§ 501. Making of ruling on preclusion

(1) If no third parties have informed the court of their claims or other rights within the term set by the court, the court makes a ruling on preclusion based on the request of the petitioner whereby the claims and rights of third parties are precluded.

(2) The court may organise a session before making a ruling on preclusion in order to clarify the circumstances and, among other, to obtain a statement under oath from the petitioner in order to substantiate the submitted allegations.

(3) If a petition for making a ruling on preclusion is not satisfied, the petitioner may file an appeal against the ruling.

(4) The court publishes the conclusion of a ruling on preclusion in the publication *Ametlikud Teadaanded*. The court may prescribe the repeated publication of the conclusion of the ruling or

additional publication thereof in another publication or the broadcasting of the conclusion of the ruling.

§ 502. Procedure in case of filing of objection

If a notice contesting the right presented by the petitioner as the reasoning for the petition or informing the court of a claim or another right preventing the making of a ruling on preclusion is submitted to the court within the term of calling, the court suspends the calling proceeding until a final decision is made concerning such submission, or makes a ruling on preclusion with a reservation with regard to the notified right.

§ 503. Filing of appeal against ruling

(1) An interested party may file an appeal against a ruling on preclusion within three months after publication of the ruling on preclusion in the publication *Ametlikud Teadaanded*.

(2) In an appeal against a ruling, the appellant may only rely on one of the following facts:
1) the ruling on preclusion was made in a case where a calling proceeding was not allowed,
2) the call was not made public or it was made public in a manner not prescribed by law;
3) the term for making public of the call was not adhered to;
4) the judge or assistant judge who made the ruling on preclusion should have removed himself or herself from the case;
[RT I 2008, 59, 330 - entry into force 01.01.2009]
5) a submitted claim or another right was not taken into account in making the ruling on preclusion.

§ 504. Preclusion of rights of mortgagee

(1) The owner of an immovable or ship encumbered with a mortgage or the owner of a pledged object encumbered with a registered security over movables has the right to file a petition for preclusion of the rights of an unknown mortgagee in accordance with § 331 of the Law of Property Act or § 59 of the Law of Maritime Property Act.

(2) Before a proceeding is initiated, the petitioner specified in subsection (1) of this section must substantiate that despite the best efforts of the petitioner, the petitioner has not been able to verify the identity of the mortgagee or pledgee or legal successor thereof and whether or not the rights of the mortgagee or pledgee have already been recognised by a court decision.

(3) For satisfaction of a claim secured by a mortgage or registered security over movables, the petitioner must deposit the sum of the mortgage in the account prescribed for such purpose before the initiation of the proceeding.
[RT I, 31.01.2014, 6 - entry into force 01.04.2014]

(4) A call shall contain a caution to the mortgagee or pledgee that after the sum of the mortgage or pledge has been deposited, the claim of the mortgagee or pledgee will not be satisfied out of the immovable, the ship or the object encumbered with registered security over movables but out

of the deposited amount, and that the right of the mortgagee or pledgee thereto will terminate unless the mortgagee or pledgee addresses the authority holding the deposit within five years after the date of making the ruling on preclusion.
[RT I 2009, 30, 178 - entry into force 01.10.2009]

§ 505. Preclusion of persons entitled by notation

(1) The provisions of § 504 also apply to calling proceedings the purpose of which is the preclusion of the rights of persons entitled by a preliminary notation, notation concerning a prohibition, right of pre-emption or real encumbrance entered in the land register or ship register.

(2) The petition specified in subsection (1) of this section may also be submitted by a person who, based on a right of the same or lower ranking, has the right to demand, based on an enforcement instrument, the satisfaction of a claim out of an immovable or ship. The court also informs the owner of the immovable or ship of the publication of the call.

§ 506. Petition for declaration of security invalid

(1) In the case of the loss or destruction of or damage to a security, the current owner of a bearer security or a security transferred by an endorsement in blank or, in the case of other types of security, a person wishing to exercise a right arising from the security has the right to file a petition for declaration of the security invalid by way of calling proceeding.

(2) A person who has lost a security may also request, in the petition specified in subsection (1) of this section, that the issuer of the security issue another security with the same content to the person.

(3) A petition sets out special characteristics of a lost instrument, the name of the person who issued the instrument and the circumstances pertaining to the loss thereof.

(4) The petitioner must substantiate that the security belonged to the petitioner before it was lost or destroyed. The petitioner must also substantiate the loss or destruction of the security.

(5) If the instrument has been damaged, the damaged instrument must be presented. Where possible, a transcript of the instrument shall be annexed to the petition also in other cases.

(6) The court which receives the petition makes, at the request of the petitioner, a ruling on prohibiting the issuer of the instrument and the payers indicated therein from making payments based on the security. After termination of the proceeding, the court annuls the ruling.

§ 507. Specifications of proceeding for declaration of security invalid

(1) In a call concerning an intention to declare a security invalid, the court indicates, among other, the name and other specific characteristics of the security and the name of the issuer thereof, and proposes that the possessor of the security inform the court of the possession of the security and the rights of the possessor thereto. The call contains a caution that in the case of

failure to notify of such rights, the security will be declared invalid and a prohibition may be made on making payments based on the security.

(2) A person who is in possession of the security must immediately inform the court thereof and present the security to the court.

(3) If a lost security is presented to the court within four months after publication of the last call, the court refuses to satisfy the petition for declaration of the security invalid, and annuls the prohibition on making payments on the basis of the security. In the ruling, the court explains to the petitioner the potential rights thereof against the possessor of the instrument. The court gives the petitioner an opportunity to examine the security beforehand.

(4) If within four months after the last publication of a notice on the loss of a security, the court is not informed of the existence of the security or if the court establishes that the security has been destroyed or damaged to the extent that it can be no longer used, the court declares the security invalid by a ruling on preclusion.

§ 508. Consequences of declaration of security invalid

(1) If a security is declared invalid by a ruling on preclusion, the petitioner has the right to use the rights arising therefrom with regard to the party who, according to the security, is the obligated person. If the issue of a new security is requested in a petition, the court requires the issuer to issue a new security with the same content.

(2) Upon annulment of a ruling to declare a security invalid, the payments made or other obligations performed on the basis of the ruling by the party who is the obligated person shall also remain valid with respect to third parties, including to the recipient of the payment and the petitioner, unless the obligated person was aware of the annulment of the ruling at the time of performance of the obligation.

Chapter 51 DECLARATION OF PERSON AS DEAD AND ESTABLISHMENT OF TIME OF DEATH

§ 509. Petition for declaration of death

(1) The court initiates a proceeding for declaration of a person as dead only based on a petition. A petition may be filed by a person or agency with legitimate interest in the declaration of the person as dead, above all by the following:
1) the legal representative of a missing person or a rural municipality or city government;
2) the spouse or a relative in the ascending or descending line of a missing person;
3) the Ministry of the Interior or an agency within the area of administration of the Ministry of the Interior authorised by the Minister of the Interior.
[RT I, 29.06.2012, 3 - entry into force 01.01.2013]

(2) A petition for declaration of a person as dead sets out the reason why the petitioner is interested in the declaration of the person as dead and specifies the facts which substantiate the declaration of the person as dead.

(3) In addition to the petitioner, a person entitled to file a petition for declaration of a person as dead may enter the proceeding based on a petition. By filing the petition, such person acquires the legal status of a petitioner.

(4) The Ministry of the Interior or an agency within the area of administration of the Ministry of the Interior authorised by the Minister of the Interior is obliged to file a petition for declaration of a person as dead if the prerequisites for declaring a missing person as dead are clearly fulfilled and another person specified in subsection (1) of this section has not filed a petition for declaring the person as dead.
[RT I, 29.06.2012, 3 - entry into force 01.01.2013]

§ 510. Acts in pre-trial proceedings

(1) After accepting a petition for declaration of a person as dead, the court publishes a notice in the publication *Ametlikud Teadaanded* whereby the missing person is invited to provide the court, within the term set by the court, with information that he or she is alive. The notice includes a caution of possible declaration of the person as dead and an invitation to the public to provide the court with information concerning the person whose declaration as dead is petitioned.

(2) The court may also publish the notice repeatedly or, in addition to publishing it in the publication *Ametlikud Teadaanded*, publish the notice in another publication, or broadcast the notice.

(3) The term set by the court for submission of information shall not be shorter than six weeks after publication of the last notice in the publication *Ametlikud Teadaanded*.

(4) Unless the proceeding is initiated based on the petition of the Minister of the Interior, the court informs the Minister of the Interior of the initiation of the proceeding and requests that the Minister of the Interior provide information known to the state about the missing person and a position on the possibility to declare the person as dead. The court may also collect information about the missing person on its own initiative, regardless of who filed the petition for declaring the person as dead.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 511. Ruling on declaration of death

(1) A ruling on declaration of a person as dead sets out the presumed time of death of the person.

(2) A ruling on declaration of death is published in the publication *Ametlikud Teadaanded*. The court may order that the ruling be published repeatedly or in another publication, or that the ruling be broadcast.

(3) The court serves a ruling on refusal to satisfy the petition on the petitioner and sends it to the Minister of the Interior if the latter is not the petitioner and the court sends a ruling on declaration of a person as dead to the petitioner and the Minister of the Interior. For entry of the information concerning death in the population register, the court sends a ruling on declaration of death to the vital statistics office within ten days after the entry into force of the ruling.
[RT I 2009, 30, 177 - entry into force 01.07.2010]

(4) A ruling on declaration of a person as dead enters into force and is subject to enforcement after the expiry of the term for filing appeals against such ruling. In the case an appeal is filed against the ruling, the ruling enters into force and is subject to enforcement if a ruling to refuse to satisfy or hear the appeal against the ruling has been made and such ruling has entered into force.

(5) A ruling on annulment or amendment of a ruling on declaration of death is made public in the manner prescribed in subsection (2) of this section and is communicated to the persons and agencies specified in subsection (3) of this section.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 512. Filing of appeal against ruling

(1) A ruling on declaration of death is subject to appeal within 30 days after publication thereof in the publication *Ametlikud Teadaanded*. A ruling on refusal to satisfy a petition for declaration of death is subject to appeal within 30 days after service thereof.

(2) A ruling on declaration of a person as dead is subject to appeal by the petitioner or another person with legitimate interest in annulment of the declaration of death or amendment of the time of death. Only the petitioner may file an appeal against a ruling on refusal to satisfy a petition for declaration of death.

§ 513. Consequences of reappearance of person or becoming aware of person's whereabouts

(1) A petition for annulment of declaration of a person as dead may be filed by the reappeared person or the Ministry of the Interior or an agency within the area of administration of the Ministry of the Interior authorised by the Minister of the Interior with the court which declared the person as dead.
[RT I, 29.06.2012, 3 - entry into force 01.01.2013]

(2) A petition sets out the facts which prove the reappearance of the person as well as information that the person is alive or information concerning his or her whereabouts. If possible, the court hears, before annulling the declaration of death, the person based on whose petition the person was declared as dead.

(3) The court sends a transcript of a ruling on the annulment of declaration of death of a person to the vital statistics office within ten days after the entry into force of such ruling. A ruling on annulment of a ruling on declaration of a person as dead serves as a basis for amending the vital statistics information of the person.
[RT I 2009, 30, 177 - entry into force 01.07.2010]

(4) A ruling on annulment of a ruling on declaration of a person as dead is not subject to appeal. The petitioner may file an appeal against a ruling on refusal to satisfy a petition for annulment of a ruling on declaration of death.

§ 514. Amendment of time of death of person declared as dead

(1) If a person declared as dead did not die at the time established by the ruling on declaration of death, then each person with a legitimate interest in establishment of a different time of death may demand the amendment of the ruling on declaration of death provided that the facts which constitute the basis for the incorrectness of the ruling became known to him or her, due to reasons beyond his or her control, at a time when he or she was no longer able to present such facts in the proceeding conducted in the matter of declaration of death.

(2) The petition specified in subsection (1) of this section may be submitted within 30 days after the time the petitioner became aware of the fact, but not before the entry into force of the ruling on declaration of death and not later than within five years after the entry into force of the ruling on declaration of death.

(3) The provisions concerning the procedure for declaration of death correspondingly apply to other aspects of the proceeding for amendment of the time of death of a person declared as dead. A ruling on amendment of the time of death is also sent to the person on the basis of whose petition the person was declared as dead.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 515. Establishment of time of death

(1) The provisions concerning declaration of death apply to a proceeding for establishment of time of death of a person, unless the provisions of subsections (2) or (3) of this section provide otherwise.

(2) Before initiation of a proceeding, the petitioner shall provide the court with information in proof of the person's death and information which allows the court to establish the person's time of death. Other information must be substantiated by the petitioner.

(3) Upon initiation of a proceeding, the court publishes a call to all persons who have information as to the time of death of the person to inform the court thereof within the term set by the court. The court need not publish such call if this obviously does not facilitate the clarification of circumstances.

Chapter 52 ESTABLISHMENT OF CUSTODY OVER PROPERTY OF ABSENT PERSON

§ 516. Establishment of custody

(1) The court appoints an administrator to the property which needs to be maintained and belongs to:
1) a missing person;
2) a person whose whereabouts are known but who cannot return and manage his or her affairs due to another reason.

(2) The court also appoints an administrator to the property of an absent person if the person has issued a mandate or authorisation document for management of his or her affairs but circumstances which give good reason to withdraw such mandate or authorisation have become evident.

(3) A ruling on establishment of custody sets out the person over whose property the custody is established as well as the person appointed as administrator.

(4) A ruling on establishment of custody gives the person appointed as administrator the right to dispose of the property within the extent provided by law.

(5) The provisions concerning compensation of the costs of a guardian of an adult with restricted active legal capacity apply to compensation of the costs of an administrator.

§ 517. Appointment of temporary administrator

(1) The court may ensure or apply provisional legal protection by a ruling on establishment of custody on its own initiative and among other, appoint a temporary administrator to the property if there is reason to believe that the conditions for establishment of custody are complied with and a delay would result in endangerment of the interests of the person in whose interest the court is conducting the proceeding for appointment of an administrator.

(2) Upon selection of a temporary administrator, the wishes of the petitioner and the requirements for administrators prescribed by law need not be considered.

(3) A temporary administrator shall not be appointed for a period longer than six months.

(4) The court may release a temporary administrator from his or her duties by a ruling if the prerequisites for release are clearly fulfilled and a delay would result in endangerment of the interests of the person in whose interests the court appointed the temporary administrator. A ruling on appointment or release of a temporary administrator is valid and subject to enforcement as of the time it is made public.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 518. Termination of custody, change of administrator and duties thereof

(1) The court terminates the custody over the property of an absent person if the absent person is no longer prevented from managing his or her affairs.

(2) Custody is terminated by annulment by the court regardless of whether or not the absent person is dead. The court annuls custody if the court becomes aware of the death of the absent person.

(3) If an absent person is declared as dead or his or her time of death is established by the court, the custody is terminated at the time of the entry into force of the ruling on declaration of death or establishment of the time of death.

(4) The provisions concerning the appointment of an administrator apply to termination of custody, release of an administrator, appointment of a new administrator, alteration of the scope of duties of an administrator and extension of the appointment of an administrator.

§ 519. Filing of appeal against ruling

(1) A court ruling on the establishment of custody, refusal to establish custody, termination of custody or change of administrator is subject to appeal by everyone with legal interest in the amendment of such ruling, including the spouse, or the relatives or relatives by marriage of the person whose property was placed under custody.

(2) An appeal against a ruling cannot be filed after five months have passed from communicating the ruling to the administrator.

Chapter 53 APPOINTMENT OF GUARDIAN FOR ADULT WITH RESTRICTED ACTIVE LEGAL CAPACITY

§ 520. Appointment of representative to adult with restricted active legal capacity in proceeding for appointment of guardian

(1) For the purposes of a proceeding for appointment of a guardian, the court appoints a representative to an adult with restricted active legal capacity if this is necessary in the interests of the person.

(2) The court appoints a representative to a person above all in the case where the person is not represented by a person with active civil procedural legal capacity in the proceeding and:
1) the court need not hear the person himself or herself in the proceeding;
2) there is intention to establish guardianship for managing all or most of the affairs of the person;
3) the guardian's competence is to be extended;
4) the object of the proceeding is obtaining the guardian's consent for sterilisation of the person.

(3) [Repealed - RT I 2008, 59, 330 - entry into force 01.01.2009]

(4) The representative must, among other, personally meet the person in the matter of whose placement under guardianship the court is conducting proceedings and hear him or her without the presence of the judge.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 521. Application of provisional legal protection

(1) The court may make a ruling on application of provisional legal protection and among other, appoint a temporary guardian if:
1) it may be clearly presumed that the conditions for appointment of a guardian are complied with and a delay would result in endangerment of the interests of the person in need of guardianship; and
2) a representative has been appointed to the person in the proceeding; and
3) the person has been personally heard.

(2) For the purpose specified in subsection (1) of this section, a person may also be heard by a judge acting on the basis of a letter of request. A person need not be heard if this would clearly cause significant damage to his or her health or if the person is clearly not able to express his or her will.

(3) If a delay could result in endangerment of the interests of the person in need of guardianship, the court may apply provisional legal protection even before hearing the person himself or herself and appointing a representative to him or her. In such case the specified acts must be performed retroactively at the earliest opportunity.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(4) Upon selection of a temporary guardian, the wishes of the petitioner and the requirements for guardians prescribed by law need not be considered.

(5) A temporary guardian shall not be appointed for a period longer than six months. After obtaining an expert opinion concerning the mental state of an adult, such term may be extended to up to one year.

(6) The court may release a temporary guardian from his or her duties by a ruling if the prerequisites for release are clearly fulfilled and a delay would result in endangerment of the interests of the person under guardianship.

(7) A ruling on appointment or release of a temporary guardian is valid and subject to enforcement as of the time it is made public.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 522. Ordering expert assessment

(1) If the court has information or doubt that a person has a mental illness or mental disability, the court orders an expert assessment in order to determine the need for appointment of a guardian for such person. The expert shall personally examine the person or question him or her

before preparing an expert opinion.
[RT I, 04.07.2012, 1 - entry into force 01.08.2012]

(1^1) The court assigns the task of conducting an expert assessment to one expert, except in the case of an expert assessment conducted by an expert committee or a complex expert assessment. Only a psychiatrist may be used as an expert. Another person with specific expertise may also participate as an expert in the case of an expert assessment conducted by an expert committee or a complex expert assessment.
[RT I, 04.07.2012, 1 - entry into force 01.08.2012]

(1^2) If the court conducts proceedings in the matters of placement of a person in a closed institution on the basis of clause 533 (1) 1) of this Code and appointment of a guardian for the same person on the basis of subsection 520 (1) of this Code, the court may order a joint expert assessment about the necessity of establishing guardianship and the prerequisites for placement of the person in a closed institution.
[RT I, 04.07.2012, 1 - entry into force 01.08.2012]

(2) A person with regard to whom an expert assessment is ordered is obliged to appear before an expert. If a person with regard to whom an expert assessment is ordered fails to appear before an expert, the court may, after hearing the opinion of an expert, apply compelled attendance to bring the person before an expert.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) After hearing an expert, the court may order placement of the person in a closed institution for observation for up to one month if this is necessary for conduct of an expert assessment. The person himself or herself shall also be heard before or after the making of the ruling. Where necessary, the court may extend, by a ruling, the time for placement of a person in a closed institution for up to three months and apply compelled attendance with respect to the person.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(4) If, in the opinion of an expert, appointment of a guardian is to be considered, the expert shall indicate in the expert opinion the estimated scope of duties of the guardian and the estimated period for which the person needs guardianship.

(5) An expert assessment need not be ordered if:
1) the petition for appointment of a guardian was submitted by the person in need of guardianship and the documents reflecting his or her state of health are appended to the petition; and
2) the person waives the right to undergo expert assessment; and
3) conduct of the expert assessment is, considering the volume of the guardian's duties, unreasonably costly or labour intensive.

§ 523. Rural municipality governments and city governments in proceedings

At the direction of the court, the rural municipality government or city government of the residence of the person in need of guardianship collects and presents to the court information

needed for the establishment of guardianship. The rural municipality government or city government provides, in proceedings, its opinion, among other, on who to appoint as guardian, on changing the scope of duties of the guardian or on changing the guardian.

§ 524. Hearing of person

(1) The person in the matter of whose placement under guardianship the court is conducting proceedings is personally heard by the court. The court hears the person in his or her usual environment if the person so requests or if, in the opinion of the court, this is necessary in the interests of the matter and the person does not object to it. The course of the proceeding shall be explained to the person.

(2) The court may involve a psychiatrist, psychologist or social worker in the hearing. If the person so requests, the trustee of the person shall be allowed to be present. The court may permit other persons to be present at the hearing of the person in need of guardianship unless the latter objects to it.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) The court may transfer the task of hearing a person to a court acting based on a letter of request only if it is evident that the court will be able to evaluate the information obtained from the hearing even without having directly experienced the hearing.

(4) Where necessary, the court may apply compulsory attendance on the person in need of guardianship in order to hear the person.

(5) The court need not hear a person in need of guardianship in person, if:
1) this could result in harmful consequences to the health of the person according to the documents reflecting his or her state of health or in the opinion of a competent doctor;
[RT I 2008, 59, 330 - entry into force 01.01.2009]
2) the court is convinced, based on a direct impression, that the person is clearly unable to express his or her will.

§ 525. Hearing of matter

(1) The court discusses with the person in the matter of whose placement under guardianship the court is conducting proceedings the results of his or her hearing, the content of the expert opinion or documents reflecting his or her state of health, the possible choices of guardian and the scope of duties of the guardian to the extent necessary for ensuring the legal hearing of the person or clarification of facts.

(2) As a rule, the court also requests, in the course of the proceeding, the opinion of the person in the matter of whose placement under guardianship the court is conducting proceedings, his or her spouse, parents, foster parents, children and members of the rehabilitation team, unless the person objects to it and the court does not deem it necessary to request an opinion. At the request of the person in need of guardianship, the opinion of other persons close to him or her may be

requested, unless this significantly delays the proceeding.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) Before appointing a guardian, the court also hears the person whose appointment as guardian is requested or whom the court intends to appoint as guardian, and the potential petitioner.

§ 526. Appointment of guardian

(1) A court appoints a guardian for an adult with restricted active legal capacity by a ruling.

(2) A ruling sets out:
1) the person for whom a guardian is appointed;
2) the person or agency appointed as a guardian;
3) the duties of the guardian;
4) whether the person with restricted active legal capacity is permitted to perform transactions without the consent of the guardian and what transactions are permitted;
5) the period at the end of which at the latest the court decides on the termination or extension of the guardianship.

(3) The period specified in clause (2) 5) of this section shall not be longer than five years from the date of making the ruling.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(4) A ruling on establishment of guardianship gives the guardian the right to represent the person under guardianship.

(5) If the court establishes guardianship for managing all the affairs of a person under guardianship or if the scope of duties of a guardian is extended in such manner, the person under guardianship is also deemed to be without active legal capacity within the meaning of the right to vote, and he or she loses his or her right to vote.

§ 527. Compensation of costs to guardian

(1) If a guardian or a person under guardianship so requests or the court deems it necessary, the court also determines the following at the time of establishment of guardianship or thereafter:
1) the size of remuneration payable and the costs to be compensated to the guardian at the expense of the person under guardianship and the extent of possible advance payment thereof;
2) the costs to be compensated and the size of the remuneration payable to the guardian at the expense of the state and the extent of possible advance payment thereof if, pursuant to law, payment thereof by the state may be demanded;
3) the term for payment and the size of payments which the person under guardianship must pay to the state in order to cover for the amounts payable to the guardian by the state.

(2) The person under guardianship may apply for the grant of procedural assistance for covering the costs.

(3) Before making a ruling on costs, the court shall hear the person under guardianship.

(4) [Repealed - RT I 2005, 39, 308 - entry into force 01.01.2006]

§ 528. Extension of scope of duties and term of office of guardian

(1) The provisions concerning appointment of a guardian apply to the change of the scope of duties of a guardian, appointment of a new guardian and to extension of the term of office of a guardian.

(2) Upon the change of duties of a guardian, appointment of a new guardian or extension of the term of office of a guardian, a new expert assessment need not be conducted and a representative for the purpose of the proceeding need not be appointed to the person under guardianship if:
1) the duties of the guardian are not materially extended; or
2) less than five years have passed from the conduct of the expert assessment serving as a basis for the establishment of guardianship.
[RT I, 04.07.2012, 1 - entry into force 01.08.2012]

(3) [Repealed - RT I, 23.02.2011, 1 - entry into force 01.09.2011]

(4) Upon the extension of the term of office of a guardian, the person under guardianship need not undergo an expert assessment if, based on the hearing of the person under guardianship and the documents reflecting the state of his or her health, it is clear that the need for guardianship has not ceased to exist.
[RT I, 04.07.2012, 1 - entry into force 01.08.2012]

§ 529. Termination of guardianship and restriction of scope of duties of guardian

(1) The court terminates the guardianship, restricts the scope of duties of a guardian or extends the rights of the person under guardianship to perform transactions independently if the bases for appointing a guardian cease to exist in whole or in part.

