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State-funded Legal Aid Act¹

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 RT I 2004, 56, 403
 Entry into force 01.03.2005

Amended by the following acts

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| 15.06.2005 | RT I 2005, 39, 308 | 01.01.2006 |
| 07.12.2006 | RT I 2006, 58, 439 | 01.01.2007 |
| 13.12.2006 | RT I 2007, 2, 7 | 01.02.2007 |
| 21.11.2007 | RT I 2007, 67, 413 | 28.12.2007 |
| 10.12.2008 | RT I 2008, 59, 330 | 01.01.2009 |
| 03.12.2008 | RT I 2009, 1, 1 | 01.01.2010 |
| 16.12.2009 | RT I 2009, 67, 460 | 01.01.2010 |
| 27.01.2011 | RT I, 23.02.2011, 3 | 01.01.2012 |
| 17.02.2011 | RT I, 14.03.2011, 2 | 18.06.2011 |
| 17.02.2011 | RT I, 14.03.2011, 3 | 24.03.2011 |
| 07.12.2011 | RT I, 28.12.2011, 1 | 01.01.2012 |
| 13.03.2013 | RT I, 22.03.2013, 9 | 01.04.2013, in part 01.01.2014 |
| 28.03.2013 | RT I, 18.04.2013, 2 | 28.04.2013 |
| 19.02.2014 | RT I, 13.03.2014, 4 | 01.07.2014 |
| 07.05.2014 | RT I, 21.05.2014, 1 | 01.01.2015, in part 31.05.2014 |
| 12.06.2014 | RT I, 21.06.2014, 11 | 01.07.2014 |
| 19.06.2014 | RT I, 29.06.2014, 109 | 01.07.2014, the ministers' official titles have been replaced on the basis of subsection 4 of § 107 ³ of the Government of the Republic Act starting from the wording in force as of 1 July 2014. |
| 10.12.2014 | RT I, 31.12.2014, 1 | 10.01.2015 |
| 18.02.2015 | RT I, 12.03.2015, 4 | 01.10.2015 |
| 17.12.2015 | RT I, 06.01.2016, 5 | 16.01.2016 |
| 26.04.2016 | RT I, 28.04.2016, 2 | 26.04.2016 – by paragraph 1 of the operative part of the judgment of the Supreme Court en banc in case no 3-2-1-40-15, sentences 1–3 of subsection 3 of § 21 are declared unconstitutional and invalid and, by paragraph 4 of the operative part, its entry into effect has been postponed by six months as of the entry effect of this judgment, except insofar as the aforementioned sentences authorise the Estonian Bar Association to establish the provisions referred to in subparagraphs 2–3 of paragraph 4 of the operative part of this judgment. |
| 07.06.2016 | RT I, 22.06.2016, 21 | 01.08.2016 |

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|------------|----------------------|--------------------------------|
| 15.12.2016 | RT I, 28.12.2016, 14 | 07.01.2017 |
| 15.11.2017 | RT I, 28.11.2017, 1 | 01.01.2018 |
| 19.12.2018 | RT I, 04.01.2019, 12 | 14.01.2019 |
| 09.12.2020 | RT I, 22.12.2020, 34 | 01.01.2021, in part 01.07.2021 |
| 19.07.2022 | RT I, 06.08.2022, 1 | 16.08.2022 |
| 08.02.2023 | RT I, 01.03.2023, 1 | 01.05.2023 |
| 20.06.2023 | RT I, 06.07.2023, 6 | 01.01.2024 |

Chapter 1

GENERAL PROVISIONS

§ 1. Scope of application of this Act

(1) This Act lays down the types of legal aid granted by the State and the conditions of and rules for obtaining such aid.

(2) Applications for State-funded legal aid in matters of international protection are subject to special rules provided by § 25² of the Act on Granting International Protection to Aliens.
[RT I, 06.08.2022, 1 – entry into force 16.08.2022]

(3) Applications for State-funded legal aid in matters of international protection are subject to special rules provided by § 6⁶ of the Obligation to Leave and Prohibition of Entry Act.
[RT I, 06.08.2022, 1 – entry into force 16.08.2022]

§ 2. Purpose of this Act

The purpose of this Act is to ensure the timely and sufficient availability of competent and reliable legal services to all persons.

§ 3. Application of the Administrative Procedure Act

The provisions of the Administrative Procedure Act apply to the administrative proceedings provided for by this Act without prejudice to special rules provided by this Act.

§ 4. State-funded legal aid

(1) State-funded legal aid means providing a legal service to a natural or legal person at the expense of the State on the grounds and in accordance with the rules provided by this Act.

(2) Under this Act, State-funded legal aid is granted to a natural or legal person in connection with proceedings in an Estonian court or administrative body or otherwise for protection of their rights where deciding on those rights is within the power of an Estonian court, unless otherwise provided by Chapter 7 of this Act.

(3) The types of State-funded legal aid are:

- 1) appointed defence in criminal proceedings;
- 2) representing a person in pre-trial and in judicial proceedings in a criminal case;
- 3) defending a person in out-of-court and judicial proceedings in a misdemeanour case;
- 4) representing a person in pre-trial proceedings in a civil case and in court;
- 5) representing a person in proceedings before the administrative courts;
- 6) representing a person in administrative proceedings;
- 7) representing a person in enforcement proceedings;
- 7¹) representing a person in proceedings for review of a judicial decision that has entered into effect;
[RT I 2009, 1, 1 – entry into force 01.01.2010]
- 8) drawing up legal documents;
- 9) other legal advice or representation.

§ 5. Provider of State-funded legal aid

(1) State-funded legal aid is provided by an attorney on the basis of the Bar Association Act without prejudice to special rules provided by this Act.

(2) The owner of the law office ensures that an explanation of the grounds of and rules for obtaining State-funded legal aid that are prescribed by this Act are provided to persons in need of such aid during the opening hours of the law office without charge.

Chapter 2

GROUNDS AND METHODS OF GRANTING STATE-FUNDED LEGAL AID

§ 6. Persons entitled to State-funded legal aid

(1) A natural person may receive State-funded legal aid if the person is unable to pay for competent legal services due to their financial situation at the time they need legal aid or where the person is able to pay for legal services only partially or in instalments or where their financial situation does not allow for meeting basic subsistence needs after paying for legal services.

(1¹) State-funded legal aid is granted to a natural person who, at the time of filing the application for such aid, is domiciled 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, except in a situation mentioned in subsection 2 of this section. Determination of domicile within the meaning of this Act is based on Article 62 of Regulation No 1215/2012 of the European Parliament and of the Council on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ L 351, 20.12.2012, pp 1–32). Legal aid is granted to other natural persons only where this arises from an international obligation binding on Estonia. [RT I, 31.12.2014, 1 – entry into force 10.01.2015]

(2) In criminal proceedings, an individual suspect or accused who has not arranged their own defence counsel (except in situations mentioned in § 44¹ and in subsection 5 of § 227 of the Code of Criminal Procedure) and in whose criminal case the participation of such counsel is required by law or who applies for the participation of counsel receives State-funded legal aid regardless of their financial situation. In misdemeanour proceedings, a natural person subject to the proceedings who has not arranged their own counsel and in whose misdemeanour case the participation of counsel is required by law receives State-funded legal aid regardless of their financial situation. [RT I, 21.06.2014, 11 – entry into force 01.07.2014]

(2²) In criminal proceedings, State-funded legal aid is available to a victim of limited active legal capacity regardless of their financial situation, where:

- 1) based on the circumstances, it can be presumed that the interests of the victim's statutory representative are in conflict with those of the victim;
- 2) the underage victim has been separated from their family;
- 3) the victim is an unaccompanied minor for the purposes of the Act on Granting International Protection to Aliens.

[RT I, 06.01.2016, 5 – entry into force 16.01.2016]

(2³) In criminal proceedings, the victim of a criminal offence defined by § 237 of the Penal Code receives State-funded legal aid regardless of their financial situation.

