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Code of Administrative Court Procedure

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Part 1
FUNDAMENTAL PROVISIONS

Chapter 1

Administrative court procedure

§ 1. Procedure in administrative courts and the body of rules governing that procedure

(1) Administrative court procedure is procedure for dealing with administrative matters. An administrative matter is a court case to be dealt with by the administrative courts.

(2) This Code lays down the competence of administrative courts and the procedure for recourse to administrative courts and for the deciding of matters in such courts, to the extent that this has not been regulated in other Acts of Parliament, in directly applicable international treaties and by the rules of European Union law.

(3) In the cases provided in this Code, the procedure in administrative courts is governed by the rules of the Code of Civil Procedure, without prejudice to the rules specific to the procedure in administrative courts.

(4) Any acts of administrative court procedure are performed in accordance with the law applicable at the time of performance of those acts.

§ 2. Purpose and general principles of procedure in administrative courts

(1) The primary purpose of the procedure in administrative courts is to protect the rights of individuals against unlawful actions performed in the course of the exercise of executive authority.

(2) An administrative matter (hereinafter, also ‘the matter’) must be dealt with justly, fairly, within reasonable time and with the least possible cost.

(3) The court may only decide the matter to the extent requested in the action or other declaration provided by law. The filing of such declarations is in the discretion of the participants in proceedings.

(4) The court must, of its own motion, make sure that facts material for deciding the matter are ascertained, where necessary by gathering evidence itself, or by imposing the obligation of presenting evidence on participants in proceedings. The court interprets and deals with declarations of participants in proceedings according to the actual intention of the participant who made the declaration.

(5) At every stage of the proceedings, the court provides sufficient explanation to participants in proceedings to guarantee that no declaration or evidentiary item necessary to protect a participant’s interests remains unrecognized because of the participant’s lack of experience in legal matters and that any defects of form that would prevent a declaration from being heard are cured.

(6) In relation to every issue material to deciding the matter, the courts must guarantee participants in proceedings an effective and equal opportunity to present their views and the grounds for those views, and to contest the other participants’ views or to support the same.

(7) Proceedings before administrative courts are public unless the law provides otherwise.

Chapter 2
Courts

§ 3. Courts to decide administrative matters

In the first instance, administrative matters are decided by the administrative courts, in the appellate instance by the circuit courts and in the final instance by the Supreme Court. The Supreme Court also decides on petitions to review a case and on other declarations provided for by the law.

§ 4. Competence

(1) Administrative courts are competent to decide on disputes arising in public law relationships unless the law provides a different procedure for resolving such disputes.

(2) Administrative courts may also be assigned other duties by an Act of Parliament.

(3) Actions against acts of foreign authorities, of an international organization or a body of such an organization may not be brought in Estonian courts.

(4) Unless the law provides otherwise, the court dealing with an administrative matter must independently and conclusively ascertain all facts material to resolution the matter.

§ 5. Powers of administrative courts

(1) When granting an action, the court may, in the operative part of the judgment:

1) annul the administrative act in part or in full;
2) order that an administrative act be made or an administrative measure be taken;
3) prohibit the making of an administrative act or the taking of an administrative measure;
4) award compensation for harm caused in a public law relationship;
5) issue an enforcement order requiring elimination of the consequences of the administrative act or administrative measure;
6) ascertain that the administrative act is null and void, that the administrative act or measure is unlawful, or ascertain a fact that is of material importance in the public law relationship.

(2) If the administrative act contains, or serves as the basis for, a private law declaration of intent by the respondent, the court may, when it rules the administrative act to be null and void, also ascertain, in the operative part of its judgment, the nullity of the transaction which the declaration of intent aimed to accomplish.

(3) In exercising the powers listed in clauses 1–5 of subsection 1 of this section the court must have regard to the provisions of the State Liability Act.

(4) The court may exercise the powers provided in subsection 1 of this section either cumulatively or separately.

§ 6. Administrative act and administrative measure

(1) For the purposes of administrative court procedure, the following are deemed to constitute administrative acts: administrative acts as defined in § 51 of the Administrative Procedure Act, administrative contracts as defined in § 95 of the Administrative Procedure Act, as well as any internal regulation of an administrative authority which resolves an individual case.

(2) For the purposes of administrative court procedure, the following are deemed to constitute actions of an administrative authority: actions undertaken in the course of administrative proceedings, as well as the authority's omissions and delays in public law relationships.

§ 7. Jurisdiction

(1) An action is to be brought in the court having jurisdiction of the respondent's seat or place of service. If the subject matter of the dispute consists in acts of the respondent's regional branch or official, or the harm caused by such acts or the consequences of such acts, the action is to be brought in the court having jurisdiction of the seat of the regional branch or the place of service of the official.

(2) When several courts have jurisdiction of an administrative matter, the action may be brought in the court of the applicant's choosing.

§ 8. Extraordinary jurisdiction

(1) If the matter concerns a challenge to both a preliminary administrative act and the conclusive administrative act founded on the preliminary one, the action must be brought in the court having jurisdiction in relation to the conclusive administrative act.

(2) If the matter concerns a challenge to one respondent's administrative act and to another respondent's administrative measure undertaken in relation to the first respondent's administrative act, including an opinion, endorsement or executory measure of the other respondent, the action must be brought in the court having jurisdiction in relation to the administrative act.

(3) In the case that the action in the matter contests an administrative act or measure and, at the same time, the decision made on a challenge filed against the act or measure, or any other order made in pre-action proceedings in the case, such action must be brought in the court having jurisdiction in relation to the initial administrative act or measure.

(4) In the case of a service dispute, the action must be brought in the court having jurisdiction of the location of the place of service.

(5) A person deprived of his or her liberty must bring his or her action in the court having jurisdiction of the place of his or her detention.

(6) An action which names the Tax and Customs Board or the Social Insurance Board as the respondent is brought in the court having jurisdiction of the location of the residence or seat of the applicant.
[RT I, 28.11.2017, 1 – entry into force 01.01.2018]

§ 9. Conclusive effect of accepted jurisdiction

(1) Regardless of the provisions of §§ 7 and 8 of this Code, a court has jurisdiction of an administrative matter also in the case that participants in proceedings have not contested the court's jurisdiction by the time-limit established for responding to the action.

(2) Unless a party to the proceedings or a third party joined to the proceedings appeals the order to transfer proceedings to the court having jurisdiction of the matter, the higher court does not verify whether the lower court had jurisdiction in the matter, or, of its own motion, transfer the proceedings to another court.

(3) The fact that the circumstances of the matter have changed after the action was brought does not affect the jurisdictional status of the matter.

(4) If an action is amended before the court has accepted it, and in its amended version the action falls in the jurisdiction of another court, the court in which the action was brought will make an order to transfer the matter to the court who has jurisdiction.

(5) The jurisdictional status of a matter may not be changed by an agreement between participants in proceedings.

§ 10. Verification and resolution of jurisdiction

(1) Should the court ascertain, after the action has been brought, that the administrative matter is not within the jurisdiction of the court, it will make an order ordering transfer of the matter to the court which has jurisdiction. If the matter could belong in the jurisdiction of several courts, the court in which the action was brought transfers the matter to that of those several courts which is selected by the applicant. An interlocutory appeal made in the matter may be filed with the circuit court. The order by which the circuit court decides on the appeal is not subject to further appeal.

(2) The court transfers proceedings after the corresponding order has become final. The court that transfers proceedings may perform urgent procedural acts, in particular, it may make an order concerning interim relief.

(3) Where proceedings have been transferred by one court to another, the court to which the proceedings were transferred must decide the matter. The courts may not engage in jurisdictional disputes.

(4) In accordance with the application made by a participant in proceedings or by the court in which the action was brought, jurisdiction is resolved by the president of the Administrative Law Chamber of the Supreme Court in the case that:
1) the court who has jurisdiction of a matter cannot adjudicate the matter;
2) it is not clear which court has jurisdiction of the matter;
3) in the same matter, several courts have ruled that they do not have jurisdiction, or
4) in the same matter, several courts of the same instance have ruled that they have jurisdiction.

§ 11. Composition of the court

(1) In an administrative court, an administrative matter is decided by a single judge. The president of the court may assign a matter to be decided by a panel of three judges:
1) if the matter is particularly complicated;
2) if a point of principle is at issue in the matter;
3) in other cases where this is in the interests of the administration of justice.

(2) A matter which has been assigned in an administrative court to a panel of three judges may not be assigned to a single judge, except in the case that the matter has been returned to the administrative court to be resolved anew, or in the case that a claim or claims have been severed from the matter or in the case that proceedings are terminated in a part of the matter. Procedural acts and orders in relation to the opening of proceedings on an action and acts of preliminary procedure in relation to the action, as well as orders made by the court outside a court session, except for orders by which the court refuses to admit evidence, may be made by any of the members of the three-member panel acting alone.

(3) In the circuit court, an administrative matter is decided by a three-member panel.

(4) In the Supreme Court, an administrative matter is dealt with by the Administrative Law Chamber sitting as a panel of at least three members, by the Special Committee or by the Supreme Court *en banc*.

(5) In the case that, during proceedings, there is a change in the panel dealing with the matter, proceedings are commenced from the beginning. The new panel is not required to repeat procedural acts performed by the previous panel unless a corresponding application is submitted by a party or third party in the matter.

(6) After the decision in a matter has been pronounced, any applications made to the court which has decided the matter do not need to be dealt with by the panel which made the decision.

(7) Sections 21–22 of the Code of Civil Procedure apply to the confidentiality of deliberations, to voting in collegiate panels and to judges' dissenting opinions.

§ 12. Court official

(1) An order which prepares a matter for deciding or any other order by which the court gives directions in a matter, and regarding which the law does not provide for the possibility of appeal, including the order by which the court accepts an action, the order by which the court refuses to proceed with the action or other application, and the order by which the court sets or extends a time-limit, may also be made by a court official who possesses the corresponding authority under the court's rules of procedure.

(2) In drawing up or formatting a decision, the court may be assisted by a court official.

§ 13. Recusal

(1) Recusal of a judge is governed by §§ 23–30 of the Code of Civil Procedure.

(2) In addition to the provision of subsection 1 of this section, a judge may not take part in dealing with an administrative matter, and must recuse himself or herself, if he or she has participated in administrative proceedings which resulted in the dispute that is to be adjudicated in the case.

§ 14. Assistance between courts

(1) Other courts are to assist the court dealing with an administrative matter in accordance with § 15 of the Code of Civil Procedure. A court dealing with an administrative matter may also seek the assistance of a county court.

(2) In the case that evidence needs to be taken outside the jurisdictional area of the court which deals with a matter, the court hearing the matter may, in accordance with the rules provided in § 239 of the Code of Civil Procedure, issue an order that a procedural act be performed, under a letter of request, in the county court or administrative court in whose jurisdiction it is possible to take the evidence. The request made by the court is complied with in accordance with the rules provided in § 240 of the Code of Civil Procedure.

(3) In administrative court proceedings, evidence taken in a foreign state in accordance with the laws of that state is admissible, provided the procedural actions performed in order to take that evidence do not contravene important principles of Estonian administrative court procedure.

(4) Letters of request addressed by an Estonian administrative court to law authorities of a foreign country and letters of request from the law authorities of a foreign country to an Estonian administrative court are to be dispatched and fulfilled in accordance with the provisions of this Code and the relevant foreign treaties. The court may also take evidence in a foreign country through a foreign mission representing the Republic of Estonia, provided this is not ruled out under the law of the foreign country.

Chapter 3
Participants in proceedings before administrative courts

Subchapter 1
General provisions concerning participants in proceedings

§ 15. Types of participants

(1) Participants in proceedings are:
1) the parties (the applicant and the respondent);
2) any third party;
3) any administrative authority joined to the proceedings.

(2) An administrative authority of the government or of a local authority participates in the proceedings in the name of the government or of the local authority.

(3) In administrative court procedure, 'administrative authority' is deemed to refer to administrative authorities as defined in subsection 1 of § 8 of the Administrative Procedure Act.

§ 16. Applicant

An applicant is a person or an association of persons who has brought an action in an administrative court. An association of persons possesses standing as an applicant only in the cases provided by law.

§ 17. Respondent

(1) The respondent is the Government of the Republic, the Prime Minister, a government agency, a local authority, a legal person in public law, or a legal or natural person in private law who performs a public duty in its or his or her own name, whose actions are the subject matter of the action or with whom the applicant is involved or with whom it is the most probable that the applicant will be involved in a dispute regarding a fact which the action requests that the court ascertain.

(2) A government agency is the respondent also in the case in which the dispute concerns the actions of an official or a collegial body affiliated to the agency. If an applicant contests the actions of a government official or collegial body which is not affiliated to any institution, the respondent is that official or that collegial body.

(3) In the case of a claim for compensation of harm caused by a court decision, the respondent is the Ministry of Justice. In the case of a claim for compensation of harm caused by an Act of the *Riigikogu*or an omission to pass an Act of the *Riigikogu*the respondent is the ministry in whose area of government the Act falls.

(4) The law may provide exceptions to subsections 1–3 of this section.

§ 18. Identifying the respondent

(1) The respondent of the matter is identified by the court having regard to the subject matter of the dispute. The submissions of participants in proceedings regarding identification of the respondent have no binding effect on the court.

(2) If, during proceedings, the court finds that there is a respondent who has not or there are respondents who have not been joined to the proceedings, it joins the additional respondent(s) to the proceedings. If, during proceedings, the court finds that the respondent has been identified incorrectly, it replaces that respondent with the correct respondent.

(3) After the replacement of a respondent, or the joining of an additional respondent, the hearing of the matter must start anew if a new respondent so requests, except in the case in which the new respondent is affiliated or subordinated to a respondent previously joined to the proceedings.

§ 19. Multiple parties

(1) Several applicants may bring a joint action, and an action may be brought against joint respondents, if:
1) the dispute relates to a right that these persons hold jointly;
2) several persons contest the same administrative act or measure;
3) the administrative acts or measures of several respondents that constitute the subject matter of the claim are legally related, in particular, if one administrative act or measure serves as the foundation of the other, or if the acts or measures have been issued or taken in the same administrative proceedings, or
4) the respondent's administrative acts or measures which constitute the subject matter of the claim are of the same type and were issued or taken on the same legal basis and under the same of similar circumstances.

(2) In relation to the other party, each applicant and respondent participates in the proceedings independently. Unless the law provides otherwise, an act of one applicant or respondent does not entail any legal consequences for other applicants or respondents.

§ 20. Third party

(1) In the case that the administrative court's decision may affect the rights or obligations of a person who is not a party to the matter, the court must join such person to the proceedings as a third party.

(2) Unless this Code provides otherwise, in the proceedings before the court a third party enjoys the same rights and is subject to the same duties as the parties.

§ 21. Joinder of third parties

(1) A third party may be joined to the proceedings on the basis of the corresponding application of a participant in proceedings or of the court's own motion at any stage of the proceedings and in any judicial instance until the judgment becomes final. A third party may also seek to be joined to the proceedings by appealing the decision entered in the matter. In such a case the issue of joinder is decided together with acceptance of the appeal. Unless the court decides otherwise, any procedural acts performed prior to the joinder of a third party are valid with respect to the third party.

(2) Before deciding on the issue of the joinder of a third party, the court may hear the other participants in proceedings.

(3) A party or third party may appeal an order joining a third party to the proceedings. The order entered by the circuit court in respect of the appeal is not subject to further appeal.

(4) A person who seeks to be joined to the proceedings, or a party or third party in whose interests it may be to obtain joinder of a third party, may appeal an order by which the court refuses to join the third party to the proceedings, and the order entered by the circuit court in respect of the appeal may be further appealed to the Supreme Court.

(5) Should it turn out that a third party has been joined to the proceedings without good cause or in the case that, due to a change in circumstances, it is manifest that the decision to be made in the matter can no longer affect the rights of the third party, the court may by order remove that third party from the proceedings. The order may be appealed by a party or third party, and the order entered by the circuit court in respect of the appeal may be further appealed to the Supreme Court.

§ 22. Class proceedings

(1) In the case that there may be more than 50 third parties in an administrative matter, the court may conduct the matter as class proceedings. In this case, only those of the persons concerned who seek a joinder within the established time-limit are joined to the proceedings. The corresponding application may be filed within 30 days as of the publication of the relevant notice in accordance with § 23 of this Code.

(2) The court will join to the class proceedings, in accordance with the relevant regular rules, also any persons whose rights are affected in the matter to a significantly higher degree than those of others, in particular the addressees of the contested administrative act and also persons who have taken an active part in the administrative proceedings which gave rise to the dispute that is being dealt with in the administrative matter.

(3) In the case that the notice specified in subsection 2 of § 23 of this Code has been duly published, the person who did not, within the established time-limit, seek to be joined to the proceedings, may, if that person appeals the order made in the class proceedings, only rely on not being joined to the proceedings if the court contravened subsection 2 of this section and the person did not learn of the class proceedings in due time.

(4) Not applying for a joinder to the proceedings does not prejudice a person’s right to bring an action against the administrative act or measure contested in the class proceedings.