(2) The court may order an expert assessment in order to ascertain that such bases have ceased to exist.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 530. Release of guardian from office and appointment of new guardian

(1) The court may release a guardian from office with good reason.

(2) If the person under guardianship objects to the release of the guardian, the court shall hear the person under guardianship in person unless this may significantly endanger the health of the person under guardianship or the person under guardianship is clearly unable to express his or her will.

(3) Upon the appointment of a new guardian due to the death or release from office of the previous guardian, the person under guardianship shall be heard in person, unless the person under guardianship agrees to the new guardian, the hearing may significantly endanger the health of the person under guardianship or the person under guardianship is clearly unable to express his or her will.

§ 531. Communication and validity of ruling
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(1) A court ruling whereby a proceeding conducted in a matter of establishment of guardianship is terminated, including a ruling on appointment of a guardian, extension of his or her term of office, termination of guardianship or change of the scope of duties of a guardian, is valid and subject to enforcement as of its communication to the guardian.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) The court also communicates a ruling whereby a proceeding conducted in a matter of establishment of guardianship is terminated to the person under guardianship and his or her representative. The court need not communicate the reasoning of the ruling to the person under guardianship in person if, based on the documents reflecting the state of health of the person under guardianship or an expert opinion, this may cause significant damage to the health of the person under guardianship. The court also communicates the ruling to the rural municipality or city government of the residence of the person as well as to other persons specified in subsection 532 (1) of this Code who have been heard during the proceeding by the court.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) If a ruling cannot be sent to the guardian or if a delay in doing so would result in endangerment of the interests of the person under guardianship, the court may declare the ruling to be valid and subject to enforcement as of communication thereof to the person under guardianship or his or her representative.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(4) The court informs other courts and administrative agencies of the ruling if this is clearly in the interests of the person under guardianship, third parties or the public. Where necessary, the court publishes a notice in the publication *Ametlikud Teadaanded*.

(5) Any relevant facts which become evident in the course of a proceeding may be made public by the court in the manner provided in subsection (4) of this section already before the end of the proceeding.

(6) If guardianship is established for the management of all of the affairs of the person under guardianship or the scope of the guardian's duties is expanded in such manner and the person loses his or her right to vote in elections, or if such guardianship is terminated due to any other reason except the death of the person under guardianship, or if such guardianship is restricted, the court also informs the agency maintaining a polling list thereof.

(7) If the person under guardianship is being detained in a custodial institution, medical institution, social welfare institution or such other institution, the court also informs such institution of the ruling.

§ 532. Filing of appeal against ruling

(1) A ruling on appointment of a guardian, refusal to satisfy a petition, termination of guardianship, changing the scope of duties of a guardian, refusal to terminate guardianship, release of a guardian, appointment of a new guardian or determination of costs of guardianship is subject to appeal by the person for whom appointment of a guardian was adjudicated, the person who was appointed as a guardian, the spouse or direct blood relative of the person for whom appointment of a guardian was adjudicated, a close person specified by such person himself or herself (trustee) or rural municipality or city government of the residence of such person.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) As regards the scope of duties of a guardian, a ruling is also subject to appeal by the guardian on behalf of the person under guardianship. If several guardians were appointed to perform jointly, each one of them may file a separate appeal.

(3) An appeal against a ruling cannot be filed after five months have passed from communicating the ruling to the guardian.

(4) An appeal may be filed against a ruling on costs if the object of the appeal exceeds the amount of 200 euros. A ruling made by a circuit court concerning an appeal against a ruling is not subject to appeal to the Supreme Court.
[RT I 2010, 22, 108 - entry into force 01.01.2011]

Chapter 54 PLACEMENT OF PERSON IN CLOSED INSTITUTION

§ 533. Placement of person in closed institution

(1) The court conducts proceedings in the following matters based on a petition by the rural municipality or city government of the residence of a person pursuant to the procedure provided in this Division:
[RT I 2008, 59, 330 - entry into force 01.01.2009]
1) placement of a mentally ill person in a psychiatric hospital or a social welfare institution without or against his or her will together with deprivation of the liberty and application of inpatient treatment to the person;
[RT I 2008, 59, 330 - entry into force 01.01.2009]
2) hospitalisation of a person suffering from a communicable disease without his or her consent and application of inpatient treatment to the person if this is necessary for the prevention of the spread of an especially dangerous communicable disease;
3) other matters of placement of a person in a closed institution provided by law.

(2) Proceedings are also conducted by the court in the matter of placement of a mentally ill person in a psychiatric hospital or a social welfare institution without or against his or her will

based on an application of the guardian.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 534. Application of provisional legal protection

(1) Based on the request of the petitioner, the court may place a person in a closed institution pursuant to the procedure for application of provisional legal protection if:
1) the conditions of placement in a closed institution are clearly met and a delay is likely to endanger the person himself or herself or third persons; and
2) adequate documents exist concerning the state of health of the person.

(2) A request for applying provisional legal protection to place a person who suffers from a mental disorder in a psychiatric hospital without or against his or her will may also be submitted by a person specified in subsection 13 (1) of the Mental Health Act.

(3) The hearing of a person whose placement in a closed institution is requested or the hearing of other persons is not necessary in order to apply provisional legal protection if the court is also able to adequately assess the necessity of application thereof on the basis of documents, or if the hearing may cause damage to the health of the person whose placement in a closed institution is requested, or if the person is unable to express his or her will. The person himself or herself or other persons may also be heard by a judge acting on the basis of a letter of request.

(4) The court may also hear a person whose placement in a closed institution is requested or other persons after applying provisional legal protection.

(5) Provisional legal protection may be applied for up to four days as of the placement of a person in a closed institution. After the person himself or herself is heard, the term may be extended for up to 40 days if this is clearly necessary also in the opinion of the psychiatrist or another competent doctor. Provisional legal protection may also be applied for the purpose and term specified in subsection 537 (4) of this Code.
[RT I, 04.07.2012, 1 - entry into force 01.08.2012]

(6) In the cases and pursuant to the procedure provided by law, a person may also be placed in a closed institution without a court ruling if this is strictly necessary for the protection of the person himself or herself or the public, and a court ruling cannot be obtained promptly enough. In such case a request shall be submitted for obtaining a court ruling such that the court would be able to adjudicate the request no later than within 48 hours after placement of the person in a closed institution.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 535. Appointment of representative to person

(1) If this is necessary in the interests of the person and the person is not represented by another person with active civil procedural legal capacity, who need not meet the requirements of § 218 of this Code, the court appoints a representative to the person in a proceeding for placement of the person in a closed institution. The existence of a representative appointed by the person

himself or herself does not prevent the court from appointment of a representative to the person if, in the opinion of the court, the representative appointed by the person himself or herself is unable to sufficiently protect the interests of the represented person.

(2) If the court fails to appoint a representative, the court must set out the reasons therefor in the ruling on placement of the person in a closed institution. A representative need not be appointed to a person upon application of provisional legal protection, unless the person wants a representative for filing an appeal against a ruling on provisional legal protection or if the extension of the term for provisional legal protection is being decided. A person's right to a representative for filing an appeal against a ruling shall be explained to the person in the ruling on the application of provisional legal protection unless a representative has been appointed to the person earlier.

(3) The representative shall, among other, personally meet the person for the placement of whom in a closed institution the court is conducting proceedings and hear him or her without the presence of the judge.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 536. Hearing of person himself or herself and other persons

(1) Before a person is placed in a closed institution, the person shall be heard in person by the court and the court shall explain the course of the proceeding to him or her. If necessary, the court hears the person in his or her usual environment. The provisions concerning the procedure for hearing persons in a proceeding conducted in the matter of establishment of guardianship over an adult with restricted active legal capacity correspondingly apply to other aspects of the proceeding.

(2) Before a person is placed in a closed institution, the court shall also hear the opinion of the rural municipality or city government, and the following persons:
1) the spouse of the person, and other family members who live together with the person;
[RT I 2008, 59, 330 - entry into force 01.01.2009]
2) the guardian of the person;
[RT I 2008, 59, 330 - entry into force 01.01.2009]
3) the trustee appointed by the person;
3^1) the members of the rehabilitation team;
[RT I 2008, 59, 330 - entry into force 01.01.2009]
4) the head of the closed institution in which the person stays, or an official appointed thereby.

(2^1) The persons specified in subsection 2 (1) of this section need not be heard if:
1) the person for the placement of whom in a closed institution the court is conducting proceedings objects to hearing them;
2) these persons themselves waive the hearing;
3) the hearing of these persons clearly does not contribute to the adjudication of the matter;
4) the court fails to find or contact these persons regardless of reasonable efforts.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2^2) The ruling shall set out the reasons for failure to hear the person himself or herself or other persons.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) Based on the directions of the court, the rural municipality or city government collects and submits the data necessary for placing a person in a closed institution to the court.

§ 537. Conduct of expert assessment

(1) The court may place a person in a closed institution only if there is an expert opinion on the prerequisites for placement of the person in a closed institution, including a prediction on how dangerous the person is, prepared by an expert who has personally examined or questioned the person. The court assigns the task of conducting an expert assessment to one expert, except in the case of an expert assessment conducted by an expert committee or a complex expert assessment. Only a psychiatrist or, in the case of a person suffering from a communicable disease, a doctor competent in the field, may be used as an expert. Another person with specific expertise may also participate as an expert in the case of an expert assessment conducted by an expert committee or a complex expert assessment. The opinion of a psychiatrist who has examined the person can be considered by the court as the expert opinion specified in this section. The provisions of this subsection do not apply to the application of provisional legal protection.
[RT I, 04.07.2012, 1 - entry into force 01.08.2012]

(1^1) If the court conducts proceedings in the matters of placement of a person in a closed institution on the basis of clause 533 (1) 1) of this Code and appointment of a guardian for the same person on the basis of subsection 520 (1) of this Code, the court may order a joint expert assessment about the necessity of establishing guardianship and the prerequisites for placement of the person in a closed institution.
[RT I, 04.07.2012, 1 - entry into force 01.08.2012]

(1^2) A person to whom provisional legal protection has been applied in conformity with subsection 534 (5) of this Code is not ordered to undergo an expert assessment before the petition specified in subsection 533 (1) or (2) of this Code has been submitted to the court.
[RT I, 04.07.2012, 1 - entry into force 01.08.2012]

(2) [Repealed - RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) If a person is ordered to undergo an expert assessment, such person is required to appear before an expert. If the person fails to appear before an expert, the court may, after hearing the opinion of the expert, apply compelled attendance to bring the person before an expert.

(4) After hearing the expert, the court may order placement of the person in a medical institution for observation for up to one month if this is necessary for conduct of an expert assessment. Before a ruling is made, the person shall be heard. Where necessary, the court may extend, by a ruling, the time for placement of a person in a medical institution for up to three months and apply compelled attendance with respect to the person.

§ 538. Court ruling

(1) A ruling on placement of a person in a closed institution sets out:
1) the person who is to be placed in a closed institution;
2) a description of the measure of placement in a closed institution;
3) the term for placement in a closed institution;
4) an explanation of the possibility to file an appeal against the ruling.

(2) A person shall not be placed in a closed institution for a period longer than one year as of the date the ruling was made unless otherwise provided by law.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 539. Termination of placement in closed institution

(1) The court terminates the placement of a person in a closed institution by a ruling, also upon the application of provisional legal protection, after the prerequisites therefor have ceased to exist or if it appears that the prerequisites were not fulfilled. The court may terminate the placement in a closed institution based on an application by the person himself or herself, the person's guardian or the rural municipality or city government of the residence of the person or at the initiative of the court.

(2) Before termination of placement of a person in a closed institution the court asks the opinion of the rural municipality or city government, unless the latter filed a petition for termination of placement of the person in a closed institution, if asking of an opinion does not cause a significant delay in adjudication of the matter. A representative need not be appointed to a person in a matter of termination of placement of a person in a closed institution unless the person wants a representative for filing a petition.

(3) A closed institution shall immediately inform the court if in the opinion thereof there is no need to keep the person in the closed institution until the end of the term set by the court. If a person is released from a closed institution before the time set by the court, including the time set by way of provisional legal protection, the court shall also be informed thereof immediately. Even in this case the court shall decide on termination of placement of the person in a closed institution pursuant to the procedure provided for in subsection (1) of this section.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 539[1]. Extension of term for placement in closed institution and repeated placement of person in closed institution

(1) The provisions concerning placement in a closed institution apply to the extension of the term of placement in a closed institution. If a person has spent more than four years in a closed institution, the court shall not, as a general rule, assign the task of conducting an expert assessment to a person who has, until such time, treated the person placed in the institution, performed an expert assessment on his or her state of health, or who is employed by the institution in which the person has been placed.

(2) A new expert assessment is not required for the extension of the term for placement of a person in a closed institution or repeated placement of a person in a closed institution if not more than one year has passed from the conduct of the previous expert assessment and the state of health of the person has not changed according to the documents reflecting it. Under the same conditions the hearing of the person himself or herself, his or her spouse and family members is not required if not more than one year has passed from the previous hearing of the persons.

(3) In the case specified in subsection (2) of this section a representative shall be appointed to the person in the proceeding only if the person wants a representative for filing an appeal against the ruling.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 540. Suspension of placement in closed institution

(1) The court may suspend, by a ruling, the placement of a person in a closed institution for up to one year based on an application by the person himself or herself, the guardian thereof or the rural municipality or city government of the residence thereof or at the initiative of the court. Compliance with conditions and performance of obligations may be attached to such suspension.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) The court may annul the suspension if the person fails to comply with the conditions or perform the obligations assigned to him or her, or if annulment of the suspension is necessary due to his or her condition.

(3) Before annulling a suspension, the court shall hear the person himself or herself, the persons specified in subsection 536 (2) of this Code and the rural municipality or city government.

§ 541. Communication and entry into force of ruling

(1) The court serves the ruling on placement of a person in a closed institution or suspension or termination thereof, including a ruling on application of provisional legal protection, as well as the ruling on refusal to place a person in a closed institution on the person himself or herself, the representative thereof in the proceeding and the guardian. The reasoning of the ruling need not be communicated to the person himself or herself if the person is clearly unable to understand it or if it may cause significant damage to his or her health.

(2) The court also sends the ruling specified in subsection (1) of this section to the trustee appointed by the person and the rural municipality or city government of the residence of the person. The court also communicates the ruling to the persons specified in clause 536 (2) 1) of this Code whom the court heard in the proceeding unless the person whose placement in a closed institution was requested objects to it or the court does not consider the communication of the ruling or its reasons to them necessary. Such persons may still demand the communication of the ruling in full.

(3) A ruling on placement in a closed institution enters into force and is subject to enforcement if such ruling is not subject to further appeal, or if a decision has been made to refuse to satisfy or hear the appeal against the ruling.

(4) The court may declare a ruling to be subject to enforcement upon service of the ruling on the person himself or herself or the representative thereof or guardian thereof or upon sending it to the rural municipality or city government of the residence thereof.

(5) The court informs other courts and agencies of the ruling if this is in the interests of the person to whom the measure was applied, or in the interests of a third party or the public. The court may notify of any relevant facts which become evident in the course of a proceeding already before the end of the proceeding.

(6) If the person is detained in a custodial institution, medical institution, social welfare institution or any other institution, the court also informs such institution of the ruling.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 542. Enforcement of ruling

(1) A ruling on placement of a person in a closed institution is enforced by the institution in which the person is to be placed. If the parents or the guardian of the person so request, the institution assists them in taking the person to the institution.

(2) Upon enforcement of a ruling on placement of a person in a closed institution force may be used and if necessary the assistance of the police may be used for enforcement unless otherwise prescribed by the court ruling.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 543. Filing of appeal against ruling

A ruling on placement of a person in a closed institution or a ruling on refusal to do so, a ruling on termination of placement in a closed institution or a ruling on refusal to do so, or a ruling on application of provisional legal protection is subject to appeal by the person to whom such measure was applied, by the persons specified in subsection 536 (2) of this Code or by the rural municipality or city government or the head of the closed institution. The person to whom a measure was applied may file an appeal against the ruling regardless of termination of application of the measures, among other, to establish unlawfulness of placement in a closed institution.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

Chapter 55 IMPOSITION OF RESTRAINING ORDER AND OTHER SIMILAR MEASURES FOR PROTECTION OF PERSONALITY RIGHTS

§ 544. Application of restraining order and other measures for protection of personality rights

(1) In order to protect the personal life of a person or other personality rights, the court may apply a restraining order or other measures based on § 1055 of the Law of Obligations Act. Such measures may be applied with a term of up to three years.

(2) If the court conducts proceedings in the matter of application of measures in order to protect a personality right in connection with a family relationship, the provisions of law concerning family matters on petition additionally apply, unless otherwise provided by this Chapter.

(3) The court may also adjudicate a matter specified in subsection (1) of this section in actions if it is adjudicated together with another action or if so requested by the plaintiff.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 545. Hearing and conciliation of participants

Before applying a restraining order or another measure for protection of personality rights, the court hears the person with respect to whom application of such measure is requested and the person in the interests of whom proceedings are conducted for application of such measure. Where necessary, the court also hears the persons close to the persons specified above, or the rural municipality or city government or police authority of the residence of the persons.

§ 546. Application of provisional legal protection

Where necessary, the court may secure a petition for application of a restraining order or another measure for protection of personality rights or apply provisional legal protection by a ruling at its own initiative. As a measure of provisional legal protection, measures for securing the action may be applied pursuant to the procedure for securing an action.
[RT I 2005, 39, 308 - entry into force 01.01.2006]

§ 547. Service and entry into force of ruling

A ruling on application of a restraining order or another measure for protection of personality rights is served on the persons with regard to and in the interests of whom such measures are applied. The ruling is subject to enforcement from the service thereof on the obligated person.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 548. Cancellation and alteration of measures for protection of personality rights

If circumstances change, the court may cancel or alter a restraining order or another measure for protection of personality rights. Before cancelling or altering a measure, the court hears the participants.

§ 549. Filing of appeal against ruling

(1) A ruling on application of a restraining order or another measure for protection of personality rights is subject to appeal by the persons obligated to comply therewith.

(2) A ruling whereby the court refuses to satisfy a petition for applying a restraining order or another measure for protection of personality rights, or cancels or alters such measure is subject to appeal by the person who requested application of the measure or in whose interests the measure was applied.

Chapter 56 PROCEEDINGS IN FAMILY MATTERS ON PETITION

Division 1 General Provisions

§ 550. Family matters on petition

(1) The following family matters are adjudicated in proceedings on petition:
1) appointment of a guardian for a minor;
2) determination of a parent's rights to a child, including deprivation of parental rights from a parent, and regulation of access to a child (matters of right of custody);
[RT I 2008, 59, 330 - entry into force 01.01.2009]
3) adoption;
4) extension of the active legal capacity of a minor;
5) establishment of filiation from a person and contestation of an entry concerning a parent after the death of a person;
6) grant of consent for performance of a transaction on behalf of a child or person under guardianship;
6^1) deciding on the return of a child on the basis of the Convention on the Civil Aspects of International Child Abduction (RT II 2001, 6, 33);
[RT I 2008, 59, 330 - entry into force 01.01.2009]
7) other family matters placed within the jurisdiction of the court which cannot be adjudicated in actions.

(2) The court may also adjudicate a matter of determination of a parent's rights to a child and regulation of access to a child in actions if adjudication of such matter is demanded in a divorce case or in an action for ordering support.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) Rulings made in family matters on petition are subject to enforcement as of entry into force thereof unless otherwise provided by law.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 551. Application of provisional legal protection

(1) Upon hearing a family matter on petition, the court may apply, based on a request or at the initiative of the court, measures for securing an action as a measure of provisional legal

protection.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) Before applying provisional legal protection to a minor, the court shall obtain the opinion of the rural municipality or city government of the minor's residence, unless the resulting delay would clearly damage the interests of the minor. If a measure was applied without obtaining the opinion of the rural municipality or city government, such opinion must be obtained at the earliest opportunity.

§ 552. Cooperation with rural municipality and city governments

(1) Where, pursuant to law, participation of a rural municipality or city government is necessary, the court informs such authority of the proceeding. Unless otherwise provided by law, the court informs a rural municipality or city government of a proceeding and circumstances related thereto also in other cases where knowledge of such circumstances is clearly necessary to the rural municipality or city government for the performance of its duties.

(2) In proceedings pertaining to minors or guardianship, the court obtains the position of a rural municipality or city government and sends the rural municipality or city government transcripts of the rulings whereby the proceedings are terminated.

§ 552[1]. Hearing of child

(1) In matters pertaining to a child, the court hears a child of at least 10 years of age in person unless otherwise provided by law. The court may also hear a younger child. The court hears a child in his or her usual environment if, in the opinion of the court, this is necessary in the interests of the matter. If necessary, a child is heard in the presence of a psychiatrist, psychologist or social worker. The court may also permit other persons to be present at the hearing of a child unless the child or representative thereof objects to it.

(2) Upon hearing a child, he or she shall be informed of the object and potential outcome of the proceeding to the extent the child is presumed to be able to understand it unless this can be presumed to result in harmful consequences to the development or upbringing of the child. A child shall be given an opportunity to present his or her position.

(3) Hearing of a child shall be denied only with good reason. If a child is not heard due to the reason that the delay would damage the child's interests, the child shall be heard afterwards at the earliest opportunity.

(4) The court may transfer the task of hearing a child to a court acting based on a letter of request only if it is evident that the court will be able to evaluate the outcome of the hearing even without having directly communicated with the child.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 553. Right of child to independently file appeals

(1) A child of at least 14 years of age with sufficient capacity to exercise discretion and will has the right, in a family matter on petition pertaining to his or her person, to file an appeal against a ruling without the assistance of his or her legal representative. The same also applies to other matters where a child must be heard before adjudication of the matter.

(2) A child shall be personally informed of the rulings against which he or she may file an appeal. The reasoning of a ruling need not be communicated to a child if this could result in harmful consequences to the development, upbringing or health of the child.

Division 2 Appointment of Guardian for Minor

§ 554. Appointment of guardian for minor

Unless otherwise provided by this Division, the provisions concerning appointment of a guardian to a person with restricted active legal capacity apply to appointment of a guardian for a minor with the exception of the provisions concerning expert assessment.

§ 555. Application of provisional legal protection

(1) If it can be presumed that the prerequisites for appointing a guardian are clearly fulfilled and a delay is likely to endanger the interests of the minor and the child who is at least seven years of age and has sufficient capacity to exercise discretion and will has been heard, the court may apply provisional legal protection by a ruling and, among other, appoint a temporary guardian to the child.

(2) For the purpose specified in subsection (1) of this section, a child may also be heard by a judge acting on the basis of a letter of request.

(3) Where a delay is likely to result in danger, the court may apply provisional legal protection even before a child is heard. In such case the child shall be heard afterwards at the earliest opportunity. A child need not be heard if this would clearly cause significant damage to his or her health or if the person is clearly not able to express his or her will.

(4) Upon selection of a temporary guardian, the wishes of the petitioner and the requirements for guardians prescribed by law need not be considered.

(5) A temporary guardian shall not be appointed for a period longer than six months.

(6) The court may release a temporary guardian from his or her duties if the prerequisites for the release are clearly fulfilled and a delay would result in endangerment of the interests of the person under guardianship.

(7) A ruling on appointment or release of a temporary guardian is valid and subject to enforcement as of the time it is made public.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 556. [Repealed - RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 557. Court ruling

(1) The court appoints a guardian to a minor by a ruling.

(2) A ruling sets out:
1) the person for whom a guardian is appointed;
2) the person or agency appointed as a guardian;
3) the duties of the guardian;
4) whether the minor is permitted to perform transactions without the consent of the guardian and what transactions are permitted.

(2^1) The ruling sets out that guardianship is established until the minor attains the age of majority unless the court appoints a guardian for a shorter period.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) A ruling on establishment of guardianship gives the guardian the right to represent the person under guardianship.

Division 3 Determination of Parent's Rights to Child and Regulation of Access to Child

§ 558. Hearing of parents

(1) In a proceeding pertaining to the rights of a parent to a child, the court hears the parents. As regards the personality rights of the parents, the court hears the parents in person. If a proceeding is conducted in the matter of endangerment of the welfare of a child, the court hears the parents in person and discusses the protection of the child's interests with them.

(2) The court need not hear a parent who has no parental rights or whose children have been placed under guardianship if hearing the parent clearly does not contribute to the adjudication of the matter or clarification of the circumstances.

(3) The court need not hear the parents if the resulting delay would clearly present a danger to the interests of the child.

§ 559. [Repealed - RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 560. Hearing of foster parents and other persons who contribute to raising of child

If a child has lived, for a longer period of time, with one parent or a person entitled to access the child or with a foster family, the court also hears such persons in a matter pertaining to the child

unless this clearly does not contribute to the hearing of the matter or clarification of the circumstances.

§ 561. Settlement of matter by agreement

(1) In a proceeding pertaining to a child, the court shall try, as early as possible and at each stage of the proceeding, to direct the participants towards settling the matter by agreement. The court shall hear the participants as early as possible and draw their attention to the possibility to seek the assistance of a family counsellor and above all, for forming a common position on taking care of and assuming responsibility for the child.

(2) The court may suspend a proceeding pertaining to a child if this does not result in a delay which might endanger the interests of the child and the participants agree to participate in extra-judicial counselling or if, in the court's opinion, there are prospects to settle the matter by way of agreement between the participants due to another reason.