[RT I, 04.01.2019, 12 – entry into force 14.01.2019]

(3) A non-profit association or foundation that applies for State-funded legal aid in the field of environmental protection or consumer protection in pursuit of the aims stated in its articles of association may receive such aid on the grounds and in accordance with the rules provided by this Act where it has been entered in the list of non-profit associations and foundations entitled to income tax incentives or belongs to an equivalent category and is insolvent, or where another overriding public interest for granting such aid is present to prevent possible harm to rights that are held by a large number of people and that are protected by law.

(4) In criminal proceedings, a corporate suspect or accused receives State-funded legal aid if it has not arranged its own defence counsel (except in situations mentioned in § 44¹ and in subsection 5 of § 227 of the Code of Criminal Procedure) and the participation of such counsel is required by law in the criminal case, or if the suspect or accused applies for such participation. In misdemeanour proceedings, a legal person receives State-funded legal aid where it is the person subject to proceedings and has not arranged its own defence counsel and where the participation of such counsel is required by law in the misdemeanour case against the person. [RT I, 21.06.2014, 11 – entry into force 01.07.2014]

(5) In proceedings for review of a judicial decision that has entered into effect, a natural person mentioned in subsection 1 of this section may receive State-funded legal aid regardless of the type of the case.

[RT I 2009, 1, 1 – entry into force 01.01.2010]

§ 7. Grounds for refusal to grant State-funded legal aid

(1) State-funded legal aid is not granted where:

- 1) the applicant is able to protect their rights on their own;
- 2) the applicant cannot have the right for whose protection they are applying for the aid;

3) it is possible for the applicant to bear the costs of legal services by selling items of property that they own and that can be sold without major difficulties, with the exception of property mentioned in subsection 2 of § 14 of this Act;

4) estimated costs of legal services do not exceed two times the applicant's average monthly income – calculated based on average monthly income in the last four months preceding the filing of the application, from which taxes and compulsory insurance payments, amounts earmarked for fulfilment of a statutory maintenance obligation and also reasonable housing and transport costs have been deducted;

[RT I 2009, 1, 1 – entry into force 01.01.2010]

5) under the circumstances it is evident that the applicant is unlikely to be able to protect their rights;

6) the aid is applied for in order to file a claim for non#pecuniary damages and there is no compelling public interest in the case;

[RT I 2005, 39, 308 – entry into force 01.01.2006]

7) the dispute is related to the business activities of the applicant and does not harm their rights that are unrelated to their business activities;

8) the aid is applied for to protect a trademark, patent, utility model, industrial design or integrated circuit layout or another form of intellectual property, with the exception of rights arising under the Copyright Act;

9) the aid is applied for in a case in which the applicant clearly has joint interests with a person who is not entitled to such aid;

10) the aid is applied for to protect a right assigned to the applicant and there is reason to believe that the right was assigned to the applicant in order to be granted such aid;

11) provision of legal services is guaranteed to the applicant under a legal costs insurance contract or compulsory insurance;

12) the benefits that might accrue to the applicant from the case are unreasonably small in comparison with the estimated expenditure of the State for legal aid.

(1¹) For proceedings for review of a judicial disposition that has entered into effect, State-funded legal aid is not granted, in addition to the grounds for refusal mentioned in subsection 1 of this section, if the grounds for review have not been stated in the application for such aid or where, based on the grounds for review that are stated, it is evident that the applicant is clearly unlikely to succeed in protecting their rights or where the time limit for filing a petition for review has expired. The Supreme Court is not required to state the reasons for its refusal to grant the aid.

[RT I 2009, 1, 1 – entry into force 01.01.2010]

(2) State-funded legal aid is not refused on the grounds mentioned in subsection 1 of this section where it is applied for in a situation mentioned in subsection 2 of § 6 of this Act. The aid is not refused under clauses 1, 2, 5–10 or 12 of subsection 1 of this section where it is applied for in a situation mentioned in subsection 4 of § 6 of this Act.

(3) State-funded legal aid may be granted without the restriction provided by clause 1 of subsection 1 of this section where it is evident that, for the just disposition of the case, the assistance of an attorney is needed in order to ensure equality of the parties or due to complexity of the case.

§ 8. Methods of granting State-funded legal aid

State-funded legal aid is granted as follows:

- 1) without the obligation to compensate for the fee for or costs of such aid;
- 2) with the obligation to partially or fully compensate for the fee for or costs of such aid by a lump-sum payment;
- 3) with the obligation to partially or fully compensate for the fee for or costs of such aid in instalments.

Chapter 3 DECIDING THE GRANTING OF STATE-FUNDED LEGAL AID

§ 9. Applying for State-funded legal aid

(1) The granting of State-funded legal aid is decided on a person's application.

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

§ 10. Filing an application for State-funded legal aid

(1) An application for State-funded legal aid in judicial proceedings as a party to proceedings in a civil, administrative or misdemeanour case is filed with the court that conducts proceedings in the case or that would have the power to conduct such proceedings.

(2) Where the applicant seeks State-funded legal aid for drawing up a statement of claim, a petition under the action-by-petition procedure or a complaint under the administrative court procedure or an appeal against a decision made in misdemeanour proceedings, they file their application with the court that has the power to consider the court claim, petition, complaint or appeal.

(3) An application for State-funded legal aid in the form of representation in pre-action proceedings in a civil case or in out-of-court proceedings in a misdemeanour case, of creation of a legal document or other legal advice or representation is filed with the district court that serves the locality in which the applicant has their residence or seat or in which the legal service is expected to be provided. Where the applicant has no place of residence in Estonia, they may file their application with the district court in whose judicial district they are staying.

[RT I, 28.11.2017, 1 – entry into force 01.01.2018]

(3¹) An application for State-funded legal aid in the form of representation in administrative proceedings is filed with the administrative court that serves the locality in which the applicant has their residence or seat or in which the legal service is expected to be provided.

[RT I, 28.11.2017, 1 – entry into force 01.01.2018]

(4) Where, in criminal proceedings that do not require the participation of defence counsel for their entire duration, the suspect who has not arranged such counsel of their choosing seeks the participation of counsel in proceedings, the suspect files their application for State-funded legal aid with the investigative body or the Prosecutor's Office.

(5) Where a person applies for State-funded legal aid in criminal proceedings as the victim, civil defendant or third party, the provision of such aid to the person is decided by the court that conducts the proceedings or, during pre-trial proceedings in the criminal case, the district court that would have the power to conduct proceedings in that case.

[RT I 2007, 2, 7 – entry into force 01.02.2007]

(5¹) Where a person applies for State-funded legal aid for proceedings to review a judicial disposition that has entered into effect, the provision of legal aid to the person is decided by the Supreme Court. The application may be filed with the Supreme Court without the intermediation of an attorney.

[RT I 2009, 1, 1 – entry into force 01.01.2010]

(6) An application for State-funded legal aid in the form of representation in enforcement proceedings is filed with the court that would have the power to dispose of an appeal against the actions of the enforcement agent conducting the proceedings.

(7) Where an application has been filed with a court that does not have the power to decide on the granting of State-funded legal aid in the given case, the court forwards the application without delay to the competent court and notifies this to the applicant.

(8) The court or other authority mentioned in subsections 1–6 of this section is also the authority competent to receive applications for financial aid within the meaning of Article 14 of Council Directive No. 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 applicant may not be required to have the application legalised or officially certified by any other method.

§ 11. Granting State-funded legal aid where defence counsel is required

(1) An individual suspect in whose criminal case the participation of defence counsel is required under § 45 of the Code of Criminal Procedure and who has not arranged their own counsel is not required to file the application for the grant of State-funded legal aid in that case.