§ 23. Notification of class proceedings

(1) The court must choose as effective a means as possible of notifying the persons concerned of the administrative matter to be dealt with in class proceedings, and of the time-limit for making an application for joinder to the proceedings and the relevant procedure. Where this is possible, the court transmits the notice personally to those persons whom the matter concerns and in whose respect it may be presumed that they would make arrangements for other persons concerned to be represented in the matter, or to notify such other persons of the matter. Where this is not unreasonably onerous, the court sends a written notice to the address of as many of the persons concerned as possible, or displays such notice in the vicinity of their residence or at other locations which the persons concerned frequently visit.

(2) In addition to what is set out in subsection 1 of this section, the court is to publish the notice on at least two occasions staggered by at least one week in a newspaper of national circulation and on at least two occasions staggered by at least one week in through the national broadcasting organisation. A note regarding the way and the place of publication is to be made in the case file.

§ 24. Joinder of administrative authority

(1) An administrative court may join to the proceedings an administrative authority whose opinion it seeks:
1) if the authority performs supervision of the respondent;
2) if the subject matter of the dispute concerns the tasks of the authority;
3) if the authority has issued or should have issued an opinion or has issued or should have issued an endorsement in the administrative proceedings which gave rise to the dispute;
4) if there are other reasons which suggest that the authority’s opinion or the information that the authority holds is likely to facilitate resolving the matter.

(2) An administrative authority joined to the proceedings enjoys all the rights of a participant in proceedings set out in this Code, except for the rights and duties which have been reserved exclusively to the parties and third parties.

Subchapter 2

Participation in administrative court proceedings

§ 25. Active legal capacity

(1) Unless the law provides otherwise, in administrative court procedure a person of restricted active legal capacity as defined in subsection 2 of § 8 of the General Part of the Civil Code Act is deemed to lack active legal capacity.

(2) A person of restricted active legal capacity who is of the age of majority is deemed to have active legal capacity for the purposes of administrative court procedure in the case that, in the court's assessment:
1) the restriction of active legal capacity does not concern the administrative matter;
2) the interests of the person of restricted active legal capacity may be in conflict with the interests of the person's guardian, or
3) the contrary view would jeopardize a right of the person of restricted active legal capacity or of another participant in proceedings, or jeopardize the public interest.

(3) A minor of at least 15 years of age is deemed to have active legal capacity for the purposes of administrative court procedure if, in the court's assessment, he or she understands the meaning of his or her procedural actions and does not harm his or her interests or the interests of his or her close relatives.

(4) For the purposes of administrative court procedure, the court ascertains the absence of active legal capacity of an adult person by order and on the basis of the corresponding application of a participant in proceedings, or of the court's own motion. An appeal against the order may be filed with the circuit court, and the order entered by the circuit court in respect of the appeal may be further appealed to the Supreme Court. The order is valid only in the matter in which it was made. For the purposes of administrative court procedure, a person of restricted active legal capacity is deemed to have active legal capacity in relation to verification of such capacity and to appealing the order which ascertains the absence of that capacity.

(5) If an adult person has not been appointed a guardian, the court arranges an expert assessment before making an order specified in subsection 4 of this section. The expert must personally examine or interview the person before drawing up his or her opinion. The person in respect of whom expert assessment has been ordered is obligated to attend an appointment with the expert. If the person in respect of whom the expert assessment was ordered fails to attend such appointment without having a valid reason, the court may, having heard the opinion of the expert, compel the attendance of the person concerned or make an order specified in subsection 4 of this section without examining or interviewing the person concerned.

(6) If the court finds that an adult person who has no guardian does not possess active legal capacity or if the need arises to appoint a guardian to the person irrespective of the administrative matter, the court notifies this without delay to the administration of the rural municipality or city in which the participant in proceedings has nis or her place of residence.

§ 26. Participation of persons of restricted active legal capacity in proceedings

(1) If a person does not possess active legal capacity, the court does not permit that person to participate in the proceedings. The court refuses to hear any declaration of the person unless the person's legal representative approves the declaration within the time-limit established by the court. The absence of active legal capacity does not preclude the court from refusing to hear the declaration on any other grounds provided by law.

(2) The court may assign a representative to a person specified in subsection 2 of § 25 of this Act. If a participant in proceedings who does not possess active legal capacity for the purposes of administrative court procedure has no legal representative or no appropriate authorized representative, the court assigns a representative to the person or stays proceedings in the matter until the appointment of a guardian.

(3) The fact that a participant in proceedings who is a person of restricted active legal capacity possesses active legal capacity for the purposes of administrative court procedure does not preclude or prejudice the right of the legal representative to participate in the proceedings. A procedural act performed by the representative is deemed a procedural act performed by the participant, except where this is contrary to the procedural act performed by, or the interests of, the participant.

(4) In the case provided in subsection 3 of this section, procedural documents which are meant for a participant in proceedings who is a person of restricted active legal capacity are also served on his or her legal representative and the court guarantees him or her the right to be heard in all issues of importance for deciding the matter.

(5) The court may hear a participant in proceedings who is a person of restricted active legal capacity and at least 12 years old if, in the court's assessment, the participant's level of personal development and the state of the participant's health permit this.

§ 27. Rights of participants in proceedings

(1) In addition to other rights provided in this Code, a participant in proceedings also has the right to:

1) inspect the court file and to obtain copies of the court file;
2) participate in court sessions;
3) know the composition of panel hearing the matter;
4) file petitions of challenge and applications;
5) submit to the court explanations and reasons regarding any issue which has arisen in the course of hearing the matter;
6) submit evidence and participate in the examination of evidence;
7) make objections to the applications and reasoning of other participants in proceedings;
8) put questions to other participants in proceedings, to witnesses and to experts;
9) obtain a certified copy of the court decision when the decision has been drawn up as a document.

(2) In addition to other rights provided in this Code, the applicant also has the right to:
1) amend the action and the amount of the claim made in the action;
2) discontinue the action.

(3) In addition to other rights provided in this Code, the respondent also has the right to admit the action.

§ 28. Duties of participants in proceedings

(1) Participants in proceedings must exercise their procedural rights in good faith.

(2) The court does not permit any participant in proceedings or the representative or adviser of any participant in proceedings to abuse his or her rights, to delay proceedings or to mislead the court. The court may impose a fine on any participant in proceedings who with malicious intent interferes with the proceedings' being conducted in a just and expeditious manner involving the least possible cost, as well as on any participant in proceedings, representative or adviser who in a written declaration has expressed himself or herself in an improper manner or has shown disrespect to the court or to another participant in proceedings.
[RT I, 28.11.2017 – entry into force 01.01.2018]

(3) A participant in proceedings must, without delay, inform the court and other participants of any change, including temporary change, in his or her address or in the particulars of his or her means of telecommunication during proceedings before the court.
[RT I, 29.06.2012, 3 – entry into force 01.01.2013]

(4) A participant in proceedings is obligated to submit, on time and in the format established by the court, the opinions and evidence requested by the court.

(5) A participant in proceedings or his or her legal representative is obligated to attend the court session or any other procedural act in person if the court so requires.

§ 29. Universal succession

(1) In the case of the death of a participant in proceedings who is a natural person or the dissolution of a legal person who is a participant in proceedings or in any other case of universal succession, the court permits the universal successor of the participant to join the proceedings, unless the law provides otherwise. Universal succession is possible at any stage of proceedings.

(2) All procedural acts performed before the universal successor joined the proceedings apply in respect of the universal successor in the same manner as they would apply in respect of the legal predecessor of the universal successor.

(3) Subsections 1 and 2 of this section also apply in the case of the dissolution, merger or division of the respondent and the transfer of competence related to the subject matter of the action.

§ 30. Rights of assignors and assignees in relation to transfers of ownership

(1) A transfer of ownership of a corporeal object related to the dispute, or the transfer of other similar rights or assignment of a claim does not in itself affect proceedings in the matter. A transfer of ownership of an object which occurs after the bringing of the action does not amount to an independent ground for refusing to grant the action.

(2) A transferee or an assignee may, in the case specified in subsection 1 of this section, take the place of the transferor or assignor in the proceedings, provided the transferor or assignor consents to that, and provided it is manifest, in the assessment of the court, that judgment in the matter can no longer affect the rights of the transferor or assignor. All procedural acts performed before the transferee or assignee joined the proceedings apply in respect of the transferee or assignee in the same manner as they would apply in respect of the transferor or assignor.

(3) If, in the case of a transfer of ownership of a corporeal object, it is not possible for the transferee to join the proceedings in accordance with subsection 2 of this section, the court joins the transferee to the proceedings as a third party. In such a case, in the event of discontinuation of the action proceedings may only be terminated if the person to whom the rights of the applicant have been assigned consents to that.

(4) Consent to replacement of the transferor or assignor is presumed to exist if the facts show that the transferor or assignor has lost interest in the matter, in particular in the case that it has proved impossible, in spite of repeated attempts, to deliver procedural documents to the transferor or assignor at the address notified to the court, or any other address known to the court.

Subchapter 3
Representation and advice

§ 31. Representation

(1) Unless the law provides otherwise, a participant in proceedings may participate in the proceedings either in person or through a representative. Personal participation does not deprive the participant of the right to have a representative or adviser. The participation of a representative or adviser does not deprive the participant of the right to participate in the proceedings in person.

(2) The authority to represent a person in court empowers the representative to perform any procedural act in the name of the principal. The participant in proceedings may limit the scope of representation provided by law. Any limitation of the scope of representation provided by law is only valid with regard to the court and other participants in proceedings to the extent that it concerns the representative's right to conclude the matter by judicial settlement or to discontinue or admit the action, provided the limitation has been notified to the court and participants in proceedings.

(3) Representation is subject to subsections 5–8 of § 217, subsections 3–7 of § 219 and §§ 221, 224 and 225 of the Code of Civil Procedure.

(4) In the case that an association of persons does not possess legal personality, its legal representative in proceedings before the administrative court is the person who can show that the majority of the members of the association agree to him or her representing the association.

§ 32. Authorized representatives

(1) Under administrative court procedure, an authorized representative may be:
1) an advocate;
2) a person who possesses a higher legal education;
3) in tax matters, a tax or accountancy consultant who possesses a higher education in economics;
4) in matters a related to commercial activities of the participant in proceedings, the participant's procurist;
5) an official or employee of the participant in proceedings, if the court deems such official or employee to possess such knowledge and experience which is sufficient to represent the participant;
6) an applicant, respondent or third party authorized respectively by another applicant, respondent or third party;
7) the spouse or an ascendant or descendant of the participant in proceedings who is being represented;
8) any other person whose right to be a representative in proceedings before the administrative court arises from the law.

(2) The persons specified in clauses 2 and 3 of subsection 1 of this section may not represent the principal before the Supreme Court.

(3) A person who possesses a higher legal education or a higher education in economics is deemed to be a person who, in the specialism concerned, has earned at least a nationally recognized Master's degree, an equivalent qualification within the meaning of subsection $2^2$of § 28 of the Education Act or an equivalent qualification conferred abroad.

(4) The court may remove a representative from the proceedings or bar a representative from making declarations if the representative is not capable of duly participating in the proceedings, including for reasons of insufficient knowledge of the Estonian language, or if the representative has, in proceedings before the court, shown himself or herself to be dishonest, incompetent or irresponsible, as well as if the representative has with malicious intent interfered with the court's conducting the proceedings in a just and expeditious manner fraught with the least possible cost, or has repeatedly failed to comply with a court order.

(5) A person of restricted active legal capacity may not be a representative.

(6) An official who works in the ministry which is led by the minister who is a participant in proceedings is also deemed to be an official of the participant in proceedings for the purposes of applying clause 5 of subsection 1 of this section.

§ 33. Legal representative of an administrative authority

(1) The legal representative of an institution which performs administrative duties is the head of that institution.

(2) The legal represenative of a collegial body is the head of that collegial body.

§ 34. Joint representative

(1) In the case that, in an administrative matter, the number of participants in proceedings who have similar interests and who are of the same type exceeds 50, the court may obligate such participants, provided their other interests do not conflict, to select a joint representative by a fixed due date, provided this is required for deciding the matter within reasonable time.

(2) To select a joint representative, the majority of participants in proceedings specified in subsection 1 of this section must express their intention. If the participants in question have not elected a joint representative by the fixed due date, the court appoints as representative an advocate who has given his or her consent and whose costs will be paid by the participants.

(3) An interlocutory appeal specified in subsections 1 and 2 of this section may be filed with the circuit court. The order entered by the circuit court in respect of the appeal is not subject to further appeal.

(4) The existence of a joint representative does not deprive any participant in proceedings of the right to participate in the proceedings in person, or of the right to authorise another representative to represent him or her separately or jointly with another person.

(5) The authority of representation of a joint representative terminates when the represented participants in proceedings appoint a new representative, when the representative resigns representation or when the court revokes the court's appointment of a joint representative. The court revokes the court's appointment of a joint representative if the prerequisites specified in subsection 1 of this section are no longer present.

§ 35. Verification of authority of representation

(1) If a person who has filed a declaration on behalf of another person lacks the authority of representation, the court refuses to hear the declaration and does not permit the person to perform procedural acts in the court.

(2) A participant in proceedings may request verification of the authority of representation of the representative of another participant in proceedings at every stage of the proceedings in every judicial instance.

(3) If the absence of authority of a representation is established during the proceedings, the participant in those proceedings is deemed not to have participated in the proceedings in which he or she was represented without the authority of representatation, unless the participant subsequently ratifies the procedural acts performed by the person who purported to be the participant's representative.

(4) An advocate is presumed to have the authority of representation. If a procedural document is signed by an advocate as the representative of a participant in proceedings, the corresponding power of attorney does not need not be annexed to the procedural document, but the court is entitled to require presentation of the power of attorney.

§ 36. Advisers

(1) A participant in proceedings may employ a person with unrestricted active legal capacity as an adviser.

(2) An adviser may appear in court together with the participant in proceedings and provide explanations. Advisers cannot perform procedural acts or make applications.

(3) An adviser's submission in a court session is deemed to be the submission of the participant in proceedings unless the participant immediately retracts or rectifies the submission. The court explains this right to the participant in proceedings.

(4) Subsection 4 of § 32 of this Code also applies to advisers.

Chapter 4

Actions

§ 37. Actions

(1) Proceedings before the administrative court commence when an action is filed with the court.

(2) An action may seek:
1) the full or partial annulment of the administrative act (annulment action);
2) the issue or an administrative act or the taking of an administrative measure (mandatory action);
3) a prohibition to issue certain administrative act or take a certain administrative measure (prohibition action);
4) compensation for harm caused in a public law relationship (compensation action);
5) elimination of unlawful consequences of an administrative act or measure (reparation action);
6) a declaration of nullity of an administrative act, a declaration of unlawfulness of an administrative act or measure, or a declaration ascertaining other facts of material importance in a public law relationship (declaratory action).

(3) If the applicant so wishes, the action may include several related claims (compound action). The claims of a compound action may be alternative. The administrative court assesses the admissibility of a compound action with respect to each of the claims separately.

(4) An annulment action may, in addition to annulment of the administrative act, also seek a declaration of nullity in respect of a transaction specified in subsection 2 of § 5 of this Code.

§ 38. Content of action

(1) An action is to include the following information:
1) the applicant's name, personal identification code, or date of birth or registry code if the applicant has no personal identification code, as well as address and particulars of any means of telecommunication;
2) names, addresses and particulars of any means of telecommunication of other participants in proceedings;
3) if the applicant has a representative, the representative's name, address and particulars of the means of telecommunication;
4) the name of the administrative court;
5) the claim made in the action in accordance with § 37 of this Code;
6) the content, name, date and number the disputed administrative act or measure and the name of the administrative authority which issued the administrative act or measure, provided that the presentation of such information is possible;
7) the cause in fact of the action;
8) evidence which confirms the facts asserted by the applicant, including specific reference as to which evidentiary item is to support which fact;
9) how and when the applicant learned of the disputed administrative act or measure;
10) whether the applicant wishes the matter to be heard in a court session, by written procedure or by simplified procedure;
11) a list of the annexes to the action.

(2) In the case that financial compensation is claimed, the amount of the compensation must be added to the information specified in subsection 1 of this section. If compensation is claimed for non-patrimonial damage, also when it is impossible or unreasonably complicated for the applicant to determine the extent of patrimonial damage, the applicant may forgo indicating the amount of compensation in the action and request a just compensation at the discretion of the court.

(3) A claim for late interest or for interest may be made together with the principal claim in the action in such a manner that the order for the payment of late interest or interest is applied for not in terms of a lump sum but in full or partially as a percentage of the principal claim.

(4) A declaratory action must also set out, in addition to the information specified in subsection 1 of this section, why the filing of the action is necessary for protection of the rights of the applicant.

(5) If an action is filed after the time-limit for bringing the action has elapsed, the action must include an application for restoring the time-limit for bringing the action and the reasons for letting the time-limit pass.

(6) The action may also include an application for interim relief, as well as an application for setting the time-limit for complying with the judgment or for setting any other important conditions relating to compliance with the judgment in accordance with § 168 of this Code.

(7) If the applicant wishes to use the services of an interpreter in the proceedings, this must be noted in the action and, if possible, the personal particulars of the interpreter must be provided.

(8) In other respects, actions are subject to the provisions of Chapter 5 of this Code.