§ 562. Surrender of things prescribed for personal use of child

If the court orders surrender of a child, the court may make, as a means of provisional legal protection, a ruling on surrender of the things prescribed for the personal use of the child.

§ 563. Conciliation procedure in case of violation of ruling regulating access to child or agreement

(1) If a parent informs the court that the other parent violates a court ruling regulating access to the child or an agreement entered into in a notarised format or hinders compliance therewith, the court summons, based on a petition by the parent, the parents to appear before the court in order to settle the conflict pertaining to the child by way of agreement. The court need not summon the parents to appear before the court if application of a conciliation procedure or subsequent extra-judicial counselling has already failed.

(2) The court also conducts the proceeding provided in this section on the basis of a petition by a parent if the parents have agreed on an arrangement on access to the child otherwise than in a notarised format and earlier this arrangement has been operative for a longer period of time and such arrangement of access to the child generally complies with the usual reasonable arrangement.

(3) The court summons the parents in person and explains the potential legal consequences of failure to appear. Where necessary, the court also summons a representative of a rural municipality or city government to be present at the hearing.

(4) The court discusses with the parents the consequences of the inability to access the child on the welfare of the child and draws their attention to potential coercive measures for compliance with the ruling or agreement. The court also draws their attention to the potential restriction or deprivation of the right of access and to the fact that they have an opportunity to seek the guidance of a family counsellor.

(5) The court shall try to reach an agreement between the parents concerning access to the child.

(6) If the parents agree on an arrangement concerning access to the child which differs from the arrangement provided by the court ruling or an earlier agreement and this is not contrary to the interests of the child, the agreement is recorded as a judicial compromise and the court approves it by a ruling substituting for the former ruling or agreement.

(7) If an agreement on regulating access is not reached in court or subsequently in family counselling, or if one of the parents fails to appear before the court or refuses to use the opportunity of seeking the guidance of a family counsellor, the court makes a ruling whereby it declares the failure of the conciliation procedure and determines:
1) the coercive measures which are to be applied;
2) the extent to which the ruling or agreement on access must be amended;
3) the changes which need to be made in the parents' rights to the child.

(8) In order to ensure compliance with and eliminate the violation of a court ruling or agreement regulating access to a child, an enforcement proceeding may be conducted only based on the ruling containing the provisions of clause (7) 1) of this section unless otherwise provided by law.

(9) The court conducts the proceeding specified in this section within 60 days after the filing of a petition.
[RT I, 29.06.2012, 3 - entry into force 01.01.2013]

§ 563[1]. Communication of ruling

A ruling on a matter of right of custody of a parent serves as a basis for amending the vital statistics information of a person. The court sends the ruling to a vital statistics office within ten days after the entry into force of the ruling for entry of the information concerning the right of custody in the population register.
[RT I 2009, 30, 177 - entry into force 01.07.2010]

Division 4 Adoption

§ 564. Petition for adoption

(1) The court decides on an adoption only on the basis of the application of a person wishing to adopt.

(2) The name of the person whom the petitioner wants to adopt, the year, month and day of such person's birth, and any known data concerning such person's parents are set out in the petition. If the petitioner wants to change the name of the child, the person shall indicate so in the petition.

(3) In a petition, the petitioner indicates the year, month and day of the petitioner's birth, and the facts which prove that he or she is capable of raising the child, caring for the child and maintaining the child.

(4) If the petitioner is married, he or she annexes the written consent of his or her spouse to adoption to the petition unless pursuant to law, the spouse's consent is not needed for adoption.

§ 565. Hearing of petitioner

The court hears the petitioner in person in a matter of adoption unless the petitioner has good reason for not appearing before the court.

§ 566. [Repealed - RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 567. Opinion of county governor and Ministry of Social Affairs

(1) The court orders the county governor of the residence of a child to gather information necessary for the adjudication of the adoption of the child and to submit such information to the court.

(2) The county governor submits to the court information on the health, financial situation and housing of the petitioner, and provides an opinion on whether the petitioner is capable of raising the child, caring for the child and maintaining the child.

(3) If the residence of the petitioner is in a foreign state, the duties provided in subsections (1) and (2) of this section are performed by the Ministry of Social Affairs instead of a county governor.

§ 568. Ruling on adoption

(1) A ruling on adoption sets out the name of the adopted child and his or her other personal data to be entered in the register and, upon the change of his or her given name or surname, his or her new given name or surname, and the name of the adoptive parent and his or her other personal data to be entered in the register as well as the legal basis for adoption. If a parent's consent to adoption is not required, it is so indicated in the ruling.

(2) A ruling on adoption enters into force as of its service on the adoptive parent. A ruling on adoption is not subject to appeal or amendment.

(3) The court sends a ruling on adoption to the vital statistics office after the ruling has entered into force. The ruling serves as a basis for amending the vital statistics information of the adopted child.
[RT I 2009, 30, 177 - entry into force 01.07.2010]

(4) The petitioner may file an appeal against a ruling on refusal to satisfy a petition.

§ 569. Invalidation of adoption

(1) In a proceeding for invalidation of adoption, the court hears the county governor or, if the adoptive parent resides in a foreign state, the Ministry of Social Affairs. If possible, the adoptive parent is also heard.

(2) In a proceeding for invalidation of adoption, the court appoints a representative for the adopted child.

(3) A ruling on invalidation of adoption enters into force and is subject to enforcement after it is no longer subject to appeal.

Division 5 Extension of Active Legal Capacity of Minor

§ 570. Commencement of proceedings

The court decides the extension of the active legal capacity of a minor based on the petition of the minor himself or herself, or the minor's parent or guardian, or a rural municipality or city government of the residence of the minor.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 571. Content of petition

(1) A petition sets out:
1) the basis for requesting extension of the active legal capacity of the minor;
2) the data constituting the basis for extension of the active legal capacity.

(2) The consent of the legal representative of the minor to extension of the active legal capacity of the minor is annexed to the petition. Refusal to grant consent shall be set out in the petition.

§ 572. Ordering expert assessment

(1) Where necessary, the court orders an expert assessment to ascertain the level of development of the minor. Before giving an expert opinion, the expert shall question the minor in person.

(2) If the minor with regard to whom expert assessment has been ordered fails to appear before the expert without good reason, the court refuses to hear the petition.

§ 573. Rural municipality or city government in proceedings

At the request of the court, the rural municipality or city government of the residence of the minor gathers and submits to the court information needed for extension of the active legal capacity of the minor, and provides its opinion on the extension of the active legal capacity.

§ 574. Hearing of persons

(1) [Repealed - RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) [Repealed - RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) [Repealed - RT I 2008, 59, 330 - entry into force 01.01.2009]

(4) If the minor fails to appear at the hearing of him or her without good reason, the court refuses to hear the petition.

(5) In the course of the proceeding, the court asks for the position of the legal representatives of the minor. At the request of the minor, another person close to him or her shall be granted an opportunity to provide an opinion unless this significantly delays the proceeding.

(6) If extension of active legal capacity is requested for the purpose of contracting marriage, the person wishing to marry the minor is also heard in person by the court.

§ 575. Court ruling

(1) The court decides the extension of a minor's active legal capacity by a ruling.

(2) A ruling sets out:
1) the person whose active legal capacity is extended;
2) the transactions or legal acts which the minor is permitted to perform without the consent of his or her legal representative.

§ 576. Amendment and annulment of ruling

The provisions concerning a ruling on the extension of active legal capacity correspondingly apply to the amendment and annulment of a ruling on extension of the active legal capacity of a minor.

§ 577. Communication and entry into force of ruling

(1) A ruling enters into force and is subject to enforcement as of its service on the minor.

(2) The court informs other courts and agencies of the ruling if this is clearly in the interests of the minor, third parties or the public. At the request of the minor, the court publishes a notice in the publication *Ametlikud Teadaanded*.

§ 578. Filing of appeal against ruling

(1) A ruling on extension of the active legal capacity of a minor, a ruling on amendment or annulment of such ruling and a ruling on refusal to satisfy a petition for making such ruling is subject to appeal by the appellant, the minor and the rural municipality or city government of the

residence thereof.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) An appeal against a ruling shall be filed not later than five months after the date on which the ruling was served on the minor.

Division 6 Establishment of Filiation from Person and Contestation of Entry Concerning Parent after Death of Person

§ 579. Petition for establishment of filiation and contestation of entry

(1) The court hears a matter of establishment of filiation from a deceased person or contestation of an entry in a birth registration or the population register concerning the parent of a deceased person only based on a petition.

(2) A petition for establishment of filiation of a person from a deceased person or contestation of an entry made in a birth registration or the population register concerning the parent of a deceased person may be filed by the person the establishment of whose filiation is requested or whose filiation is contested, his or her guardian or a rural municipality or city government.

(3) The petition sets out the circumstances based on which the person from whom filiation is to be established can be considered to be the parent or based on which the person entered in the birth registration or the population register cannot be considered to be the parent.
[RT I 2009, 30, 177 - entry into force 01.07.2010]

§ 580. Hearing of persons

(1) The court hears the other parent of the child, and the parents, spouse and adult children of the deceased person, and any other persons whose hearing the court deems necessary.

(2) The court may refuse to hear a person specified in subsection (1) of this section only if the person is incapable of providing statements for an extended period of time or his or her whereabouts are unknown.

(3) If a petition is filed by the mother or guardian of a minor child, the court also asks for the opinion of the rural municipality or city government of the residence of the child.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 581. Ordering expert assessment

If necessary, the court orders an expert assessment to establish filiation if this is possible without exhuming the body from its place of burial.

§ 582. Court ruling on petition for establishment of filiation or contestation of entry concerning parent

(1) A ruling on establishment of filiation sets out the name of the person whose filiation has been established and his or her other personal data subject to entry in the register, and the name of the person from whom filiation has been established and his or her other personal data subject to entry in the register.

(2) A ruling on establishment of the fact that an entry in a birth registration or the population register concerning a parent is incorrect and the child does not descend from a deceased person sets out the same data concerning the persons who are deemed not to be parent and child.
[RT I 2009, 30, 177 - entry into force 01.07.2010]

(3) A ruling whereby the court decides on a petition for establishment of filiation or a petition for contestation of entry in a birth registration or the population register concerning a parent enters into force and is subject to enforcement after the expiry of the term for filing appeals against the ruling.
[RT I 2009, 30, 177 - entry into force 01.07.2010]

(4) The court sends a ruling on establishment of filiation or on incorrectness of an entry concerning a parent to the vital statistics office after entry into force thereof. The ruling serves as a basis for amending the vital statistics information of child.
[RT I 2009, 30, 177 - entry into force 01.07.2010]

§ 583. Filing of appeal against ruling

A ruling on establishment of filiation or on incorrectness of an entry concerning a parent, or a ruling on refusal to satisfy a petition is subject to appeal by the petitioner, or the parents, spouse or adult children of the deceased person, or the rural municipality or city government of the residence of the petitioner.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

Chapter 57 APPLICATION OF ESTATE MANAGEMENT MEASURES

§ 584. Security for costs of application of management measures

(1) The court may obligate the person who files a petition for application of estate management measures or the person in whose interests estate management measures are applied to pay an amount of money prescribed by the court to the account prescribed for such purpose in order to cover for the costs of applying estate management measures if there is reason to believe that the estate is not sufficient for payment.
[RT I, 31.01.2014, 6 - entry into force 01.04.2014]

(2) The ruling specified in subsection (1) of this section is subject to appeal. A ruling of a circuit court concerning an appeal against such ruling is not subject to appeal to the Supreme Court.

§ 585. Hearing of persons

In a proceeding conducted in a matter of application of estate management measures, the court hears the petitioner or the person in whose interests the estate management measures are to be applied, and the person whose appointment as administrator of estate is requested. Where necessary, the court also hears other persons whose rights and interests are affected by the petition.

§ 586. Ruling on application of management measures

(1) Unless otherwise provided by this Chapter, the court decides on application of management measures and appointment of administrator of estate pursuant to the provisions concerning establishment of custody over the property of an absent person.

(2) A ruling on application of management measures and appointment of administrator of estate enters into force as of its service on the administrator. The ruling is also communicated to the petitioner, successors, legatees, and to the creditors of the bequeather and executor of the will.

(3) The court may alter or cancel management measures or release an administrator from his or her duties based on a petition by a successor, legatee, administrator of estate, a creditor of the bequeather or executor of the will, or at the initiative of the court.

(4) A ruling is subject to appeal by the petitioner or another person specified in subsection (3) of this section.
[RT I 2005, 39, 308 - entry into force 01.01.2006]

(5) Application of management measures and appointment of administrator of estate may also be decided by an assistant judge.
[RT I 2010, 38, 231 - entry into force 01.07.2010]

(6) The court makes an entry on application, alteration or termination of estate management measures in the succession register.
[RT I, 09.10.2013, 1 - entry into force 28.10.2013]

§ 587. Costs of management measures

(1) The costs necessary for application of management measures are covered out of assets of the estate. On the directions of the court, assets of an estate may be sold to cover the costs of applying management measures. If the assets of the estate are not sufficient for covering the costs, such costs are covered out of the money specified in subsection 584 (1) of this Code. Money remaining from money paid into the account prescribed by the court is returned.
[RT I, 31.01.2014, 6 - entry into force 01.04.2014]

(2) An appeal against a ruling on covering the costs of applying management measures may be filed by a successor, legatee, the administrator of estate, a creditor of the bequeather or executor of the will. A ruling made by a circuit court concerning an appeal against a ruling is not subject

to appeal to the Supreme Court.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 588. [Repealed - RT I 2010, 38, 231 - entry into force 01.07.2010]

§ 589. Grant of permission for transfer of immovable

(1) A petition for grant of permission for the transfer of an immovable belonging to an estate may be filed by the administrator of estate with the court which applied the estate management measures.

(2) The court decides on the grant of permission by a ruling. An appeal against the ruling may be filed by a successor, legatee, the administrator of estate, executor of the will, a creditor of the bequeather, or a co-owner or joint owner of the immovable. A ruling of a circuit court concerning an appeal against such ruling is not subject to appeal to the Supreme Court.

§ 590. Report of administrator of estate

(1) The administrator of estate submits a report to the court upon the termination of administration. The court may also demand a report from the administrator of estate prior to the termination of administration. Successors and legatees have the right to examine the submitted report.

(2) A report sets out the initial composition of the estate, payments made from the estate and income from income producing assets of the estate.

(3) The court terminates the administration of an estate by a ruling and releases the administrator of estate from his or her duties if the bases for administration of the estate cease to exist.

(4) An appeal against a ruling on the termination of administration or on refusal to terminate administration may be filed by a successor, legatee, executor of the will, a creditor of the bequeather, or joint owner or co-owner of the property belonging to the estate.
[RT I 2005, 39, 308 - entry into force 01.01.2006]

Chapter 58 REGISTRY MATTERS

§ 591. Registers maintained by court

County courts maintain the following registers provided by law:
1) commercial register;
2) non-profit associations and foundations register;
3) land register;
4) ship register;
5) marital property register;
6) commercial pledge register.

§ 592. Procedure for maintaining register

(1) The procedure for maintaining a register is provided by law. The Minister of Justice may establish, by a regulation, technical and operational requirements for the maintaining of registers and making of entries.

(2) The provisions of the Public Information Act concerning databases apply to the registers maintained by the court and the maintenance of registers with the specifications provided by this Act.
[RT I 2007, 12, 66 - entry into force 25.02.2007]

§ 593. Petition for entry

(1) The court makes entries in a register only based on a petition or court decision unless otherwise provided by law.

(2) A petition for entry is filed with the court in the format provided by law by a person authorised by law to submit a petition.

(3) A person who is authorised to submit a petition may withdraw the petition until a ruling on entry is made. In order to withdraw a petition, a petition in the same format as the original petition shall be submitted to the registrar, which shall also set out the reason for the withdrawal of the petition.

(4) The notary who certified or authenticated a petition may represent the petitioner in the adjudication of the registry matter in court. Among other, the notary may submit a petition for withdrawal or amendment of the petition, or an appeal against a ruling on behalf of the petitioner. The petitioner may terminate the notary's right of representation.

§ 594. Court decision replacing petition or consent

If a petition or consent of a person is needed for making an entry, such petition or consent may be replaced by a court decision which has entered into force and is subject to immediate enforcement and which establishes the obligation of the person to contribute to the making of the entry, or establishes a legal relationship based on which the entry must be made.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 595. Competence of judges and assistant judges

(1) Judges and assistant judges are competent to make entries in a register and enter rulings concerning the maintenance of a register therein, including rulings which impose a fine.

(2) An assistant judge shall refer the making of a ruling or entry to a judge:
1) if the law of another state is to be applied;
2) if he or she wishes to derogate from the position of the judge, which is known to him or her;
3) if legal complications become evident upon the review of a petition;

4) if, in his or her opinion, the provision subject to application is contrary to the Constitution or European Union law;
[RT I 2008, 59, 330 - entry into force 01.01.2009]
5) if compulsory dissolution of a legal person, liquidation or appointment of liquidators is being decided;
[RT I 2008, 59, 330 - entry into force 01.01.2009]
6) in other cases provided by law.

(3) A judge may refer the making of a ruling or entry back to an assistant judge. In such case the assistant judge is bound by the position of the judge.

(4) The provisions concerning the removal of judges in this Code apply to the removal of assistant judges.

§ 596. Ruling on entry

(1) In a registry matter, a petition is adjudicated by a ruling on entry and the entry is made based on such ruling.

(2) If a petition has an omission preventing the making of an entry or if a necessary document is missing, and the omission can clearly be corrected, the court sets a term for correcting the omission. If the omissions are not corrected by the end of the term, the court refuses to satisfy the petition by a ruling on entry.

(3) If the court satisfies a petition for entry in full, the court makes an entry in the register without formulating a ruling on entry separately. In such case, the content of the entry is deemed to be the ruling on entry.

(4) If the court satisfies a petition in part, the court makes an entry concerning the satisfied part and a ruling on entry on refusal to satisfy the petition concerning the other part.
[RT I 2006, 7, 42 - entry into force 04.02.2006]

§ 597. Making of entry

(1) A ruling on entry is enforced and an entry is made immediately unless otherwise provided by law.

(2) A ruling on entry on refusal to satisfy a petition is served on the petitioner.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) A ruling on entry, whereby a petition is satisfied, is communicated to the petitioner in the manner prescribed by a regulation of the Minister of Justice.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(4) If an entry is made on the basis of a ruling on entry without a petition, the ruling is served on the persons concerning whom or whose assets the entry is made.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 598. Suspension of proceeding in matter of petition for entry in connection with legal dispute

If for adjudication of a petition for entry, the court conducting proceedings in a commercial registry matter or non-profit associations and foundations registry matter would have to provide an opinion on the disputed legal relationship, the court may suspend the proceeding in the matter of the petition until the time the dispute has been adjudicated by way of actions. If an action has not yet been filed in such case, the court may set the persons concerned a term for filing an action. Proceedings in a commercial registry matter or non-profit associations and foundations registry matter may also be suspended in the case provided in § 356 of this Code.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 599. Filing of appeal against ruling on entry

A ruling on entry on refusal to satisfy a petition or whereby a petition for entry is satisfied in part or a ruling whereby a term is set for correction of omissions for a term longer than six months is subject to appeal by the petitioner. A ruling which is the basis for an entry made at the initiative of the court is subject to appeal by the person to whom the entry pertains.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 600. Correction of incorrect entry

(1) An entry is not subject to appeal but the court maintaining the register may be requested to correct an incorrect entry pursuant to the procedure provided by law.

(2) In the cases provided by law, the court maintaining a register amends data at its own initiative. The court maintaining a register corrects an entry if the ruling on which the entry is based has been annulled or amended.

§ 601. Imposition of fines

(1) If the court has certified information on the entry of incorrect data in a register, or on failure to submit data subject to entry in the register pursuant to law, the court makes a ruling whereby the persons obligated to submit the data are ordered to submit the correct data or file an objection against the ruling, and are cautioned that failure to comply may result in the imposition of a fine. The court may also impose a fine in other cases provided by law.

(2) If a person fails to perform such obligation or fails to file an objection within the term set by the court, the court makes a ruling on imposition of a fine on the person, and repeats the ruling concerning submission of the data made earlier together with a caution that a new fine may be imposed. The court continues such action until the time the obligation is performed or an objection is filed against the ruling.

(3) If an objection is filed against a ruling within the term set by the court and the circumstances set forth in the objection require further clarification, the court summons the persons concerned for clarification of the circumstances.

(4) If the court considers a submitted objection to be justified, the court annuls the ruling made earlier or reduces the fine.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(5) If an objection is not justified, the court makes a ruling on imposing a fine on the person and a new ruling whereby the person is required to perform the obligation. The term prescribed by the new ruling shall not commence before the term for filing appeals against the ruling has expired.

(6) In the case a justified objection is filed against a repeated ruling, the court may also annul the ruling on imposition of fine made earlier or reduce the amount of fine if there is good reason to do so.

(7) Upon imposition of a fine, the court also orders, by a ruling, payment of the procedural expenses by the involved parties.

(8) A person who is fined may file an appeal against the ruling on imposition of the fine. A ruling of a circuit court concerning an appeal against such ruling is not subject to appeal to the Supreme Court.
[RT I 2005, 39, 308 - entry into force 01.01.2006]

Chapter 59 APPOINTMENT OF SUBSTITUTE MEMBER OF MANAGEMENT BOARD OR SUPERVISORY BOARD OF LEGAL PERSON AND APPOINTMENT OF AUDITOR, AUDITOR FOR SPECIAL AUDIT AND LIQUIDATOR FOR LEGAL PERSON

§ 602. Appointment of members of managing bodies of legal person and other persons

Based on the petition of an interested party, the court appoints a substitute member to the management board or supervisory board of a legal person, an auditor, auditor for special audit or liquidator for a legal person in the case provided by law. The court may also appoint a liquidator at the initiative of the court and among other, in the case of compulsory dissolution of a legal person. The court may appoint a substitute member to a managing body of a legal person at its own initiative regardless of any possible restrictions in the articles of association of the legal person if the service of procedural documents to the legal person by the court has failed due to the reason that the members of the managing body are not available due to their stay abroad or due to another reason or their place of stay is not known.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 603. Requirements for appointed persons

(1) The court may appoint to the positions specified in § 602 of this Code every person who conforms to the requirements specified by law and who, in the opinion of the court, is able to perform his or her duties to the extent required.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) Among other, the court may appoint a trustee in bankruptcy to the position of liquidator.

(3) The consent of the person is required for his or her appointment.

§ 604. Procedure for appointment of person

(1) Where possible, a petition for appointment of a person specified in § 602 of this Code shall set out the name of the candidate whose appointment is requested. Upon appointment of a person, the court is not bound by the petition.

(2) If the court is unable to find, within a reasonable period of time, a person conforming to the requirements provided by law who consents to accepting the position, and the petitioner is unable present the court with a suitable candidate within the term set by the court, the petition is refused to be satisfied or the proceeding is terminated. If it is not possible to appoint a liquidator to a legal person in private law which has undergone compulsory dissolution within a reasonable period of time and bankruptcy proceedings have not been initiated against the legal person in private law within a reasonable period of time, the court also orders that no liquidation proceedings are conducted with respect to the person and that the legal person is subject to deletion from the register.

(3) Where possible, the court hears the interested persons before appointing a person. Before appointing an auditor for special audit, the court shall hear the position of the management board and supervisory board and the auditor of the company.

(4) The duties of a member of the management board or supervisory board, an auditor or a liquidator may be specified upon their appointment.

(5) The court may release, at the initiative of the court, a person appointed thereby and appoint a new person.
[RT I 2005, 39, 308 - entry into force 01.01.2006]

§ 605. Remuneration of and compensation of costs to person appointed by court

(1) A person specified in § 602 of this Code may demand that the legal person compensate the costs incurred by the person and pay remuneration for the activities of the person. If the person fails to come to an agreement with the legal person in such matter, the court determines the amount of remuneration payable and the costs subject to compensation by a ruling.

(2) The court may demand that the petitioner or legal person in whose interests a person is appointed pay the amount needed for compensation of costs and payment of remuneration to the account prescribed for such purpose in advance. If the amount determined by the court is not paid by the due date specified by the court, the petition is refused to be satisfied or the proceeding is terminated. If an advance payment is not made in order to cover for the costs of liquidation of a legal person in private law undergoing compulsory dissolution within a reasonable period of time and a bankruptcy proceeding pertaining to the legal person in private law is not initiated within a reasonable period of time, the court may also order that no liquidation proceedings are conducted with respect to the person or such proceedings are terminated and that the legal person is deleted from the register.
[RT I, 31.01.2014, 6 - entry into force 01.04.2014]

§ 606. Validity and filing of appeals against rulings
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(1) The rulings specified in this Chapter are valid and subject to enforcement as of their sending to the legal person.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) A ruling whereby a petition for appointment of a person is satisfied or refused to be satisfied or whereby proceedings are terminated is subject to appeal by the petitioner and the legal person.