(2) In judicial proceedings in a misdemeanour case, the individual subject to the proceedings in whose misdemeanour case the participation of defence counsel is required under subsection 3 of § 19 of the Code of Misdemeanour Procedure and who has not arranged their own counsel is not required to file the application for the grant of State-funded legal aid.

§ 12. Application form and information contained in the application

(1) The following must be stated in the application for State-funded legal aid:

- 1) the name, address and personal identification number (or, where the applicant does not possess such a number, their date of birth) or the corporate applicant's registration number;
- 2) a description of the problem for whose resolution the aid is applied for;
- 3) the type of such aid mentioned in subsection 3 of § 4 or § 34 of this Act, which is applied for;
- 4) the reasons why such aid is needed in order to protect the applicant's rights;
- 5) the extent of the benefits that might accrue to the applicant from the case;
- 6) the name of the provider of such aid from whom the applicant wishes to receive legal services – where the attorney concerned has granted their consent to providing the aid to the applicant in the case;
- 7) the language in which the applicant is able to communicate with the provider of the aid;
- 8) [Repealed – RT I 2008, 59, 330 – entry into force 01.01.2009]

9) other relevant information.

(2) Where the application has been filed outside judicial proceedings and is unclear as to which type of State-funded legal aid mentioned in subsection 3 of § 4 of this Act is applied for, the application is deemed to be filed for the purpose of obtaining such aid in the form of provision of other legal advice to the applicant.

(3) The standard form of the application for State-funded legal aid and a list of information to be stated in the application are enacted by a regulation of the Minister in charge of the policy sector, and the form must be freely accessible to everyone on the website of the Ministry of Justice as well as in each court and law office.

(4) In criminal proceedings, an application filed by an individual suspect for appointment of a defence counsel must state at least the information mentioned in clauses 1 and 7 of subsection 1 of this section and a reference to the criminal case in which the counsel is to participate.

(5) An application for State-funded legal aid is filed in Estonian.
[RT I, 28.12.2016, 14 – entry into force 07.01.2017]

(6) An application may be filed in English where legal aid is applied for by a natural person whose place of residence is in another Member State of the European Union or who is a citizen of another Member State of that Union, or by a legal person that has its seat in such a Member State.
[RT I, 28.12.2016, 14 – entry into force 07.01.2017]

(7) The proceedings authority organises the translation of an application filed in another language widely used in Estonia.
[RT I, 28.12.2016, 14 – entry into force 07.01.2017]

(8) Where an application has other defects that prevent its consideration, the court explains to the person the possibilities of receiving aid for filing the application in accordance with the requirements from the winner of the competition mentioned in subsection 2 of § 31 of this Act and, where this is requested by the person, transmits the application to the winner for being filed in accordance with the requirements.
[RT I, 28.12.2016, 14 – entry into force 07.01.2017]

§ 13. Documents annexed to the application

(1) An individual applicant must annex to an application for State-funded legal aid a notice that meets the requirements, describes their financial situation and has been signed by the applicant as well as, where this is possible, other evidence to characterise that situation. The notice is not required where the application is filed by a suspect who applies for appointment of a defence counsel in criminal proceedings, or by a child who applies for legal aid in a case concerning their maintenance payments.

(2) Where a person's domicile is not in Estonia, the person must annex to the application a notice issued by the competent authorities of the state in which the person has their domicile concerning their income and that of the members of their family for the last three years. Where the notice cannot be filed for reasons independent of the applicant, the granting of State-funded legal aid may be decided without the notice.

(3) The notice concerning the financial situation of the applicant for State-funded legal aid is filed in writing in the Estonian language. On conditions provided for by subsection 6 of § 12 of this Act, the notice may also be filed in English.
[RT I, 01.03.2023, 1 – entry into force 01.05.2023]

(4) The list of information to be stated in the notice concerning the financial situation of the applicant and the standard form of the notice are enacted by a regulation of the Minister in charge of the policy sector. The standard form must be freely accessible to everyone on the website of the Ministry of Justice as well as in each court and law office. The Minister in charge of the policy sector may also enact requirements for documents filed by applicants to justify their applications.

(5) A corporate applicant must annex to the application for State-funded legal aid a copy of the memorandum of association or foundation resolution that was filed with the register and that meets the requirements of the law and a copy of the registered articles of association, a copy of the registry card and a certified copy of the annual report of the previous financial year.

(6) Where an attorney has granted their consent to the applicant for State-funded legal aid regarding provision of such aid to the applicant in the case and the applicant wishes to receive legal services from the attorney, the attorney's consent must be annexed to the application or the application must be filed through the corresponding law office.
[RT I 2005, 39, 308 – entry into force 01.01.2006]

§ 14. Assessing the financial situation of the applicant

(1) When the applicant's financial situation is assessed, their property and earnings as well as the property and earnings of any family members who live together with the applicant, the number of the applicant's dependants, reasonable expenditures on residence and other relevant circumstances are taken into account.

(2) When assessing the financial situation of the applicant, property items belonging to the applicant are not taken into account if, by law, they cannot be levied upon. Similarly, any residence or vehicle that is needed, belongs to the applicant and is used on a daily basis by the applicant and their family members who live together with the applicant is not taken into account where the number and value of such residences or vehicles is in fair correspondence to the size, transportation needs and earnings of the family.

(3) Where the applicant applies for State-funded legal aid to file a claim against a family member who lives together with the applicant, the income of that family member or any property that belongs to them is not taken into account when assessing the applicant's financial situation.

(4) Where this is required by the court, the Tax and Customs Board presents a notice concerning the income of the applicant for State-funded legal aid, and of members of their family, during the last year or a notice concerning the lack of information on such income. The form of the notice is enacted by a regulation of the Minister in charge of the policy sector.

(5) The court may require the applicant for State-funded legal aid or any other persons or agencies, including credit institutions, to provide information concerning the financial situation or solvency of the applicant and of their family members who live together with the applicant. A reply to an enquiry must be given within the time limit set by the court.

(6) Where an applicant has not filed substantiated information concerning their personal status or financial situation or replied to the questions that have been put to them, or has provided replies that are insufficient, the court does not grant State-funded legal aid to the applicant to the extent that has not been substantiated.
[RT I 2005, 39, 308 – entry into force 01.01.2006]

§ 15. Deciding the granting of State-funded legal aid

(1) An application for State-funded legal aid filed in the course of judicial proceedings is disposed of by an order of the court conducting the proceedings in accordance with the rules provided by the law governing the relevant type of judicial procedure.

(2) The granting of State-funded legal aid on an application filed outside judicial proceedings is decided by the district court or the administrative court by a method provided for by § 8 of this Act in accordance with the action-by-petition procedure provided by the Code of Civil Procedure or the rules provided by the Code of Administrative Court of Procedure. In court, matters pertaining to State-funded legal aid may be decided by an assistant judge.
[RT I, 22.12.2020, 34 – entry into force 01.01.2021]

(3) The granting of State-funded legal aid to a suspect or accused in criminal proceedings is decided by an order of the court, the Prosecutor's Office or the investigative authority. On appointment of a defence counsel in criminal proceedings in all cases – and in misdemeanour proceedings where the participation of a defence counsel is required – legal aid is granted to the applicant without selecting a method provided by § 8 of this Act, and the fee for and costs of such aid are compensated for in accordance with the rules provided by the Code of Criminal Procedure.
[RT I, 14.03.2011, 3 – entry into force 24.03.2011]

(3¹) Provision of State-funded legal aid to the victim in a situation mentioned in subsection 2² of § 6 of this Act is decided by order of the court, of the Prosecutor's Office or of the investigative authority.
[RT I, 06.01.2016, 5 – entry into force 16.01.2016]

(4) Where this is needed, the court, Prosecutor's Office or investigative body sets a time limit for the provision of State-funded legal aid.