§ 39. Annexes to actions

(1) The following must be annexed to the action:
1) the administrative act contested or a copy thereof, if the applicant is in possession of the same;
2) where possible, evidence showing the time of service of the administrative act or the time that the applicant learned of the administrative act or measure, if, by the time the action is brought, a considerably longer period has elapsed since the issue of the administrative act or the taking of the administrative measure than the time-limit for bringing the action which is provided by law;
3) documents supporting the claim made by the applicant, if these have not been presented to the respondent in the course of proceedings that led to the issue of the administrative act or the taking of the administrative measure which the action contests;
4) information concerning the payment of the state fee, or an application for procedural assistance;
5) the power of attorney, if the action is signed by an authorized representative of the applicant, except if the representative is an advocate;
6) a certificate concerning the passive legal capacity and the legal representative of the person, if the applicant is a legal person incorporated in a foreign jurisdiction.

(2) An action filed in writing must include, for other participants in proceedings, except for other applicants, copies of the action and of any annexes thereof. The copies do not need to be appended if the other participant has the document in his or her possession as an original or a copy or if the applicant has to transmit the document directly to another participant.

§ 40. Filing the action

(1) An action may be filed:
1) in writing by post, by delivering it to the court in person or by having it served on the court by another person, unless § 53 of this Code provides otherwise, or
[RT I, 29.06.2012, 3 – entry into force 01.01.2013]
2) by electronic means in accordance with the rules provided in § 336 of the Code of Civil Procedure.

(2) An action drawn up in writing may be served on any courthouse of an Estonian administrative or county court. The court, without delay, transmits the action and any annexes thereof to the court who has jurisdiction over the matter.

§ 41. Subject matter of dispute

(1) In administrative court procedure, the subject matter of the dispute is determined by the claim made in the action in accordance with § 37 of this Code and the cause of action. The court may not make a judgment in respect of a claim or cause which has not been set out in the action and may not exceed the scope of the claim.

(2) The cause of an action is the body of principal facts in relation to which the claim is made.

(3) When granting a mandatory action, the court may order the respondent both to issue an administrative act or to take an administrative measure and to make a new decision concerning the issuing of an administrative act or the taking of an administrative measure.

(4) The nullity of an administrative act may also be ascertained by the administrative court on the basis of an annulment action. An administrative act may also be annulled by the administrative court on the basis of an action for a declaration of nullity of the administrative act provided the action meets the requirements established for annulment actions.

(5) If the preconditions established in the law for a claim of compensation for non-patrimonial damage are met, and the court refuses to order payment of the compensation in accordance with the conditions provided by law, the court may, instead of ordering payment of the compensation, ascertain the unlawfulness of the administrative act or measure which caused the damage.

§ 42. Action against secondary condition

(1) The court may annul a secondary condition of an administrative act separately from the main provisions of the administrative act only if:
1) the respondent was required to issue the administrative act without the secondary condition or
2) annulment of the secondary condition separately from the administrative act does not harm the public interest or prejudice the rights of third parties.

(2) In other cases when deciding on a claim for annulment of a secondary condition, the court annuls the entire administrative act and orders a new administrative act to be issued.

§ 43. Repeated action

(1) A person is not permitted to bring an action in the administrative courts if the person has already, in an administrative court, brought an action which contains the same claim and is made on the same cause and:
1) the judgment made in respect of the previous action has become final;
2) the court order terminating proceedings in respect of the previous action has become final or
3) proceedings on the previous action are pending before the court.

(2) Return and dismissal of the action does not deprive the person of the right of recourse to the courts. When an action is returned or dismissed, the court is deemed not to have dealt with that action.

§ 44. Right of action

(1) Individuals may have recourse to an administrative court only for the protection of their rights.

(2) For other purposes, including protection of rights of another person or protection of a public interest, a person may only have recourse to the court in the cases provided by law.

(3) An association of persons which is not a legal person may bring an action in an administrative court only in the cases provided by law.

(4) The government, a local authority or a legal person in public law may bring an action against another public authority for the purpose of protection of its rights, including the right of ownership and any rights arising from administrative contracts.

(5) A local authority may also bring an action if an administrative act or measure of another public authority significantly hinders or complicates the performance of the duties of the local authority.

§ 45. Limitations of the right of action

(1) A prohibition action may only be filed if there is reason to believe that the respondent is going to issue an administrative act or to take an administrative measure which will infringe the applicant's rights and those rights cannot be effectively protected by subsequently contesting the administrative act or measure.

(2) A declaratory action may only be filed in the absence of more efficient remedies for protecting the right in question. Intention to file a compensation action at a later date does not give an applicant the right to bring a declaratory action.
[RT I, 28.11.2017 – entry into force 01.01.2018]

(3) An action may be brought against a procedural act without contesting the administrative act or the definitive measure, if that procedural act infringes the applicant's non-procedural rights independently of the administrative act or definitive measure, or if the unlawfulness of the procedural act would inevitably lead to the issue of an administrative act or the taking of a definitive measure which infringes the applicant's rights.

(4) An action may be brought against a decision on challenge without contesting the administrative act or measure which is the subject matter of the challenge if the decision infringes the applicant's rights independently of the subject matter of the challenge. The same principle applies to contestation of decisions made during other pre-action proceedings.

§ 46. Time-limit for bringing an action

(1) An annulment action may be filed within thirty days after the date on which the administrative act was notified to the applicant.

(2) A mandatory action may be filed within thirty days after the date on which the refusal to issue an administrative act or to take an administrative measure was notified to the applicant. In the event of an administrative authority's omission or delay, a mandatory action may be brought within one year after the time-limit for issuing an administrative act or taking an administrative measure has elapsed. If no such time-limit has been established, in the event of an administrative authority's omission or delay a mandatory action may be filed within two years after the administrative act or measure was applied for.

(3) A prohibition action may be filed without a time-limit.

(4) A compensation action or reparation action may be filed within three years after the day when the applicant became aware or should have become aware of the harm and of the person who caused the harm or of the consequences of the administrative act or measure the elimination of which the applicant seeks. Nevertheless, neither a compensation nor a reparation action may be filed later than ten years after the issue of the administrative act or legislative act, the taking of the administrative measure or notification of the decision entered in relation to the administration of justice, which caused the damage or gave rise to the consequences.

(5) An action to establish the unlawfulness of an administrative act or measure may be filed within three years after the administrative act was issued or the administrative measure was taken. Other declaratory actions may be filed without a time-limit.

(6) The law may establish time-limits for the bringing of actions which are different from the time-limits specified in subsections 1–5 of this section.

(7) If the administrative act or refusal has not been notified to the applicant, yet the applicant has learned of the administrative act or refusal in a different manner, but has unreasonably delayed with the bringing of an annulment or mandatory action, the time-limit for bringing the action is deemed to have lapsed.

§ 47. Pre-action procedure

(1) The law may prescribe mandatory challenge proceedings or other mandatory pre-action proceedings for resolving certain types of claims. In that case, an action may be filed only if the person has followed the pre-action procedure prescribed for dealing with the claim and only to the extent that the person's claim has not been granted in the pre-action proceedings within due time.

(2) In the case that the person has followed the pre-action procedure prescribed for dealing with the claim, unless the law provides otherwise, the action which makes the claim may be brought within 30 days from the day when the decision concluding pre-action proceedings was notified to the applicant.

(3) If an administrative authority which deals with the claim under pre-action procedure unlawfully delays with the making of the corresponding decision, the action must be brought within one year following expiration of the time-limit for making the decision in the pre-action proceedings. If no such time-limit has been established, the action may be brought within two years following the filing of the claim in pre-action proceedings.

§ 48. Joinder of actions and separation of claims

(1) If the same court conducts proceedings at the same time in several matters which oppose the same parties or in which an action is brought by the same applicant against different respondents or an action is brought by several applicants against the same respondent, the court may order joinder of the actions into single proceedings provided that, in accordance with subsection 1 of § 19 and subsection 3 of § 37 of this Code the claims made in these actions could have been made in a single action and provided that the joinder of proceedings on these actions allows for an expedited and simpler resolution of the matter.

(2) If the court finds that the separation of claims made in the same action allows the matter to be dealt with in an expeditious manner or that the claims should not have been brought in the same action, it enters an order by which it separates the claims into independent proceedings.

§ 49. Amending the action

(1) An applicant may amend the claim made in the action or the cause of action before the commencement of summations in the administrative court or, in written procedure, until the expiration of the time-limit for submission of applications, provided that, in the court's assessment, this serves the purpose of achieving the aim of the action and provided the amended action would be admissible under this Code. When verifying compliance with the time-limit for bringing the action, the new claim is deemed to be submitted at the time that the original action was submitted.

(2) After the time-limit specified in the first sentence of subsection 1 of this section, including in proceedings on appeal against judgment and in proceedings on cassation, the claim made in the action and the cause of action may only be amended on the conditions specified in subsection 1 of this section and only if a valid reason exists for such amendment, primarily when this is necessitated by a circumstance which the court of higher instance must take into consideration by virtue of this Code or when a rule of procedure has been infringed by the lower court.

(3) The following are not deemed to constitute amendment of the action:
1) amendment or correction of factual or legal assertions made if the cause of the claim remains unchanged;
2) increasing or reducing the amount of a claim for the payment of money;
3) on account of a change in the circumstances, substituting, for the object originally claimed, a different object or a different legal value;
4) making or amending an application for setting the time-limit or other conditions of execution of the judgment;
5) striking out a claim from a joint action without replacing it with a new claim.

(4) The case specified in clause 5 of subsection 3 of this section is subject to the provisions which govern discontinuation of actions.

(5) If, on account of being amended, an action has become difficult to follow, the court may require the full text of the action to be submitted, if this simplifies resolution of the matter.

(6) An interlocutory appeal may be filed against any order of the administrative court or the circuit court by which the court refuses to accept amendment of the action. The order entered by the circuit court in respect of the appeal may be further appealed to the Supreme Court.
[RT I, 28.11.2017 – entry into force 01.01.2018]

Part 2
GENERAL PROVISIONS CONCERNING PROCEDURE

Chapter 5
Declarations of participants in proceedings

§ 50. Definition and truth of declarations

(1) For the purposes of administrative court procedure, any application, assertion, position, response, objection, modification of or addition to a declaration, discontinuation of a declaration, as well as any other declaration of intention or notice constitute a declaration. Except where this Code provides otherwise, the provisions regarding declarations apply to actions, appeals against judgments, appeals in cassation, appeals against a court order and petitions for review.

(2) Any declarations made by a participant in proceedings in respect of any factual circumstances relevant to the case must be truthful. The court may, without prior caution, impose a fine on any participant in proceedings who, knowingly or out of gross negligence, submits to the court a declaration concerning factual circumstances which is not truthful.

§ 51. Time at which a declaration is made

(1) Participants in proceedings must submit their declarations at the earliest possible stage of the proceedings and as early as this is necessary for an expeditious and just resolution of the matter.

(2) Any declarations concerning which it is unlikely that a participant in proceedings is able to formulate a position without taking time to consider what has been submitted must be submitted before the court session in which the matter is to be heard such that other participants in proceedings are given sufficient opportunity to consider the submission and to develop a position concerning that submission.

(3) A declaration which contains new facts or applications must be submitted such that it can be transmitted to other participants in proceedings at least seven days before the court session. In the case that the matter is dealt with by written procedure, a declaration which contains new facts or applications must be submitted such that it can be transmitted to other participants in proceedings at least seven days before the expiration of the time-limit for submission of procedural documents. If the court sets a time-limit for submission of procedural documents under simplified procedure, the second sentence of this subsection must also be applied in the corresponding simplified proceedings.

(4) Where a participant in proceedings submits a declaration after expiration of the time-limit established by the court for submitting that declaration, or in breach of subsections 1−3 of this section, the court only recognizes the declaration if, in the court's assessment, this does not cause a delay of the proceedings, or if the participant in proceedings shows that there was a valid reason for the delay.

(5) A declaration is deemed to be submitted to the court as of the time that:
1) a written declaration has reached the court;
2) a declaration made orally in the court session has been recorded in the minutes of the session and the minutes have been signed;
3) an electronic declaration has been sent to the duly prescribed e-mail address and has been recorded in the device which has been assigned for such operations;
4) an electronic declaration has been recorded in the information system for processing e-files which is provided for in § 60^1 of the Code of Civil Procedure.

§ 52. Format of declaration

(1) The wording of a declaration must be as clear and brief as possible. It is prohibited for the declarant to express himself or herself in an improper manner or to show disrespect to the court or to another participant in proceedings.
[RT I, 28.11.2017 – entry into force 01.01.2018]

(2) A participant in proceedings may submit a declaration in writing or, during the court session, orally. A declaration made orally at the court session is recorded in the minutes of the session.

(3) Where a declaration is submitted to the court electronically, the court arranges the making of copies or printouts of the declaration, if it is to be presumed that an electronic declaration cannot be transmitted to another participant in proceedings or if that participant cannot be presumed to take notice of the content of such declaration or make a printout thereof. The making of such copies or printouts is exempt from the state fee.

(4) Where a declaration is signed by a representative of a participant in proceedings, a power of attorney or other document establishing the authority of the representative is to be annexed to the first declaration submitted in the matter by the representative. In the case that the declaration is signed by a representative who is an advocate, the annexation of a power of attorney is not required, but the court may demand that it be submitted.

(5) The obligation of submitting copies which is provided in subsection 1 of § 340 of the Code of Civil Procedure is to be disregarded in the case of a participant in proceedings who has been deprived of his or her liberty. In such a case, if the making of the copies is necessary, it is to be arranged by the court. The making of copies is subject to payment of a state fee at the rate established with respect to the issue or transmission of copies of a document, or of printouts of an electronic document, in judicial proceedings.

(6) The format of a declaration is subject to the provisions of §§ 334−337, 339 and 340 of the Code of Civil Procedure, without prejudice to the specific requirements provided in this section.

§ 53. Actions and declarations of authorized representatives, legal persons and administrative authorities

(1) In the absence of valid reasons for submitting an action, application or any other declaration to the court in another format, an authorized representative specified in clauses 1–5 of subsection 1 of § 32 of this Code, a legal person or an administrative authority submits it to the court in an electronic format.

(2) An advocate or administrative authority sends any declaration that he, she or it makes to the court, together with any annexes thereof, directly to the advocates of other participants in proceedings and to the administrative authorities participating in the proceedings, and notifies the court thereof, following the provisions of § 337 of the Code of Civil Procedure.
[RT I, 29.06.2012, 3 – entry into force 01.01.2013]

§ 54. Content of declaration submitted to the court

A declaration submitted to the court by a participant in proceedings must state the following:
1) the names of participants of the proceedings and, where possible, their personal identification codes or registration numbers, addresses and particulars of means of communication;
2) the name of the court;
3) in the case of an administrative matter in which proceedings are pending, the docket number of the matter;
4) where necessary, the application submitted by the participant in proceedings;
5) where necessary, any circumstances on which the application is founded;
6) a list of the annexes to the declaration;
7) the signature of the participant in proceedings or of his or her representative or, in the case of an electronic declaration, a digital signature or other marker which makes it possible to identify the person who signed the declaration in accordance with the provisions of § 336 of the Code of Civil Procedure.

§ 55. Curing of defects in declarations

(1) Where a declaration filed by a participant in proceedings does not meet any requirements as to its form or substance, or where its filing is tainted by other defects which are curable – including where the state fee has not been paid – the court provisionally refuses to consider the declaration and sets a time limit for the participant to cure such defects.
[RT I, 08.12.2021, 1 – entry into force 01.01.2022]

(2) If the participant in proceedings does not cure, by the time-limit established by the court, the defects of the declaration which contains an application, the court, by an order which sets out the relevant reasons, dismisses the declaration. If the defects of other declarations are not cured by the time-limit established by the court, the court is allowed to take no notice of such declarations.

(3) Unless this Code provides otherwise, the court is entitled to refuse to consider or to take no notice also of any repeat declaration which is submitted on the same facts and the same grounds as a previously resolved declaration.

Chapter 6

Presentation of evidence

§ 56. Evidence

(1) Evidence means any information which appears in a format which the law requires in legal proceedings, and on whose basis, in accordance with the rules provided by law, the court ascertains the presence or absence of facts that serve as foundation for any claims or objections made by participants in proceedings, as well as any other facts material for resolving the matter justly.

(2) The evidence admissible under administrative court procedure is any evidence permitted by virtue of §§ 251–305 of the Code of Civil Procedure and the evidence permitted by this Code. Unless this Code provides otherwise, the presentation, taking and examination of evidence in administrative matters is subject to the provisions of §§ 236–243 of the Code of Civil Procedure.

(3) Where a participant in proceedings so requests, the court may, where this is necessary, employ the procedure for preliminary collection of evidence provided in §§ 244–250 of the Code of Civil Procedure.

(4) The recusal of experts is governed by the provisions of § 31 of the Code of Civil Procedure.

§ 57. Professional assistance

(1) Where certain information, which is inevitably necessary in order to resolve an administrative matter, can only be obtained by an administrative authority, that administrative authority must, within the scope of its competence and powers, provide professional assistance to the court dealing with the administrative matter. The court does not seek professional assistance from an administrative authority in the cases provided in subsection 2 of § 18 of the Administrative Cooperation Act.

(2) An administrative authority provides professional assistance on the basis of a court order. The order must, amongst other particulars, state the aim of the request for professional assistance and the nature of the assistance. The order may be appealed by a party or third party of the matter, or by the administrative authority on whom the obligation to provide professional assistance has been imposed. The order entered by the circuit court in respect of the appeal is not subject to further appeal.