(3) A ruling on the amount of remuneration and costs which payment is ordered to a person on the account of a legal person is subject to appeal by the appointed person and the legal person. A ruling prescribing advance payment to the account prescribed by the court is subject to appeal by the person obligated to pay if the amount requested is higher than 300 euros.
[RT I, 31.01.2014, 6 - entry into force 01.04.2014]

(4) A ruling of a circuit court concerning an appeal against a ruling specified in subsection (3) of this section is not subject to appeal to the Supreme Court.
[RT I 2005, 39, 308 - entry into force 01.01.2006]

Chapter 60 DETERMINATION OF AMOUNT OF COMPENSATION PAYABLE TO PARTNERS AND SHAREHOLDERS OF COMPANIES

§ 607. Determination of amount of compensation payable to partners and shareholders of companies

The provisions of this Chapter apply to the determination of the amount of compensation payable to partners and shareholders of companies specified in subsections 363^8 (3), 398 (3), 404 (1), 441 (3), 448 (1), 481 (3) and 488 (1) of the Commercial Code.

§ 608. Petition for determining amount of compensation

(1) The court determines the amount of compensation payable to partners and shareholders of companies pursuant the procedure provided in this Chapter only based on a petition of a partner or shareholder entitled to determine the amount of compensation.

(2) Unless otherwise provided by law, a petition may be submitted within three months after the date on which the takeover resolution was forwarded to the registrar of the commercial register pursuant to § 36310 of the Commercial Code or after the date of the entry of the merger of companies in the commercial register of the seat of the acquiring company, or after the date of the entry of the division of companies in the commercial register of the company being divided, or after the date of the entry of the transformation in the commercial register.

(3) A petition for determination of the amount of compensation shall set out, among other:
1) the person obligated to pay compensation, the number of shares or stocks held by the person and the nominal value of the shares or stocks with a nominal value;
[RT I 2010, 20, 103 - entry into force 01.07.2010]
2) the circumstances which constitute the basis for payment of compensation;
3) the requested amount of compensation and the reasoning for requesting such amount, including any objections to the calculations made by the person who is obligated to pay compensation, provided that the report substantiating the amount of compensation includes such calculation.

(4) The court may set the petitioner an additional term for providing the reasons specified in clause (3) 3) of this section if the petitioner substantiates that the report was not available to the petitioner at the time of submitting the petition for a good reason, and that the petitioner requires the submission of the report during such term from the person obligated to pay compensation.

§ 609. Joint hearing of petitions and appointment of representative to partners and shareholders

(1) After the expiry of the term for payment of compensation provided by law, different petitions for receipt of compensation under the same circumstances are joined and heard in one proceeding.

(2) The court also appoints a common representative or several representatives for the protection of the interests of the partners or shareholders who did not but were entitled to submit a petition for the determination of the amount of compensation, unless the rights of the partners or shareholders clearly are sufficiently protected in another manner.

(3) The court publishes a notice concerning the proceeding and the appointment of a representative for the partners and shareholders in the publication *Ametlikud Teadaanded*. Such notice is also published in at least one national newspaper if the proceeding concerns a public limited company with more than 100 shareholders.

(4) The representative appointed by the court may continue proceedings even after the withdrawal or renunciation of the petition for initiation of the proceeding. In such case, the partners or shareholders represented by the representative are deemed to be the petitioners.

(5) A partner or shareholder to whom a representative was appointed pursuant to the procedure provided in subsection (2) of this section may participate in the proceeding in person or through a representative appointed thereby instead of the representative appointed by the court.

§ 610. Preparation for adjudication of petition for determination of compensation

(1) The court serves a petition for determination of the amount of compensation immediately on the person obligated to pay compensation and to the representatives of the other partners or shareholders.

(2) The court obligates the person obligated to pay compensation to give a written response to the petition. The response shall, among other, set out the person's position on the amount of the compensation to be paid and the size of possible additional payments.

(3) The person obligated to pay compensation shall annex the report which constituted the basis for the calculation and, if possible, an auditor's report to the response. Based on a request of the petitioner or another partner or shareholder or a representative thereof, the court requires that the person obligated to pay compensation forward transcripts of such documents to them free of charge.

(4) The court forwards the response of the person obligated to pay compensation to the petitioner and other partners and shareholders or representatives thereof and sets a term for submission of a written position concerning the response.

(5) When preparing the adjudication of the matter, the court may order an expert assessment, or require that the person obligated to pay compensation submit the documents constituting the basis for the calculation of the compensation or other documents relevant to the adjudication of the matter to the court or the expert, and require that the person obligated to pay compensation or the petitioner make an advance payment of an amount sufficient to cover the procedural expenses. At the request of the person obligated to pay compensation, the court may, after weighing the interests of both parties, prohibit the petitioner from examining the documents which constitute the basis for determining the compensation if a good reason exists to do so including, above all, a need to protect a business secret.

§ 611. Adjudication of matter in court session

(1) The court adjudicates a matter in a court session. With good reason, the court may adjudicate a matter without holding a session.

(2) Regardless of whether or not an expert has earlier provided a written opinion on a matter, the court may summon the expert to a session at the initiative of the court, and hear his or her opinion.

§ 612. Entry into force of ruling on amount of compensation and appeal against ruling

(1) A ruling on a petition for determination of the amount of compensation enters into force and is subject to enforcement after the ruling is no longer subject to appeal pursuant to law, or after the entry into force of a court decision on refusal to satisfy or hear an appeal against the ruling. Based on a ruling on the amount of compensation payable, the partners and shareholders have the right to file claims for payment of compensation.

(2) The ruling specified in subsection (1) of this section applies to all partners and shareholders.

(3) The court also publishes the conclusion of the ruling in the publication *Ametlikud Teadaanded*. If the proceeding concerns a public limited company with more than 100 shareholders, the conclusion of the ruling is also published in at least one national newspaper.

(4) The ruling specified in subsection (1) of this section is subject to appeal by the petitioner, the person obligated to pay or receive compensation or the representative appointed by the court for the partners or shareholders.
[RT I 2005, 39, 308 - entry into force 01.01.2006]

Chapter 61 MATTERS OF APARTMENT OWNERSHIP AND COMMON OWNERSHIP

§ 613. Proceeding on petition in matters of apartment ownership and common ownership

(1) The court adjudicates the following on petition:
1) on the basis of a petition by an apartment owner, matters which arise from the community of the apartment owners or administration of the object of common ownership and concern the mutual rights and obligations of the apartment owners, except for claims arising according to § 9 of the Apartment Ownership Act from specifications concerning termination of a community and claims filed pursuant to § 14 of the Apartment Ownership Act requiring transfer of apartment ownership;
2) on the basis of a petition by an apartment owner or administrator, matters which arise from regulation of administration of the object of common ownership and concern the rights or obligations of the administrator;
3) on the basis of a petition by an apartment owner or third person, matters concerning appointment of an administrator according to subsection 20 (3) of the Apartment Ownership Act;
4) on the basis of a petition by an apartment owner or administrator, matters concerning validity of a decision of apartment owners.

(2) The court also adjudicates, by way of a proceeding on petition, the disputes between co-owners of an immovable, an essential part of which is a residential building, in the issues specified in subsection (1) of this section concerning the use or administration of the dwellings which are the object of common ownership, or the premises or land in joint use, or the decisions of the co-owners.

(3) In issues not regulated by law or an agreement or decision of apartment owners, the court exercises its discretionary powers.

(4) A matter specified in subsection (1) of this section may be heard in actions if it is filed as a counterclaim or together with a claim subject to adjudication by way of actions.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(5) A claim for payment arising from a matter specified in subsection (1) of this section may be filed by way of expedited procedure in matters of payment order.

§ 614. Participants in proceeding

The participants in the proceeding include the apartment owners or co-owners, and in the case specified in clauses 613 (1) 2) and 4) of this Code, also the administrator, and in the case specified in clause 613 (1) 3) of this Code, also a third party.

§ 615. Hearing of matter

(1) As a general rule, the court discusses the matter with the participants in the proceeding orally and endeavours to direct them towards reaching an agreement.

(2) An agreement reached is formalised in writing or minutes are prepared thereof, after which such agreement is deemed to be a judicial compromise, and the court approves it by a ruling.

(3) The court shall set out in the ruling the measures necessary for compliance with the ruling.

§ 616. Provisional legal protection

Upon hearing a matter in a proceeding on petition, the court may apply provisional legal protection necessary for securing the petition based on a petition or at the initiative of the court.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 617. Filing of appeal against ruling

(1) A court ruling on satisfying or refusal to satisfy a petition enters into force and is subject to enforcement after the ruling is no longer subject to appeal pursuant to law or after the entry into force of a court decision on refusal to satisfy or hear or accept an appeal against the ruling.

(2) A court ruling on satisfying or refusal to satisfy a petition is subject to appeal.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 618. Amendment of ruling

Upon a material change in the circumstances, the court may amend a ruling or compromise based on a petition of an involved party in order to prevent serious consequences.

Chapter 61[1] MATTERS OF ACCESS TO PUBLIC ROAD AND TOLERATING UTILITY WORKS
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 618[1]. Proceedings in matters of access to public road and tolerating utility works

(1) Petitions for access to a public road (subsection 156 (1) of the Law of Property Act) and concerning the toleration of utility works (subsection 158 (1) of the Law of Property Act and § 15[2] of the Law of Property Act Implementation Act) are adjudicated pursuant to the procedure provided in this Chapter.

(2) A petition specified in subsection (1) of this section may be heard in actions if it is filed as a counterclaim or together with a claim subject to adjudication by way of actions.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 618[2]. Participants in proceeding

(1) The participants in the proceeding are the petitioner and the owners of immovables whom the adjudication of the matter concerns as well as the rural municipality or city government of the location of the immovables concerned. The court need not involve a rural municipality or city government in the proceeding if it does not concern the interests thereof or it does not contribute to the adjudication of the matter.

(2) At the request of the court, a rural municipality or city government collects and presents data necessary to the court for adjudication of the matter regardless of whether it is involved in the adjudication of the matter as a participant in the proceeding.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 618[3]. Provisional legal protection

Upon hearing a matter, the court may apply provisional legal protection based on a petition or at the initiative of the court.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 618[4]. Hearing of matter

(1) As a general rule, the court discusses the matter with the participants in the proceeding orally and endeavours to direct them towards reaching an agreement.

(2) An agreement reached is formalised in writing or minutes are prepared thereof, after which such agreement is deemed to be a judicial compromise, and the court approves it by a ruling.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 618[5]. Amendment of ruling

Upon a material change in the circumstances, the court may amend a ruling or compromise based on a petition of an involved party in order to prevent serious consequences.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 618[6]. Entry into force of and filing of appeal against ruling

(1) A court ruling on satisfying or refusal to satisfy a petition enters into force and is subject to enforcement after the ruling is no longer subject to appeal pursuant to law or after the entry into force of a court decision on refusal to satisfy or hear or accept an appeal against the ruling.

(2) A court ruling on satisfying or refusal to satisfy a petition is subject to appeal.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

Chapter 62 RECOGNITION AND ENFORCEMENT OF COURT DECISIONS IN CIVIL MATTERS AND OTHER ENFORCEMENT INSTRUMENTS OF FOREIGN STATES

§ 619. Recognition of court decisions and other enforcement instruments of Member States of European Union

(1) The provisions of this Code apply to the recognition and enforcement in Estonia of court decisions and other enforcement instruments of Member States of the European Union to the extent not otherwise provided by Council Regulation 44/2001/EC on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, Council Regulation 2201/2003/EC concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation 1347/2000/EC, Regulation (EC) No 805/2004 of the European Parliament and of the Council, creating a European Enforcement Order for uncontested claims (OJ L 143, 30.04.2004, pp. 15–39), Regulation (EC) No 896/2006, Regulation (EC) No 861/2007, Council Regulation (EC) No 4/2009 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations and other regulations of the European Parliament and of the Council.
[RT I, 14.03.2011, 2 - entry into force 18.06.2011]

(2) [Repealed - RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) [Repealed - RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 619[1]. Implementation of Regulation (EC) No 805/2004 of the European Parliament and of the Council

(1) Certificates under Articles 6(2), 6(3), 9(1) and 24(1) of Regulation (EC) No 805/2004 of the European Parliament and of the Council are issued by the county courts having made the court decision. According to Article 25(1) of the regulation, certification of a public document prepared concerning a claim as a European Enforcement Order is issued by Harju County Court.

(2) The issue of a certificate specified in subsection (1) of this section is adjudicated by the court in written proceedings. The certificate is served on the defendant or debtor and sent to the person having requested the certificate. A ruling on refusal to issue a certificate is served on the petitioner and the petitioner may file an appeal against the ruling.

(3) In the case specified in Article 10(1)(a) of the regulation specified in subsection (1) of this section, the court having made the decision may rectify the ruling on certification of the decision as a European Enforcement Order on the same grounds and pursuant to the same procedure as Estonian court decisions.

(4) In the case specified in Article 10(1)(b) of the regulation specified in subsection (1) of this section, the court having issued a certificate may withdraw the certificate by a ruling on the basis of a petition by the defendant or debtor if the certificate was issued incorrectly. The defendant or debtor may file a petition for withdrawal of the certificate within 30 days after the service of the court decision or another enforcement order and certificate, in the case of service abroad within two months after the service of the court decision or another enforcement order and certificate. An appeal may be filed against a ruling on withdrawal of the certificate or refusal to do so.

(5) In conformity with Article 20(2)(c) of the regulation specified in subsection (1) of this section, a European Enforcement Order is accepted for enforcement in Estonia only if it is prepared in Estonian or English or if Estonian or English translation is annexed to the certificate.

(6) The provisions concerning enforcement proceedings in Estonia apply to the enforcement of a European Enforcement Order in the enforcement proceeding in Estonia and the debtor's legal remedies in so far as not prescribed otherwise by the regulation specified in subsection (1) of this section.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 620. Recognition of court decisions of other foreign states in civil matters

(1) A court decision in a civil matter made by a foreign state is subject to recognition in the Republic of Estonia, except in the case where:
[RT I 2008, 59, 330 - entry into force 01.01.2009]
1) recognition of the decision would be clearly contrary to the essential principles of Estonian law (public order) and, above all, the fundamental rights and freedoms of persons;
2) the defendant or other debtor was unable to reasonably defend the rights thereof and, above all, if the summons or other document initiating the proceeding was not served on time and in the requisite manner, unless such person had a reasonable opportunity to contest the decision and the person failed to do so within the prescribed term;
3) the decision is in conflict with an earlier decision made in Estonia in the same matter between the same parties or if an action between the same parties has been filed with an Estonian court;
4) the decision is in conflict with a decision of a foreign court in the same matter between the same parties which has been earlier recognised or enforced in Estonia;
5) the decision is in conflict with a decision made in a foreign state in the same matter between the same parties which has not been recognised in Estonia, provided that the earlier court decision of the foreign state is subject to recognition or enforcement in Estonia;

6) the court which made the decision could not make the decision in compliance with the provisions of Estonian law regulating international jurisdiction.

(2) A court decision of a foreign state is recognised in Estonia only if the decision has entered into force pursuant to the law of the state which made the decision unless, pursuant to law or an international agreement, such decision is subject to recognition and enforcement as of the time such decision can be enforced in the state of the location of the court which made the decision.

(3) A court decision of a foreign state is recognised in Estonia without a need to conduct separate court proceedings. However, adjudication of its recognition may be requested pursuant to the procedure prescribed in this Chapter for declaring a decision enforceable if there is a dispute on recognition or if it is necessary to a person due to another reason for the purpose of exercising his or her rights.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(4) If adjudication of another court matter depends on the recognition of a court decision of a foreign state, the recognition may be decided by the court adjudicating such court matter.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 621. Procedure for enforcement of court decision of foreign state

Unless otherwise provided by law or an international agreement, a court decision of a foreign state is subject to enforcement in Estonia only after the decision has been declared to be subject to enforcement by the Estonian court.

§ 622. Petition for declaring court decision of foreign state enforceable

(1) A petition for declaring a court decision of a foreign state enforceable is submitted in writing, and the following is annexed thereto:
1) a transcript of the court decision authenticated pursuant to the requirements of the law of the state of the location of the court which made the decision;
2) a document which confirms that an action, summons or other document initiating the proceeding has been served in time on at least one occasion pursuant to the law of such state on the defendant or based on the decision, on another debtor who did not participate in the proceeding;
3) a document which certifies that the decision has entered into force pursuant to the law of the state where the decision was made and has been communicated to the defendant or based on the decision, another debtor;
4) documents concerning the enforcement of the decision if enforcement has already been attempted;
5) documents concerning the enforcement of the decision if the decision has already been enforced;
6) translations into Estonian of the documents specified in clauses 1)–5) of this subsection made by a sworn translator or authenticated by a notary.
[RT I, 23.12.2013, 1 - entry into force 01.01.2014]

(2) A court may set the petitioner a term for submission of the documents specified in subsection (1) of this section. If the circumstances allow, the court may adjudicate a matter without requiring such documents.

(3) In order to secure a petition, the court may apply the measures for securing an action by way of provisional legal protection.

§ 623. Ruling on declaring court decision of foreign state enforceable

(1) Upon adjudication of a petition for declaring a court decision of a foreign state enforceable, the court examines the prerequisites for recognition of the court decision. The court does not verify the correctness of the court decision in the part of the merits of the matter.

(2) [Repealed - RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) If necessary, the court may hear the debtor and the claimant, and obtain an explanation from the court whose decision is to be recognised or enforced.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(4) If enforcement of a decision depends on the provision of a security by the person who, based on the decision, is the claimant, or on other circumstances, or if declaration of enforceability of a decision is requested by a person other than the person specified in the decision as the claimant, or if enforcement of a decision is requested in respect of a person other than the person specified in the decision as the debtor, the court evaluates the existence of the prerequisites for enforcement of the decision based on the law of the state of the location of the court which made the decision and based on the evidence provided by the participants in the proceeding.

(5) [Repealed - RT I 2008, 59, 330 - entry into force 01.01.2009]

(6) In a ruling, the court makes a reference to the right of the claimant to submit the court decision declared to be subject to enforcement to an Estonian bailiff for enforcement.

(7) A ruling on refusing to satisfy a petition is served on the claimant. A ruling on satisfying a petition is served on the claimant and debtor.

§ 624. Amendment or annulment of court decision declared to be subject to enforcement

(1) If a court decision declared to be subject to enforcement is annulled or amended in the state of the location of the court which made the decision, and the debtor can no longer rely on such fact in the proceeding for declaring the decision enforceable, the debtor may file a petition for annulment or amendment of the declaration of enforceability of the decision with the court which declared the decision to be subject to enforcement.

(2) The court adjudicates the petition specified in subsection (1) of this section pursuant to the procedure for adjudicating a petition for declaration of a court decision enforceable.

(3) Among other, the court may, in order to secure a petition by way of provisional legal protection, suspend the enforcement proceeding arising from the decision declared to be subject to enforcement, permit the continuation of the enforcement proceeding only against a security or revoke the enforcement action.

(4) If a petition is satisfied, the court annuls or amends the declaration of a court decision to be subject to enforcement.

§ 625. Filing of appeal against ruling

(1) The claimant may file an appeal against a ruling on refusal to declare a court decision of a foreign state to be subject to enforcement or a ruling on annulment of declaring such decision enforceable.

(2) The claimant and the debtor may file an appeal against a ruling on declaring a court decision of a foreign to be subject to enforcement or a ruling on amendment of declaring such decision enforceable. The term for filing an appeal against a ruling is one month after the date of service of the ruling or, in the case of service of the ruling in a foreign state, two months after the date of service thereof.

(3) Until the end of the term for filing appeals against a ruling on declaring a decision of a foreign state to be subject to enforcement or the entry into force of a decision made concerning an appeal against the ruling, only the measures prescribed for securing an action may be applied for the compulsory enforcement of a court decision of a foreign state. The debtor has the right to prevent compulsory enforcement by providing a security in the amount in which the petitioner is entitled to request compulsory enforcement of the judgment. However, seized movables may be sold in the course of an enforcement proceeding and the money received from the sale may be deposited with the permission of the court if the seized property could otherwise be destroyed or its value could significantly decrease or if deposition of the property is unreasonably expensive.

§ 626. Compensation for damage caused to debtor

If a ruling on declaring a court decision of a foreign state to be subject to enforcement or a declaration of such court decision to be subject to enforcement is annulled or amended, the claimant shall compensate the debtor for the costs incurred by the debtor as a result of the enforcement proceeding or the costs incurred thereby in order to prevent compulsory enforcement.

§ 627. Recognition of other enforcement instruments of foreign states

(1) The provisions of this Chapter correspondingly apply to the recognition and enforcement of enforcement instruments notarised in a foreign state or other public enforcement orders, unless otherwise provided by this section.

(2) A public document prepared in a foreign state is recognised in Estonia as an enforcement instrument if:

1) its format complies with the requirements set for enforcement instruments subject to immediate enforcement prepared in Estonia, and
2) it is subject to immediate enforcement is the state of its preparation, and
3) it is not contrary to Estonian public order.

Chapter 62[1] DECLARATION OF AGREEMENT REACHED THROUGH CONCILIATOR TO BE SUBJECT TO ENFORCEMENT
[RT I 2009, 59, 385 - entry into force 01.01.2010]

§ 627[1]. Filing of petition for declaring agreement reached through conciliator specified in clauses 2 2) and 3) of Conciliation Act to be subject to enforcement

(1) A petition for declaring an agreement reached as a result of conciliation proceedings specified in subsection 14 (1) of the Conciliation Act is filed either by all parties to the agreement or by one party to the agreement, annexing to the petition the written consents of other parties to the agreement.

(2) The court declares the agreement to be subject to enforcement, making a corresponding ruling thereon.

(3) The court refuses to declare an agreement to be subject to enforcement if:
1) the agreement goes beyond the limits established in subsection 14 (1) of the Conciliation Act;
2) the agreement is contrary to good morals or the law or if this violates a significant public interest;
3) the agreement cannot be complied with.

(4) A party to an agreement may file an appeal against the ruling whereby the court refused to declare the agreement reached as a result of conciliation proceedings to be fully or partially subject to enforcement. The term for filing of an appeal against the ruling is 30 days after the date of service of the ruling.
[RT I 2009, 59, 385 - entry into force 01.01.2010]

§ 627[2]. Filing of petition for declaring agreement reached through another person to be subject to enforcement

(1) The court may declare a written agreement reached through a natural person of active legal capacity specified in clause 2 1) of the Conciliation Act whose personal characteristics and character features ensure his or her impartiality and independence to be subject to enforcement on the preconditions and pursuant to the procedure provided in § 627[1] of this Act.

(2) The court organises a court session in order to adjudicate the matter and hears the parties to the conciliation proceeding and the conciliator.

(3) The court verifies whether the conciliation proceeding was conducted impartially and fairly proceeding from the principles provided in the Conciliation Act.

(4) A party to an agreement may file an appeal against the ruling whereby the court refused to declare the agreement reached as a result of conciliation proceedings to be fully or partially subject to enforcement. The term for filing of an appeal against the ruling is 30 days after the date of service of the ruling.
[RT I 2009, 59, 385 - entry into force 01.01.2010]

Chapter 63 OTHER MATTERS ON PETITION

§ 628. Rulings on compulsory administration

(1) The court adjudicates appointment of a compulsory administrator to property, determination of compensation payable to such administrator and other issues related to compulsory administration only based on a petition of an entitled person.

(2) If possible, the court shall hear the involved persons before appointment of a compulsory administrator and determination of compensation payable to such administrator.

§ 629. Compulsory dissolution of legal person

(1) The court initiates compulsory dissolution of a legal person based on a petition of an entitled person or agency, or at the initiative of the court.

(2) If possible, the court hears the members of the managing bodies of the legal person before the compulsory dissolution.

(3) Taking account of the provisions of § 602. – § 606. of this Code, the court also appoint liquidators for the legal person in a ruling on compulsory dissolution.

(4) A ruling on compulsory dissolution is valid and subject to enforcement as of entry into force thereof.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(5) A ruling on compulsory dissolution is subject to appeal by the petitioner and the legal person.

Part 12 PROCEEDINGS IN CIRCUIT COURT

Chapter 64 APPEAL PROCEEDINGS

Division 1 Appeal to Circuit Court

§ 630. Right of appeal

(1) A judgment of a court of first instance is subject to appeal by the parties, and by third parties with independent claims. A third party without an independent claim may file an appeal on the conditions provided in subsection 214 (2) of this Code. The person who files an appeal is an

appellant.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) An appeal cannot be filed if both parties have waived, by a petition submitted to the court, their right to file appeals.

(3) Appeals against default judgments shall be filed pursuant to the procedure provided for in § 420 of this Code.

§ 631. Grounds for appeal

(1) An appeal can only rely on the allegation that the judgment of the court of first instance is based on a violation of a legal provision or that, pursuant to the circumstances and evidence which must be taken into consideration in appeal procedure (§ 652 of this Code), a judgment different from the judgment made by the court of first instance should be made by way of appeal proceedings.

(2) A legal provision has been violated if a provision of substantive law or procedural law has been incorrectly applied or if a legal provision has not been applied in part or in whole although under the circumstances, such provision should have been applied.