(5) An order on granting State-funded legal aid specifies the method of granting the aid in accordance with § 8 of this Act and the recipient's compensation obligation in accordance with § 16. A copy of the order is sent to the Estonian Bar Association (hereinafter also *Bar Association*).
[RT I, 21.05.2014, 1 – entry into force 31.05.2014]

(5¹) The rules for transmitting State-funded legal aid orders to the Bar Association via the eFile procedural information management system (hereinafter, *eFile system*) are enacted by a regulation of the Minister in charge of the policy sector.
[RT I, 21.05.2014, 1 – entry into force 31.05.2014]

(6) Annually by April 1, the investigative authority and the Prosecutors' Office present, to the Minister in charge of the policy sector, a report on the granting of State-funded legal aid in the previous year. The form for the report is approved by a regulation of the Minister in charge of the policy sector.

(7) Where an application for State-funded legal aid was forwarded to the court or other authority by an authority of another Member State of the European Union that is competent to forward applications for legal aid, a copy of the order rendered concerning the application is also sent to such an authority.
[RT I 2005, 39, 308 – entry into force 01.01.2006]

(8) An interim appeal against a court order granting or refusing to grant State-funded legal aid may be filed in accordance with the rules laid down in statutes regulating judicial proceedings. An interim appeal against an order which has been entered in a civil or administrative case and by which such aid is granted may also be filed by the Bar Association.
[RT I, 28.12.2016, 14 – entry into force 07.01.2017]

§ 16. Determining the compensation obligation of the recipient of State-funded legal aid

(1) Where State-funded legal aid is granted to a person with the obligation to partially or fully compensate for the fee for and costs of such aid, the person's compensation obligation is determined as a proportion or, where possible, as a specific amount, and a decision is made on whether the compensation is to be paid as a lump sum or in instalments.

(2) Based on circumstances mentioned in subsections 1–3 of § 14 or subsection 5 of § 13 of this Act, the court determines the scope of the compensation obligation and the rules governing payment of the compensation, taking into account the nature of the case, the type of State-funded legal aid applied for and the estimated time of provision of the aid.

(3) Where State-funded legal aid is granted to a person with the obligation to compensate the fee for and costs of such aid by a lump-sum payment, the court, where possible, also determines the due date of compensation.

(4) Where State-funded legal aid is granted to a person with the obligation to compensate the fee for and costs of such aid in instalments, the court, where possible, also determines the amounts of the instalments and the due dates of payment.

(5) Where State-funded legal aid is granted with the obligation to fully or partially compensate the fee for and costs of such aid by a lump-sum payment or in instalments, the court may require the recipient to make an advance payment that fulfils their compensation obligation in its entirety or in part. In the event of failure to make the advance payment, the aid is not granted to the person.

§ 17. Continuity of State-funded legal aid

(1) A person who has been granted State-funded legal aid retains the right to receive such aid when the case is transformed into another type of legal aid provided for by subsection 3 of § 4 of this Act and the previously appointed attorney continues providing the aid to the person, except in a situation provided for by subsection 2 of this section. The court, the investigative authority or the Prosecutor's Office who decided the granting of the aid may, on an application of the attorney providing the aid or of its own motion, at any time reassess, in accordance with the rules provided by this Act, whether the grounds of granting State-funded legal aid to the applicant which are provided by this Act continue to be present and, where the grounds for granting such aid are no longer present, terminate the granting of the aid to the person.
[RT I, 21.06.2014, 11 – entry into force 01.07.2014]

(2) Where State-funded legal aid has been granted to a person in criminal proceedings and those proceedings are terminated due to absence of the elements of a criminal offence in the case, with misdemeanour proceedings being commenced in their place, the person must, in order to continue receiving the aid, within ten days and following the rules provided by this Act, file an application for the grant of such aid in accordance with subsection 3 of § 10 of this Act. Until the court disposes of the application, the previously appointed attorney continues providing the aid to the person in the case.
[RT I, 21.06.2014, 11 – entry into force 01.07.2014]

(3) A person who has been granted State-funded legal aid in judicial proceedings as a party to proceedings has a right to receive such aid also in proceedings regarding an appeal against an order or judgment in the same case or in compulsory enforcement proceedings.

(4) The court conducting proceedings or the court that would have the power to dispose of an appeal against the actions of the enforcement agent conducting enforcement proceedings may, of its own motion, at any stage of proceedings reassess, in accordance with the rules provided by this Act, whether the grounds for granting State-funded legal aid to an applicant that have been provided by this Act continue to be present and, where the grounds for granting such aid are no longer present, terminate the granting of the aid to the person. Where, more than one year after the entry into effect of the disposition rendered in the case, State-funded legal aid in the form of representation in enforcement proceedings is applied for, the court must verify the presence of all prerequisites for granting such aid.

(5) In the event of the reassessment provided for by subsections 1 and 4 of this section, the court has a right to require, where this is needed, the recipient of State-funded legal aid to file a new notice concerning their financial situation and the Tax and Customs Board, credit institutions as well as any other persons or authorities

to provide information concerning the financial situation or solvency of the recipient and of their family members.

(6) Where the granting of State-funded legal aid is terminated under subsections 1 and 4 of this section, the attorney who has been providing the aid is released from the obligation to provide legal aid in the case and the court determines, on an application of the attorney, the amount of the fee due to the attorney and the extent to which they are to be compensated for the costs incurred in relation to providing the aid. Simultaneously, following the rules provided by § 25 of this Act, the court determines the recipient's obligation to fully or partially compensate the amount payable to the attorney.

(7) The court or other competent authority may suspend payment of instalments ordered under the rules of State-funded legal aid or modify the amount or due date for such payments in accordance with the rules provided by § 188 of the Code of Civil Procedure. Section 189 of the Code of Civil Procedure is followed when the granting of financial aid is terminated.

[RT I 2005, 39, 308 – entry into force 01.01.2006]

§ 18. Appointment of provider of State-funded legal aid

[RT I, 21.06.2014, 11 – entry into force 01.07.2014]

(1) When instructed to do so by the court, by the Prosecutor's Office or by the investigative authority, the Bar Association promptly appoints an attorney to provide State-funded legal aid. The attorney appointed by the Association undertakes to provide the aid without delay and to organise their work such that it would be possible for them to participate in procedural operations at the proper time.

[RT I, 21.06.2014, 11 – entry into force 01.07.2014]

(1¹) The rules for transmitting the instructions issued by the court, the Prosecutor's Office or the investigative authority to the Bar Association via the eFile system is enacted by a regulation of the Minister in charge of the policy sector.

[RT I, 21.06.2014, 11 – entry into force 01.07.2014]

(2) The court, the Prosecutor's Office or the investigative authority does not have a right conclude an agreement for provision of State-funded legal aid with an attorney on or to appoint an attorney who is to provide such aid.

[RT I, 21.06.2014, 11 – entry into force 01.07.2014]

(3) When providing State-funded legal aid, the attorney's authority to represent or defend the recipient of such aid is proved by the attorney's declaration that they have been appointed to provide the aid. In case of doubt, the Bar Association may be required to certify the attorney's appointment.

[RT I, 21.06.2014, 11 – entry into force 01.07.2014]

§ 18¹. State-funded Legal Aid Information System

(1) The State-funded Legal Aid Information System is a database maintained for the purpose of organising the provision of such aid, which forms a part of the State's information system and whose purpose is:

1) electronic management of information for appointing providers of the aid;

[RT I, 22.03.2013, 9 – entry into force 01.04.2013]

1¹) electronic management of the payment of fees and compensation for costs of the aid;

[RT I, 22.03.2013, 9 – entry into force 01.04.2013]

2) providing for electronic availability of information concerning members of the Bar Association;

3) ensuring speedy availability of the service of State-funded legal aid;

4) obtaining a statistical overview of provision of the service of State-funded legal aid.

(2) Constitutive regulations of the State-funded Legal Aid Information System are enacted by the Minister in charge of the policy area.