(3) The court which ordered the provision of professional assistance does not reimburse to the the administrative authority any expenses which the authority incurred in relation to providing the assistance. The administrative authority who provided the assistance may submit to the court which hears the administrative matter the information and expense documents concerning any expenses related to provision of the assistance. In such a case those expenses are deemed to be part of the expenses of the administrative matter.

§ 58. Demand for information

The court may demand the information necessary for resolving the matter, or application, from a participant in proceedings, as well as from an administrative authority which is not a participant in proceedings, from the employer of a participant in proceedings, from an insurance company or a credit institution, provided the administrative authority or other person can be presumed to possess such information and provided the law does not regulate otherwise. The participant in proceedings, the administrative authority or other person are obligated to provide the information within the time-limit established by the court. The court may impose a fine on any person who fails to respect this obligation.

§ 59. Burden of proof

(1) Unless the law provides otherwise, a participant in proceedings must prove the factual assertions on which his or her submissions are founded and, if the court requires this, also the facts in relation to which the particular participant may be presumed to have access to the corresponding evidentiary items. If submission of the evidence is not possible, the reasons for such impossibility must be shown and the location or possible location of the evidence must be disclosed.

(2) The burden of proof under administrative court procedure may not be redistributed by an agreement of the parties in a manner different from that provided by law.

(3) Where evidence required for a just resolution of the matter has not been presented or where insufficient evidence has been presented, the court proposes that the participant in proceedings on whom it is incumbent to prove the relevant fact present the requisite evidentiary items, or takes evidence itself. When making the proposal, the court explains which facts must be proved.

(4) In the case that a participant in proceedings does not present an evidentiary item concerning a factual circumstance which he or she is required to prove by virtue of subsection 1 of this section, and evidence concerning that circumstance or showing it to be absent cannot be obtained by other means, the court may adopt an assessment of the factual circumstance which is adverse to the participant.

§ 60. Grounds for exemption from the burden of proof

(1) A fact which the court deems generally known does not need to be proved. The court may deem generally known only facts regarding which reliable information is available from sources outside the proceedings.

(2) The court may deem a fact asserted by a participant in proceedings to have been proved if the other participants in proceedings admit that fact and if such admission does not prejudice the rights of a person who does not participate in the proceedings, or does not prejudice any public interest. Admission means unconditional and express agreement with a factual assertion which is made to the court in accordance with the procedure provided in subsection 2 of § 52 of this Code. An admission is assessed by the court together with other evidence in the matter.

(3) An admission may be withdrawn if the participant in proceedings who seeks to withdraw it shows that the assertion which he or she admitted and which concerns the presence or absence of a fact, is untrue and that the admission was thus founded on a mistaken notion of the fact. In such a case, the fact is not deemed to be admitted.

(4) The truth of a fact of crucial importance for resolution of the matter may not be presumed by the court merely on the basis of absence, in declarations or objections made by other participants in proceedings, of an express contestation of the presence of the fact, unless it had to be manifest to those participants that they needed to contest that fact.

§ 61. Assessment of evidence and of the amount claimed

(1) The court takes guidance from the law in objectively assessing the evidentiary items of a matter in their fullness and in relation to all of their aspects, and decides, acting in all conscience, whether or not an assertion made by a participant in proceedings has been proved.

(2) The court does not regard any evidentiary item as possessing pre-determined strength in the matter. The court assesses the evidentiary items as a body of evidence and has regard to any interconnections between evidentiary items.

(3) Under administrative court procedure, no evidentiary item may be assigned pre-determined strength by an agreement of participants in proceedings, nor may the type or format of evidence, or the manner of submission, taking or examination of the evidence be limited by such agreement. The discontinuation or withdrawal of an evidentiary item has no binding force on the administrative court when it adjudicates the matter.

(4) Facts which have been established in the reasons section of an earlier court decision which has become final are assessed by the court as part of the body of evidence in the matter.

(5) In the case that the court does not succeed in ascertaining the amount of a patrimonial or non-patrimonial claim, including a claim for compensation, or if ascertaining the amount is materially complicated or unreasonably expensive, the court, acting in all conscience, determines the amount of the claim by having regard to all circumstances of the matter.

§ 62. Due time for submission of evidence, relevance and admissibility of evidence

(1) In preliminary procedure, the court sets a time-limit to participants in proceedings for submission of evidence and of applications seeking the taking of evidence, explaining to the participants which specific facts they are expected to provide evidence of. If, by the expiration of the time-limit, an evidentiary item has not been submitted, or an application for the taking of evidence has not been made, subsequent reliance on that evidentiary item is allowed only if the conditions set out in subsection 4 of § 51 of this Code are fulfilled. In the case the court does not hold a court session, and has not, in preliminary procedure, set a time-limit for submission of evidence and of applications for the taking of evidence, evidence may also be submitted after the conclusion of preliminary procedure, but only on the presumption that this does not cause delays in resolving the matter.

(2) The court only admits or arranges for the taking of, evidentiary items, and has regard, in resolving the matter, to evidentiary items which are material in the matter. An evidentiary item is not material in the matter, amongst other cases, in the case that the corresponding fact does not need to be proved, or in the case that the corresponding fact has, in the court's assessment, already been proved to a sufficient extent.

(3) In addition to from the provision of subsection 2 of this section, the court may refuse to admit an evidentiary item and return the same, or refuse the taking of evidence, if:
1) the evidentiary item has been obtained as a result of the commission of a criminal offence or breach of a fundamental right;
2) the evidentiary item is not accessible, in particular if the whereabouts of a document or the particulars of a witness are unknown, or if, on the basis of known particulars, it has been impossible, in spite of repeated

attempts, to deliver summons to a witness, or if the importance of the item does not correspond to the period which will be spent obtaining it, or to any other difficulties related to the item;
3) no reasons have been given for the need to present or take the evidence.

(4) In the case that the court refused to grant an application by a participant in proceedings for the taking of evidence because the application was submitted belatedly or because the participant who made the application failed to pay the advance payment required by the court to cover expenses related to the taking of the evidence, that participant may not subsequently apply for the taking of the evidence insofar as the grant of the application would cause the hearing of the matter to be adjourned.

(5) When it refuses admission of evidence or dismisses an application for the taking of evidence, the court makes a corresponding order in which it states its reasons.

(6) In the cases specified in subsections 2 and 3 of this section, the court may, when resolving a matter, set aside an evidentiary item admitted or taken in the matter. The court may also set aside an evidentiary item which, in the assessment of the court, is obviously unreliable. The court must state its reasons for setting aside an evidentiary item.

§ 63. Substantiation

Substantiation means explaining a factual assertion to the court such that the court finds the assertion credible. To substantiate an assertion, a participant in proceedings may use evidence as well as information which is not in a format which the law requires in legal proceedings.

§ 64. Examination under oath of participant in proceedings

(1) A participant in proceedings who was unable to prove, by other evidence, a fact which he or she needed to prove, or who has not submitted any other evidence, may, in order to prove a fact, apply for another participant in proceedings to be examined under oath. The court will only examine a participant in proceedings under oath if the participant in proceedings on whom the obligation to present evidence lies shows that the taking or presentation of evidence by other means is subject to significant difficulties.

(2) A participant in proceedings may be examined under oath also on the initiative of the court, provided that no other way exists for the taking of evidence regarding a fact which needs to be proved, or that such taking of evidence would be unreasonably burdensome.

(3) In the case of a legal person, examination under oath may be applied in respect of such person's legal representative or, in the case of a branch of a foreign company, the manager of that branch. In the case of an administrative authority, the person to be examined is the head of the authority or any other person who acted in the name of the authority and who participated in the administrative proceedings which gave rise to the dispute to be resolved in the administrative matter.

(4) In all other respects, examination under oath of a participant in proceedings is subject to the provisions of §§ 269–271 of the Code of Civil Procedure.

§ 65. Evidence taken in administrative proceedings and in proceedings concerning an offence

(1) The court may, in resolving the matter, consider as evidence any statements recorded in the minutes of, or by recording equipment in the course of, administrative proceedings or proceedings concerning an offence, or any explanations provided in writing or orally, as well as any other evidence, provided they were or it was used as evidence in the administrative proceedings which gave rise to the dispute to be resolved in the administrative matter.

(2) When the court declares admissible an evidentiary item mentioned in subsection 1 of this section, a participant in proceedings may apply for the person whose statement or explanation the evidentiary item mentioned in subsection 1 of this section contains, to be examined as a witness or to be examined under oath, provided this is necessary for resolving the matter justly, especially if the testimony or explanation provided by that person is unclear, ambiguous, significantly contradictory or incomplete, or if there is reason to suspect that the person has given false testimony.
[RT I, 28.11.2017, 1 – entry into force 01.01.2018]

Chapter 7
Time-limits

§ 66. Time-limits and due dates

(1) Time-limit means a specific time period which entails legal consequences in administrative court procedure. A time-limit is established as a number of years, days or other time units or by reference to a specific event or events.

(2) Due date is the last day of a time-limit.

§ 67. Start and end of time-limits

(1) A time-limit starts to run on the day following the calendar day or event which marks the start of the time-limit.

(2) A time-limit established by the court starts to run on the day following the day of service of the procedural document in which the time-limit is established, unless a different start arrangement was provided when the time-limit was established. In the case of a document which does not require service, the time-limit starts to run on the day following the day on which the communication concerning the establishment of the time-limit was received.

(3) Arrival of the due date is subject to the provisions of subsections 1–7 and 9 of § 136 of the General Part of the Civil Code Act.

(4) A time-limit ends at midnight (24:00) of the due date, unless the law provides, or the court establishes, a different time. If the due date falls on a day which is not a business day, the time-limit ends on the next business day.

(5) In the case that a time-limit is calculated in time units which are shorter than a day, the time-limit starts to run at the moment it is notified and ends when the time unit arrives, unless the law provides or the court establishes otherwise.

§ 68. Time of performance of procedural acts

(1) Unless the law provides otherwise, a procedural act may be performed during the entire period of the time-limit, until midnight (24:00) of the due date. In the case that a procedural act has to be performed in court, that act may be performed during the entire period of the time-limit until the end of the court's business day on the due date.

(2) A declaration is deemed to have been submitted within the time-limit if it is handed over for dispatch to a postal office before midnight (24:00) on the due date. Transmission of the text of a document to the court by fax or other means of telecommunication is deemed equivalent to the handing over of the document to a postal office.

(3) In the case that a declaration is submitted to a court which is not competent to deal with that declaration, or to a court which is not the court who has jurisdiction in relation to the declaration, the declaration is transmitted to the court which is competent or which has jurisdiction. If the document reached the wrong court in due time, the time-limit established for the performance of the corresponding procedural act is deemed to have been complied with.

(4) A declaration of a person confined in a prison or other closed institution is deemed to have veeb submitted to the court in due time if the declaration was handed over on the due date to the relevant institution. The institution must transmit the declaration to the court without delay.

§ 69. Variation of time-limits

(1) The court may, on the basis of a substantiated declaration or of its own motion, extend any time-limit which it has established provided a valid reason exists for granting the extension.

(2) The court may reduce any time-limit which it has established, provided a valid reason exists for reducing the time-limit and provided it is possible to notify this in good time to the participant in proceedings for whom the time-limit entails legal consequences.

§ 70. Consequences of failing to perform a procedural act in due time

If a procedural act is not performed in due time, the participant in proceedings does not have the right to perform that act at a later time, unless the court restores the relevant time-limit provided by law or extends the time-limit that it has established itself. This principle applies without regard to whether or not the participant in proceedings had been cautioned of such a consequence.

§ 71. Restoration of time-limits provided by law

(1) If a participant in proceedings has allowed a time-limit provided by law to expire, the court may, on the basis of an application of the participant in proceedings, restore that time-limit, provided the participant was unable to observe the time-limit for a valid reason.

(2) Restoration of the time-limit may be applied for within the time-limit provided by law after the valid reason which interfered with observance of the time-limit becomes inoperative, but not later than 14 days after the interfering reason became inoperative.

(3) An application seeking restoration of a time-limit must state the facts on which the restoration is sought and substantiate those facts. The application is made to the court in which the relevant procedural act should have been performed.

(4) The procedural act for whose performance restoration of the time-limit is applied for must be performed concurrently with the making of the application.

(5) The court resolves the application for restoration of a time-limit by order.

(6) An interlocutory appeal may be lodged against an order by which the court restores or refuses to restore a time-limit. Unless the law provides otherwise, the order entered by the circuit court in respect of the appeal is not subject to further appeal.

(7) When a time-limit is restored, proceedings are restored to the stage they had reached by the time immediately preceding the expiration of the time-limit.

Chapter 8
Service of procedural documents

§ 72. General provisions on service

(1) Service of a procedural document means transfer of the document to the recipient such that the recipient is able to consider the document in due time. The recipient means a participant in proceedings or other person to whom the procedural document is addressed.

(2) Any actions and appeals and any additions to such actions and appeals, as well as any court orders which establish and start the run of a time-limit, any other procedural documents which establish time-limits, and any summonses are to be served on participants in proceedings, except where such have been notified to the participants during a court session.

(3) A court order whose time of pronouncement has been notified to a participant in proceedings during a court session or by service, may be transmitted to the participant without adhering to a specific format.

(4) Service is subject to §§ 306–315, 317 and 319–327 of the Code of Civil Procedure.

(5) Service of procedural documents in a foreign state is effected in accordance with the provisions of the relevant international treaty or in accordance with subsections 3–7 of § 316 of the Code of Civil Procedure.

§ 73. Electronic service

Electronic service of procedural documents and making procedural documents electronically available is governed by § 311^1 of the Code of Civil Procedure and subsection 1 of § 2^2 of the Code of Civil Procedure and Code of Enforcement Procedure Implementation Act.
[RT I, 29.06.2012, 3 – entry into force 01.01.2013]

§ 74. Service to representative

(1) Service of a procedural document to a person who, for the purposes of administrative court procedure, does not possess active legal capacity, is deemed to be effected when the document is served on the person’s legal representative. In the case of a person who has several legal representatives, service on any one of these suffices.

(2) In the case of an administrative authority or legal person, the procedural document is served on the legal representative of the administrative authority or legal person. In the case of a person who has several legal representatives, service on any one of these suffices. A procedural document addressed to an administrative authority or legal person is deemed to be served also in the case that it has been served at the place of business of the administrative authority or legal person on any servant or employee of the institution or business through which the administrative authority or legal person operates.

(3) In the case that a participant in proceedings is represented in court proceedings by an authorized representative, any documents in the matter are exclusively served on, and any other notices communicated to, the representative, unless the court deems it necessary to dispatch such documents or notices also to the participant himself or herself. In the case of a person who has several representatives, service to any one of these suffices.

(4) A person who does not have a place of residence in Estonia and who is not represented by an advocate in proceedings before the court, may, if the court requires this, appoint a person resident in Estonia on whom

procedural documents may be served. Service of procedural documents to a person authorized to take service of such documents is equivalent to service of the documents to the participant himself or herself.

(5) The court may, by order, require a participant in proceedings to appoint a person authorized to take service of procedural documents also in other cases, in particular where unjustified complications may be presumed to intervene in the course of service.

§ 75. Service by participant in proceedings

(1) A participant in proceedings may serve procedural documents himself or herself, or may effect this through a third party in accordance with §§ 312–315 of the Code of Civil Procedure or in accordance with subsection 5 of § 72 and §§ 73 and 74 of this Code. Nevertheless, participants in proceedings may not effect service through police officers, court security guards, governmental or local authority agencies, or use public service. In choosing the manner of service, the participant in proceedings is obligated to keep the costs of service as low as possible.

(2) In respect of a service, the participant in proceedings must present the court with a service notice which must contain the following particulars:
1) the time when and place where the document was served;
2) the name of the person on whom the document was to be served;
3) in the case that the document was handed over to a person other than the recipient, the name of that person and the reason for which the document was handed over to him or her;
4) the manner of service;
5) in the case of refusal to accept the document, a corresponding note and particulars regarding the place where the document was left;
6) the name, signature, office address and telephone number of the person who served the document;
7) the name, signature and particulars concerning identification of the person who took service of the document, in particular the serial number of that person's identity document, and the date of receipt of the document delivered, except in the case that, for a reason specified by law, the document was not actually handed over.

§ 76. Service in class proceedings

(1) In the case that the same procedural documents must be served on more than 50 persons and the relevant participants in proceedings do not have a joint representative or joint representatives, the court may order, for the purpose of subsequent proceedings in the matter, service by publication or other means which are different from, and simpler than, the means provided in this Code, provided this facilitates resolution of the matter in a manner which is more expeditious and involves lower costs, and provided this does not represent an unreasonable burden for participants in proceedings in view of the nature and importance of the matter. On the basis of an application made by a participant in proceedings, the court notifies any procedural documents to that participant himself or herself by regular post or electronically, or, at the participant's own expense, in the manner specified in § 313 of the Code of Civil Procedure. In the case of service by publication, the order must determine in which newspaper the notices are to be published, any supplementary ways of publication and the due date as of which the document is deemed to be served.

(2) An order specified in subsection 1 of this section is served on the participant in proceedings in person. The order may not be appealed. The court may vary the order at any time. The order must be varied when the prerequisites specified in the first sentence of subsection 1 of this section are no longer present.