(3) An appeal cannot rely on the allegation that such matter should have been adjudicated by an administrative court or that the court of first instance which made the judgement did not have jurisdiction in the matter or that the matter should have been adjudicated in another courthouse. An appeal may rely on the allegation that the Estonian court was not competent to adjudicate the matter internationally or that the matter should have been adjudicated by an arbitral tribunal if such circumstance was also relied on in the county court in a timely manner.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(4) An appeal cannot rely on the circumstance that a matter which should have been adjudicated on petition was adjudicated in actions, except if such circumstance was also relied on in the county court in a timely manner and the adjudication of the matter could depend on it to a significant extent.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 632. Term for appeal

(1) An appeal may be filed within 30 days after the service of the judgment on the appellant but not later than within five months as of the date the judgment of the court of first instance was made public.

(2) If, upon adjudication of a matter, a county court declares in the conclusion of a court judgment the legislation of general application subject to application to be in conflict with the Constitution and refuses to apply the legislation of general application, the term for appeal does not begin to run before the pronunciation of the judgment made by way of constitutional review of the Supreme Court concerning the legislation of general application which was not applied.

(3) If, during the term for appeal, a supplemental judgment is made in a matter, the term for appeal begins to run as of the date of service of the supplemental judgment also with regard to the initial judgment. In the case a judgment made without the descriptive part or statement of reasons is supplemented with the omitted part in accordance with subsection 448 (4^1) of this Code, the term for appeal begins to run again as of the service of the full judgement.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(4) The term for appeal may be reduced, or increased for up to five months as of the making public of the judgment if the parties reach a corresponding agreement and inform the court thereof.

(5) With good reason, a circuit court may, based on the request of the appellant, grant an additional term for substantiating an appeal. An additional term for substantiating an appeal is granted in the case provided in subsection 187 (6) of this Code.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 633. Form and content of appeal

(1) An appeal is filed with the circuit court of the correct jurisdiction.

(2) Among other, an appeal sets out the following:
1) the name of the court which made the appealed judgment, the date of the judgment and the number of the civil matter;
2) the clearly expressed request by the appellant which specifies the extent to which the appellant contests the judgment of the court of first instance and sets out the decision of the circuit court which the appellant requests;
3) the reasoning of the appeal;
4) the time of service of the appealed judgment.

(3) The reasoning of an appeal shall specify:
1) the legal provision which the court of first instance has violated in the judgment or upon making the judgment, or the fact which the court of first instance has established incorrectly or insufficiently;
2) the reason for the violation of the legal provision or the incorrect or insufficient establishment of the fact;
3) a reference to the evidence which the appellant wishes to submit in proof of each factual allegation.

(4) Documentary evidence which was not submitted to the court of first instance and which acceptance the appellant requests from the court is annexed to the appeal.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(5) If new facts and evidence are specified as the reason for filing an appeal, the appeal shall set out the reason for not submitting such facts and evidence to the court of first instance.

(6) If the appellant wants the court to hear a witness or obtain the statement of a party in the proceeding under oath, or to conduct an expert assessment or inspection, this shall be indicated in the appeal together with the reason therefor. In such case, the names and addresses of the witnesses or experts, and their telecommunications numbers, if the numbers are known, shall be indicated in the appeal.

(7) If the appellant wants a matter to be heard in a court session, the appellant shall so indicate in the appeal. Otherwise the appellant is deemed to agree to adjudication of the matter by way of written proceedings.

(8) In the case specified in subsection 448 (4^1) of this Code, the county court is notified at first of the wish to file an appeal.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 634. Amendment of appeal

(1) The appellant may amend and supplement an appeal until the end of the term for appeal and, among other, extend the appeal to parts of the court judgment which were not initially appealed. The provisions concerning appeals apply to amendment of appeals.

(2) The provisions of subsection (1) of this section do not preclude or restrict the appellant's right to submit allegations concerning the interpretation of law, objections against the submissions of the respondent in the appeal proceeding, or new facts or circumstances which arose or became known to the appellant after the expiry of the term for appeal.

§ 635. Filing of counter-appeal

(1) A counter-appeal is an appeal which is filed by a party in response to the appeal of the opposing party and it is heard together with the appeal.

(2) The provisions for appeals apply to counter-appeals unless the provisions of this section provide otherwise. The parts of a court judgment which are not appealed may also be contested in a counter-appeal.

(3) The respondent may file a counter-appeal within 14 days after service of the appeal on the respondent or, if the remaining term for appeal exceeds 14 days, during such term.

(4) A counter-appeal filed after the expiry of the term for appeal, but within the term provided in subsection (3) of this section, is not heard if the appellant discontinues the appeal, the appeal is not accepted or heard, or the proceedings in the matter are terminated.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 636. Request for delivery of file

(1) Immediately after the circuit court receives an appeal, the court requests the file of the matter from the court of first instance which conducted proceedings in the matter. The office of the

court of first instance sends the requested file to the circuit court immediately after receiving a request for delivery of the file. The court of first instance also sends immediately a court decision electronically to the circuit court, unless it is available through the information system of the court.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) After termination of the appeal proceeding, the file is returned to the court of first instance unless the file must be forwarded to the Supreme Court.

§ 637. Grounds for refusal to accept appeal

(1) The court refuses to accept an appeal if:
1) the appeal does not fall within the jurisdiction of that circuit court;
2) the appeal is filed after the expiry of the term for appeal;
3) the state fee on the appeal has not been paid;
4) the person who filed the appeal on behalf of the appellant has not provided proof that the person has the right to represent the appellant;
5) both parties have waived the right to file appeals;
6) presuming that the allegations presented in the appeal are right, the appeal clearly cannot be satisfied.

(2) The court also refuses to accept an appeal if hearing of the appeal is prevented by a violation of the formal and substantive requirements provided for appeals by law and, among other, upon absence from the appeal of the signature of a competent person.

(2^1) An appeal filed in the matter specified in subsection 405 (1) of this Code is accepted only if a permission to file an appeal is granted in the judgment of the county court or if, upon the making of the judgment of the county court, a provision of substantive law was clearly applied incorrectly or a provision of procedural law was clearly violated or evidence was clearly evaluated incorrectly and this could materially affect the decision.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) If an appeal is accepted, acceptance of the counter-appeal may be refused only in the cases specified in clauses (1) 2)–4) and subsection (2) of this section.

§ 638. Deciding on acceptance of appeal

(1) The circuit court decides, by a ruling, on acceptance of an appeal or refusal to accept an appeal immediately after receipt of the appeal.

(2) [Repealed - RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) Prior to refusal to accept an appeal, the court may obtain the opinion of the opposing party concerning the appeal and hear the participants in the proceeding.

(4) A ruling on refusal to accept an appeal shall set out the reason for refusal to accept the appeal. If the court refuses to accept an appeal, the court does not serve the appeal on the respondent but returns it to the appellant by serving it together with any appendixes thereto and the ruling on refusal to accept the appeal on the appellant.

(5) If acceptance of an appeal is refused due to the reason that the matter does not fall within in the jurisdiction of that circuit court, the court forwards the appeal to the circuit court competent to hear the matter. An appeal is deemed to have been filed as of the time of its receipt by the first circuit court. The above also applies in the case an appeal is filed with the court of first instance which made the judgment.

(6) A ruling on refusal to accept an appeal shall be made unanimously by the court panel adjudicating the matter.

(7) A ruling on acceptance of an appeal shall set out, among other, the time of receipt of the appeal by the court.

(8) The court serves a ruling on refusal to accept an appeal on the appellant and forwards it to other participants in the proceeding. The court forwards a ruling on acceptance of an appeal to the participants in the proceeding.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(9) The appellant has the right to file an appeal with the Supreme Court against a ruling whereby the court refuses to accept the appeal.

(10) If the court refuses to accept an appeal and returns it by a ruling, the appeal is deemed to have not been filed.

Division 2 Proceedings in Circuit Court

§ 639. Application of procedural provisions and participants in proceeding

(1) The provisions regulating a proceeding in a court of first instance also apply to an appeal proceeding, unless other provisions regulate the appeal proceeding or the provisions regulating the proceedings in a court of first instance are in conflict with the nature of the appeal proceeding.

(2) The participants in a proceeding in the circuit court are the parties of an appeal proceeding and third parties. The parties of an appeal proceeding are the appellant and the respondent. In the event a contested legal relationship can only be established jointly with regard to all co-plaintiffs or co-defendants, the co-plaintiffs or co-defendants are deemed to be co-appellants or co-respondents regardless of whether they are filing the appeal or the appeal is filed against them.

§ 640. Preparation of matter

(1) After acceptance of an appeal, a circuit court:
1) serves a transcript of the appeal with any annexes thereto to the other participants in the proceeding;
[RT I 2008, 59, 330 - entry into force 01.01.2009]
2) adjudicates the requests of the parties to secure an action or to cancel the securing of an action;
3) adjudicates the requests of the parties to enforce the court judgment immediately or to suspend the enforcement;
4) clarifies whether it is possible to adjudicate the matter by a settlement or in some other manner during the pre-trial proceeding;
5) orders an expert assessment, demands documents and organises an inspection based on a reasoned request of a participant in the proceeding;
6) schedules a court session for hearing the matter unless the matter can be adjudicated without holding a court session;
7) where necessary, sets a participant in the proceeding a term for giving a response to a question which the circuit court deems necessary or demands amendment of the response within the term specified by the court.

(2) After acceptance of an appeal, a member of a court panel of the circuit court given such task prepares the hearing of the matter thoroughly so that when a session is organised, the matter can be adjudicated in one court session.

(3) Upon preparing a matter, a member of the court panel alone adjudicates the requests of the participants in the proceeding and makes the rulings necessary for the preparation of the adjudication of the matter or other rulings of organisational nature and, where necessary, also determines the value of the appeal. Refusal to accept evidence is decided by the court panel.

(4) A member of a court panel has the right, in order to prepare the matter, to take and investigate evidence if this is necessary for facilitating the hearing of the matter in the court session and it may be presumed that the rest of the court panel will be able to evaluate the result of the taking and investigation of the evidence even without directly participating in the taking and investigation of the evidence.

(5) [Repealed - RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 641. Notification of participants in proceeding of appeal

(1) After the court has accepted an appeal, the court serves the appeal on the respondent and obligates the respondent to give a written response to the appeal within the term set by the court and specifies the required content of the response. The court also notifies the respondent of the right to file a counter-appeal.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) The court explains to the other participants in the appeal proceeding that they have the right to submit their position concerning the appeal within the term set by the court.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) If the court schedules a court session for hearing a matter, the court serves the summons on the participants in the proceeding.

(4) The court may permit the respondent and other participants in the proceeding to respond to an appeal orally in a court session if the court finds that a written response is not necessary.

(5) The circuit court may also request the position of the state or local government agencies specified in subsection 393 (3) and (4) of this Code on adjudication of the matter.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 642. Response to appeal

(1) The respondent shall set out, among other, the following in the response to an appeal:
1) whether or not acceptance of the appeal by the circuit court is correct in the opinion of the respondent, unless the respondent had already provided an opinion concerning such matter;
2) whether the respondent considers the appeal to be justified or intends to contest the appeal;
3) defences to the claims and grounds of the appeal, and the facts upon which the respondent relies.

(2) If the respondent sets forth new facts and evidence in order to substantiate the positions thereof, the response shall set out the reason for not submitting such facts and evidence to the court of first instance.

(3) If the respondent requests the hearing of a witness, expert or the statement of a party under oath or the conduct of an inspection from the court, the respondent shall so indicate in the response and provide the reason for such request. In such case, the name, address and telecommunications numbers of the expert or witness shall be indicated in the response.

(4) If the respondent wants a matter to be heard in a court session, the respondent shall so indicate in the response. Otherwise the respondent is deemed to agree to adjudication of the matter by way of written proceedings.

(5) The term for submitting a response to an appeal shall be at least 14 days after the date of service of the appeal.

(6) The court forwards the response to an appeal and the positions of other participants in the proceeding concerning the appeal together with transcripts of documents annexed to the response to an appeal and the positions of other participants in the proceeding concerning the appeal to the other participants in the proceeding.

§ 643. Refusal to hear appeal

(1) The court refuses, by a ruling, to hear an appeal if it becomes evident that the appeal was accepted incorrectly by the circuit court or in other cases provided by law.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) If an omission hindering the hearing of an appeal can obviously be corrected, the court sets the appellant a reasonable term for correcting the omission by a ruling. If the appellant fails to comply with the order of the court by the due date, the court refuses to hear the appeal.

(3) Before making such ruling, the court informs the participants in the proceeding of the intended refusal to hear the appeal and the reasons therefor, and grants the appellant an opportunity to submit an opinion concerning such fact by a due date set by the court. If necessary, the court holds a court session to adjudicate on the refusal to hear a petition.

(4) A ruling on refusal to hear an appeal is subject to appeal to the Supreme Court.

§ 644. Discontinuance of appeal

(1) The appellant may discontinue an appeal until the end of the hearing of the matter or, in the case of written proceedings, until the expiry of the term for submitting petitions.

(2) A petition for discontinuance of an appeal is filed with the circuit court. A petition for discontinuance shall be made in writing unless such petition is made orally in a court session.

(3) In the case an appeal is discontinued, the appellant is deemed not to have performed any procedural acts at the appeal level of court. If the appellant discontinues an appeal, the appellant cannot file a new appeal concerning the same object of appeal and the appellant is required to cover the procedural expenses related to the appeal.

(4) A circuit court makes a ruling on discontinuance of an appeal whereby the appeal proceeding is terminated if the opposing party has not filed an appeal against the judgment of the court of first instance or if the counter-appeal was filed after the expiry of the term for appeal.

(5) If, in the case of discontinuance of an appeal, the court is unable to terminate the proceeding due to an appeal by the opposing party, the court makes a ruling to terminate the proceeding in the part of the appeal which was discontinued. In such case, the proceeding is continued in the part of the other appeal.

(6) The court specifies the legal consequences of discontinuing the appeal in the ruling on discontinuance of the appeal.

(7) A ruling on termination of proceedings in the matter of an appeal or a ruling by a circuit court on refusal to accept the discontinuance of an appeal is subject to appeal to the Supreme Court.

§ 645. Discontinuance of action and compromise

(1) Upon accepting the discontinuance of an action or the approval of a compromise in appeal proceedings, the circuit court annuls, by a ruling, the judgment of the court of first instance and terminates the proceeding. If the court does not accept the discontinuance of an action or does not approve a compromise, the court hears the matter in appeal proceedings.

(2) A ruling on termination of proceedings or a ruling by a circuit court on refusal to accept the discontinuance of an action or to approve a compromise is subject to appeal to the Supreme Court.

§ 646. Adjudication of matter solely on basis of appeal

The court may adjudicate a matter solely on the basis of an appeal if the court finds that a provision of procedural law has been violated in the hearing of the matter in the court of first instance which clearly results in the annulment of the judgment in appeal proceedings (subsection 656 (1)). In such case, the judgment is annulled and the matter is referred to the court of first instance for a new hearing.

§ 647. Adjudication of matter by written proceedings

(1) If neither the appellant nor the respondent demand the hearing of a matter in a court session, the court may examine and adjudicate the matter without hearing the appeal in a court session. In such case the court sets, as soon as possible, a term during which the participants in the proceeding may submit their petitions and positions to the court and the time for making public of the judgment, and notifies the participants in the proceeding thereof.

(2) If, in a written proceeding, the court finds that a matter should be adjudicated in a court session, the court orders a court session.

§ 648. Hearing of matter in session of circuit court

(1) In a circuit court session, the judge who prepared the matter presents a report on the matter, in which he or she reports on the judgment of the court of first instance and contents of the appeal and the response to the extent necessary.

(2) After such presentation, the appellant speaks, followed by third persons on the side of the appellant, the respondent and all the other participants in the proceeding, unless the court orders otherwise. The court may limit the duration of closing arguments and ensures that all participants in the proceeding have equal time to speak. The time granted to a participant in a proceeding for closing arguments shall not be less than ten minutes.

(3) The court may question the participants in the proceeding.

(4) If the court hears a matter without the presence of the appellant or the respondent, the court presents, to the extent necessary, the position of the absent party based on the information in the file.

(5) The court may permit the participants in the proceeding to give closing remarks.

§ 649. Consequences of absence of participants in proceeding from session

(1) If the appellant or respondent does not appear in a court session, a circuit court adjudicates the appeal without the participation thereof or postpones the hearing of the matter. If another participant in the proceeding fails to appear in a court session, a circuit court postpones the session only if both parties submit a joint request to such effect.

(2) If the appellant fails to appear in a court session without giving the court a good reason for failure to appear (§ 422 of this Code) or has not substantiated it, the court may refuse to hear the appeal if the respondent so requests. The court does not refuse to hear an appeal if the appellant has not requested the hearing of the matter in a court session or has asked the court to adjudicate the appeal in the absence of the appellant.

§ 650. Resumption of appeal proceedings

(1) If a circuit court refuses to hear an appeal due to the failure of the appellant and the representative of the appellant to appear in the court session and the failure to notify of a good reason therefor (§ 422 of this Code), the court resumes the proceeding on the basis of a petition of the appellant if there was a good reason for their absence and the court could not be notified of the impediment in time. The appellant shall substantiate the existence of a good reason and the impossibility of notification thereof.

(2) The appellant may file a petition for resuming the proceeding with the circuit court within ten days after the date on which the ruling on refusal to hear the appeal was served on the appellant.

(3) If the appellant fails to appear in a session of a circuit court after the proceeding has been resumed, the appellant no longer has the right to request the resumption of the proceeding.

(4) A ruling by which the resumption of a proceeding is refused is subject to appeal to the Supreme Court.

Division 3 Judgment of Circuit Court

§ 651. Extent of hearing of appeal

(1) In appeal proceedings, a circuit court verifies whether a judgment of a court of first instance is lawful and reasoned only with regard to the parts of the judgment which are appealed.

(2) A party has the right to request the application of a limitation period even if the party did not request the application of such period in the court of first instance.

§ 652. Circumstances and evidence to be considered in appeal proceedings

(1) A circuit court bases the hearing and adjudication of an appeal on:
1) the factual circumstances established by the court of first instance, in so far as no doubt exists concerning the legality or insufficient extent of the procedure used for establishment of such facts, or of the corresponding minutes, and the circuit court does not deem it necessary to re-establish such circumstances;
2) new factual circumstances submitted by the participants in the proceeding in so far as submission thereof is permitted.

(2) A circuit court does not rely on a circumstance or piece of evidence submitted to a court of first instance and legally rejected in a proceeding of the court of first instance.

(3) A circuit court establishes circumstances not established and evaluates evidence not evaluated in a judgment of a court of first instance only if:
1) the circumstance which was relied on or the evidence which was submitted has been disregarded without basis;
2) the circumstance or evidence could not be submitted earlier due to a material violation of a provision of procedural law or for another good reason, including for the reason that the circumstance or evidence was created or became known or available to the party only after adjudication of the matter by the court of first instance.

(4) A party shall provide reasons for and, at the request of the court, substantiate the admissibility of submitting a new circumstance or evidence in the appeal or response. If a party fails to provide reasons for or substantiate the admissibility of submitting a new circumstance or evidence, the court disregards it, except in the case where the evidence is clearly necessary for a more correct adjudication of the matter and the opposing party agrees to the acceptance of the evidence.

(5) A circuit court does not take, investigate or evaluate evidence already taken, investigated or evaluated in the proceeding of a court of first instance, unless a party contests a fact established, based on the evaluation of such evidence, in the judgment of the court of first instance, or contests the procedure for establishment of such fact due to a material violation of procedural provisions, and the circuit court deems the investigation and evaluation of the evidence necessary.

(6) In the appeal instance of court, a party cannot rely on the fact that the court of first instance violated a provision of procedural law, unless the party has filed an objection to it on time in the court of first instance (§ 333 of this Code).

(7) Admittance of a fact presented by a party and admittance of a claim in the proceeding of a court of first instance also remains valid in an appeal proceeding.

(8) A circuit court is not bound by the legal grounds of an appeal.

(9) Before deciding on acceptance of new evidence or relying on new circumstances, a circuit court obtains the position of the opposing party.

§ 653. Re-evaluation of evidence

If a judgment of a court of first instance is contested in an appeal in the part of a circumstance which is based on certain evidence, the circuit court shall set forth, upon amending the court judgment in that part, the reason why the evidence must be re-evaluated.

§ 654. Content of judgment of circuit court

(1) A circuit court adjudicates an appeal against a judgment of a court of first instance by a judgment unless otherwise provided by law. The provisions concerning a judgment of a court of first instance apply to a judgment of a circuit court unless otherwise provided by subsections (2)–(6) of this section.

(2) In addition to the information in the judgement of a court of first instance, a circuit court also specifies the identity of the appellant in the introduction to the judgment of the circuit court.

(2^1) The conclusion shall set out, among other, that an appeal in cassation may be filed with the Supreme Court only through a sworn advocate unless otherwise provided by law. A circuit court also explains the contents of subsection 187 (6) of this Code in the conclusion.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2^2) If a circuit court amends the conclusion of the judgment of the county court, the conclusion of the judgment of the circuit court shall indicate the full wording of the effective conclusion.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) The descriptive part of a judgment of a circuit court sets out the judgment made by the court of first instance and provides a short description of the claims submitted by the parties in appeal proceedings, the factual and legal allegations submitted and evidence provided concerning the claims, and the requests of the parties.

(4) The statement of reasons of a judgment sets out the facts established by the circuit court and the conclusions reached on the basis thereof, the evidence on which the conclusions of the court are based and the Acts which were applied by the circuit court.

(5) The court shall formulate a reasoned opinion on every factual or legal allegation submitted by the parties and among other, provide a short explanation as to why a fact or circumstance is irrelevant to the adjudication of the matter. If a circuit court annuls the judgment of a county court and makes a new judgment, it shall formulate an opinion in its judgment on all the allegations and objections submitted by the parties in the proceeding of the county court.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(6) If a circuit court refuses to amend the judgment of a court of first instance and adheres to the reasoning in the judgment of the court of first instance, the circuit court need not substantiate its judgment. In such case the circuit court shall specify that it agrees to the reasoning in the judgment of the court of first instance.

§ 655. Delivery and entry into force of judgment of circuit court

(1) A circuit court serves a judgment on the participants in the proceeding.

(2) A judgment of a circuit court enters into force above all, if:
1) an appeal in cassation is not filed against the judgment within the term for cassation;
2) an appeal in cassation is not accepted, heard or satisfied, or the cassation proceeding is terminated.

§ 656. Consequences of violation of provisions of procedural law

(1) Regardless of the reasoning of the appeal and the circumstances set forth therein, a circuit court annuls a judgment of a court of first instance and refers the matter for a new hearing to the court of first instance if, in the court of first instance:
1) the principle of legal hearing or the public nature of the proceeding has been materially violated;
2) the judgment concerns a person who was not summoned to court pursuant to the requirements of law;
3) the matter was adjudicated by an unlawful court panel, including a court panel containing a judge who should have removed himself or herself;
[RT I 2008, 59, 330 - entry into force 01.01.2009]
4) a party was not represented by a person so entitled, and the party had not approved such representation in the proceeding;
5) the judgment is not reasoned to a significant extent pursuant to the requirements of law and the circuit court is unable to correct such omission.

(2) In the event specified in subsection (1) of this section, a circuit court need not refer a matter back for another hearing if the omission can be corrected in appeal proceedings. A circuit court also has the right to annul a judgment of a court of first instance regardless of the reasons set out in an appeal and to refer the matter for a new hearing to the court of first instance due to a material violation of some other provision of procedural law if such violation cannot be corrected in an appeal proceeding.

(3) A circuit court adjudicates on the merits of a matter without referring the matter back to the court of first instance if a provision of procedural law has been materially violated but such violation cannot be corrected in the court of first instance or in the appeal proceeding.

(4) If the violation of a provision of procedural law pertains to the part of a decision which is not appealed, the circuit court decides whether to annul such part of the judgment.

§ 657. Rights of circuit court in adjudication of appeal

(1) Upon adjudication of an appeal, a circuit court has the right to:
1) refuse to satisfy the appeal and refuse to amend the judgment;
2) annul the court judgment in part or in full and make a new judgment in the annulled part without referring the matter back to the court of first instance for a new hearing;
2^1) amend the reasons of the judgment without amending the conclusion of the judgment;
[RT I 2008, 59, 330 - entry into force 01.01.2009]
3) annul the court judgment in part or in full and, if the circuit court cannot adjudicate the matter, refer the matter back for a new hearing to the court of first instance in such part;
4) annul the judgment in part or in full and terminate the proceeding or refuse to hear the action.

(2) If a circuit court annuls a default judgment, the court refers the matter for hearing in full to the court of first instance.

(3) If a court of first instance made a judgment although the hearing of the action should have been refused or the proceeding should have been terminated, the circuit court annuls the judgment of the county court by a ruling whereby the hearing of the action is also refused or the proceeding is terminated.

(4) If a court of first instance has adjudicated several claims in a judgment and the proceedings with regard to some of the claims are to be terminated or the hearing of action concerning some of the claims is to be refused, the circuit court adjudicates the matter in full by a judgment.

§ 658. Consequences of annulment of judgment of county court and referral of matter for new hearing

(1) In the case a judgment of a county court is annulled and the matter is referred for a new hearing, the proceeding in the court of first instance is resumed from the point in which the proceeding was before the hearing of the matter was terminated by such court. The county court performs again the procedural acts declared to be unlawful by the judgment of the circuit court.