[RT I, 22.12.2020, 34 – entry into force 01.07.2021]

§ 19. Refusal by attorney to provide State-funded legal aid

(1) Where an attorney has commenced the provision of legal services in accordance with the rules of State-funded legal aid, the attorney continues providing those services until final disposition of the case, unless otherwise provided by law. Where the recipient of the aid seeks protection of an interest that is contrary to law or where the alleged claim of the recipient is not based on law or where there is no procedural possibility to protect the recipient's rights and interests, provision of the aid is limited to the attorney's substantiating the aforementioned circumstances in writing to the recipient.

[RT I 2009, 1, 1 – entry into force 01.01.2010]

(2) Where a circumstance mentioned in subsection 4 of § 44 of the Bar Association Act is present, the attorney may not provide State-funded legal aid to the person and is required to refuse to provide legal services or, without delay, terminate the provision of any legal services already commenced; the same applies if, in the case, the interests of the attorney or those of their spouse or registered partner or close relative or of a close relative of their spouse or registered partner are in conflict with the interests of the recipient of the aid.
[RT I, 06.07.2023, 6 – entry into force 01.01.2024]

(3) With the consent of the Board of the Bar Association or where they have been released from the professional confidentiality obligation in accordance with the rules provided by subsection 5 of § 45 of the Bar Association Act, an attorney may terminate the provision of State-funded legal aid on the grounds provided by subsection 5 of § 44 of the Bar Association Act. Where the recipient is not at fault for termination of provision of the aid or where the law requires participation of an attorney in the proceedings, the Board of the Bar Association, without delay, appoints a new attorney to provide the aid.
[RT I 2009, 1, 1 – entry into force 01.01.2010]

(4) Where an attorney terminates the provision of legal services under subsection 2 of this section and the attorney was aware or should have been aware of the circumstances precluding the provision of legal services at the time of commencing to provide them, the attorney does not receive a fee for providing State-funded legal aid.

(5) Where an attorney terminates the provision of legal services under subsection 3 of this section, the attorney is paid a fee for the work performed to provide State-funded legal aid. The fee is included in the compensation obligation of the recipient. The recipient is not exempted from compensating the fee for and costs of aid that relate to the provision of legal services terminated under subsection 3 of this section.

§ 20. Change of provider of State-funded legal aid

(1) By agreement between the attorney providing State-funded legal aid and the recipient of that aid, legal services in the case may be provided to the recipient by another attorney who grants their consent to being assigned the obligation to provide the aid. The new provider is appointed by order of the court, of the Prosecutor's Office or of the investigative authority in accordance with the rules provided by § 18 of this Act. In such a situation, the court, the Prosecutor's Office or investigative authority decides the amount of the fee for and costs of the aid that are to be compensated to the former provider.
[RT I, 21.06.2014, 11 – entry into force 01.07.2014]

(2) Where, under this Act, the provider of State-funded legal aid is unable to continue to provide legal services to the recipient of the aid, the provider files an application with the court, the Prosecutor's Office or the investigative authority for a new provider to be appointed to the recipient. The new provider is appointed in accordance with the rules provided by § 18 of this Act.
[RT I, 21.06.2014, 11 – entry into force 01.07.2014]

(3) Where the attorney providing State-funded legal aid is excluded from the Bar Association or disbarred or where their professional activities are suspended or in the event of their long-term incapacity for work or their death, as well as in other situations provided for by law, the Bar Association, in accordance with the rules provided by § 18 of this Act, appoints a new provider of aid on an application of the former provider or of the recipient, or under an order of the court, of the Prosecutor's Office or of the investigative authority, or of its own motion.
[RT I, 21.06.2014, 11 – entry into force 01.07.2014]

(3¹) Where the attorney providing State-funded legal aid has demonstrated incompetence or negligence, the court makes an order – on an application of the recipient or of its own motion – by which it removes the attorney from the case. The court may, before making the order, require the recipient and the attorney to file explanations. The court transmits the order concerning removal of the attorney from the case to the Bar Association for commencement of proceedings before the Ethics Tribunal and, where this is needed, for appointing a new provider.
[RT I, 21.06.2014, 11 – entry into force 01.07.2014]

(4) Where the provider of State-funded legal aid changes, the new provider continues provision of legal services to the person from the point reached by the former provider. The fee for the aid is paid to the former provider according to the work they have performed and the costs they incurred in relation to providing the aid are compensated to them.

Chapter 4

STATE-FUNDED LEGAL AID: PAYMENT OF FEES AND COMPENSATION FOR COSTS TO ATTORNEYS

§ 21. Fee and costs of State-funded legal aid

(1) 'Fee for State-funded legal aid' means a fee that is paid to an attorney for provision of State-funded legal aid.

(2) ‘Costs of State-funded legal aid’ means necessary costs that are incurred by the attorney or the owner of the law office in relation to providing such aid.

(3) The basis for calculation of fees payable for provision of State-funded legal aid, the rules for payment and rates of the fees, and the extent of and rules for compensation for costs relating to provision of such aid (hereinafter *rules for fees and costs*) are enacted by the Minister in charge of the policy sector, taking into account the amount of funds allocated for this purpose from the State budget, an estimate of the volume of the aid and having heard the opinion of the Board of the Bar Association beforehand. During the budgetary year, the Minister in charge of the policy sector may modify the basis for calculation of fees payable for provision of the aid, the rules for payment and rates of the fees and the extent of and rules for compensation for costs.
[RT I, 22.06.2016, 21 – entry into force 01.08.2016]

(3¹) [Repealed – RT I, 22.06.2016, 21 – entry into force 01.08.2016]

(3²) Where the State budget has not been passed by the beginning of the budgetary year, the Ministry of Justice allocates one twelfth of the relevant expenditure in the budget for the previous year to the Bar Association for covering the fees for and costs of State-funded legal aid each month until the State budget is passed.
[RT I 2009, 1, 1 – entry into force 01.01.2010]

(3³) The rules for the filing of documents by eFile to determine the amount of the fee for State-funded legal aid and the extent of the costs that were incurred in relation to providing the aid and that are to be compensated are enacted by a regulation of the Minister in charge of the policy sector.
[RT I, 22.03.2013, 9 – entry into force 01.01.2014]

(4) The requirement – provided by subsection 1 of § 45 of the Bar Association Act – to maintain as confidential the fact of the person’s having approached an attorney and the amount of the fee paid for legal services, does not apply to the provision of State-funded legal aid.

§ 22. Determining the amount of the fee for State-funded legal aid and the extent of compensation for the costs incurred in relation to providing such aid

(1) In order to determine the amount of the fee for State-funded legal aid and the extent of compensation for the costs incurred in relation to providing such aid, the attorney makes an application to the court, the Prosecutor’s Office or the investigative authority that conducted the proceedings in which the aid was provided or, in other situations, to the court that decided on the granting of the aid, in which the attorney states:
[RT I, 01.03.2023, 1 – entry into force 01.05.2023]

- 1) the fee payable and the necessary costs that have been incurred and are to be compensated under the rules for fees and costs mentioned in subsection 3 of § 21 of this Act together with the relevant calculations, having regard to the provisions of subsection 5 of this section;
- 2) justified operations carried out in the course of providing the aid, justified time spent on carrying out these operations, the date of carrying out each operation and the time of commencement and completion of the operation – where the fee is calculated based on an hourly rate;
- 3) justified operations carried out in the course of providing the aid and the date of carrying out each operation – where the fee is a flat fee;
- 4) reasons for the time spent, the operations carried out as well as the need for and justification of the costs incurred.