(3) If the conditions specified in the first sentence of subsection 1 of this section are fulfilled, the court may, by order, vest the obligation of service of procedural documents in one or several participants in proceedings, provided that participant or those participants consent to this. Consent to service of procedural documents may only be withdrawn if the situation in the proceedings has changed in a significant manner.

Chapter 9
Procedural acts in court

§ 77. Publicity of judicial proceedings and measures to ensure orderly conduct of proceedings

(1) Sections 37–42 of the Code of Civil Procedure apply with regard to the publicity of administrative court proceedings, to declaring proceedings in an administrative matter to be conducted *in camera*, and to the broadcasting and recording of court sessions.

(2) Measures to ensure orderly conduct of administrative court proceedings are based on §§ 43–47 of the Code of Civil Procedure.

(3) An interlocutory appeal by which the court orders the payment of a fine or imposes administrative detention may be lodged by the person who was ordered to pay the fine or on whom the administrative detention was imposed, and the order entered by the circuit court in respect of the appeal may is subject to interlocutory appeal to the Supreme Court.

§ 78. Application to defer a procedural act

An application to defer the court session or other procedural act is resolved by the court without delay and, where this is possible, before the court session or before the performance of the procedural act, and the court notifies this without delay to participants in proceedings.

§ 79. Removal of participant in proceedings

(1) In the case of proceedings which have been declared *in camera*proceedings, a participant in proceedings may by removed from any procedural act, including a court session or a part of such session:
1) in order to ensure national security or public policy, in particular to maintain a state secret or foreign intelligence classified as secret or to protect information which has been declared for internal use only;
2) in order to protect the life, health or liberty of a participant in proceedings, of a witness or other person;
3) in order to protect the privacy of a participant in proceedings, of a witness or other person;
4) in order to maintain the confidentiality of an adoption;
5) in order to keep a business secret, know-how or other similar secret.

(2) Removal of a participant in proceedings on a ground specified in subsection 1 of this section is possible only in the case that the interest to maintain the secret manifestly overrides the right of a participant in proceedings to be present when the procedural act is performed.

(3) Removal of a participant in proceedings is decided by the court without the participation of the participant to be removed, after hearing the participant in whose interest the other participant is to be removed.

(4) The participant in proceedings is removed from the procedural act to the minimum extent possible. The court discloses the content of the procedural act to the participant to the maximum extent possible without prejudicing the purpose of the removal. When the prerequisites of removal are no longer present, the content of the entire procedural act is disclosed to the participant.

(5) Removal of a participant in proceedings is decided by order. An interlocutory appeal may be lodged against the order, and the order entered by the circuit court in respect of the appeal may be further appealed to the Supreme Court. Until the order becomes final, the court does not disclose any information to the participant.

(6) Where necessary, the court resolved the question of removal of a representative or adviser of a participant in proceedings on the grounds and in accordance with the procedure provided in this section.

§ 80. Working language

(1) Court proceedings and clerical business of the court are conducted in the Estonian language.

(2) Minutes of the court session or of any other procedural act are taken in the Estonian language.

§ 81. Foreign-language documents

(1) Where a declaration made or evidentiary document submitted to the court by a participant in proceedings is in a language other than Estonian, the court requires the participant who made the declaration or submitted the document to provide a translation thereof by a fixed date, or itself makes the arrangements for translation, with the participant in proceedings bearing the costs. Where the respondent submits to the court a document that is in a language other than Estonian and that the respondent has received from the applicant and that the respondent has not translated in the course of administrative proceedings, and the applicant wishes to prove an assertion of his or hers by means of that document, the court may require the applicant to produce a translation of the document.
[RT I, 28.11.2017, 1 – entry into force 01.01.2018]

(2) A participant in proceedings may not be required to translate document if arranging the translation is impossible or unreasonably complicated for the participant.

(3) The court may require a participant in proceedings to present a translation made by a sworn translator or it may itself caution the translator of the liability incurred as a result of knowing mistranslation.
[RT I, 23.12.2013, 1 – entry into force 01.01.2020]

(4) If a translation or certified translation is not presented by the due date, the court may dismiss the corresponding declaration or refuse to take notice of the corresponding evidentiary document.

(5) Documents in a language other than Estonian may only be issued to a participant in proceedings subject to their consent.

(6) Where a participant in proceedings applies for this, the court makes the arrangements for translating the judgment or order for the participant at that participant's expense.
[RT I, 29.06.2012, 3 – entry into force 01.07.2012]

(7) The translation, into the English or the French language, of a request made under § 228[1] of this Code, and the translation, into the Estonian language, of the order of the European Court of Human Rights made in respect of that request, is arranged by the Supreme Court at the expense of the state.
[RT I, 26.06.2017, 17 – entry into force 06.07.2017, subsection 7 is applied from the day on which Protocol No. 16 to the Convention on the Protection of Human Rights and Fundamental Freedoms enters into force in respect of Estonia]

§ 82. Participation of intepreter in proceedings

(1) If a participant in proceedings is not proficient in the Estonian language, the court, based on that participant's application, or of its own motion, enlists an interpreter for the proceedings if this is possible. An interpreter does not need to be enlisted if the participant in proceedings has not applied for this and if the declarations of that participant are understandable to the court and the other participants in proceedings.

(2) In the case that it is not possible for the court to enlist the assistance of an interpreter without delay, the court makes an order by which it obligates the participant in proceedings who needs an interpreter to enlist, within the time-limit established by the court, the assistance of an interpreter or a representative who knows the Estonian language. Failure to comply with the demand of the court does not preclude the court from resolving the matter. If the party who fails to comply is the applicant, the court may dismiss the action.

(3) Where it is impossible or unreasonably complicated for the participant in proceedings to find an interpreter, the court itself makes the relevant arrangements. The expenses of interpreting are borne by the participant in proceedings.

(4) In the case that a participant in proceedings is deaf, mute or deaf-mute, the proceedings are explained to that participant in writing or electronically, or by enlisting an interpreter to assist the proceedings.

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

(6) Recusal of an interpreter is subject to the provisions of § 31 of the Code of Civil Procedure.

§ 83. Oath and signature

(1) A person who is not proficient in the Estonian language takes the oath or signs an acknowledgement concerning his or her being cautioned in respect of any liability in the language in which they are proficient.

(2) The person signs the Estonian-language text of the oath or acknowledgement, which has been interpreted to them directly before the signing.

§ 84. Minutes and recordings

(1) Minutes are taken at the court session and, in the cases provided by law, of other procedural acts, including any acts performed in accordance with a direction or letter of request by the court.

(2) Sections 49–55 of the Code of Civil Procedure apply to the taking of minutes or making of recordings of a procedural act.

§ 85. Content and signing of minutes

(1) The minutes must set out:
1) the time and date of performance of the procedural act and a brief description and docket number of the matter;
2) the name of the court considering the matter and the names of the judges, the person taking the minutes and the interpreter;
3) particulars concerning attendance by the participants in proceedings and their representatives as well as witnesses and experts;
4) information concerning the openness of the procedural act to the public;
5) the declarations and applications made by participants in proceedings;
6) agreement with the action, discontinuation of the action and compromise;
7) the substance of any positions and objections of participants in proceedings insofar as it is not reflected in written declarations submitted to the court;
8) the substance of any explanations provided under oath by participants in proceedings, and of the testimony of witnesses, oral replies by the experts and information concerning scene examinations;
9) the directions given and decisions made at the court session;

10) the time of public pronouncement of the court decision;
11) waiver of the right to appeal against the court decision;
12) the date of signing the minutes.

(2) The minutes are signed within three business days following the procedural act.

§ 86. Rectification of minutes

(1) In the case that the minutes of proceedings were not disclosed without delay at the court session, a participant in proceedings has the right, within three business days following the signing of the minutes, to apply to have the minutes rectified. The court asks the other participants in proceedings to provide their positions regarding the application. If the court refuses the application, it does not need to ask for the positions of the other participants.

(2) The rights provided in subsection 1 of this section and in subsections 1, 4 and 5 of § 53 of the Code of Civil Procedure in relation to making objections to the minutes and the rectification of the minutes do not need to be explained to an administrative authority or a participant in proceedings who is represented by an advocate.

§ 87. Court file in an administrative matter

(1) Court files in administrative matters are subject to the provisions of §§ 56–58 and 60–61 of the Code of Civil Procedure.

(2) A court file may only contain documents in a language other than Estonian if such documents are provided with a translation, except for the case in which this would be manifestly disproportionate in view of the content and volume of the documents.

(3) Documents which contain state secrets or foreign intelligence classified as secret are to be kept in the file in a separate envelope or as a separate folder. In the case of a valid reason, in particular if this is inevitably necessary in order to meet the requirements applicable to the processing of state secrets or of foreign intelligence classified as secret or of classified information carrier, documents which contain a state secret or foreign intelligence classified as secret may be kept separately from the file. Upon a corresponding application by a participant in proceedings or of his or her representative, that participant or representative is allowed to peruse, in accordance with the procedure provided in the Protection of Foreign Intelligence Classified as Secret Act, the information carrier used as evidence in the matter, which contains a state secret or foreign intelligence classified as secret and which is not included in the file. A note is made in the file concerning the presentation for perusal of an information carrier which contains a state secret or foreign intelligence classified as secret.

(4) The file of an administrative matter is archived by the administrative court.

§ 88. Perusal of the file by participants in proceedings

(1) A participant in proceedings has the right to peruse the corresponding file and to obtain copies of any procedural document kept in the file, as well as of any such document which belongs to the file but is kept elsewhere.

(2) The right specified in subsection 1 of this section may be limited on the grounds listed in subsection 1 of § 79 of this Code. A participant in proceedings may only be refused permission to peruse the file if the interest for maintaining secrecy of the file overrides the right of the participant in proceedings to peruse the file and to obtain copies of procedural documents which are in the file or which belong to the file.

(3) A participant in proceedings is allowed to peruse any procedural documents in the file and belonging to the file to the maximum extent possible and such a participant is refused permission to peruse to the minimum extent possible without prejudicing the aim of the right to peruse the file. When the ground on which permission to peruse was refused becomes inoperative, permission to peruse is granted. A note is made in the file concerning any perusal of the file or of an information carrier which is not kept in the file but which is used as evidence in the matter.

(4) Perusal of an electronic procedural document or a document stored on a digita or other information carrier may only be effected such that the integrity of the information carrier is guaranteed. A copy of a procedural document may be made electronically, as a printout or as an excerpt.

(5) Refusal of permission to peruse is decided by an order, as is grant of permission to peruse, in the case that a party or third party has applied to have permission to peruse refused. An interlocutory appeal may be lodged against the order, while the order entered by the circuit court in respect of the appeal is subject to interlocutory appeal to the Supreme Court only if the application to be granted permission to peruse was made by a person extraneous to the proceedings or if the application has been filed after the conclusion of judicial proceedings. The court does not disclose the information to the participants in proceedings before the order has become final.
07.12.2017
Rectification – on the basis of subsection 4 of § 10 of the State Gazette Act, an obvious error was corrected by reinstating the text of the third sentence of the subsection.
[RT I, 28.11.2017, 1 – entry into force 01.01.2018]

(6) As a rule, a participant in proceedings is provided an opportunity to peruse the file in the courthouse whose district encompasses the location which serves as the basis for determining jurisdiction in the matter. Having regard to the interests of participants in proceedings, the court may permit perusal of the file also elsewhere. Perusal of the file is granted within three business days as of receipt by the court of the declaration which contains the corresponding application.

(7) Any applications made by a representative of a participant in proceedings to peruse the file are also resolved by the court in accordance with the grounds and the rules provided in this section.

§ 89. Perusal of the file by persons extraneous to proceedings

(1) A person extraneous the proceedings is entitled to peruse the file and obtain copies of any procedural document kept in the file, as well as of any such document which belongs to the file but is kept elsewhere provided the parties and third parties agree to that.

(2) A person extraneous to proceedings and who has a legitimate interest in the perusal may peruse the file and obtain copies of any procedural document in accordance with a permission granted by the court also in the case in which the parties or third parties do not agree to that, provided that person's interest to peruse the file and obtain a copy of a procedural document outweighs the interest of a party or third party to protect the information. The court may require an applicant to prove an interest in law. The court requests the position of the parties and third parties in respect of any application for perusal of the file and provision of a copy of a procedural document. A person extraneous to proceedings which were conducted as *in camera*proceedings may not peruse the file of the matter.

(3) In the case that a procedural document which is in the file or which belongs to the file contains particulars which are subject to a limitation of access provided by law, a person extraneous to proceedings may only be permitted to peruse the part of the document which does not contain such particulars, or access the document in a format in which it is not possible to peruse the particulars.

(4) A governmental agency who needs this in the course of performance of its tasks may peruse the file and obtain copies of procedural documents on permission of the president of the court dealing with the matter also without the agreement of the parties and third parties.

(5) Perusal by a person extraneous to proceedings of the file of those proceedings or of an information carrier which is not included in the file but which is used as evidence in the matter is governed by the conditions and rules established in subsections 2–7 of § 88 of this Code.

§ 90. Objection to court's actions

(1) A participant in proceedings may file an objection to the actions of the court in conducting the proceedings, as well as an objection to an infringement of a procedural provision, in particular one concerning infringement of formal requirements applicable to the performance of a procedural act. The court resolves the objection by order.

(2) If the participant in proceedings does not file an objection at the latest by the end of the court session during which the infringement took place, or in the first declaration submitted to the court after the time-limit for rectification of the minutes has expired, although the participant knew or should have known of the error, that participant may not file the objection subsequently, and may not rely on that error in appealing the decision made in the matter, except in the case in which the court has infringed an important principle of administrative court procedure.

Chapter 10
Stay of proceedings by operation of law, court-ordered stay of proceedings and expedition of proceedings

§ 91. Grounds and procedure for stay of proceedings by operation of law and for court-ordered stay of proceedings

(1) Proceedings in an administrative matter are stayed by operation of law if any of the grounds provided in this Chapter is present.

(2) The court may, by order, stay proceedings in an administrative matter in the case of any of the grounds provided in this Chapter.

§ 92. Stay of proceedings by operation of law in case of death of natural person or dissolution of legal person

(1) In the case of the death of a party or third party who is a natural person or the dissolution of a legal person who is a party or third party, the proceedings are stayed by operation of law until such time as, in the case of universal succession, the universal successor of the participant in proceedings, or other person authorized to continue the proceedings is identified.

(2) Proceedings are not stayed by operation of law in the situation described in subsection 1 of this section if the party or third party is represented in the proceedings by an authorized representative. In such a case, the court orders a stay of proceedings on an application by the representative of another participant in proceedings.

(3) The court may, on the basis of an application by another participant in proceedings or of its own motion, set a time-limit for a universal successor of a party or third party or for any other person entitled to continue proceedings in the matter, during which the person must continue the proceedings.

(4) In the cases specified in subsections 1 and 2 of this section, proceedings are not stayed by operation of law or by order of the court if such a stay would disproportionately harm the public interest or the right of the other participants in proceedings to have the matter heard within reasonable time. In such a case the court must take all possible measures to ascertain the facts which are material from the point of view of protection of the rights of the deceased or dissolved participant in proceedings and his, her or its universal successor or any other person entitled to continue proceedings in the matter.

§ 93. Court-ordered stay of proceedings until appointment of guardian

The court may order a stay of proceedings until a guardian is appointed to a participant in proceedings who does not possess active legal capacity for the purposes of administrative court procedure, if this is necessary to protect the rights of that participant in proceedings.

§ 94. Court-ordered stay of proceedings for a valid reason

The court may order a stay of proceedings for a valid reason connected to a party or third party until such reason becomes inoperative. In the case of a serious illness of a party or third party a stay of proceedings may be ordered until recovery of the party or third party, provided the illness is not a chronic one. A stay of proceedings may not, in any case, be ordered for more than six months.

§ 95. Stay of proceedings on account of other proceedings

(1) Where a judgment depends fully or in part on the presence or absence of a factual circumstance which is the subject matter of other pending court proceedings or whose presence must be ascertained in administrative proceedings or in other court proceedings, the court may order a stay of proceedings until the conclusion of the other proceedings.

(2) The court may order a stay of proceedings until the judgment given in another administrative matter becomes final, provided the matter concerns interpretation of a rule of law which is of crucial importance also for resolving the matter at hand. A stay of proceedings may only be ordered if there are at least ten like matters pending before the court.

(3) The court may order a stay of proceedings in order to allow adjudication of a constitutional review matter pending before the Supreme Court, until the judgment of the Supreme Court becomes final, if this may affect the validity of a legislative or regulatory act of general application which falls to be applied in the administrative matter.

(4) In the case that the court, in relation to an issue that has arisen in the proceedings, has applied for a preliminary ruling to the Court of Justice of the European Union, the court orders a stay of proceedings until the decision of the Court of Justice of the European Union becomes final. The court may also order a stay of proceedings in the case that a matter in which proceedings are pending before the Court of Justice of the European Union involves interpreting a rule of law which is of crucial importance also in the administrative matter that the court is dealing with.