(2) The positions of a circuit court concerning the interpretation and application of a provision of law contained in the judgment of the circuit court whereby an appealed judgment is annulled are mandatory to the court which made the annulled judgment in the new hearing of the matter.

Chapter 65 APPEAL AGAINST RULING IN CIRCUIT COURT

§ 659. Application of provisions concerning appeal procedure

The provisions concerning appeal procedure apply to the filing of appeals against rulings with and the hearing of appeals by a circuit court, unless otherwise provided by this Chapter or dictated by the nature of an appeal against a ruling.

§ 660. Right to file appeals against rulings

(1) A participant in a proceeding to whom a ruling of a county court pertains may file an appeal against the ruling with a circuit court only if filing of an appeal against the ruling is permitted by law.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) An objection to a ruling not specified in subsection (1) of this section may be filed in an appeal, unless otherwise provided by law.

(3) A ruling which terminates a proceeding on petition in a county court is subject to appeal by the person whose right is restricted by the ruling, unless otherwise provided by law. Other rulings made in a proceeding on petition are subject to appeal only in the cases provided by law.

(4) If a ruling in a proceeding on petition can only be made based on a petition and such petition is not satisfied, only the petitioner can file an appeal against the ruling on refusal to satisfy the petition.

§ 661. Filing of appeal against ruling

(1) An appeal against a ruling is prepared in writing and filed with a circuit court through the county court whose ruling is contested by the appeal.

(2) The term for filing of appeals against rulings is 15 days as of the service of the ruling in the case of rulings made both in actions and in a proceeding on petition unless otherwise provided by law. If there was no obligation to serve a ruling on a person, the term for filing of an appeal against the ruling is calculated as of the time when the court sent it to the person. 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 by law.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) If, upon adjudication of a matter, the court declares in a ruling the legislation of general application subject to application to be in conflict with the Constitution and refuses to apply the legislation of general application, the term for appeal against the ruling does not begin to run before the pronunciation of a judgment made by way of constitutional review of the Supreme Court concerning the legislation of general application which was not applied.

(4) In actions, the term for filing appeals against rulings may be reduced or the right to file appeals against rulings may be excluded by agreement of the parties.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(5) The court may grant a person who filed an appeal against a ruling an additional term for substantiating the appeal if good reason exists therefor. An additional term for substantiating an appeal is granted in the case provided in subsection 187 (6) of this Code.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 662. Content of appeal against ruling

(1) An appeal against a ruling shall set out, among other:
1) the name of the court which made the ruling, the date of the ruling and the number of the civil matter;
2) the matter or person to whom the ruling pertains;
3) a clearly expressed procedural request of the person filing the appeal against the ruling which sets out the extent to which the person contests the ruling of the court of first instance and specifies the decision the person requests;
4) the reasoning of the appeal against the ruling.

(2) The reasoning of an appeal against the ruling shall specify:
1) the factual and legal allegations concerning the circumstances from which the violation in making the ruling arises, and the nature of the violation;
2) a reference to the evidence intended to be used in proof of each factual allegation.

(3) New circumstances and evidence may be submitted in order to substantiate an appeal against a ruling.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(4) [Repealed - RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 663. Hearing of appeal against ruling by county court

(1) A county court decides on acceptance of an appeal against a ruling immediately after receiving the appeal against the ruling. The court verifies the admissibility, according to law, of the filing of an appeal against the ruling, and the conformity of the filing of the appeal against the ruling to the requirements of law and the timeliness of the filing of the appeal against the ruling. The provisions concerning the acceptance of appeals by a circuit court apply to the acceptance of appeals against rulings, unless otherwise provided by law. The acceptance of an appeal against a ruling need not be formulated separately and such fact need not be communicated to the participants in the proceeding.

(2) An appeal may be filed against a ruling by which acceptance of an appeal against a ruling is refused. A ruling made by a circuit court concerning an appeal against a ruling is not subject to appeal.

(3) A county court serves the transcripts of the appeal against a ruling and its appendixes on the participants in the proceeding, whose rights the ruling pertains to and asks for their response.

(4) If a county court finds an appeal against a ruling to be justified, the court satisfies it by a ruling. If a county court finds that an appeal against the ruling can be satisfied only in part, it refuses to satisfy it, unless otherwise provided by law.

(5) If a county court refuses to satisfy an appeal against a ruling, the county court sends it immediately together with any appendixes and related procedural documents annexed thereto to

the circuit court of the correct jurisdiction for hearing and adjudicating. A separate ruling need not be made about refusal to satisfy the appeal against the ruling and it need not be sent to the participants in the proceeding.

(6) If an appealed ruling of a county court was made by an assistant judge, the assistant judge may adjudicate the appeal against the ruling pursuant to the procedure provided in subsections (1)–(4) of this section. If an assistant judge does not satisfy the appeal against the ruling in full within five days after the date on which such appeal was filed, the assistant judge refers the appeal immediately for adjudication to a competent judge who shall be guided upon adjudication of the appeal by the provisions of subsection (5) of this section.

(7) If a request in accordance with subsection 489^1 (3) of this Code is submitted together with an appeal against a ruling concerning a payment order and the corresponding payment order has been made by an assistant judge, the assistant judge refers the appeal immediately for adjudication to a competent judge.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 664. Verification of appeal against ruling by circuit court

(1) Upon receiving an accepted appeal against a ruling, a circuit court verifies whether or not the county court has accepted the appeal correctly, and performs the procedural acts related to the appeal against the ruling which the county court failed to perform.

(2) If, in the opinion of a circuit court, a county court has not accepted an appeal against a ruling correctly, the circuit court makes a ruling on refusal to hear the appeal against the ruling.

§ 665. Suspension of enforcement of ruling contested by appeal against ruling and securing of appeal against ruling

(1) Filing of an appeal against a ruling does not suspend the enforcement of the ruling unless otherwise provided by law. Filing of an appeal against a ruling on payment of a fine suspends the enforcement of the ruling.

(2) A court whose ruling is contested and the circuit court adjudicating the appeal against the ruling may secure the appeal against the ruling before it is heard and among other, suspend the enforcement of the contested ruling or apply other measures of provisional legal protection.

§ 666. Panel of court competent to hear appeal against ruling

(1) In a circuit court, an appeal against a ruling is heard and adjudicated by one judge of the circuit court.

(2) An appeal against a ruling on refusal to accept an action, refusal to hear an action or on termination of a proceeding or against a ruling on refusal to reopen a proceeding on the basis of a petition to set aside default judgement is heard and adjudicated by a panel of a circuit court

consisting of three members, except in the matter specified in subsection 405 (1) of this Code.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) An appeal against a ruling on termination of proceedings in a proceeding on petition is heard and adjudicated by a panel of a circuit court consisting of three members.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 667. Adjudication of appeal against ruling

(1) An appeal against a ruling is adjudicated by a reasoned ruling. If a circuit court refuses to satisfy an appeal against a ruling and this ruling is not subject to appeal to the Supreme Court, the circuit court may make the ruling without the descriptive part and statement of reasons.
[RT I, 29.06.2012, 3 - entry into force 01.01.2013]

(2) If a circuit court finds an appeal against a ruling to be justified, the circuit court annuls the contested ruling and where possible, makes a new ruling. If necessary, the circuit court refers the matter back for a new hearing to the court which made the annulled ruling.

(3) An appeal against a ruling is adjudicated by way of written proceedings unless the court deems it necessary to organise a court session. If necessary, the court which is hearing an appeal against a ruling may take new evidence.

(4) A ruling of a circuit court made concerning an appeal against a ruling is served on the participants in the proceeding. If the ruling is not subject to appeal to the Supreme Court, it suffices to send the ruling to the participants in the proceeding.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(5) A ruling is valid and subject to enforcement as of the service thereof on or sending thereof to the person having filed the appeal against the ruling, unless an appeal can be filed against the ruling and law provides that the ruling is subject to enforcement as of entry into force thereof.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

Part 13 SUPREME COURT PROCEEDINGS

Chapter 66 CASSATION PROCEEDINGS

Division 1 Appeal to Supreme Court

§ 668. Right of appeal in cassation proceedings

(1) A participant in appeal proceedings may file an appeal against a judgment of a circuit court with the Supreme Court if the circuit court has materially violated a provision of procedural law or incorrectly applied a provision of substantive law. A third party without an independent claim may file an appeal in cassation on the conditions provided in subsection 214 (2) of this Code.

(2) An appeal in cassation cannot be filed if both parties have waived, by a petition submitted to the court, their right to file appeals.

(3) An appeal in cassation cannot rely on the allegation that such matter should have been adjudicated by an administrative court or that the court of first instance or circuit court which made the judgement did not have jurisdiction in the matter or that the matter should have been adjudicated in another courthouse. An appeal in cassation may rely on the allegation that the Estonian court was not competent to adjudicate the matter internationally or that the matter should have been adjudicated by an arbitral tribunal if such circumstance was also relied on in the county court or circuit court in a timely manner.

(4) An appeal in cassation cannot rely on the circumstance that a matter which should have been adjudicated on petition was adjudicated in actions, except if such circumstance was also relied on in the county court or circuit court in a timely manner and the adjudication of the matter could depend on it to a significant extent.

(5) An appeal in cassation cannot be filed against a judgment of a circuit court in the part where the judgment of the county court was not contested in appeal proceedings.

(6) A judgment of a county court may be appealed in cassation proceedings without filing an appeal in appeal proceedings if both parties have, before or after the making of a judgment by the county court, but within the term for appeal, waived their right to file appeals on the condition that an appeal in cassation can be filed against the judgment during the term for appeal. The general provisions concerning cassation proceedings apply to the adjudication of and conducting of proceedings regarding the appeal in cassation filed against the judgment of the county court.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 669. Material violation of provision of procedural law

(1) A circuit court has materially violated a provision of procedural law in making a judgment, if at least one of the following circumstances become evident:
1) the principle of legal hearing or the public nature of proceedings has been violated;
2) the court judgment concerns a person who was not summoned to court pursuant to law;
3) the matter was adjudicated by an unlawful court panel, including a court panel containing a judge who should have removed himself or herself;
[RT I 2008, 59, 330 - entry into force 01.01.2009]
4) a party was not represented in the proceeding pursuant to law and the party had not approved such representation in the proceeding;
5) the judgment is not reasoned to a significant extent.

(2) The Supreme Court may also deem a violation not specified in subsection (1) of this section to be a material violation of a provision of procedural law if the violation could affect the result of adjudication of the matter in the circuit court.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 670. Term for cassation

(1) An appeal in cassation may be filed within 30 days after the date on which the judgment was served on the appellant in cassation but not later than five months after the date on which the judgment of the circuit court was made public.

(2) If, upon adjudication of a matter, a circuit court declared in the conclusion of a court judgment the legislation of general application subject to application to be in conflict with the Constitution and refused to apply the legislation of general application, the term for cassation is calculated as of pronunciation of the judgment on the legislation of general application made by way of constitutional review of the Supreme Court.

(3) Based on the request of the appellant in cassation, the Supreme Court may grant, for a good reason, the party which filed the appeal in cassation an additional term for substantiating the appeal. An additional term for substantiating an appeal is granted in the case provided in subsection 187 (6) of this Code.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(4) If, after the making of a judgment of a circuit court and before the entry thereof into force and filing of an appeal in cassation in the matter, a petition for refusal to hear the action or for termination of the proceeding in the matter, including due to discontinuance of the action or compromise, or a petition related to securing the action or another similar petition is filed, the petition is adjudicated by the circuit court that has made the decision. In the case of satisfying the petition for refusal to hear the action or termination of the proceeding, the circuit court may, by a ruling, annul the decision made and refuse to hear the action or terminate the proceeding in the matter.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(5) After the filing of an appeal in cassation, the acts specified in subsection (4) of this section may be made by the Supreme Court even if the appeal has not been accepted yet.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 671. Content of appeal in cassation

(1) An appeal in cassation is submitted to the Supreme Court.

(2) An appeal in cassation shall set out, among other:
1) the name of the court which made the appealed judgment, the date of the judgment and the number of the civil matter;
2) a clearly expressed procedural request of the appellant in cassation which indicates the extent to which the appellant in cassation contests the judgment of the circuit court and specifies the judgment the appellant in cassation requests from the Supreme Court;
3) the reasoning of the appeal in cassation.

(3) The reasoning of an appeal in cassation shall specify:
1) the provision of procedural law which the circuit court has materially violated;

2) the circumstances from which the violation of the provision of procedural law arises and how the incorrect application of the provision could have resulted in an incorrect judgment, together with a reference to the evidence which the appellant intends to use in order to prove each factual allegation concerning the violation of the provision of procedural law;
3) the provision of substantive law which the circuit court has evidently applied incorrectly in its judgment and how the incorrect application of such provision could have resulted in an incorrect judgment;
4) the grounds based on which the appeal in cassation should be accepted.

(4) If the appellant in cassation finds that adjudication of the appeal in cassation has fundamental importance with respect to guaranteeing legal certainty and developing uniform judicial practice or for the further development of law, the appellant in cassation shall so indicate in the appeal in cassation.

(5) [Repealed - RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 672. Appendixes to appeal in cassation

A document in proof of payment of a security in cassation is annexed to an appeal in cassation unless information concerning payment of such security has been included in the appeal in cassation.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 673. Filing of counter-appeal in cassation

(1) A counter-appeal in cassation is an appeal in cassation which is filed by a party in response to the appeal in cassation of the opposing party and it is heard together with the appeal in cassation.

(2) The provisions for appeals in cassation apply to counter-appeals in cassation unless the provisions of this section provide otherwise.

(3) The respondent may file a counter-appeal in cassation after the appellant in cassation has filed an appeal in cassation even after the expiry of the term for appeal in cassation or if an independent appeal in cassation by the respondent has been rejected. The parts of a court judgment which are not contested in an appeal in cassation may also be contested in a counter-appeal in cassation.

(4) The respondent may file a counter-appeal in cassation within 14 days after service of the appeal in cassation on the respondent or if the term for appeal in cassation is longer than 14 days, during the rest of the term.

(5) A counter-appeal in cassation filed after the expiry of the term for appeal in cassation, but within the term provided in subsection (4) of this section, is not heard if the appellant in cassation discontinues the appeal in cassation, the appeal in cassation is not accepted or heard, or

the proceedings in the matter are terminated.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 674. Amendment of appeal in cassation

(1) The appellant in cassation may amend and supplement an appeal in cassation until the end of the term for appeal in cassation and, among other, extend the appeal to parts of the court judgment which were not initially appealed. The provisions concerning appeals in cassation apply to amendment of appeals in cassation.

(2) The provisions of subsection (1) of this section do not preclude or restrict the right of the appellant in cassation to submit allegations concerning the interpretation of law and objections against the submissions of the opposing party made in the cassation proceeding.

§ 675. Request for delivery of procedural documents

(1) On receipt of an appeal in cassation, the Supreme Court immediately requests that the circuit court which conducted proceedings in the matter forward the file and electronically transfer the court decision to the Supreme Court. After receiving such request for delivery of the documents, the circuit court immediately sends the file and court decision to the Supreme Court. The sending of the court decision is not requested if the decision is available through the information system of the court.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) After the end of cassation proceedings, the Supreme Court returns the file to the corresponding court.

§ 676. [Repealed - RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 677. Notification of participants in proceeding of appeal in cassation

(1) After receiving an appeal in cassation which conforms to the requirements, the Supreme Court immediately informs the other participants in the proceeding thereof and serves a transcript of the appeal in cassation together with any appendices thereto on them.

(2) The Supreme Court informs the respondent of the following:
1) the time of receipt of the appeal in cassation by the court;
2) the obligation of the respondent to give a written response to the appeal in cassation during the term set by the court;
2^1) the right of the respondent to file a counter-appeal in cassation;
[RT I 2008, 59, 330 - entry into force 01.01.2009]
3) the mandatory contents of the response.

(3) The Supreme Court notifies the other participants in the proceeding of the time the court received the appeal in cassation and explains to them their right to submit their position

concerning the appeal in cassation during the term set by the court.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(4) Upon service of an appeal in cassation on a participant in the proceeding, the court informs the participant in the proceeding whether and which petitions the participant in the proceeding can file, that the participant in the proceeding is permitted to perform other procedural acts only through a sworn advocate, and that any procedural acts which are not performed through a sworn advocate are not taken into consideration in adjudicating the appeal in cassation.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(5) In the case provided in subsection 679 (2) of this Code, the appeal in cassation is not served on the other participants in the proceeding and their response is not obtained before the adjudication of the acceptance of the appeal.

§ 678. Response to appeal in cassation

(1) The respondent shall provide the court with a written response to an appeal in cassation.

(2) Among other, the respondent shall set out the following in the response to an appeal in cassation:
1) whether any omissions exist which hinder the conduct of proceedings regarding the appeal in cassation;
2) whether or not the appeal in cassation should be accepted;
3) whether the respondent considers the appeal to be justified or intends to contest the appeal;
4) defences to the claims and grounds of the appeal, and the facts upon which the respondent relies.

(3) [Repealed - RT I 2008, 59, 330 - entry into force 01.01.2009]

(4) The term for submitting a response shall be at least 20 days after the date of service of the appeal in cassation.

(5) The Supreme Court forwards the response and any other positions of the participants in the proceeding together with transcripts of the documents annexed to the response or positions to the other participants in the proceeding.

§ 679. Deciding on acceptance of appeal in cassation

(1) The Supreme Court decides to accept an appeal in cassation or refuse to accept an appeal in cassation by a ruling within a reasonable period after the expiry of the term set to the respondent and third parties for giving a response to the appeal in cassation and providing positions concerning the appeal.

(2) If an appeal is evidently unjustified or evidently justified, the acceptance of the appeal may also be adjudicated without sending the appeal to the other participants in the proceeding or before the expiry of the term specified in subsection (1) of this section.

(3) The Supreme Court accepts an appeal in cassation if the appeal in cassation conforms to the requirements of law, has been submitted in a timely manner and, if:
1) the circuit court has evidently applied a provision of substantive law incorrectly in its judgment and the incorrect application of such provision could have resulted in an incorrect judgment;
2) the circuit court has materially violated a provision of procedural law in making the judgment and this could have resulted in an incorrect judgment;
3) the adjudication of the appeal in cassation has, regardless of the provisions of clauses 1) and 2) of this subsection, fundamental importance with respect to guaranteeing legal certainty and developing a uniform judicial practice or for the further development of law.

(4) Regardless of the provisions of clauses (3) 1) or 2) of this section, the Supreme Court need not accept an appeal in cassation filed in a matter of a proprietary claim if the appellant in cassation contests the judgment of the circuit court to an extent less than ten times the minimum monthly wage established by the Government of the Republic.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(5) The Supreme Court sends a ruling on acceptance of an appeal in cassation or on refusal to accept an appeal in cassation to the participants in the proceeding. If an appeal in cassation was not sent to the other participants in the proceeding before adjudication of the acceptance of the appeal in cassation, a transcript of the appeal in cassation is also annexed to the ruling. If an appeal in cassation is accepted, the respondent is also asked to provide a response to the appeal in cassation.

(6) If an appeal in cassation is accepted, acceptance of the counter-appeal in cassation can be refused only on the grounds that the counter-appeal in cassation does not conform to the requirements provided by law. If one of the two or more similar appeals in cassation filed at the same time for acceptance with the Supreme Court is accepted, the other appeals are also accepted.

(7) The result of adjudication of a request for the acceptance of an appeal in cassation is published immediately on the website of the Supreme Court, setting out the number of the civil matter, the names of the participants in the proceeding and the general description of the object of the action. In the case of adjudication of a request for the acceptance of an appeal in closed proceedings, the website sets out only the result of adjudication of the request, the number of the civil matter and a reference to the fact that the proceeding is closed. Refusal to accept an appeal due to the reason that the appeal did not comply with the requirements provided by law and was therefore returned is not published on the website. Information concerning the adjudication of requests for acceptance of appeals is removed from the website after seven days have passed from the publication of the adjudication of the request.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

Division 2 Procedure in Supreme Court

§ 680. Application of procedural provisions and participants in proceeding in Supreme Court

(1) The provisions regulating the procedure in the county court apply to the cassation procedure, unless other provisions regulate the cassation procedure or the provisions regulating the procedure in the county court are in conflict with the nature of the cassation procedure.

(2) The participants in the proceeding in the Supreme Court are the parties of a cassation proceeding and third parties. The parties of a cassation proceeding are the appellant in cassation and the respondent. If a contested legal relationship can be established only jointly with regard to all co-plaintiffs or co-defendants, the co-plaintiffs or co-defendants are deemed to be co-appellants in cassation or co-respondents regardless of whether or not they are filing the appeal in cassation or the appeal in cassation is filed against them.

§ 681. Preparation of matter

(1) After accepting an appeal in cassation, the Supreme Court:
1) makes a ruling on securing of action or cancellation of securing of action, if such request is justified;
2) adjudicates on the immediate enforcement of a court judgment or suspension of the immediate enforcement of a court judgment, if such request is justified;
3) clarifies whether the matter can be adjudicated in pre-trial proceedings;
4) schedules a court session for hearing the matter unless the matter can be adjudicated by way of written proceedings;
5) where necessary, sets a participant in the proceeding a term for giving a response to a question which the Supreme Court deems necessary, or demands amendment of the response within a term specified by the court.

(2) After acceptance of a matter, a member of the Civil Chamber of the Supreme Court who is given the task of reporting on the matter prepares the hearing of the matter thoroughly so that when a court session is organised, the matter can be adjudicated without interruptions in one court session

(3) The member of the chamber of the court who was assigned the task of reporting on the matter adjudicates alone any requests of the participants in the proceeding in preparation of the matter and makes the rulings necessary for preparing for the adjudication of the matter. The rulings on termination of proceedings in the matter of an appeal in cassation are made by a court panel consisting of at least three members.
A court official shall not make a ruling on termination of cassation proceedings in a matter or the rulings specified in clauses (1) 1) and 2) of this section.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(5) The Supreme Court may also request the position of the state or local government agencies specified in subsection 393 (3) and (4) of this Code on adjudication of the matter.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 682. Refusal to hear appeal in cassation

(1) The court refuses to hear an appeal in cassation by a reasoned ruling if, after acceptance of the appeal, it becomes evident that the appeal in cassation does not conform to the requirements provided by law or the appeal in cassation was filed after the expiry of the term for cassation.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) If an omission hindering the hearing of an appeal in cassation exists and the omission can obviously be corrected, the court sets the appellant in cassation a reasonable term for correcting the omission by a ruling. If the appellant in cassation fails to comply with the order of the court by the due date, the court refuses to hear the appeal in cassation.

§ 683. Discontinuance of appeal in cassation

(1) The appellant in cassation may discontinue an appeal in cassation until the end of the hearing of the matter or, in the case of written proceedings, until the expiry of the term for filing petitions.

(2) A petition for the discontinuance of an appeal in cassation is submitted to the Supreme Court in writing.

(3) In the case an appeal in cassation is discontinued, the appellant in cassation is deemed not to have performed procedural acts at the cassation level of court. If the appellant in cassation discontinues an appeal in cassation, the appellant in cassation cannot file a new appeal in cassation concerning the same object of appeal in cassation and is required to cover the procedural expenses related to the appeal in cassation.

(4) If the opposing party has not filed an appeal against the judgment of the circuit court or if the counter-appeal in cassation was filed after the expiry of the term for cassation, the Supreme Court makes, in the case of discontinuance of the appeal in cassation, a ruling on termination of the proceeding.

(5) If, in the case of discontinuance of an appeal in cassation, the court is unable to terminate the proceeding due to an appeal by the opposing party, the court makes a ruling on termination of the proceeding in the part of the appeal in cassation which was discontinued. In such case, the proceeding is continued in the part of the other appeal.

§ 684. Discontinuance of action and compromise

Upon accepting the discontinuance of an action or the approval of a compromise after a matter has been accepted in cassation proceedings, the Supreme Court annuls any prior decisions in the matter and terminates the proceeding by a ruling. If the court does not accept the discontinuance

of an action or does not approve a compromise, the court hears the matter in cassation proceedings.

§ 685. Adjudication of matter by written proceedings

The court may hear and adjudicate a matter without hearing the appeal in cassation in a court session if it does not consider a court session to be necessary. In such case the court sets, as soon as possible, a term during which the participants in the proceeding may submit petitions and positions to the court and the time for making public of the judgment, and notifies the participants in the proceeding thereof.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 686. Summoning to Supreme Court and absence of participants in proceeding from session

(1) If a matter is to be heard in a court session, the Supreme Court notifies the participants in the proceeding of the time and place of the court session.

(2) If a participant in the proceeding fails to appear in a court session, the Supreme Court may adjudicate the appeal without the participation thereof or may postpone the hearing of the matter if, in the opinion of the Supreme Court, the presence of such participant in the proceeding is necessary for hearing the matter.

§ 687. Hearing of matter in court session

(1) In a session of the Supreme Court, the judge who prepared the matter presents a report on the matter, in which he or she reports, to the extent necessary, on the earlier course of the proceedings and on the content of the appeal and the response.