[RT I 2009, 1, 1 – entry into force 01.01.2010]

(2) Where the court, investigative authority or the Prosecutor’s Office cannot verify, by electronic means, the costs that have been incurred by the attorney or the owner of the law office, documents certifying those costs are annexed to the application. The Minister in charge of the policy sector may enact coefficients applicable to calculation of the fee which fully or partially cover the costs of State-funded legal aid.
[RT I, 22.06.2016, 21 – entry into force 01.08.2016]

(3) An attorney files the application provided for by subsection 1 of this section in judicial proceedings in every judicial instance and, in pre-trial proceedings in a criminal case and in out-of-court proceedings in a misdemeanour case, within three months following the carrying out of the State-funded legal aid operation but not later than at the end of the respective proceedings. Where other types of such aid are provided, the application is filed within three months following the termination of their provision.
[RT I, 22.12.2020, 34 – entry into force 01.01.2021]

(4) The form of the application provided for by subsection 1 of this section is established by the Board of the Bar Association. An attorney files the application mentioned in subsection 1 of this section by electronic means, except in situations and in accordance with the rules enacted by the Minister in charge of the policy sector. The Minister may enact detailed requirements as well as rules for the applications and the method of their filing.
[RT I, 14.03.2011, 3 – entry into force 24.03.2011]

(5) Use of the application form and compliance with the rules for its filing is mandatory for attorneys. An application for determining the amount of the fee for and costs of State-funded legal aid is dismissed if it does not follow the form, does not state the particulars required under subsection 1 of this section or has not been filed according to the rules.

[RT I 2009, 1, 1 – entry into force 01.01.2010]

(6) The amount of the fee for and costs of State-funded legal aid are determined on the basis of the rules for fees and costs mentioned in subsection 3 of § 21 of this Act which were in force at the time when the operation that constitutes the ground for payment of the corresponding fee or compensation for the costs was performed.

[RT I, 22.06.2016, 21 – entry into force 01.08.2016]

(7) The court, the investigative authority or the Prosecutor's Office verifies whether the application filed by the attorney is correct and justified and, based on the application, determines the justified time spent providing State-funded legal aid, the justified operations carried out for this purpose and the justified fee payable to the attorney for provision of the aid, as well as the necessary costs that have been incurred in relation to such provision and that are to be compensated. The above is determined on the attorney's application in judicial proceedings in every judicial instance – as well as in pre-trial proceedings in a criminal case and in out-of-court proceedings in a misdemeanour case – within three months following the filing of the application with the court, the Prosecutor's Office or investigative authority that is to dispose of it, but not later than at the end of the corresponding proceedings. In the event of provision of other types of State-funded legal aid, the amount of the fee for and compensation for costs of such aid is determined within three months following the filing of the application.

[RT I, 01.03.2023, 1 – entry into force 01.05.2023]

§ 23. Rules for determining the fee for and costs of State-funded legal aid

(1) Where State-funded legal aid is granted in the course of judicial proceedings, the court that deals with the case determines the fee for and costs of the aid in the judgment or order given in the case or leaves these to be determined in accordance with the rules for determination of case costs that are provided by the Code of Civil Procedure.

[RT I, 22.12.2020, 34 – entry into force 01.01.2021]

(1¹) The order by which the fee for, and costs of, the provision of State-funded legal aid are determined but which does not dispose of the case on its substance may be entered, in any judicial instance, by a single member of the court sitting as a panel who is not a lay judge.

[RT I, 01.03.2023, 1 – entry into force 01.05.2023]

(2) Outside judicial proceedings, the fee for and costs of State-funded legal aid are determined by the district court under the action-by-petition procedure or by the administrative court in accordance with the rules provided by the Code of Administrative Court Procedure.

[RT I, 22.12.2020, 34 – entry into force 01.01.2021]

(3) The investigative authority or the Prosecutor's Office determines the fee for and costs of State-funded legal aid in accordance with the rules provided by the Code of Criminal Procedure.

(4) Under the rules provided by statutes regulating judicial proceedings, the Bar Association has a right to appeal a judicial disposition entered in an administrative or civil case regarding determination of the amount of the fee for State-funded legal aid and the extent of compensation for costs incurred in relation to providing such aid.

[RT I, 28.12.2016, 14 – entry into force 07.01.2017]

§ 24. Payment of the fee for and costs of State-funded legal aid

(1) The Bar Association arranges payment of the fee for and costs of State-funded legal aid to the attorney who has provided that aid on the basis of the corresponding judicial disposition or order of the investigative authority or of the Prosecutor's Office. In the event of doubt, the Board of the Bar Association is under the obligation to verify whether the fee for and costs of the aid are justified. In order to assess whether the fee and costs are justified, the Bar Association has a right to require explanations from the attorney, the recipient of the aid, the court, the investigative authority, the Prosecutor's Office, and to acquaint itself with the materials of the case. The judicial disposition or the order of the investigative authority or of the Prosecutor's Office does not discharge the attorney from liability for filing false or clearly unjustified particulars in the application for determining the amount of the fee and the costs of the aid.

[RT I 2009, 1, 1 – entry into force 01.01.2010]

(2) The attorney may not charge a fee for providing State-funded legal aid to the person to whom they provided legal services in the case.

Chapter 5

COMPENSATING THE FEE FOR AND COSTS OF STATE-FUNDED LEGAL AID

§ 25. Compensating the fee for and costs of State-funded legal aid

(1) When provision of legal services to the recipient of State-funded legal aid has ended, the court, in accordance with the rules provided by § 23 of this Act, determines the obligation of the recipient to fully or partially compensate to the State the fee and costs that were paid to the attorney, to the extent that these were justified and necessary.

[RT I 2009, 1, 1 – entry into force 01.01.2010]

(2) When deciding on the granting of State-funded legal aid, the court specifically fixes the scope of the recipient's compensation obligation and lays down detailed rules for paying the compensation, taking into account the scope of the compensation obligation determined in accordance with § 16 of this Act, the rules for compensation and the advance payment charged to the recipient.

(3) In the event of significant changes in the financial situation or solvency of the recipient of State-funded legal aid, the court may – taking into account the circumstances mentioned in subsections 1–3 of § 14 or in subsection 5 of § 13 of this Act – on an application of the recipient or of the Ministry of Finance or of an authority of the executive branch that falls in the Ministry's area of government, change the scope of the recipient's compensation obligation or the rules for payment that were laid down before the provision of legal services.

(4) A person who has received State-funded legal aid in criminal or misdemeanour proceedings compensates the fee for and costs of such aid in accordance with the rules provided by the Code of Criminal Procedure.

§ 26. Collection of the fee for and costs of State-funded legal aid

(1) A judgment or order directing a person to pay the fee for and costs of State-funded legal aid is sent by the court to the authority designated by an administrative decree of the Minister in charge of the policy sector.

[RT I, 28.12.2011, 1 – entry into force 01.01.2012]

(2) A person who has received State-funded legal aid and is required under this Act to compensate for the fee for and costs of such aid, or a person who has been directed by the court to pay legal aid costs because the party in whose favour judgment was given had received such aid must comply with the disposition by the due date stated in it. Where the disposition does not state the due date for compliance, it must be complied with within 15 days following its entry into effect.

(3) The authority designated by an administrative decree of the Minister in charge of the policy sector may refer a disposition mentioned in subsection 1 of this section for enforcement if the obligated party has not complied with the disposition by the due date stated in it or, where no due date has been specified, within 15 days following its entry into effect.

[RT I, 28.12.2011, 1 – entry into force 01.01.2012]

§ 27. Exemption from the obligation to compensate the fee for and costs of State-funded legal aid

(1) A recipient of State-funded legal aid is not required to compensate the fee for or costs of such aid and any advance payment made towards fulfilment of the compensation obligation is refunded to the recipient as follows where:

1) when the civil case is disposed of, the opposing party is ordered to pay case costs in full or in part – insofar as those costs are to be borne by that party;

1¹) a representative was appointed to the person in action-by-petition proceedings in a civil case without the person's having made the corresponding motion;

[RT I, 28.12.2016, 14 – entry into force 07.01.2017]

2) the administrative court grants the person's complaint in full or in part – to the extent the complaint was granted;

3) the administrative court terminates proceedings in connection with a compromise having been approved in the case;

[RT I, 23.02.2011, 3 – entry into force 01.01.2012]

4) the administrative authority grants the person's challenge in full or in part – to the extent the challenge was granted.