(5) When the Supreme Court requests from the European Court of Human Rights an advisory opinion under § 228^1 of this Code, the Supreme Court may stay the proceedings pending before it for the time required to deal with the request, or until the request is discontinued.
[RT I, 26.06.2017, 17 – entry into force 06.07.2017, subsection 5 is applied from the day on which Protocol No. 16 to the Convention on the Protection of Human Rights and Fundamental Freedoms enters into force in respect of Estonia]

§ 96. Consequences of stay of proceedings by operation of law and court-ordered stay of proceedings

(1) In the case of a stay of proceedings by operation of law or of a court-ordered stay of proceedings, the run of all time-limits in the proceedings is interrupted and resumes from the beginning when the stay of proceedings by operation of law or a court-ordered stay of proceedings ends.

(2) Any procedural acts performed during the period of the stay of proceedings by operation of law or of the court-ordered stay of proceedings are void. This does not preclude the court from ordering interim relief or from conducting proceedings for preliminary collection of evidence in order to secure evidence.

(3) A stay of proceedings which is ordered after the hearing of the matter has been concluded does not preclude public pronouncement of the judgment given in the proceedings.

(4) If the stay of proceedings was ordered under subsection 5 of § 95 of this Code, the fact of the stay does not prevent the making of an application, to the European Court of Human Rights, to discontinue the request for an advisory opinion.
[RT I, 26.06.2017, 17 – entry into force 06.07.2017, subsection 4 is applied from the day on which Protocol No. 16 to the Convention on the Protection of Human Rights and Fundamental Freedoms enters into force in respect of Estonia]

§ 97. Stay of proceeding on joint application by parties and third parties

(1) The court may also order a stay of proceedings on the basis of a joint application of the parties and third parties, if it may be assumed that this is practical in view of pending compromise negotiations or for other valid reasons.

(2) A stay of proceedings on the ground specified in subsection 1 of this section does not affect the run of any time-limits in the proceedings.

§ 98. Order on stay of proceedings and appealing that order

(1) The court stays proceedings by an order.

(2) An interlocutory appeal may be lodged against an order by which the court stays proceedings in the matter. The order entered by the circuit court in respect of the appeal is not subject to further appeal.

§ 99. Resumption of proceedings

(1) After the circumstances which constituted the ground for staying the proceedings have ceased to exist, the court may, by order and on the basis of an application by a party or third party, or of its own motion, direct that proceedings stayed by operation of law or by a court order be resumed.

(2) Proceedings which were stayed in accordance with a ground provided in § 95 of this Code may be resumed, amongst other things, in the case that the other proceedings, which were the reason for the proceedings being stayed, are subject to an excessive delay and the matter in which the proceedings were stayed can be resolved.

(3) A resumption of proceedings is deemed effective when the order concerning the resumption has been served on the parties and third parties.

(4) In the case of a resumption, proceedings resume from the point at which they were stayed.

(5) An appeal may be lodged against any order refusing to resume proceedings which were stayed by operation of law or by order of the court. The order entered by the circuit court in respect of the appeal is not subject to further appeal.
[RT I, 28.11.2017, 1 – entry into force 01.01.2018]

§ 100. Application to expedite judicial proceedings

(1) When proceedings in an administrative matter have endured for at least nine months and the court, without having a valid reason, does not perform a necessary procedural act, including not directing, in due time, that a court session be held, a party of third party may, in order to ensure the conclusion of judicial proceedings within reasonable time, submit to the court an application in which it suggests that the court take a measure suitable to facilitate an expedited conclusion of judicial proceedings.

(2) If the court considers the application well founded, it orders, within 30 days of receipt of the application, a measure which can be presumed to allow conclusion of court proceedings within reasonable time. In selecting the measure, the court is not bound by the application.

(3) A refusal to grant the application, or implementation of a measure different from the one specified in the application to expedite proceedings in the matter, is formalized as a substantiated order within the time-limit provided in subsection 2 of this section.

(4) An interlocutory appeal may be lodged against the order made regarding an application to expedite proceedings in the matter. The order entered by the circuit court in respect of the appeal is not subject to further appeal.

(5) When resolving the interlocutory appeal, the court may order a measure which can be assumed to allow judicial proceedings to be concluded within reasonable time. In selecting the measure, the court is not bound by the scope of the action.

(6) A new application may be made in accordance with subsection 1 of this section when six months have elapsed since the court order entered in respect of the previous application became final, except in the case that the application is made due to the fact that the court which conducts proceedings in the matter has not implemented the measure ordered in the order in due time.

Chapter 11
Procedure expenses

§ 101. Composition and accounting of procedure expenses

(1) Procedure expenses are the court costs and extra-judicial expenses of participants in proceedings.

(2) Court costs are the state fee and the costs essential to proceedings.
[RT I, 08.12.2021, 1 – entry into force 01.01.2022]

(3) In each judicial instance, the court must keep accounts of the procedure expenses borne in the matter, amongst other things, of the costs essential to proceedings.

§ 102. Costs essential to proceedings

Costs essential to proceedings are:
1) the costs of witnesses, experts and interpreters or translators;
2) the costs of obtaining documentary evidence and physical evidence;
3) the costs of inspections, including the necessary travel expenses of the court;
4) the costs of service and forwarding or procedural documents through an enforcement agent and of service and forwarding in a foreign jurisdiction, or of extra-territorial service and forwarding to Estonian citizens, and the costs of issuing procedural documents;
5) the costs of publishing a summons or notice in the edition *Ametlikud Teadaanded*or by other means.

§ 103. Extra-judicial costs

(1) Extra-judicial costs are:
1) the costs of representatives and advisers of participants in proceedings;
2) any travel, postage, telecommunications, accommodation and other similar costs which have been borne in relation to proceedings;
3) the pay or other permanent income which participants in proceedings have forgone;
4) the costs of considering an application for procedural assistance towards the payment of procedure expenses.

(2) Extra-judicial costs are deemed to include the costs related to the seeking of a preliminary order from the Court of Justice of the European Union.

§ 104. Payment and return of state fee

(1) A state fee at the rate established by law must be paid when an action is brought in an administrative court or an appeal is submitted to the circuit court against a judgment of the administrative court and when an application for interim relief is made. In the case that an action contains several claims, including alternative claims, the state fee is paid on the claim the making of which entails payment of the highest of the corresponding fees. In the case of an action brought by several persons jointly, the state fee must be paid by each of those persons in the full amount provided by law.
[RT I, 28.11.2017, 1 – entry into force 01.01.2018]

(2) If the state fee on an action has not been paid or the sum paid falls below what is required by the law, the court sets a time-limit for the payment of the state fee or of a supplementary state fee. If the state fee is not paid by the established date, the action is returned or dismissed unless the law provides otherwise. If an action contains several claims and the state fee for at least one of them has been paid, the court must establish the claim for which the person wishes the payment to count. If the person does not designate which claim he or she has paid the state fee for, the court returns the action or refuses to hear the action.

(3) In the case that, together with a principal claim, a claim for late interest or interest is made, the state fee is only assessed on the part of such a claim by which that claim, by the time of the bringing of the action, exceeds the principal claim. If the claim for interest or late interest is made in a separate action, the state fee is assessed on the full amount of the claim.

(4) In the case that the state fee to be paid is determined in accordance with the amount which is the subject matter of the action or appeal against a judgment, or which is in dispute, or in accordance with the value of property which is the subject matter of the action or appeal against a judgment, or which is in dispute, a supplementary state fee must be paid if the claim amount is increased, in accordance with the increase in the amount which is the subject matter of the action or appeal against a judgment, or which is in dispute, or in accordance with the increase in the value of property which is the subject matter of the action or appeal against a judgment, or which is in dispute. If the applicant does not pay the supplementary state fee, the claim is deemed to be made for the amount originally stated.

(5) A state fee which has been paid is returned:
1) to the extent that the sum paid exceeds the sum due, provided a higher amount has been paid than was required by the law;
2) if the court returns the action to the person who brought it, except where this takes place by virtue of subsection 2 of § 121 of this Code;
3) if the court refuses to hear the action, except where this takes place by virtue of clause 2 or 3 of subsection 1, or of subsection 2 of § 151 of this Code;
4) if the court terminates proceedings in the matter in accordance with clause 2 or 4 of subsection 1 of § 152 of this Code.

(6) Where the amount of the state fee that has been paid exceeds 50 euros, one half of such a fee is returned if:
[RT I, 08.12.2021, 1 – entry into force 01.01.2022]
1) the parties reach a compromise;
2) the applicant discontinues the action.

(7) The state fee which has been paid is not returned in the cases specified in subsection 3 of § 121 and subsection 2 of § 155 of this Code.

(7^1) Where an appeal or a declaration that has been filed with the Supreme Court is rejected or denied, the state fee is charged to State revenue.
[RT I, 08.12.2021, 1 – entry into force 01.01.2022]

(8) The state fee is returned by the court who was the last to deal with the matter, on the basis of the corresponding order. In the cases specified in clauses 2 and 3 of subsection 5 of this section, the costs essential to proceedings are deducted from the amount to be returned. The state fee to be returned is returned on the basis of the corresponding demand by the person who was the subject of the obligation to pay the state fee. Where necessary, the court may also, of its own motion, return the state fee to be returned. The state fee is returned to the person who was obligated to pay it or, if that person so instructs, to another person.
[RT I, 28.11.2017, 1 – entry into force 01.01.2018]

(8^1) The claim to the return of the state fee is extinguished when two years have expired since the end of the year in which the state fee was paid, but not before the proceedings are concluded by means of a decision that has become final.
[RT I, 28.11.2017, 1 – entry into force 01.01.2018]

(8^2) The applicant may lodge an interlocutory appeal against the order by which the administrative court or the circuit court refuses to return the state fee. The order by which the circuit court refuses to return the state fee is subject to interlocutory appeal to the Supreme Court.
[RT I, 28.11.2017, 1 – entry into force 01.01.2018]

(9) Discontinuation of the action does not limit the right of the respondent or third party to demand that the applicant be ordered to pay the full amount of the procedure expenses.
[RT I, 28.11.2017, 1 – entry into force 01.01.2018]

(10) The Republic of Estonia as a participant in proceedings is exempt from paying the state fee.

§ 105. Advance payment of costs essential to proceedings

(1) Costs essential to proceedings are to be paid in advance by the participant who made the application which entails the costs. In the case that the application was made by several participants in proceedings, those participants must make an advance payment of the costs in equal shares. In the case that costs essential to proceedings are incurred on the court's initiative, the parties make an advance payment of those costs in equal shares.

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

(3) Payment to cover the costs specified in subsections 1 and 2 of this section is made into a bank account designated for this purpose, or in court as a cash payment or by an electronic means of payment. Cash payments are accepted in the courts to the extent provided in the State Fees Act.

(4) If a participant in proceedings who was required to make an advance payment to cover the costs specified in subsections 1 and 2 of this section, has not made the payment by the due date established by the court, the court may refuse to perform the act applied for.

(5) An appeal may be lodged against any order of the court in which the court requires, as a precondition for performing an act, the advance payment of the corresponding costs. The order entered by the circuit court in respect of the appeal is not subject to further appeal.

(6) In the case that service of a document must be made by service of a copy of that document and the participant in proceedings has not provided a requisite number of copies, that participant in proceedings pays the state fee for the making of the corresponding copies or printouts.

(7) Costs which have been paid in advance by or on behalf of a participant in proceedings to cover essential proceedings in the matter are returned to the extent that the advance payment exceeded actual costs, and also in the case that the procedural act whose costs were paid in advance does not take place or if the State incurs no expenses in relation to the act.
[RT I, 28.11.2017, 1 – entry into force 01.01.2018]

(8) The person whose application for return of costs essential to proceedings the administrative court or the circuit court, by order, refuses to grant, may lodge an interlocutory appeal against that order. The order of the circuit court in respect of the appeal is not subject to further appeal.
[RT I, 28.11.2017, 1 – entry into force 01.01.2018]

§ 106. Costs of witnesses, experts and interpreters or translators and other costs related to presentation of evidence

The costs of witnesses, experts and interpreters or translators and other costs related to the presentation of evidence are governed by the provisions of §§ 151–161 of the Code of Civil Procedure.

§ 107. Payment and return of security
[Repealed – RT I, 08.12.2021, 1 – entry into force 01.01.2022]

§ 108. Division of procedure expenses

(1) Procedure expenses are to be borne by the party against whom judgment is given in the matter. The provisions of this section regarding the parties apply to any third party who has lodged an appeal against the judgment of the administrative court, an appeal in cassation, an interlocutory appeal or a petition for review.

(2) In the case of a partial grant of the action the procedure expenses are divided in proportion to the grant.

(3) In the case that an action is granted in part and to an extent that was proposed during proceedings by way of a compromise by one of the parties, the court may order the party who did not agree to the compromise to pay the entire amount or a large part of the procedure expenses.

(4) If the court returns the action, refuses to hear the action or terminates proceedings in the matter, the applicant bears the procedure expenses unless this section provides otherwise.
[RT I, 28.11.2017, 1 – entry into force 01.01.2018]

(5) If the respondent admits the action, he or she does not bear the procedure expenses which arise after the admission. In the case that the court rejects the admission because a third party does not agree to the grant of the action admitted, and the action is granted, the third party bears the procedure expenses which arose after the admission.

(6) Procedure expenses are to be borne by the respondent if the court terminates proceedings in the matter on the basis of clause 4 of subsection 1 of § 152 of this Code, except in the case that the declaration of invalidity of the administrative act, or the issue of an administrative act or the taking of an administrative measure demanded in the action did not result from the bringing of the action.

(6^1) The respondent may be ordered to bear the procedure expenses that the applicant incurred in relation to bringing the annulment action if the court forgoes declaring the administrative act null and void primarily on account of the reasons given in court proceedings and the court considers those reasons to have guided the administrative authority when making the administrative act.
[RT I, 28.11.2017, 1 – entry into force 01.01.2018]

(7) An applicant who discontinues the action bears the procedure expenses. If the participants in proceedings have concluded a compromise but have not agreed a division of procedure expenses, the procedure expenses are to be borne by the participants.

(8) The procedure expenses of a third party are compensated by the party adverse to his or her party according to the same rules that apply in respect of the payment of compensation to a party. If the adverse party has not been ordered to pay the expenses, the expenses of the third party are borne by the third party himself or herself.

(9) If a participant in proceedings abuses his or her rights under the rules of procedure by failing to attend the court hearing without a valid reason, or otherwise delaying the proceedings with malicious intent, the court may order the participant to pay a part of the expenses which the other participants in proceedings incurred as a result of such actions.

(10) In the case that an appellant against judgment or against an order prevails in his or her appeal on account of a fact which that appellant could have relied on already in the administrative court, the court, on the basis of an application from the respondent, orders the appellant to pay a part or all of the expenses related to the appeal.

(11) Should it be highly unjust or unreasonable to order a party against whom judgment was given to pay the expenses of the adverse party, the court may order the parties to bear a part or all of their own expenses.

(12) The division of procedure expenses is subject to the provisions of §§ 173 and 175 of the Code of Civil Procedure. The court also verifies whether the expenses of an authorized representative are reasonable and necessary when no objections have been filed in respect of the expenses.
[RT I, 29.06.2012, 3 – entry into force 01.01.2013]

§ 109. Order for compensation of procedure expenses

(1) To obtain compensation for procedure expenses, a list of procedure expenses and the expense documents are to be submitted to the court before the commencement of summations. Expense documents related to attendance of the court session in which the hearing of the matter is concluded, and the list of such expenses, are to be submitted to the court not later than within three business days after the end of the court session. In written procedure, the list of procedure expenses and the expense documents are to be submitted within the time-limit established by the court. In the case that the expense documents and the list of procedure expenses are not submitted, the compensation of expenses is not awarded.

(1^1) Compensation of the costs listed in clause 1 of subsection 1 of § 103 of this Code may be awarded once the participant in proceedings has become subject to the obligation to pay those costs.
[RT I, 28.11.2017, 1 – entry into force 01.01.2018]

(2) The court which dealt with the matter sets out the division of procedure expenses between participants in proceedings and, in an order by which it terminates proceedings in the matter, orders compensation of those expenses. The complete division of the expenses borne to date in the matter is set out in the decision of the court who subsequently conducts proceedings in the matter.

(3) The court orders the party who is to bear the procedure expenses to compensate, to the Republic of Estonia, the cost of any procedural assistance and other procedure expenses that have not arisen through the participation before the court, as a participant in proceedings, of the government or a governmental agency. The court may append, to the decision ordering the award of procedure expenses to the Republic of Estonia, a separate document that sets out the particulars necessary for executing the corresponding claim. When a court decision, or an order imposing a fine, or any other similar decision ordering payment of money becomes final, the court dispatches a copy of that decision or order without delay to the authority designated by the directive of the minister in charge of the policy sector.
[RT I, 21.06.2014, 11 – entry into force 01.07.2014]

(3^1) The particulars necessary for the execution of the claim referred to in subsection 3 of this section, and the technical requirements concerning their presentation are established by a regulation of the minister in charge of the policy sector.
[RT I, 21.06.2014, 11 – entry into force 01.07.2014]

(4) In the case that the higher court varies the decision of the lower court or enters a decision without returning the matter for a new hearing, the higher court changes the division of procedure expenses.
[RT I, 28.11.2017, 1 – entry into force 01.01.2018]

(5) Compensation of procedure expenses to a participant in proceedings is not precluded by the fact that those expenses were borne on his or her behalf by another person.

(6) The court only orders compensation of procedure expenses which are necessary and reasonable.