(2) After such presentation, the appellant in cassation speaks, followed by third persons on the side of the appellant in cassation, the respondent and all the other participants in the proceeding unless the court orders otherwise. The court may limit the duration of closing arguments and ensures that all participants in the proceeding have equal time to speak. The time granted to a participant in a proceeding for closing arguments shall not be less than 15 minutes.

(3) The court may question the participants in the proceeding.

(4) If the court hears a matter without the presence of a participant in a proceeding, the court presents, to the extent necessary, the position of the absent participant in the proceeding based on the information in the file.

Division 3 Judgment of Supreme Court

§ 688. Extent of hearing of appeal in cassation

(1) The Supreme Court verifies in the cassation procedure the correctness of a judgment of a circuit court only to the extent it was appealed.

(2) The Supreme Court is not bound by the legal grounds of an appeal in cassation.

(3) In verifying whether the claim in cassation is reasoned, the Supreme Court considers only the facts which have been established by the judgment of the lower court. In addition to the above, the Supreme Court considers only the facts presented in support of an allegation concerning a material violation by a circuit court of a provision of procedural law, including the facts as evident from the court minutes.

(4) The Supreme Court is bound by the facts established by the court of appeal, except in the case the establishment of a fact is contested by an appeal in cassation and provisions of procedural law have been materially violated upon establishing the fact.

(5) The Supreme Court does not take or investigate evidence, except for evidence which is submitted to the Supreme Court in proof of a material violation of procedural law by a circuit court. Neither does the Supreme Court take or investigate evidence already taken, investigated and evaluated by a lower court.

(6) In the cassation instance of court, a party cannot rely on the fact that the circuit court violated a provision of procedural law in making the judgment unless the party filed an objection to it on time in the circuit court (§ 333 of this Code).

§ 689. Content of judgment of Supreme Court

(1) The Supreme Court adjudicates an appeal in cassation by a judgment, unless otherwise prescribed by law. The provisions concerning judgments of county courts apply to judgments of the Supreme Court unless otherwise provided by subsections (2)–(6) of this section.

(2) In addition to the information in the judgment of a county court, the Supreme Court specifies the identity of the appellant in cassation in the introduction to the judgment.

(2^1) If the Supreme Court amends the conclusion of the judgment of the circuit court or county court, the conclusion of the judgment of the Supreme Court shall indicate the full wording of the effective conclusion.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) The descriptive part of a judgment provides a short description of the course of the proceeding and the court judgments made in the matter, a short review of the claims filed by the parties in the cassation proceeding, the factual and legal allegations concerning such claims, the

evidence submitted concerning the violation of the provision of procedural law and the requests of the parties.

(4) The statement of reasons of a judgment sets out the conclusions of the Supreme Court, the Acts which the Supreme Court applied and the procedural acts of the circuit court which the Supreme Court deems to be unlawful.

(5) If the Supreme Court refuses to amend the judgment of the circuit court and adheres to the reasoning in the judgment of the circuit court, the Supreme Court need not substantiate its judgment. In such case the Supreme Court shall specify that it adheres to the reasoning in the judgment of the circuit court.

(6) With good reason, the Supreme Court may make a judgment on refusal to satisfy an appeal in cassation only in the form of a conclusion.

§ 690. Referral of matter in Supreme Court

(1) Referral of a matter to the full panel of the Civil Chamber, Special Panel of the Supreme Court or the Supreme Court *en banc* for adjudication is decided by a ruling. Such ruling is sent to the participants in the proceeding.

(2) If a matter is to be heard in a court session, the participants in the proceeding are notified of the time and place of the session of the full panel of the Civil Chamber, Special Panel of the Supreme Court or the Supreme Court *en banc*.

§ 691. Competence of Supreme Court in adjudication of appeal in cassation

In adjudicating an appeal in cassation, the Supreme Court has the right to:
1) refuse to satisfy the appeal and refuse to amend the judgment of the circuit court;
2) annul the judgment of a circuit court in full or in part and refer the annulled part to the same or another circuit court for a new hearing;
3) annul any previous judgments in full or in part and refuse to hear the action, or terminate the proceeding in the matter;
4) annul the judgments of a circuit court or county court on the basis specified in subsection 692 (5) of this Code and send the matter to the county court for a new hearing;
5) amend the judgment of a circuit court or annul the judgment of a circuit court and make a new judgment or uphold the judgment of a county court without referring the matter for a new hearing to the lower court if the circuit court has rendered an incorrect legal opinion on the established facts in the judgment and the circuit court has not violated the provision of procedural law specified in § 669 of this Code or if the violation of the provision can be corrected by the Supreme Court.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 692. Grounds for annulment of court judgment in cassation procedure

(1) The grounds for annulment of a court judgment in the cassation procedure are:
1) incorrect interpretation or application of a provision of substantive law, including failure to apply a provision of substantive law although such provision should have been applied under the circumstances, and rendering an incorrect legal opinion on the established facts;
2) a material violation of a provision of procedural law if it could have resulted in an incorrect judgment.

(2) The Supreme Court refuses to satisfy an appeal in cassation but amends the legal reasoning in a judgment of a circuit court if the Supreme Court establishes that the statement of reasons of the judgment of the circuit court contains incorrect interpretation or application of a provision of substantive law but regardless of such finding or due to other circumstances, the conclusion of the judgment of the circuit court is essentially correct.

(3) A judgment of a circuit court contested by an appeal in cassation is annulled to the extent to which the claim submitted in the appeal in cassation is justified.

(4) If the circuit court has violated the provision of procedural law specified in subsection 699 (1) of this Code, the Supreme Court is not bound by the limits of an appeal and annuls the judgment of a circuit court regardless of the appeal and refers the matter to the circuit court for a new hearing. The Supreme Court need not refer a matter for a new hearing if the violation can be corrected in the cassation proceeding. The Supreme Court also has the right to annul a judgment of a circuit court regardless of the reasons set out in an appeal in cassation and to refer the matter to the court of first instance for a new hearing due to a material violation of a provision of procedural law not specified in subsection 669 (1) of this Code if such violation could affect the result of adjudication of the matter in the circuit court and the violation cannot be corrected in the cassation proceeding.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(5) If a county court has violated the provision of procedural law specified in subsection 699 (1) of this Code and a circuit court has not annulled the judgment or referred the matter for a new hearing, the Supreme Court annuls the judgments of the lower courts and refers the matter to the county court for a new hearing. The Supreme Court has the right to annul, together with the judgment of a circuit court, a judgment of a county court also in other cases where it is evident that the circuit court must, in the course of the new hearing of the matter, refer the matter back to the county court, or if it is necessary due to another reason for a quicker adjudication of the matter.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(6) If a circuit court made a judgment although the hearing of the appeal should have been refused or the proceeding should have been terminated, the Supreme Court annuls the judgment of the circuit court by a ruling whereby the hearing of the action is also refused or the proceeding is terminated.

§ 693. Consequences of annulment of judgment of circuit court and referral of matter for new hearing

(1) In the case of annulment of a judgment of a circuit court and referral of the matter for a new hearing, the proceeding in the circuit court is resumed from the point in which the proceeding was before the hearing of the matter was terminated by such court. The circuit court performs again the procedural acts declared to be unlawful by the judgment of the Supreme Court.

(2) The positions set out in a judgment of the Supreme Court on the interpretation and application of a provision of law are mandatory for the court conducting a new hearing of the same matter.

§ 694. Entry into force and publication of judgment of Supreme Court

(1) A judgment of the Supreme Court is sent to the participants in the proceeding and published on the website of the Supreme Court.
[RT I 2010, 19, 101 - entry into force 01.06.2010]

(2) Judgments of the Supreme Court and rulings on refusal to accept an appeal in cassation enter into force on the date they are made public and are not subject to appeal.

(3) The Supreme Court makes a judgment within 30 days after the date of the last court session in which the matter was heard or, in the case of written proceedings, within 30 days after the date of expiry of the term for submission of requests and documents. The term for the making public of a judgment may be extended for up to 60 days with good reason and, above all, due to the large volume or particular complexity of the matter.

Chapter 67 APPEAL AGAINST RULING IN SUPREME COURT

§ 695. Application of provisions regulating cassation proceedings

The provisions concerning cassation proceedings apply to the filing of appeals against rulings with and the hearing of appeals by the Supreme Court, unless otherwise provided by the provisions of this Chapter or otherwise dictated by the nature of an appeal against a ruling.

§ 696. Right to file appeals against rulings

(1) A participant in a proceeding to whom a ruling of a circuit court pertains may file an appeal against the ruling with the Supreme Court only if filing thereof is permitted by law. If a ruling of a county court is subject to appeal pursuant to law, the ruling of the circuit court made concerning the appeal against the ruling is also subject to appeal to the Supreme Court, unless otherwise provided by law.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) An objection to a ruling not specified in subsection (1) of this section may be made in an appeal in cassation, unless otherwise provided by law.

(3) A ruling of a circuit court made concerning on an appeal against a ruling of a county court which terminates a proceeding on petition is subject to appeal by the person whose right is restricted by the ruling, unless otherwise provided by law. Other rulings made in a proceeding on petition are subject to appeal only in the cases provided by law.

(4) If in a proceeding on petition a ruling can only be made based on a petition and such petition was not satisfied, the ruling of a circuit court made concerning an appeal against the ruling on refusal to satisfy the petition is subject to appeal only by the petitioner.

§ 697. Grounds for appeal against ruling

An appeal against a ruling can only rely on the fact that the circuit court has incorrectly applied a provision of substantive law in making the ruling or violated a provision of procedural law in making the ruling and such fact could have resulted in an incorrect court decision.

§ 698. Filing of appeal against ruling with Supreme Court

(1) An appeal against a ruling is filed with the Supreme Court.

(2) The term for filing an appeal against a ruling is 15 days after the date of service of the ruling on the appellant, unless otherwise provided by law.

(3) If, upon adjudication of a matter, a court declares in a ruling the legislation of general application subject to application to be in conflict with the Constitution and refuses to apply the legislation of general application, the term for appeal against the ruling does not begin to run before the pronunciation of a judgment made by way of constitutional review of the Supreme Court concerning the legislation of general application which was not applied.

(4) The court may grant a person who filed an appeal against a ruling an additional term for substantiating the appeal if good reason exists therefor. An additional term for substantiating an appeal is granted in the case provided in subsection 187 (6) of this Code.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 699. Content of appeal against ruling

(1) An appeal against a ruling shall set out, among other:
1) the name of the court which made the ruling, the date of the ruling and the number of the civil matter;
2) the matter or person to whom the ruling pertains;
3) a clearly expressed request of the person filing the appeal against the ruling, indicating the extent to which the person contests the ruling of the circuit court and specifying the judgment of the Supreme Court that the person requests;
4) the reasoning of the appeal against the ruling.

(2) The reasoning of an appeal against a ruling shall set out, among other:
1) the factual and legal allegations concerning the circumstances from which the violation in

making the ruling arises, and the nature of the violation;
2) a reference to the evidence intended to be used in proof of each factual allegation.

(3) [Repealed - RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 700. Suspension of enforcement and securing of appeal against ruling

(1) Filing of an appeal against a ruling does not suspend the enforcement of the ruling unless otherwise provided by law.

(2) The Supreme Court may secure an appeal against a ruling before it is heard and among other, suspend the enforcement of the contested ruling or apply other measures of provisional legal protection.

§ 701. Adjudication of appeal against ruling

(1) The Supreme Court serves transcripts of an appeal against a ruling and any appendices thereto on the participants in the proceeding and requests a response from them unless the ruling does not pertain to the rights of other participants in the proceeding.

(2) An appeal against a ruling is adjudicated by a reasoned ruling by way of written proceedings unless the court deems it necessary to organise a court session.

(3) If the Supreme Court finds an appeal against a ruling to be justified, the Court annuls the contested ruling and where possible, makes a new ruling. Where necessary, the Supreme Court refers the matter back for a new hearing to the circuit court which made the ruling or to another circuit court. The Supreme Court may also annul a ruling of a county court made on the matter and refer the matter for a new hearing to the county court.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

Chapter 68 REVIEW

§ 702. Grounds for review

(1) If new facts become evident in a matter, a new hearing of a court decision which has entered into force may be organised pursuant to the procedure for review on the basis of a petition filed by a party in the case of an action or, in the case of a matter on petition, based on a petition filed by a participant in the proceeding or another person who should have been involved by the court in the hearing of the matter.

(2) The grounds for review are the following:
1) the decision was made by a court panel containing a judge who should have removed himself or herself;
2) failure to inform a participant in the proceeding of the proceeding pursuant to the requirements of law, including failure to serve the statement of claim on the participant in the proceeding or failure to summon the participant in the proceeding to court pursuant to the

requirements of law although the decision was made with regard to the participant in the proceeding;
3) a participant in a proceeding was not represented in the proceeding by a person entitled to do so although the judgment was made with regard to the participant in the proceeding, unless the participant in the proceeding had approved of such representation in the proceeding;
[RT I 2008, 59, 330 - entry into force 01.01.2009]
4) a court decision is unlawful or not reasoned, which arises from the false testimony of a witness, knowingly wrong opinion of an expert, knowingly false interpretation or translation, or falsification of documents, or fabrication of evidence which is established by another court judgment which has entered into force in a criminal matter;
5) a criminal offence which is committed by a judge or a participant in a proceeding or a representative thereof in the hearing of the matter subject to review and which is established by a court judgment which has entered in force in a criminal matter;
6) the court decision is based on an earlier court decision, decision of an arbitral tribunal or administrative act which has been annulled or amended;
7) the Supreme Court declares, by way of constitutional review proceedings, the legislation of general application or a provision thereof on which the court decision in the civil matter subject to review was based to be in conflict with the Constitution;
8) the European Court of Human Rights has established a violation of the Convention for the Protection of Human Rights and Fundamental Freedoms, or Additional Protocols belonging thereto in the making of the court decision, and the violation cannot be reasonably corrected or compensated in any other manner than by review;
8^1) grounds for suspension, which existed at the time the decision was made but were not known and could not have been known to the court, become evident;
[RT I 2009, 67, 460 - entry into force 01.01.2010]
9) another fact or evidence relevant to the matter existed at the time of making the court decision but was not known and could not have been known to the participant in the proceeding, and submission of or relying on such fact or evidence in the proceeding would have evidently resulted in a different court decision.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) The facts specified in subsection (2) of this section are not the grounds for review if such fact did not influence the making of the decision in favour of or against a participant in the proceeding.

§ 703. Restrictions on review

(1) Review of court rulings which are not subject to appeal pursuant to this Code is not permitted.

(2) Review is not permitted if the participant in the proceeding could have relied on the facts which allow review already earlier in the proceeding and above all, by filing an objection or appeal, and also in the event the objection or appeal was not satisfied.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) A petition for review cannot be filed repeatedly based on the same facts.

§ 704. Term for filing of petition for review

(1) A petition for review may be filed within two months after becoming aware of the grounds for review but not before the decision enters into force. A petition for review on the grounds that a participant in a proceeding was not represented in the proceeding may be filed within two months after the date on which the decision was served on the participant in the proceeding and, if the participant in the proceeding had no active civil procedural legal capacity, on the legal representative of the participant in the proceeding. Thereby, public service is not taken into consideration.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) In the case specified in clause 702 (2) 8) of this Code, a petition for review may be filed within six months after entry into force of the decision of the European Court of Justice. In the case specified in clause 702 (2) 7) of this Code, a petition for review may be filed within six months after entry into force of the judgment of the Supreme Court.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) A petition for review cannot be filed if five years have passed from the entry into force of the court decision the review of which is requested. A petition for review on the grounds that a party was not represented or did not participate in the proceeding or in the case specified in clause 702 (2) 8) of this Code cannot be filed if ten years have passed from the entry into force of the court decision.
[RT I 2006, 48, 360 - entry into force 18.11.2006]

(4) [Repealed - RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 705. Application of provisions regulating cassation proceedings
[RT I 2008, 59, 330 - entry into force 01.01.2009]

The provisions concerning appeals in cassation apply to the filing of petitions for review and conduct of proceedings in matters of petitions for review, unless the provisions of this Chapter provide otherwise.

§ 706. Submission of petition for review

(1) A petition for review is filed with the Supreme Court.

(2) Upon submission of a petition for review, a security in cassation shall be paid to the same extent as upon submission of an appeal in cassation.

§ 707. Content of petition for review

(1) A petition for review sets out, among other, the request with regard to the decision, the grounds for the petition, the legal basis for review, the facts in proof of adherence to the term for submission of the petition, and the evidence in proof of the grounds for review and adherence to the term for submission of the petition for review.

(2) A transcript of the decision the review of which is requested, and documents which constitute the grounds for the petition for review or transcripts thereof are annexed to the petition. If the documents are not in the possession of the petitioner, it shall be specified whether the petitioner requests from the court that the court require submission of the documents.

(3) Provision of proof of the circumstances which are the grounds for review is not permitted by filing a request for obtaining a statement of a participant in the proceeding under oath.
[RT I 2005, 39, 308 - entry into force 01.01.2006]

§ 708. Preparation for hearing of petition for review

(1) [Repealed - RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) In order to adjudicate a petition for review of a court decision of a lower court, the Supreme Court requests the file from the lower court.

(3) The Supreme Court serves a transcript of an accepted petition on the opposing party, and requests a written response by a set date. A petition for review is not served and a response is not requested on the same basis as in the case of an appeal in cassation.

(4) A respondent shall indicate whether the respondent consents to the petition. The respondent shall substantiate the objections thereof and where necessary, submit evidence in proof of the objections.

(5) Review of a court decision does not suspend enforcement thereof. The Supreme Court may make a ruling to suspend the enforcement proceeding or allow it to be continued only against a security, or revoke the enforcement action.

§ 709. Acceptance of petition for review

The Supreme Court accepts a petition for review if the facts submitted in the petition give reason to believe that a basis for review provided by law exists.

§ 710. Adjudication of petition for review

(1) If the Supreme Court finds that a petition for review is justified, the Supreme Court annuls the decision and refers the matter for a new hearing to the lower court which made the decision. If the facts are obvious, the Supreme Court amends the decision of a lower court or annuls the decision of a lower court and makes a new judgment or ruling.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) A transcript of the judgment or ruling is sent to the participants in the proceeding.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) [Repealed - RT I 2008, 59, 330 - entry into force 01.01.2009]

(4) [Repealed - RT I 2008, 59, 330 - entry into force 01.01.2009]

Chapter 69 DETERMINATION OF COURT WITH APPROPRIATE COMPETENCE

§ 711. Procedure for determination of court with appropriate competence

(1) In the cases provided by law, a Special Panel formed by the Civil Chamber and the Administrative Chamber of the Supreme Court determines the court with appropriate competence to adjudicate the matter. The Special Panel is formed and chaired by the Chief Justice of the Supreme Court.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) Within two months after receiving a matter, the Special Panel determines by a ruling the court into whose competence the adjudication of the matter falls, without summoning the participants in the proceeding to the hearing of the matter. The participants in the proceeding may submit their positions to the Special Panel in writing.

(3) Upon determination of the court with appropriate competence, the Special Panel of the Supreme Court annuls the court ruling in which the court which was declared to have appropriate competence found that the matter does not fall within the competence of the court and refers the matter for adjudication to the court which made the annulled ruling.

(4) [Repealed - RT I 2008, 59, 330 - entry into force 01.01.2009]

(5) If the Special Panel of the Supreme Court finds that a matter is not subject to adjudication by way of civil or administrative procedure, the Special Panel terminates the proceeding by a ruling.

Part 14 ARBITRAL TRIBUNAL

Chapter 70 GENERAL PROVISIONS

§ 712. Place of conduct of arbitration proceedings

(1) The provisions of this Part apply to arbitration proceedings conducted in Estonia unless otherwise provided by law or an international agreement.

(2) The provisions of §§ 720 and 740 of this Code also apply if the place of conducting the arbitration proceedings is in a foreign state or if the place of conducting the proceedings has not yet been determined.

(3) Until determination of the place of conducting arbitration proceedings in Estonia or in a foreign state, the tasks specified in §§ 721, 724, 725, 727 and 728 of this Code are performed by Estonian courts if the place of business, residence or seat of at least one party is in Estonia.

§ 713. Extent of activity of courts

A court has the right to perform acts in arbitration proceedings only in the cases and to the extent provided by law.

§ 714. Consequences of failure to report violation of law or arbitral agreement

Upon violation of a provision of this Part regulating party autonomy or of a claim agreed on by the parties for the purpose of arbitration proceedings, a party cannot rely on such violation if the party fails to inform the arbitral tribunal of such violation immediately after the party becomes or should have become aware of the violation.

§ 715. Deeming of notices to be delivered

(1) If the place of business, residence or seat of a party or a person entitled to receive a notice is not known, a notice is deemed to have been delivered as of the date on which the party or the person entitled to receive the notice would have received the notice in the case of ordinary delivery by registered letter or in another manner providing proof of delivery at the last known address of the person.

(2) The provisions of subsection (1) of this section do not apply to the service of notices in the course of court proceedings.

§ 716. Proceedings in permanent arbitral tribunals

(1) If the parties have agreed upon conduct of arbitration proceedings in a permanent arbitral tribunal, it is presumed that the agreement of the parties also extends to the procedural rules prescribed by the rules and regulations of the arbitral tribunal or other documents regulating arbitration proceedings.

(2) If this Part provides for the right of a party to file a petition with a court in the case of failure to reach an agreement concerning a procedural issue, it is not permitted in a proceeding conducted by a permanent arbitral tribunal unless the procedural issue cannot be solved based on the procedural rules of the arbitral tribunal.

Chapter 71 ARBITRAL AGREEMENT

§ 717. Definition of arbitral agreement

(1) An arbitral agreement is an agreement between the parties to have an arbitral tribunal resolve a dispute which has already arisen or may arise between them over a determined contractual relationship or a extra-contractual relationship.

(2) An arbitral agreement may be entered into as an independent agreement, or as a distinguishable term which is a part of a contract.
[RT I, 29.06.2012, 3 - entry into force 01.01.2013]

§ 718. Validity of arbitral agreement

(1) The object of an arbitral agreement may be a proprietary claim. An arbitral agreement concerning a non-proprietary claim is valid only if the parties are able to reach a compromise concerning the object of the dispute.

(2) An arbitral agreement shall be null and void if its object is:
1) a dispute concerning the validity or cancellation of a residential lease contract, and vacating a dwelling located in Estonia;
2) a dispute concerning the termination of an employment contract.

(3) A proprietary claim in public law may be the object of an arbitral agreement if the parties are able to enter into a contract under public law concerning the object of dispute.

(4) A prohibition or restriction on referral of certain types of disputes to arbitration may be established by law.

§ 719. Format of arbitral agreement

(1) An arbitral agreement must be entered into in a format which can be reproduced in writing. An arbitral agreement may also be contained in a written confirmation.

(2) If a consumer is a party of an arbitral agreement, such agreement shall be set out in a document bearing the hand-written or digital signature of the consumer.

(3) Failure to comply with the format requirement does not affect the validity of an agreement if the parties agree to the resolution of the dispute by an arbitral tribunal.

§ 720. Arbitral agreement and securing of action in court

Regardless of whether or not the parties have entered into an arbitral agreement, the court has the right to secure the action based on a request of a party before or after the beginning of arbitration proceedings.

Chapter 72 FORMATION OF ARBITRAL TRIBUNAL

§ 721. Formation of arbitral tribunal

(1) The parties agree on the number of arbitrators. If there is no agreement, a dispute is resolved by three arbitrators.

(2) If an arbitral agreement gives one of the parties, in the formation of an arbitral tribunal, an economic or other advantage over the other party which is materially damaging to the other party, such party may request that the court appoint one arbitrator or several arbitrators differently from the appointment which already took place or from the rules of appointment

agreed upon earlier. The request shall be made not later than within 15 days as of the time the party became aware of the formation of the arbitral tribunal.

(3) If a party has submitted the request specified in subsection (2) of this section to the court, the arbitral tribunal may suspend its proceeding.

§ 722. Prerequisites for appointment as arbitrator

(1) Natural persons with active legal capacity may be appointed as arbitrators.

(2) The parties may agree on the qualification requirements of arbitrators.

§ 723. Consent of arbitrator

The written consent of a candidate for arbitrator is required for his or her appointment as arbitrator.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 724. Appointment of arbitrator

(1) The parties may agree on the procedure for appointment of arbitrators.

(2) If an arbitral tribunal is to consist of three arbitrators but the parties have not agreed upon a procedure for their appointment, each party appoints one arbitrator. Such arbitrators then elect the third arbitrator who acts as the presiding arbitrator.

(3) If, in the case specified in subsection (2) of this section, a party has failed to appoint an arbitrator within 30 days after receipt of a corresponding request from the other party or the arbitrators appointed by the parties are unable to elect a third arbitrator within 30 days after their appointment, the court appoints an arbitrator based on a petition of a party.

(4) If an arbitral tribunal is to consist of one arbitrator but the parties have not agreed upon a procedure for the appointment of the arbitrator and are unable to reach a corresponding agreement, the court appoints an arbitrator based on a petition of a party.

(5) If the parties have agreed upon a procedure for the appointment of an arbitrator and one party violates the procedure, or if the parties or both arbitrators fail to reach an agreement, or a third person fails to perform the tasks assigned to him or her in the appointment proceeding, each party has the right to request that the court appoint an arbitrator, unless a different procedure for appointment of an arbitrator has been agreed upon.