(2) A person who has received State-funded legal aid in criminal or misdemeanour proceedings is exempted from the obligation to compensate the fee for and costs of such aid on the grounds and in accordance with the rules provided by Chapter 7 of the Code of Criminal Procedure or § 23 and subsection 1 of § 38 of the Code of Misdemeanour Procedure.

(3) A recipient of State-funded legal aid is not exempted from the obligation to compensate the fee for and costs of such aid in situations provided for by subsection 1 of this section insofar as the fee paid and the necessary costs compensated to the attorney were caused by the failure of the recipient to appear, without a lawful impediment, when summoned by the court or administrative authority or by the intentional or negligent failure of the recipient to comply with a direction of the court or administrative authority – where appearing or compliance with the direction was mandatory under the law.

§ 28. Compensation obligation on improvement of financial situation

(1) Where a recipient of State-funded legal aid was fully or partially exempt from compensating the fee for and costs of such aid – with the exception of exemptions on grounds provided by subsection 1 or 2 of § 27 of this Act – and the recipient's financial situation or solvency improves significantly within five years following termination of the provision of such aid, the court that decided the granting of the aid requires the recipient, on an application of the Ministry of Finance or an authority within the area of government of the Ministry of Finance designated by the Minister in charge of the policy sector, to compensate that fee and those costs as a lump sum or in instalments.

(2) Compensation of the fee for and costs of State-funded legal aid is not required where the estimated costs of collection exceed or are equal to the amount to be collected or where more than three years have passed since the claim for compensation of that fee and those costs fell due.

(3) The Ministry of Finance or an authority within the area of government of the Ministry of Finance designated by the Minister in charge of the policy sector has a right to require supplementary evidence or information from the person who received State-funded legal aid, and from credit institutions, concerning the improvement of the person's financial situation or solvency within five years following termination of the provision of such aid. Any inquiry must be replied to within a reasonable time limit determined by the Ministry of Finance or an authority designated by the Minister in charge of the policy sector within the area of government of the Ministry of Finance.

§ 29. Compensation obligation following the filing of false information

(1) On an application of the Ministry of Finance or an authority designated by the Minister in charge of the policy sector within the area of government of the Ministry of Finance, the court that decided the granting of State-funded legal aid orders a person who has knowingly filed false information when applying for such aid or who, had they filed truthful information, would not have been fully or partially exempted from the obligation to compensate for the fee for and costs of such aid, to pay that fee and those costs in full.

(2) In addition to the fee for and costs of State-funded legal aid, the court orders the person who filed false information to pay interest at the rate of six per cent per year on the outstanding amount of that fee and those costs, calculated from the time that the fee was paid and the costs were compensated to provider of the aid.

Chapter 6 FINANCING OF AND ADMINISTRATIVE OVERSIGHT OVER STATE-FUNDED LEGAL AID

[RT I, 13.03.2014, 4 - entry into force 01.07.2014]

§ 30. Principles of financing State-funded legal aid

(1) Provision of State-funded legal aid is financed from funds allocated for it from the State budget.

(2) The State ensures that sufficient funds are allocated for provision of State-funded legal aid.

(3) The Bar Association ensures that funds earmarked for provision of State-funded legal aid are kept separately from the other assets of the Bar Association.

§ 31. Supporting accessibility of legal advice

[RT I, 28.12.2016, 14 – entry into force 07.01.2017]

(1) In order to improve access to legal advice in general, the state supports, within the limits of the funds allocated in the State budget, the winner of the competition mentioned in subsection 2 of this section in order to ensure the provision of the persons in need of aid with high-quality legal aid.

(2) The Ministry of Justice organises a public competition for distributing the aid. A contract is awarded to the winner of the competition for up to five years. There can be one winner or multiple winners.

(3) The Minister in charge of the policy sector enacts, by a regulation:

- 1) the group to which legal advice is targeted and the areas of law;
- 2) the conditions of and rules for the competition for distribution of support for legal advice;

- 3) requirements for applications and applicants;
- 4) requirements for legal aid to be supported and for arrangements for the granting of such aid;
- 5) the portion self-funded by a person who needs legal aid supported from the State budget;
- 6) requirements for reports to be filed by recipient of the support.

(4) The Ministry of Justice exercises oversight over compliance with the requirements established under subsection 3 of this section and over performance of the contract concluded with the recipient of support. Where the recipient fails to perform their duties, the Ministry of Justice may issue an enforcement notice to the recipient and impose a non-compliance levy of up to 10,000 euros in accordance with the rules provided by the Substitutional Performance and Non-Compliance Levies Act for the purpose of ensuring that the notice is complied with. The Ministry of Justice may reclaim, into the State budget, any support that has been used for a purpose that was not intended.

[RT I, 28.12.2016, 14 – entry into force 07.01.2017]

§ 32. Reporting and administrative oversight of the actions of the Bar Association

[RT I, 13.03.2014, 4 – entry into force 01.07.2014]

(1) Not later than by April 1 the Bar Association files with the Ministry of Justice an annual overview of the provision of State-funded legal aid in the previous year and of the payment of the fees and costs of such aid to attorneys.

(2) Specific conditions for the use of funds allocated for the provision of State-funded legal aid may be enacted by a regulation of the Minister in charge of the policy sector.

(3) Not later than by April 1 the Ministry of Finance or an authority designated by the Minister in charge of the policy sector within the area of government of the Ministry of Finance files with the Ministry of Justice an annual overview of the collection of fees and costs of State-funded legal aid from persons subject to the compensation obligation. The rules for the filing of the overview are enacted by a regulation of the Minister in charge of the policy sector.

(4) When exercising administrative oversight of the proper performance of functions arising from this Act by the Bar Association, the Ministry of Justice has a right to:

- 1) receive documents from the Bar Association concerning the use of funds allocated for provision of State-funded legal aid and concerning the payment of fees for and costs of State-funded legal aid;
- 2) carry out an inspection of the economic activities of the Bar Association in order to verify the use of the funds allocated for provision of State-funded legal aid has been expedient and whether the purpose of the funds has been respected;

[RT I 2009, 1, 1 – entry into force 01.01.2010]

3) receive from the Bar Association any other information that is needed for exercising oversight over the lawfulness and efficiency of the use of funds allocated for provision of State-funded legal aid.

Chapter 7 INTERNATIONAL LEGAL AID

§ 33. Granting State-funded legal aid in connection with proceedings regarding a civil case before a court of a Member State of the European Union or any other dispute resolution body

(1) An Estonian citizen or a person residing in Estonia on the basis of a residence permit who meets the requirements of subsection 1 of § 6 of this Act may receive the State-funded legal aid provided for by clauses 4 and 7–9 of subsection 3 of § 4 in connection with proceedings regarding their civil case before a court of a Member State of the European Union or any other dispute resolution body until the making of an application for legal aid to a competent body of the corresponding Member State of the European Union.

(2) Where State-funded legal aid is granted in a dispute mentioned in subsection 1 of this section, this Act applies without prejudice to special rules provided by this Chapter.

(3) An application for State-funded legal aid under subsection 1 of this section is filed with Harju District Court.

(4) The application and any documents annexed to it may be filed in Estonian or in English.

[RT I 2009, 1, 1 – entry into force 01.01.2010]

§ 34. Translation assistance in connection with civil proceedings before a court of a member state of the European Union or any other dispute resolution body

(1) In addition to the State-funded legal aid provided for by § 33 of this Act, an Estonian citizen or a person residing in Estonia on the basis of a residence permit who meets the requirements of subsection 1 of § 6 of this Act may receive translation assistance for applying for legal aid in a dispute mentioned in subsection 1 of § 33 of this Act in a Member State of the European Union whose court or other dispute resolution body is competent to dispose of their civil case.