(7) A participant in proceedings may not claim, from another participant in proceedings whom the court has ordered to pay the procedure expenses, any compensation of procedure expenses by way of compensation for harm or bring any other similar claim.

(8) In the case that an association of persons is ordered to pay the procedure expenses which fall to be compensated and that association does not possess legal personality, the members of the association are ordered to pay the procedure expenses.

Chapter 12
Procedural assistance

§ 110. Grant of procedural assistance

(1) Procedural assistance means assistance from the government towards payment of procedure expenses. By way of procedural assistance the court may rule, if a person requests this, that the recipient of procedural assistance:
1) is exempted in part or in full from the payment of the state fee or of other court costs or of the costs of translation of procedural documents;
[RT I, 08.12.2021, 1 – entry into force 01.01.2022]
2) is allowed to pay the state fee or other court costs or the costs of translation of procedural documents in instalments by way of periodic payments during a period set by the court;
[RT I, 08.12.2021, 1 – entry into force 01.01.2022]
3) does not have to pay the fee for the services of an advocate appointed by way of procedural assistance or does not have to pay the fee immediately or in the full amount;
4) is exempted in full or in part from the expenses related to mandatory pre-action proceedings, or is ordered to pay those expenses by instalments during a period established by the court.

(2) The grant of procedural assistance in relation to paying the fee for legal assistance by an advocate is subject to the provisions of this Chapter only to the extent that the State Legal Aid Act does not provide otherwise.

§ 111. Conditions concerning grants of procedural assistance

(1) An applicant for procedural assistance is granted the assistance if that applicant is unable, due to his or her financial situation, to pay the procedure expenses or if he or she is only able to pay those expenses in part or by instalments and if there is sufficient ground to believe that the envisaged participation in the proceedings hold good prospects.

(2) When conducting an assessment of the prospects of participation in the proceedings, amongst other things the significance of the matter for the applicant for procedural assistance is to be considered.

(3) Procedural assistance is to be refused to a person whose participation in the proceedings is not reasonable, in particular when it is manifest that the applicant does not have the right of action, when an eventual benefit which the applicant stands to gain from the matter is unreasonably small compared to the estimated expenses of court proceedings, or when the action is not suited to achieving its aim.

(4) No assessment of the prospects or reasonableness of participation in the proceedings is conducted when procedural assistance is applied for in order to translate a procedural document or a court decision. In the case that the person is represented in the proceedings, procedural assistance is not granted for translating any other procedural document except for court decisions.

§ 112. Limitations concerning grants of procedural assistance to natural persons

(1) Procedural assistance is not granted to a natural person if:
1) the procedure expenses do not exceed two times the average monthly income of the applicant for the assistance, calculated on the basis of the average monthly income for the four preceding months from which amount the taxes, mandatory insurance premiums and any sums required to perform maintenance obligations, as well as reasonable cost of accommodation and transport and other inevitable costs, deduction of the inevitable costs on a monthly basis being allowed up to the rate of 75% of the minimum monthly salary rate established under subsection 5 of § 29 of the Employment Contracts Act;
[RT I, 28.11.2017, 1 – entry into force 01.01.2018]
[RT I, 13.04.2016, 2 – entry into force 12.04.2016 – judgment of the Supreme Court *en banc* declares clause 1 of subsection 1 of § 112 of the Code of Administrative Court Procedure unconstitutional and invalid insofar as it bars the courts from deducting from a person's income any inevitable costs not mentioned in that provision.]
2) the applicant for procedural assistance is in a position to cover the procedure expenses by selling an existing item or items of his or her property which can be sold without significant difficulty and against which the law allows claims for payment to be made;
3) the proceedings are related to the economic or professional activity of the applicant for procedural assistance and do not concern any of the applicant's rights which are unrelated to such activity.

(2) Procedure expenses which may arise if an appeal is lodged against the decision to be entered in the proceedings are not taken into account in the cases specified in subsections 1 and 2 of this section. The property mentioned in clause 2 of subsection 1 of this section also covers any jointly held property to the extent to which it can be assumed that the joint owners could reasonably employ such property to cover the procedure expenses.

(3) In the case of an application for procedural assistance specified in clauses 1, 2 and 4 of subsection 1 of § 110 of this Code the limitation set out in clause 3 of subsection 1 of this section is not applied.

(4) If, during consideration of the application for procedural assistance, it turns out that there are no grounds to provide procedural assistance to the applicant due to the applicant's economic situation, yet the court finds that the payment, in a single instalment, of the state fee due unreasonably interferes with the right of access to administrative courts that the individual enjoys in order to protect his or her rights, the court may, by way of procedural assistance, order that the state fee on the action or appeal against judgment be paid by instalments over a period fixed by the court.
[RT I, 28.11.2017, 1 – entry into force 01.01.2018]

§ 113. Limitations concerning grants of procedural assistance to legal persons and bankruptcy debtors

(1) Procedural assistance may be granted only towards the furthering of the objects of a non-profit association or foundation which has been entered in the register of non-profit associations and foundations for which an income tax incentive has been approved, or a non-profit association or foundation which enjoys equivalent treatment, provided the seat of the association or foundation is in Estonia or another member state of the European Union, and provided the applicant substantiates that it seeks the assistance in relation to a field such as protection of the environment or consumer protection, or seeks the assistance out of considerations of overriding public interest, in order to prevent possible harm to rights which are held by a large number of people and which are protected by the law, and that it expects not to be able to cover the procedure expenses on account of its own property or that it can only pay a part of those expenses, or pay those expenses by instalments. Other foreign legal persons are granted procedural assistance solely in accordance with an international treaty.

(2) An Estonian bankruptcy debtor may be granted procedural assistance to cover the procedure expenses, provided those expenses cannot be covered from the assets managed by the trustee in bankruptcy and provided the expenses cannot be expected to be borne by the persons who hold an economic interest in the matter, including among others the heirs, members, shareholders and directors of the bankruptcy debtor or that debtor's bankruptcy creditors.

(3) In the case specified in subsection 2 of this section, the bankruptcy debtor may seek a grant of legal aid. The additional precondition for the grant of legal aid is that it must be impossible for the trustee in bankruptcy to perform the procedural act applied for or that, in view of his or her qualifications and tasks he or she cannot be expected to perform the act.

(4) The procedural assistance specified in clauses 1, 2 or 4 of subsection 1 of § 110 of this Code may be granted also to a legal person who does not fulfil the conditions specified in subsections 1–3 of this section and whose seat is located in Estonia or in another member state of the European Union.

§ 114. Submission of application for procedural assistance and continuation of procedural assistance

(1) An application for procedural assistance is made to the court which conducts or should conduct the proceedings the coverage of whose expenses the application seeks assistance for.

(2) In the case that a participant in proceedings has received procedural assistance in the matter and that participant appeals the decision entered in that matter, it is assumed that the grant of the assistance also applies in each following judicial instance. Nevertheless, the court verifies, when opening proceedings on the appeal, whether there is sufficient ground to presume that the envisaged participation in proceedings holds out good prospects, and that it is not obvious that such participation is not reasonable, and the court may, at each stage of the proceedings, verify whether the economic preconditions for the grant of procedural assistance are fulfilled. The court does not verify the presence of good prospects or the reasonableness of participation if the decision entered in the matter has already been appealed by another participant in proceedings and proceedings have been opened on that appeal.

(3) When this is required by the court, the recipient of procedural assistance must, in the case specified in subsection 2 of this section, provide explanations concerning any changes in his or her financial situation, and present corresponding evidence. Where this is necessary, the court is entitled to require the presentation, amongst other things, of particulars regarding the economic situation and solvency of the recipient of the assistance or of any members of his or her family from the Tax and Customs Board, from credit institutions and from other persons or authorities.

§ 115. Content of application for procedural assistance

(1) An application for procedural assistance states the following:
1) the proceedings in relation to which the assistance is applied for;
2) the status, or envisaged status, of the applicant for assistance in these proceedings and the declarations or applications which he or she intends to make;
3) the grounds for the claim or objection of the applicant for assistance.

(2) The applicant for assistance attaches to the application a signed notice concerning the personal and economic situation of himself or herself and of any members of his or her family (family relations, profession, property ownership, income and obligations) and, where possible, also any other documents which prove that situation.

(3) A person whose place of residence is not in Estonia attaches to the application a notice from the competent authority of the country of his or her residence concerning his or her income and the income of the members of his or her family for the last three years. If the applicant for assistance has a valid reason for which he or she cannot present the notice, the granting of procedural assistance may be decided without such notice.

(4) Where this is possible, an applicant for procedural assistance who is a legal person attaches to the application for assistance a copy of its articles of association and a certified copy of the annual report for the previous financial year.

(5) A specimen form of the application for procedural assistance and of the notice specified in subsection 2 of this section, the list of particulars to be included in the form and the requirements applicable to the documents submitted is subject to the rules established on the basis of subsection 5 of § 185 of the Code of Civil Procedure. The specimen form of the application and of the notice must be freely accessible to any person on the website of the Ministry of Justice and in every court and law office.

(6) An application for procedural assistance is presented in the Estonian language. The application may also be presented in English if the applicant for assistance is 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 the European Union, or if the applicant is a legal person whose seat is located in another members state of the European Union.

§ 116. Deciding on the application for procedural assistance

(1) The application for procedural assistance is decided on by a court order. Where this is necessary, the court may, before deciding on the application, invite other participants in proceedings to state their positions. If the court grants the application in full, except in the case provided in clause 3 of subsection 1 of § 110 of this Code, it does not have to state the reasons for the order.
[RT I, 28.11.2017, 1 – entry into force 01.01.2018]

(2) In assessing the economic situation of the applicant, the court takes guidance from § 186 of the Code of Civil Procedure.

(3) In the case that procedural assistance has been granted in the form of an order allowing payment of procedure expenses by instalments, the court may, if the recipient of procedural assistance makes the corresponding application, or of its own motion, take guidance from § 188 of the Code of Civil Procedure and suspend the payment of the instalments or vary the amount of such instalments.

(4) [Repealed – RT I, 28.11.2017, 1 – entry into force 01.01.2018]

(5) Presentation of the application for procedural assistance does not suspend the run of any time-limit provided by law or established by the court. In the case of a time-limit established by the court, the court, after it has decided on the application for assistance, nevertheless grants a reasonable extension of the time-limit, in particular in the case of a time-limit established for responding to the action or to an application, provided the application for assistance was not without foundation or was not presented in order to obtain an extension of the time-limit.

(6) In order to observe a time-limit provided by law, the applicant for assistance must, during the run of the time-limit, also perform the procedural act for whose performance it seeks the procedural assistance, in particular, bring the action. After it has decided on the application for procedural assistance, the court sets a reasonable time-limit for submitting the reasons of the action or for the payment of the state fee or for the curing of a defect in the action which is related to the granting of procedural assistance, provided the application for assistance was not without foundation or was not presented in order to obtain an extension of the time-limit. This does not preclude restoration of a time-limit of the proceedings.

§ 117. Revocation of grants of procedural assistance

(1) The court may revoke a grant of procedural assistance, if:
1) the recipient of procedural assistance submitted false particulars when applying for the assistance;
2) the conditions concerning the granting of procedural assistance were not complied with or have become inoperative, including, amongst other things, a change of identity of the recipient of the assistance due to assignment or succession and if the assignee or successor is not entitled to receive procedural assistance;
3) the recipient of procedural assistance has not paid, during a period which exceeds three months, the instalments set by the court;
4) the recipient of procedural assistance does not provide explanations which are required by the court concerning a change in that recipient's financial situation or does not present the evidence required.

(2) In the case of revocation of the grant of procedural assistance, the participant in proceedings who received the assistance bears the full extent of his or her procedure expenses.

§ 118. Grant of procedural assistance and division of procedure expenses

(1) A grant of procedural assistance does not preclude the obligation of the recipient of the assistance to compensate the adverse party's procedure expenses if judgment is given against the recipient of the assistance, yet the court may, in accordance with subsection 11 of § 108 of this Code, impose a limit on the procedure expenses to be compensated.

(2) In the case that judgment is given for the recipient of procedural assistance, the court orders the party adverse to the party of that recipient to pay the procedure expenses which the recipient of the assistance was exempted from paying or which he was allowed to pay by instalments but has not yet paid in part or in full, into state revenue in proportion to the extent to which the action was granted. If the adverse party is the republic of Estonia, the order of paying the procedural assistance expenses is forgone.
[RT I, 28.11.2017, 1 – entry into force 01.01.2018]

(3) In the case that it falls on the recipient of procedural assistance to compensate the procedural expenses and the adverse party is not ordered to compensate those expenses, the court orders the procedural expenses to be borne by the government. Regardless of the outcome of the proceedings, the recipient of procedural assistance is not exempt from the payment of those procedural expenses which were incurred as a result of that recipient's abusing of his or her rights under the rules of procedure, of misleading the court or of delaying the proceedings in bad faith.

§ 119. Interlocutory appeals concerning orders on procedural assistance

(1) The applicant for or recipient of procedural assistance or, in the case provided in subsection 8 of § 15 of the State Legal Aid Act, the Bar Association, may lodge an interlocutory appeal against any order entered by the administrative court or the circuit court concerning the grant or refusal of procedural assistance, and against any order by which either of the previously mentioned orders is varied or revoked. The order granting full or partial exemption from the state fee may not be appealed with respect to the exemption granted. The order entered by the circuit court in respect of the appeal is not subject to further appeal.
[RT I, 28.11.2017, 1 – entry into force 01.01.2018]

(2) The expenses of dealing with the interlocutory appeal are not subject to compensation.

Part 3
PROCEDURE IN ADMINISTRATIVE COURTS

Chapter 13
Acceptance of action and preliminary proceedings in the matter

§ 120. Acts to be performed when accepting the action

(1) The court in which the action was brought and which has jurisdiction:
1) ascertains the subject matter of the dispute in the matter;
2) identifies the parties of the matter and their representatives;
3) verifies whether the claims and applications made in the action are well suited and necessary for achieving the aim of the action and, where needful, suggests that the applicant amend the action;
4) where necessary, appoints a representative to the applicant;
5) resolves any applications for procedural assistance;
6) decides the granting of interim relief, if this is necessary before preliminary proceedings;
7) joins to the proceedings any third parties whose position has to be ascertained before preliminary proceedings, and where this is possible, any other third parties of the matter;
8) verifies whether there any grounds for returning the action or refusing to proceed with the action.

(2) If there are no grounds for returning the action or refusing to proceed with the action, the court makes an order by which it accepts the action.

(3) If the court finds that the action has defects which can be cured, it makes an order by which it refuses to proceed with the action, establishes a time-limit of up to 15 days for curing the defects and dispatches the order for execution without delay. An action which has curable defects may not be returned before the time-limit established for curing the defects has expired.

(4) Where this is necessary, the court may ask the respondent and the third party or third parties to provide their opinions concerning the issue of acceptance of the action, and to hear the participants in proceedings.

§ 121. Return of action

(1) By making a corresponding order, the court returns the action to the person who submitted that action if:
1) dealing with the dispute is not within the competence of the administrative court;
2) the action does not meet the requirements of §§ 37–39 of this Code, the applicant has not cured the defects of the action within the time-limit established by the court and the defects constitute an impediment to hearing the matter;
3) the applicant has previously brought in the administrative court an action which contains the same claim and which is based on the same cause of action, and proceedings on the previous action are pending before the court;
4) the applicant has not complied with a mandatory pre-action procedure for resolving the claim;
5) A person who has brought the action in the name of another person has not established his or her authority as a representative;
6) the applicant does not possess active legal capacity for the purposes of administrative court procedure and the applicant's legal representative has not ratified the action within the time-limit established by the court.

(2) The court may, by making a corresponding order, return the action to the person who submitted that action if:
1) it is manifest that the applicant has no right of action in the matter;
[RT I, 28.11.2017, 1 – entry into force 01.01.2018]
2) granting the action would not achieve the aim of the action;
[RT I, 28.11.2017, 1 – entry into force 01.01.2018]
2^1) encroachment on the right that the action seeks to protect is a minor one and, in the circumstances, there is little probability of the action being granted;
[RT I, 28.11.2017, 1 – entry into force 01.01.2018]
2^2) the applicant has to a significant extent abused his or her right of action and encroachment on the right that the action seeks to protect is a minor one;
[RT I, 28.11.2017, 1 – entry into force 01.01.2018]
3) it has proved to be impossible, in spite of repeated attempts, to deliver court documents to the applicant at the address and e-mail address stated in the action, or at the applicant's registered address, the applicant has not informed the court of a change in his or her address, and the failure of service of the document hinders the resolution of the matter.

(3) In the case of return of the action, the court explains, where this is possible, to what authority and in accordance with what procedure the applicant may have recourse in order to obtain resolution of the matter. If, when returning the action, the court finds that resolving the dispute is within the competence of a court dealing with civil, criminal or misdemeanour matters, but that court has previously ruled that resolving that dispute is not within its competence, the competent court for dealing with the matter is determined by the Supreme Court in accordance with the procedure provided in § 711 of the Code of Civil Procedure.

(4) An interlocutory appeal may be lodged against an order by which the court returns the action, and the order made by the circuit court in respect of the appeal is subject to interlocutory appeal to the Supreme Court.