§ 725. Appointment of arbitrator by court

(1) The court appoints an arbitrator within 30 days after receipt of a corresponding petition.

(2) The court considers the following in appointing an arbitrator:
1) the conditions agreed upon by the parties concerning the appointment of an arbitrator;
2) any circumstances which ensure the appointment of an independent, impartial and competent arbitrator.

(3) A ruling on appointment of an arbitrator is not subject to appeal.

§ 726. Removal of arbitrator

(1) An arbitrator may be removed if circumstances exist which create a reasonable doubt in his or her impartiality, independence or competence or if the conditions agreed upon by the parties are not fulfilled with respect to the arbitrator. A party may request the removal of the arbitrator appointed thereby if the grounds for removal of the arbitrator became known to the party after the appointment of the arbitrator.

(2) A candidate for arbitrator discloses immediately any circumstances which may create a doubt in his or her impartiality or independence or which may constitute the basis for his or her removal due to another reason. Unless an arbitrator has disclosed such circumstances to the parties earlier, he or she has the obligation to immediately inform the parties of such circumstances during the period between his or her appointment and the end of the arbitration proceeding.

§ 727. Procedure for removal of arbitrator

(1) The parties may agree on the procedure for removal of arbitrators.

(2) If the parties have not agreed on a procedure for removal, a party may submit a petition for removal to the arbitral tribunal within 15 days after the date of formation of the arbitral tribunal or the date of becoming aware of the circumstance specified in subsection 726 (1) of this Code. If an arbitrator refuses to remove himself or herself or if the other party does not agree to the removal, the arbitral tribunal decides on the removal without the participation of the arbitrator to be removed.

(3) If the issue of removal cannot be decided pursuant to the procedure provided in subsection (2) of this section, a party may submit a petition for removal to the court within 30 days after the date on which the party became aware of the rejection of the petition for removal.

(4) The arbitral tribunal may suspend its proceedings until the time the court adjudicates the petition for removal.

§ 728. Inability of arbitrator to perform duties

(1) In the case an arbitrator is unable to perform his or her duties within a reasonable period of time, his or her competence as an arbitrator ends if he or she removes himself or herself or the parties agree on the termination of his or her competence. If an arbitrator refuses to remove himself or herself or the parties fail to reach an agreement concerning the termination of the

arbitrator's competence, each party may file a petition with the court for declaration of the termination of the arbitrator's competence, unless the parties have agreed otherwise.

(2) The provisions of subsection (1) of this section do not preclude a party's right to terminate a contract entered into with an arbitrator.

§ 729. Replacement of arbitrator

(1) Upon termination of a contract entered into with an arbitrator, a new arbitrator is appointed to replace him or her. The appointment is conducted in adherence to the same requirements which were applied upon appointment of the replaced arbitrator. The arbitral tribunal suspends its proceeding until the appointment of a new arbitrator. After suspension the proceeding is resumed from the point at which the proceeding was when it was suspended.

(2) The parties may agree on a procedure for replacement of arbitrators different from the procedure specified in subsection (1) of this section.

Chapter 73 COMPETENCE OF ARBITRAL TRIBUNAL

§ 730. Right of arbitral tribunal to determine its competence

(1) An arbitral tribunal has the right to determine its competence and in connection therewith, also resolve the matter of existence of an arbitral agreement and of the validity of such agreement. In doing so, the arbitral tribunal views the arbitral agreement as an independent agreement not connected to other terms and conditions of the contract.

(2) An objection relating to the competence of an arbitral tribunal shall be submitted not later than in the response to the action. A party may file an objection regardless of whether the arbitrator was appointed by such party.

(3) An objection related to the exceeding of limits of competence by an arbitral tribunal shall be submitted not later than at the time of commencement of the arbitration proceeding concerning which the allegation of exceeding the limits of competence is made.

(4) In the case provided in subsection (2) or (3) of this section, an arbitral tribunal may permit submission of objections at a later time, if a party failed to submit an objection on time with good reason.

(5) If an arbitral tribunal considers itself to have appropriate competence in the matter, the tribunal makes a separate decision concerning an objection submitted pursuant to subsection (2) or (3) of this section.

(6) A party may file a petition with the court specified in subsection 755 (4) of this Code for amendment of the decision of an arbitral tribunal specified in subsection (5) of this section within 30 days after communication of the decision in written form. Filing of a petition does not suspend the arbitration proceeding but the arbitral tribunal may decide to suspend the arbitration

proceeding for the time such petition is adjudicated.
[RT I, 29.06.2012, 3 - entry into force 01.01.2013]

(7) If an arbitral tribunal has declared itself to be incompetent, ordinary jurisdiction is restored, unless the parties have agreed otherwise.

(8) The provisions of this section do not apply if the court has accepted an action for establishment of the validity of an arbitral agreement or the right of an arbitral tribunal to conduct proceedings in a matter. The court shall not accept such action if an arbitral tribunal has already been formed in the matter and the tribunal has not yet declared itself to be incompetent in the matter.

§ 731. Securing of action in arbitral tribunal

(1) An arbitral tribunal may secure an action based on a petition of a party unless the parties have agreed otherwise. The measures for securing actions which restrict personal freedoms shall not be applied. In connection with securing an action, an arbitral tribunal may demand that both parties provide a reasonable security.

(2) The decision on securing an action made based on subsection (1) of this section is enforced based on a court ruling. The court makes the ruling based on a request of a party and allows the enforcement thereof only if application of the same measure for securing the action has not already been requested from the court. The court may rephrase a ruling on securing an action if this is necessary for application of the measure for securing the action. A security shall be provided for a petition for securing an action submitted to the court in the same manner as in the case of securing an action filed with the court.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) The court may annul the securing of an action based on a petition or amend it on the same grounds and pursuant to the same procedure as in the case of securing an action in court proceedings.

(4) Until the formation of an arbitral tribunal which is to resolve the dispute, a competent body of a permanent arbitral tribunal may forward a party's petition for securing an action to the court. The petition is adjudicated pursuant to the procedure provided by law for adjudication of petitions on securing actions.

(5) If it becomes evident that securing an action in the arbitration proceeding was not justified, the party which requested the securing of the action shall compensate the opposing party for the damage created to such party as a result of securing the action or providing a security in order to prevent the application of the measures for securing the action.

Chapter 74 ARBITRATION PROCEDURE

§ 732. General principles of procedure

(1) The parties shall be treated as equal in arbitration proceedings. Both parties shall be granted an opportunity to present their positions.

(2) To the extent not provided for in subsection (1) of this section, the parties have the right to agree on the procedure for the proceeding or refer to the rules and regulations of an arbitral tribunal. The parties shall not deviate from the mandatory provisions of this Part.

(3) If the parties have not agreed on the procedure for the proceeding and such procedure is not provided by this Part either, the procedure for the proceeding is determined by the arbitral tribunal. An arbitral tribunal has the right to decide on the admissibility of evidence, to examine evidence and to be free in its evaluation of the outcome of giving evidence.

§ 733. Place of conduct of arbitration proceeding

(1) The parties may agree on the place of conduct of arbitration proceeding. In case there is no agreement, the arbitral tribunal determines such place and in doing so, endeavours to select a location suitable to both parties.

(2) Regardless of the provisions of subsection (1) of this section, an arbitral tribunal may meet at a place which the tribunal considers suitable in order to hear witnesses, experts or parties, to conduct discussions between the members of the tribunal or to examine things or documents, unless otherwise agreed by the parties.

(3) With the consent of the parties, an arbitral tribunal has the right to permit one of its members to hear witnesses or experts.

§ 734. Language of proceeding

(1) The parties may agree on the language of arbitration proceeding. If there is no agreement, the language of the proceeding is determined by the arbitral tribunal.

(2) Unless otherwise prescribed by the agreement of the parties or a ruling of an arbitral tribunal, the petitions of the parties, the decision of the arbitral tribunal and other notices of the arbitral tribunal shall be prepared and the sessions of the arbitral tribunal shall be held in the language agreed upon or prescribed.

(3) An arbitral tribunal may demand the submission of written certificates together with a translation thereof into the language agreed upon between the parties or prescribed by the arbitral tribunal.

§ 735. Commencement of arbitration proceeding

Unless otherwise agreed by the parties, an arbitration proceeding commences and the action is deemed to have been filed on the date on which the defendant receives the statement of claim for resolution of a dispute by arbitration.

§ 736. Action and response to action

(1) A statement of claim sets out:
1) the name of arbitral tribunal or name of arbitrator;
2) the data of the plaintiff and defendant;
3) the claim of the plaintiff;
4) the circumstances on which the claim is based and evidence in proof of such circumstances which the plaintiff is submitting or intends to submit;
5) a list of annexed documents.

(2) The defendant must present a position concerning the action within the term agreed upon by the parties or prescribed by the arbitral tribunal.

(3) A party may amend or supplement its action in the course of the arbitration proceeding unless the parties have agreed otherwise. An arbitral tribunal does not permit amendment or supplementation of an action if this would cause an unreasonable delay in the proceeding.

(4) The provisions of subsections (1)–(3) of this section also apply to counterclaims.

§ 737. Session of arbitral tribunal and written proceedings

(1) An arbitral tribunal organises a proceeding in oral or written form unless the parties have agreed otherwise. If the holding of a session is not precluded by the parties, the arbitral tribunal holds a session at a suitable time in the course of the proceeding based on the petition of one of the parties.

(2) The parties are immediately notified of a session of the arbitral tribunal and any other meeting of the arbitral tribunal organised for the examination of evidence.

(3) If a party submits a document, the arbitral tribunal immediately informs the other party of such document and sends a transcript of the document to the party. Both parties shall be informed and sent transcripts of expert opinions and other written documents which the arbitral tribunal may consider upon making the decision.

§ 738. Consequences of failure to perform acts

(1) If the defendant fails to respond to the action by the prescribed due date, the arbitral tribunal continues its proceedings. The defendant's failure to respond is not deemed to be admittance of the claim.

(2) If a party fails to appear at a session or fails to submit documentary evidence by the prescribed due date, the arbitral tribunal may continue the proceeding and make a decision based on the facts already established.

(3) If the arbitral tribunal considers the failure to perform an act specified in subsections (1) or (2) of this section to be sufficiently justified, the tribunal disregards the failure to perform such act. Regarding other acts, the parties may agree on different consequences of failure to perform the acts.

§ 739. Expert appointed by arbitral tribunal

(1) An arbitral tribunal may appoint one or several experts to provide an expert opinion on questions prepared by the arbitral tribunal unless the parties agree otherwise. An arbitral tribunal may demand that a party provide an expert with relevant information and with the things or documents necessary for the expert assessment.

(2) Unless the parties agree otherwise, an expert who has provided an expert opinion must participate in a session if a party submits a request to such effect or the arbitral tribunal so demands. A party has the right to question an expert in a session and to invite the party's own expert to present an opinion on the disputed matter.

(3) An expert appointed by an arbitral tribunal may be removed and a corresponding petition for removal may be submitted to the arbitral tribunal pursuant to the same procedure which regulates the removal of arbitrators.

§ 740. Assistance of court in attestation acts and other court activities

(1) If an arbitral tribunal is not competent to perform an attestation act or to conduct another court activity, the arbitral tribunal or a party, with the consent of the tribunal, may request the assistance of a court.

(2) In adjudicating the petition specified in subsection (1) of this section, the court adheres to the procedural provisions regulating attestation and other court activities. Arbitrators have the right to participate in an attestation proceeding conducted by a court and to pose questions.

(3) The court prepares minutes of a procedural act and immediately sends a transcript of the minutes to the arbitral tribunal and the parties.

(4) The arbitral tribunal may suspend arbitration proceedings until a court activity has been conducted.

§ 741. Confidentiality requirement

Unless the parties have agreed otherwise, an arbitrator is required to maintain the confidentiality of information which became known to him or her in the course of performance of his or her duties and which the parties have a legitimate interest in keeping confidential.

Chapter 75 DECISION OF ARBITRAL TRIBUNAL AND TERMINATION OF PROCEEDING

§ 742. Applicable law

(1) In resolving a dispute, an arbitral tribunal applies the legislation, the application of which has been agreed upon by the parties. In making a reference to the law of a state, an agreement is not presumed to include the conflict of laws rule of such state unless the parties have expressly agreed otherwise.

(2) An arbitral tribunal applies Estonian law if the parties have not agreed on applicable law and applicable law does not arise from an Act.

(3) An arbitral tribunal may resolve a dispute based on the principle of justice if the parties have expressly agreed on it. Such agreement can be made until the time the arbitral court makes its decision. In resolving a dispute based on the principle of justice, an arbitral tribunal shall not deviate from the imperative provisions of the law of the state which would be applied in case the dispute would be resolved without the agreement on application of the principle of justice.

(4) In resolving a dispute in the case provided in subsections (1) or (2) of this section, an arbitral tribunal takes account of the terms and conditions of the contract and of customary practices regarding contracts in so far as this is possible under the legislation which is applied.

§ 743. Making of decision by arbitral tribunal

(1) If several arbitrators participate in a proceeding, an arbitral tribunal has made its decision if the majority of the arbitrators vote in favour of it, unless the parties have agreed otherwise.

(2) If one of the arbitrators refuses to participate in making a decision, the rest of the arbitrators may make the decision without him or her, unless the parties have agreed otherwise. The parties shall be informed beforehand of the intention to make the decision without the arbitrator who refused to participate.

(3) As regards individual procedural issues, decisions may be made or orders may be given by the presiding arbitrator if he or she holds an authorisation to such effect given by the parties or the other members of the arbitral tribunal.

§ 744. Compromise

(1) The arbitral tribunal terminates a proceeding if the parties reach a compromise. The arbitral tribunal prepares the compromise based on a petition of the parties in the wording agreed upon by the parties in the form of a decision of the arbitral tribunal unless the content of the compromise is contrary to public order or good morals. The decision is also signed by the parties.

(2) The decision of an arbitral tribunal prepared in the wording agreed upon is issued to the parties, and the decision sets out the fact that it is a decision of an arbitral tribunal. Such decision of an arbitral tribunal has the same legal force as an ordinary decision of an arbitral tribunal.

(3) If, a declaration of intention of a party needs to be notarised in order to make it valid, then in the case of a decision of an arbitral tribunal prepared in an agreed wording, the notarial certification is deemed to be substituted if the decision was made by a permanent arbitral tribunal operating in Estonia.

§ 745. Format and content of decision of arbitral tribunal

(1) An arbitral tribunal determines the time for making a decision and notifies the parties thereof.

(2) An arbitral tribunal prepares a decision in writing and an arbitrator signs the decision. In the case a decision is made by several arbitrators, it is sufficient that the majority of them sign if the reason for missing signatures is indicated.

(3) The dissenting opinion of an arbitrator who maintained a minority position in voting is set forth after the signatures if the arbitrator so requests, and it is signed by the arbitrator who maintained the minority position.

(4) Unless the parties agree otherwise or the decision is based on a compromise, the reasons for a decision of an arbitral tribunal shall be provided.

(5) A decision of an arbitral tribunal shall set out the date of making the decision and the place of the arbitration proceeding.

(6) An arbitral tribunal serves a transcript of a decision on the parties on the working day following the day on which the decision is made.

§ 746. Entry into force and effect of decision of arbitral tribunal

(1) A decision of an arbitral tribunal enters into force on the date on which the decision is made.

(2) A decision of an arbitral tribunal has the same effect on the parties as a court judgment which has entered into force.

§ 747. Termination of arbitration proceeding

(1) An arbitration proceeding ends after the arbitral tribunal makes a decision on the merits of the matter or the decision specified in subsection (2) of this section.

(2) An arbitral tribunal terminates a proceeding by a decision if:
1) the plaintiff withdraws the action, except in the case the defendant contests the withdrawal and the arbitral tribunal recognises the defendant's legal interest in the final resolution of the

dispute;
2) the parties agree on the termination of the proceeding;
3) the parties fail to participate in the proceeding;
4) the arbitral tribunal finds that continuation of the proceeding is impossible due the termination of the arbitral agreement, equal division of the arbitrators' votes or for another reason.

(3) Upon termination of an arbitration proceeding, the competence of the arbitrators also ends. This does not preclude or restrict the right and obligation of an arbitrator to continue the performance of the duties assigned to him or her by law.

(4) In the cases specified in clauses (2) 1)–3) of this section, an arbitration proceeding which has been terminated cannot be reopened.

§ 748. Arbitration proceeding in case of death of party

(1) An arbitral agreement or an arbitration proceeding does not end in the case of the death of a party, unless the parties have agreed otherwise.

(2) In the case of the death of a party, an arbitral tribunal suspends the proceeding for a term determined by the tribunal. The term may be extended based on a petition of the legal successor of the deceased party.

(3) A proceeding which has been suspended is continued at the point it was suspended unless the parties have agreed otherwise.

§ 749. Decision on costs of arbitral tribunal

(1) The decision of an arbitral tribunal provides for the division, between the parties, of the costs of the arbitration proceeding and of the necessary costs incurred by the parties as a result of the arbitration proceeding, unless otherwise agreed by the parties.

(2) If the size of the costs has not been determined or cannot be determined before the end of the arbitration proceeding, the costs are provided for in a separate decision of the arbitral tribunal.

§ 750. Correction, supplementation and clarification of decision of arbitral tribunal

(1) Based on the request of a party, an arbitral tribunal may:
1) correct calculation and typing errors and other such mistakes in a decision of the arbitral tribunal;
2) clarify a decision to the extent requested;
3) make a supplementary decision concerning a claim which was submitted in the course of the arbitration proceeding but was not resolved by the decision.

(2) The request specified in subsection (1) of this section may be submitted within 30 days after service of the decision unless the parties have agreed on a different term.

(3) An arbitral tribunal also sends a request for supplementation or clarification of the decision to the other party for information.

(4) An arbitral tribunal makes an initial decision on the correction or clarification of a decision within 30 days after the receipt of the request, and in the case supplementation was requested, within 60 days after the receipt of the request.

(5) An arbitral tribunal may also correct a decision without a request of a party.

(6) The provisions concerning the format and content of decisions of arbitral tribunals apply to the correction, supplementation and clarification of a decision of an arbitral tribunal.

Chapter 76 ANNULMENT OF DECISION

§ 751. Annulment of decision of arbitral tribunal

(1) Based on the petition of a party, the court annuls a decision of an arbitral tribunal made in Estonia if the party proves that:
1) the active legal capacity of a person who entered in the arbitral agreement was restricted;
2) the arbitral agreement is null and void pursuant to the law of Estonia or another state, based on whose law the parties agreed to evaluate the validity of the arbitral agreement;
3) a party was not notified of the appointment of an arbitrator or of the arbitration proceeding in conformity with the requirements, or a party was unable to present or protect the positions thereof due to another reason;
4) the decision of the arbitral tribunal concerns a dispute which was not specified in the arbitral agreement or which exceeds the limits determined by the arbitral agreement;
5) the formation of the arbitral tribunal or the arbitration proceeding did not conform to the provisions of this Part or to the permitted agreement of the parties, and such fact can be presumed to have significantly influenced the decision of the arbitral tribunal.

(2) The court annuls a decision of an arbitral tribunal based on the request of a party or at the initiative of the court if the court establishes that:
1) pursuant to Estonian law, the dispute should not have been resolved by an arbitral tribunal;
2) the decision of the arbitral tribunal is contrary to Estonian public order or good morals.

(3) If annulment of a decision of an arbitral tribunal whereby several claims were resolved is requested based on clause (1) 4) of this section and the arbitral tribunal was competent to decide on a part of those claims, the court annuls the decision in the part of the claims on which the arbitral tribunal was not competent to decide.

(4) The court may annul a decision of an arbitral tribunal based on a petition of a party and refer the matter back to the arbitral tribunal if this is reasonable.

(5) Annulment of a decision of an arbitral tribunal is not presumed to result in the nullity of the arbitral agreement.

§ 752. Submission of petition for annulment

(1) A petition for annulment of a decision of an arbitral tribunal may be submitted to the court within 30 days after the date of service of the decision of the arbitral tribunal. If a petition for correction, supplementation or clarification of the decision of the arbitral tribunal is submitted after the decision has been served, such term is extended for 30 days as of the date of service of the decision pertaining to the petition.

(2) A petition for annulment cannot be filed if the court has recognised the decision or declared the decision to be subject to enforcement.

Chapter 77 PREREQUISITES FOR RECOGNITION AND ENFORCEMENT OF DECISIONS OF ARBITRAL TRIBUNAL

§ 753. Recognition and enforcement of decision of arbitral tribunal made in Estonia

(1) A decision of an arbitral tribunal is recognised in Estonia and enforcement proceedings based on the decision of the arbitral tribunal are carried out only if the court has recognised the decision and declared the decision to be subject to enforcement. A decision made in a proceeding of a permanent arbitral tribunal operating in Estonia is subject to recognition and enforcement without separate recognition and declaration of enforceability by the court.

(2) The court refuses to satisfy a petition for declaring a decision of an arbitral tribunal to be subject to enforcement and annuls the decision if a cause for annulment of the decision of the arbitral tribunal exists.

(3) The court disregards a cause for annulment of a decision of an arbitral tribunal which only allows annulment of the decision based on a petition of a party if no petition for annulment of the decision of the arbitral tribunal has been submitted within the term prescribed by law.

§ 754. Enforcement of decision of arbitral tribunal made in foreign state

(1) The decisions of arbitral tribunals of foreign states are recognised and accepted for enforcement in Estonia only pursuant to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 1958 and other international agreements.

(2) The provisions regulating the recognition of court decisions of foreign states correspondingly apply to the recognition and enforcement of the decisions of arbitral tribunals of foreign states, unless otherwise provided by law or an international agreement.

(3) If a decision of an arbitral tribunal of a foreign state which has been declared to be subject to enforcement is annulled in the foreign state, the debtor may submit a petition for annulment of the declaration of enforceability of the decision.

Chapter 78 JUDICIAL PROCEEDING

§ 755. Competence of courts

(1) A petition filed with the court pursuant to this Part is adjudicated by the county court specified in the arbitral agreement or, in the absence of an arbitral agreement, by the county court of the territorial jurisdiction of the place of the arbitration proceeding.

(2) If the place of an arbitration proceeding is not in Estonia, an issue placed within the jurisdiction of the court by law is adjudicated by Harju County Court.

(3) In the case of an attestation proceeding or other court activity, the court competent to assist an arbitral tribunal according to jurisdiction is the county court within whose territorial jurisdiction the activity must be carried out.

(4) A petition for annulment of a decision of an arbitral tribunal is filed with the circuit court specified in the arbitral agreement and, in the absence of an agreement, to the circuit court of the territorial jurisdiction of the place of the arbitration proceeding. A decision of an arbitral tribunal may also be annulled at the initiative of the county court adjudicating a petition for declaration of the decision of the arbitral tribunal to be subject to enforcement.

§ 756. Procedural principles

(1) The court adjudicates a petition by a ruling made in a proceeding on petition. Before making a decision, the opposing party shall be heard if this is reasonable.

(2) The court schedules a court session if annulment of a decision of an arbitral tribunal is requested, or if a fact based on which the court may annul the decision of the arbitral tribunal at its own initiative must be considered in the case of a petition for the recognition or declaration of enforceability of a decision of an arbitral tribunal.

(3) The court has the right to order without first hearing the opinion of the opposing party that until adjudication of the petition, the decision of the arbitral tribunal is subject to provisional compulsory enforcement or that the measure for securing the action ordered by the arbitral tribunal can be applied. Compulsory enforcement of a the decision of the arbitral tribunal may only consist of application of the measures for securing the action. The defendant has the right to avoid compulsory enforcement by providing a security in the amount in which the petitioner is entitled to request compulsory enforcement of the decision.

(4) A ruling on annulment of a decision of an arbitral tribunal or a ruling on refusal to declare a decision of an arbitral tribunal enforceable is subject to appeal. Other rulings made in conformity with the provisions of this Part, including a ruling made on the basis of subsection 730 (6) of this Code concerning the competence of an arbitral tribunal, are not subject to appeal.
[RT I, 29.06.2012, 3 - entry into force 01.01.2013]

§ 757. Specifications of declaration of enforceability of decisions of arbitral tribunal

(1) When filing a petition for declaration of a decision of an arbitral tribunal to be subject to enforcement, the decision of the arbitral tribunal or a certified transcript thereof, and the arbitral agreement must also be submitted.

(2) A ruling whereby the court declares a decision of an arbitral tribunal to be subject to enforcement is subject to immediate enforcement.

(3) The provisions of subsections (1) and (2) of this section also apply to the decisions of arbitral tribunals of foreign states.

Chapter 79 EXTRA-CONTRACTUAL ARBITRAL TRIBUNALS

§ 758. Application of provisions to extra-contractual arbitral tribunals

The provisions of this Part also apply to arbitral tribunals which are formed in a manner permitted by law based on a will or succession contract or in another manner not based on an agreement between the parties.

Part 15 ENTRY INTO FORCE OF CODE

§ 759. Entry into force of Code

This Code enters into force at the time prescribed by the Code of Civil Procedure and Code of Enforcement Procedure Implementation Act.