(2) The translation assistance mentioned in subsection 1 of this section means the translation of an application for legal aid – as well as the necessary documents justifying the application and annexed to it – to be filed with a body dealing with such applications in a Member State of the European Union into a foreign language in which the relevant bodies of the Member State dispose of such applications.

§ 35. Forwarding of applications for legal aid

[RT I, 2005, 39, 308 – entry into force 01.01.2006]

(1) To be granted State-funded legal aid in connection with civil proceedings before a court or any other dispute resolution body of a Member State of the European Union, an application may be filed with the competent body of the European Union or via Harju District Court. The provisions of § 193 of the Code of Civil Procedure apply to the forwarding of applications for State-funded legal aid via Harju District Court.

(2) [Repealed – RT I 2005, 39, 308 – entry into force 01.01.2006]

(3) [Repealed – RT I 2005, 39, 308 – entry into force 01.01.2006]

(4) [Repealed – RT I 2005, 39, 308 – entry into force 01.01.2006]

(5) [Repealed – RT I 2005, 39, 308 – entry into force 01.01.2006]

(6) [Repealed – RT I 2005, 39, 308 – entry into force 01.01.2006]

§ 36. State-funded legal aid in enforcement proceedings regarding official document of foreign state

(1) A person mentioned in subsection 1 of § 6 of this Act may receive State-funded legal aid mentioned in clause 7 of subsection 3 of § 4 of this Act in accordance with the rules provided by this Act in connection with enforcement in Estonia of an official document of a foreign state, which is recognised in Estonia.

(2) An application for the grant of State-funded legal aid under subsection 1 of this section is filed in accordance with subsection 3 of § 10 of this Act.

(3) An application and the documents annexed thereto may be filed in Estonian or English.

§ 37. Granting State-funded legal aid for recourse to the European Court of Human Rights

(1) An Estonian citizen or a person residing in Estonia on the basis of a residence permit who meets the requirements of subsection 1 of § 6 of this Act may, in accordance with the rules provided by this Act, be granted State-funded legal aid for lodging an application with the European Court of Human Rights until they become eligible to apply for legal aid from the European Court of Human Rights, provided the alleged violation of the Convention for the Protection of Human Rights and Fundamental Freedoms or of its Additional Protocols which are binding on Estonia that serves as the reason for the application has been committed by the Estonian State.

(2) An application for the grant of State-funded legal aid under subsection 1 of this section is filed in accordance with subsection 3 § 10 of this Act.

(3) The district court refuses to grant State-funded legal aid under subsection 1 of this section if the court finds that the application would not be admissible under Article 35 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

[RT I 2005, 39, 308 – entry into force 01.01.2006]

§ 37¹. Granting State-funded legal aid based on Council Regulation (EC) No 4/2009 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations

(1) On granting State-funded legal aid in proceedings carried out 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 Act regulating the granting of such aid apply only insofar as the Regulation does not provide otherwise.

(2) The functions of the central authority designated by the Regulation mentioned in subsection 1 of this section are performed by the Ministry of Justice.

(3) Where the Regulation mentioned in subsection 1 of this section requires the granting of translation assistance to an entitled person, the court appoints, above all, a sworn translator to provide the assistance. The provisions of this Act applicable to attorneys apply to translators, taking into account the specifics of translation assistance.

[RT I, 14.03.2011, 2 – entry into force 18.06.2011]

§ 37². Granting of State-funded legal aid based on the Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance

(1) Where State-funded legal aid is granted in proceedings conducted under the Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance (OJ L 192, 22.07.2011, pp 51–70), the provisions of this Act regarding the granting of such aid apply only insofar as the Convention does not provide otherwise.

(2) The functions of the central authority designated by the Regulation mentioned in subsection 1 of this section are performed by the Ministry of Justice.

[RT I, 31.12.2014, 1 – entry into force 10.01.2015]

Chapter 8 IMPLEMENTATION OF THIS ACT

§ 38. Application of this Act to undertakings that provide legal services

(1) A person who meets the requirements of subsection 1 of § 23 of the Bar Association Act, regarding whom the circumstances mentioned in clauses 1–3 and 5–7 of subsection 1 of § 27 of the Bar Association Act are absent and who, after completion of a nationally recognised curriculum of academic legal studies and immediately prior to joining the Bar Association, has provided, for at least three consecutive years, legal services as a self-employed person registered in the Commercial Register or through a company which provides legal services and in which the person is a shareholder, is admitted to the Bar Association as a senior assistant attorney-at-law once they have passed the corresponding examination. An application for admission to the Bar Association under this section is filed with the Board of the Bar Association not later than by 1 September 2005.

(2) A person admitted to the Bar Association under this section is entitled to provide legal services and own a law office on the same grounds as an attorney-at-law.

(3) A person mentioned in subsection 1 of this section who has passed the examination of senior assistant attorney-at-law loses the right to provide legal services and own a law office if the person does not pass the examination of attorney-at-law within two years following their joining of the Bar Association. The examination of attorney-at-law cannot be taken before one year has passed after the person's having been admitted to the Bar Association as a senior assistant attorney-at-law.

(4) Not later than within two months after becoming a member of the Bar Association, the person who became a member of the Bar Association in accordance with subsection 1 of this section files an application with the Registrar of the Commercial Register for transforming the company through which the person provides legal services into an attorney-owned company. The company to be transformed is subject to the provisions of subsection 1 of § 54 of the Bar Association Act as of 1 January 2007. A senior assistant attorney-at-law who has become a member of the Bar Association in accordance with subsection 1 of this section is deemed to be equal to attorney-at-law within the meaning of § 54 of the Bar Association Act.

(5) A person who applies for admission to the Bar Association in accordance with subsection 1 of this section must, within six months after becoming a member of the Bar Association, bring their activities into compliance with § 82¹ of the Bar Association Act.

(6) The provisions of § 48 of the Bar Association Act concerning the professional liability insurance of attorneys apply to a person who owns a law office and has become a member of the Bar Association in accordance with this section after 1 January 2006.

(7) Statutory fees are not charged for entry of amendments made under this section in the Commercial Register.

§ 38¹. Special rule concerning application of the rules on fees and costs

Where the amount of the fee for State-funded legal aid or the extent of compensation for the costs incurred in relation to providing such aid has not been established with respect to the aid provided before 1 August 2016, the determination of that fee and those costs is subject to the rules on fees and costs that were established under the version of subsection 3 of § 21 of this Act that entered into force on 1 August 2016.
[RT I, 22.06.2016, 21 – entry into force 01.08.2016]

§ 38². Application of this Act to contracts supporting access to legal advice

Subsection 4 of § 31 of this Act does not apply to contracts to support access to legal advice which have been awarded before the entry into force of that provision.
[RT I, 28.12.2016, 14 – entry into force 07.01.2017]

§ 38³. Renewal of contracts supporting access to legal advice

The Minister in charge of the policy sector may renew a contract to support access to legal advice which is valid at the time of entry into force of this section until the awarding of a corresponding contract to the winner of a new competition.
[RT I, 28.12.2016, 14 – entry into force 07.01.2017]

§ 39.–§ 48.[Omitted from this text.]

§ 49. Entry into force of this Act

(1) This Act enters into force on 1 March 2005.

(2) Sections 33–35 of this Act enter into force on 30 November 2004 with the exception of the part that concerns applications for State-funded legal that are filed outside judicial proceedings. As of 30 May 2006, this Act applies to applications for State-funded legal aid that are filed outside judicial proceedings in international disputes.
[RT I, 04.01.2019, 12 – entry into force 14.01.2019]

¹Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA (OJ L 88, 31.03.2017, pp 6–21).