§ 122. Acts of preliminary procedure

(1) After the acceptance of an action, preliminary proceedings are conducted in the matter, by which the court prepares the matter and, on its part, makes all arrangements which are necessary for the matter to be considered without interruption at a single court session or within reasonable time in written procedure or in simplified procedure.

(2) In particular, in preliminary procedure, the court performs the following acts:
1) verifies whether the subject matter of the dispute and the participants in proceedings have been correctly identified when the action was accepted, and, where this is necessary, joins additional participants to the proceedings, or removes any participants whose joinder to the proceedings was incorrect;
2) verifies whether the action was accepted correctly;
3) serves the action on other participants in proceedings;
4) requires the respondent and any administrative authority joined to the proceedings to provide a written response to the action and explains the rights of the third party to submit a response to the action;
5) requires the respondent to present the administrative act which has been contested, if the act has not been presented to the court, and the file of the administrative proceedings or the documents assembled in those proceedings;
6) establishes a time-limit for the presentation of responses and evidence or of applications for the taking of evidence;
7) where necessary, sets a time-limit for a participant in proceedings to supplement his or her assertions and to submit supplementary evidence, and takes evidence of its own motion if this is necessary;
8) ascertains the applications made by participants in proceedings and, where necessary, the positions of the other participants in proceedings in regard to those applications;
9) ascertains whether it is possible to resolve the matter by compromise or otherwise by mutual agreement;
10) sets the format for considering the matter and the composition of the court panel, ascertaining, if this is necessary, any additional positions that participants in proceedings may have in regard to these issues;
11) notifies participants in proceedings of the time and place for consideration of the matter in court or of the details concerning consideration of the matter by written procedure in accordance with § 132 of this Code.

(3) In order to fulfil the functions of preliminary procedure, the court may hold a preliminary hearing, require participants in proceedings to provide explanations and put questions to participants in proceedings.

§ 123. Response to the action

(1) In a response to the action, the respondent must, amongst other things, state the following:
1) whether the respondent considers that the action was accepted correctly or whether there are grounds for dismissing the action or for terminating proceedings in the matter;
2) whether the respondent has been identified correctly;
3) whether the respondent admits or opposes the action;
4) any applications and assertions and the evidence to prove any facts asserted;
5) a proposal concerning the division of procedure expenses;
6) whether the respondent agrees to written procedure or to simplified procedure, or whether the respondent wishes the matter to be considered at a court session;
7) whether, in the opinion of the respondent, it is possible to dispose of the matter by way of a compromise or otherwise by mutual agreement.

(2) If a third party submits a response to the action, that party must, amongst other things, include in that response the particulars specified in clauses 1 and 3–7 of subsection 1 of this section.

(3) An administrative authority joined to the proceedings must, in its response to the action, amongst other things include the particulars specified in clauses 1–4 of subsection 1 of this section.

(4) If the person who submits the response has a representative, the response must also include the particulars of the representative.

(5) If this is necessary for an expeditious or just resolution of the matter, the court may require the applicant to provide a written opinion concerning the response submitted in respect of the action.

§ 124. Verification of compliance with the time-limit

(1) The court verifies in preliminary proceedings whether the action was brought in due time, and resolves any applications for restoration of the time-limit for bringing the action.
[RT I, 28.11.2017, 1 – entry into force 01.01.2018]

(2) If the action was brought in violation of the time-limit and if restoration of the time-limit is not applicable, the court enters an order by which it terminates proceedings in the matter.

(3) An interlocutory appeal may be lodged against an order by which the court resolves an application for restoration of a time-limit, and the order entered by the circuit court in respect of the appeal is subject to interlocutory appeal to the Supreme Court.

(4) In the case that a participant in proceedings applies to the court to terminate proceedings in the matter on account of a violation of the time-limit for bringing the action, he court deals with the application by an order which states its reasons. An interlocutory appeal may be lodged against the order, and the order entered by the circuit court in respect of the appeal is subject to interlocutory appeal to the Supreme Court.

§ 125. End of preliminary proceedings

(1) Preliminary proceedings are concluded when:
1) the court session is opened;
2) in written procedure or in simplified procedure, the time-limit established by the court for submission of procedural documents expires;
3) the matter is assigned to be considered in conciliation proceedings.

(2) If, in simplified procedure, the court does not establish a time-limit for submission of procedural documents or arrange a court session, preliminary proceedings in the matter are concluded when the time of pronouncement of the judgment is announced.

Chapter 14
Consideration of the matter

Subchapter 1

General provisions

§ 126. The manner and time-limit of hearing a matter

(1) After preliminary proceedings, the matter is considered at the court session or, in the cases provided by law, by written procedure, by simplified procedure or by conciliation procedure.

(2) If the law does not provide a time-limit, the court must hear the matter within reasonable time.

(3) International protection matters are considered by the court as a priority.
[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

Subchapter 2
Court sessions

§ 127. Scheduling a court session and summonsing to that session

(1) The time of holding a court session is set immediately after the matter has been prepared in a sufficiently thorough manner in preliminary proceedings.

(2) If the matter is considered at a court session, the time interval between service of the action to the respondent and to any third party, and the court session must be at least 30 days.

(3) The court may reduce the time-limit specified in subsection 2 of this section if this is required for consideration of the matter within the time-limit provided by law.

(4) If the court held a preliminary hearing and the facts material to the matter have been ascertained, the court may hold a court session in which it hears the matter, as a continuation of the preliminary hearing and resolve the matter substantively. If the hearing of the matter is not concluded at the preliminary hearing, the court performs the acts which are still required for preparing the main session and sets the time and date for the main session.

(5) The court may require a participant in proceedings to appear at a court session in person.

(6) Sections 341–346 of the Code of Civil Procedure apply to the scheduling of court sessions, to the summonsing of participants in proceedings to court sessions and to the holding of court sessions.

(7) The time and date of a court session is published on the court's webpage without delay after the corresponding scheduling order, stating the docket number of administrative matter, the names of participants in proceedings and a general description of the administrative matter. In the case of an *in camera*session, only the time and date of the session, the docket number of the administrative matter and a note regarding the *in camera*status of the session are published. The time and date of a court session are removed from the court's webpage after 30 days have elapsed since the session.

§ 128. Changing the scheduled time of court sessions and adjourning the hearing of the matter

(1) The court may, where a valid reason for this is present, cancel, or change the scheduled time of, a court session or adjourn the hearing of the matter.

(2) The non-appearance of a participant in proceedings at the court session only constitutes the grounds for adjourning the hearing of the matter under the conditions specified in § 143 of this Code.

(3) If the scheduled time of a court session is cancelled or the hearing of the matter is adjourned, the court, where this is possible, at once schedules a new session. A new session is held as soon as possible, having reasonable regard to the opinion of the participants.

(4) If the hearing of the matter is adjourned, the court may hear the explanations of the participants in proceedings who are in attendance at the session, the testimony of the witnesses and the opinions of the experts. If the hearing of these people is inextricably linked to the examination of other evidence or the performance of some other act, the other act is also performed.

(5) If the hearing of the matter is adjourned for a period longer than three months without the consent of a party or a third party, the party or third party may lodge an interlocutory appeal against the order if the party finds that the hearing of the matter is adjourned for an unreasonably long period of time. The order entered by the circuit court in respect of the appeal is not subject to further appeal.

§ 129. Procedure at court session

(1) At the court session the matter is considered in accordance with the following procedure:

1) the applicant states whether he or she maintains the action;
2) if the court permits it, participants in proceedings submit evidentiary items which were not submitted in preliminary proceedings;
3) the other participants in proceedings state whether they admit or oppose the action;
4) the participants in proceedings provide their explanations, giving reasons for their positions and presenting objections concerning those of the adverse party;
5) the court examines the evidence taken in the matter and examines the witnesses;
6) the court, together with participants in proceedings, discusses points of fact, law and procedure which have significance in relation to resolving the matter;
7) the participants in proceedings are given the floor for summations.

(2) As a rule, the court session is held in the courthouse whose district encompasses the place in accordance with which jurisdiction is determined. Having regard to the interests of participants in proceedings, the court may hold the court session elsewhere.

(3) The court session is also subject to §§ 347–351 and 400–402 of the Code of Civil Procedure.

§ 130. Resumption of hearing the matter

The court makes an order on resuming the hearing of the matter:
1) in the case that, after concluding the hearing of the matter and before making the decision in the matter, the court discovers an error of procedure which is material to the making of the judgment and which can be rectified;
2) in the case that, after concluding the hearing of the matter and before making the decision in the matter, the court deems it necessary for a just resolution of the matter to take or examine additional evidence or discuss the facts with the participants in proceedings;
3) in the case of non-appearance, for a valid reason, of a party or third party to attend the court session in accordance with § 146 of this Code.

Subchapter 3
Written procedure

§ 131. Preconditions for written procedure

(1) The court may consider the matter by written procedure if, in the assessment of the court, the facts material for resolving the matter can be ascertained without holding a court session, and:
1) all parties and third parties have agreed to the matter being considered by written procedure or
2) it is manifest that, in view of the legal values at issue and the nature of the dispute, including cases in which the only issues disputed by participants in proceedings are points of law, participants in proceedings do not have any reason to demand the holding of a court session.

(2) In the case that a party or third party has submitted a response to the court, but has not stated they consent to the matter being considered by written procedure, it is presumed that they wish the matter to be considered at a court session. A participant in proceedings may only withdraw his or her consent to the matter being considered by written procedure if the situation in the proceedings has changed in a significant manner.

(3) If a party or third party has not submitted a response to the court, the time-limit for submitting the response has expired and that time-limit was duly notified to the participant in proceedings, it is presumed that that participant consents to the matter being heard by written procedure.

(4) Irrespective of the consent of participants in proceedings, or of the assignment of the matter to be considered by written procedure, the court may, until it enters judgment in the matter, direct that the matter be considered at a court session.

(5) Where, under subsection 1 of this section, a matter may be considered by written procedure, but the court considers it necessary to examine an issue material to the matter at the court session, the court may limit the scope of issues to be heard at the court session, and, concerning the remainder of issues, only allow the presentation of written submissions.

(6) If the court, in accordance with clause 2 of subsection 1 of this section, refuses to grant the application by a participant in proceedings to consider the matter at a court session, it must do so by way of an order which states the relevant reasons.

§ 132. Orders which give directions

(1) In the case of written procedure, the court sets a time-limit in preliminary proceedings for submission of supplementary procedural documents, and also states the time of the public pronouncement of the judgment. Where this is necessary, the time of public pronouncement of the judgment may be set at a later date.

(2) The order specified in subsection 1 of this section is notified to the participants in proceedings and it must also state the composition of the court dealing with the matter.

Subchapter 4
Simplified procedure

§ 133. Prerequisites for simplified procedure

(1) The court may consider a matter under rules simplified according to what the court considers fair under the circumstances, provided impingement on the right for which the action seeks protection is a minor one. In the case of legal values that can be appraised in monetary terms, impingement is deemed to be a minor one primarily when the disputed legal value is not valued higher than 1000 euros.
[RT I, 28.11.2017, 1 – entry into force 01.01.2018]

(2) The court may also consider the matter by simplified procedure if the parties and third parties expressly consent to this. A participant in proceedings may withdraw his or her consent for the matter to be considered by simplified procedure only if the situation in the proceedings has changed in a significant manner.

(3) Regardless of the impingement on the rights being a minor one, and of the consent given by participants in proceedings or of the court having directed the matter to be considered by simplified procedure, the court may, until it enters judgment in the case, order that the matter be considered following the procedure provided in Subchapter 2 or 3 of this Chapter.

§ 134. Arrangements under simplified procedure

(1) Under simplified procedure, the court has regard solely to essential principles of administrative court procedure, and must guarantee that the fundamental rights and freedoms and essential procedural rights of participants in proceedings are observed, and that the participants are heard if they so request.

(2) If this facilitates resolution of the matter in a manner which is expeditious and involves lower costs, in simplified proceedings the court may, amongst other things:
1) take minutes of procedural acts only to the extent deemed necessary by the court;
2) forgo inviting the other participants in proceedings to state their positions regarding the application to have the minutes corrected;
3) establish time-limits otherwise than provided by law, except for the time-limit for appealing a court decision;
4) derogate from formal requirements for presenting and taking evidence and also use as evidence information which does not appear in a format that the law requires in legal proceedings, including explanations of participants in proceedings not given under oath, as well as hear witness testimony or explanations of participants via the telephone by way of procedural conference;
5) derogate from formal requirements that are provided by law in respect of service of procedural documents and the documents submitted by participants in proceedings, except in respect of service of the action to the respondent and to any third party;
6) forgo written preliminary procedure or forgo holding a court session;
7) give judgment without the descriptive part and reasons in accordance with the conditions specified in § 169 of this Code.

(3) In simplified procedure, the court may not derogate from the provisions of Chapters 1–4, 10–13, 16 and 17 of this Code, unless the law provides otherwise.

§ 135. Hearing of persons

(1) In simplified procedure, the court does not need to hold a court session to hear a participant in proceedings.

(2) In the case that no court session is held in simplified procedure for hearing the participant in proceedings, such hearing does not need to take place in the presence of other participants in proceedings and, before entering judgment, the court is not obligated to inform the other participants of the submissions made during the hearing.

(3) In simplified procedure, the court may, amongst other means, hear an explanation of a participant in proceedings via the telephone or, in relation to the hearing of a person, deem the person’s written or electronic submissions to be sufficient provided the court has no doubt as to the identity of the person giving the explanation and provided that, in the court’s assessment, it is possible to sufficiently assess the information and submissions obtained from the person in such a manner.

(4) The hearing of a person and any material facts in relation to the hearing must be mentioned in the judgment.

§ 136. Case management orders

If the matter is to be considered by simplified procedure, the court makes the corresponding order which also states the composition of the panel and explains the right of any participant in proceedings to be heard by the court. In simplified procedure, the court may establish a time-limit for submission of supplementary procedural documents.

Subchapter 5
Conciliation procedure

§ 137. Preconditions for conciliation procedure

(1) Where all parties and third parties agree to this, the court may conduct conciliation proceedings in which participants in proceedings, with the assistance of the judge, resolve their dispute by negotiations.

(2) To conduct conciliation proceedings, the court, having received the consent of the parties and third parties, enters a corresponding order by which it also orders a stay of proceedings in the administrative matter until the conclusion of conciliation proceedings.

§ 138. Arrangements under conciliation procedure

(1) Unless this Subchapter provides otherwise, conciliation procedure is subject to the provisions governing simplified procedure.

(2) Under conciliation procedure, the court ascertains whether it is expedient to join to the proceedings, in addition to participants in proceedings, any persons who are not participants in proceedings. The joinder is decided in an order.

(3) When it has made the preparations for conciliation proceedings, the court summons to negotiations participants in proceedings and any persons who have been joined to the proceedings but who are not participants in proceedings, seeking to ensure personal attendance of the participants. The negotiations are conducted orally.

(4) In the negotiations, the court:
1) explains the procedure and objectives of conciliation and the rights of the participants of conciliation proceedings;
2) hears the positions of the participants;
3) ascertains, as specifically as possible, the interests of the participants and the possibilities for protecting those interests in relation to the subject matter of the dispute;
4) discusses with the participants of proceedings the possibilities for resolving the dispute by a compromise.

(5) Another court panel is appointed to conduct conciliation proceedings.

(6) No written record or recording is made of the content of negotiations. Information concerning the content of negotiations may not be taken as evidence in the administrative matter in which the conciliation proceedings were conducted.

§ 139. Failure to attend negotiations

(1) In the case that a participant in proceedings does not attend negotiations, the court defers the negotiations, or reopens proceedings in the administrative matter in accordance with clause 3 of subsection 1 of § 140 of this Code.

(2) In the case of deferral of negotiations, the court may hear the participants who are in attendance.

§ 140. Conclusion of conciliation procedure

(1) Conciliation procedure is concluded:
1) by approval of the compromise and termination of proceedings in the administrative matter;
2) by resumption of proceedings in the administrative matter without having reached a compromise, if the corresponding application is made by a participant in proceedings;
3) by resumption of proceedings in the administrative matter without having reached a compromise, in the case that the court does not consider a compromise likely to be reached within reasonable time, or considers conciliation proceedings to be impractical for other reasons.

(2) If proceedings are resumed, the initial court panel continues conducting proceedings in the matter.

(3) In the case of a resumption of proceedings, a participant in proceedings may not rely on any declaration or admission made by another participant during conciliation proceedings.

§ 141. Expenses of conciliation proceedings

The expenses incurred by a participant in proceedings in conciliation proceedings are borne by the participant himself or herself, unless a different arrangement is agreed in the compromise.

Chapter 15
Consequences of failure to respond to court and of failure to attend court session

§ 142. Failure to respond to court

(1) Failure to respond to the court by the established time-limit does not preclude adjudication of the matter, provided that the time-limit for submitting a response has been duly notified to the participant in proceedings.

(2) In the case that a participant in proceedings has applied for procedural assistance in order to submit a response, or if there is a valid reason which interferes with the timely submission of the response, the participant in proceedings may apply for an extension of the time-limit.

§ 143. Failure to attend court session

(1) Failure by a party or third party to attend the court session does not preclude consideration of the matter if the party or third party has been duly notified of the time and place of hearing the matter and he or she has not given advance notice to the court of a valid reason preventing his or her attendance or has not substantiated his or her failure to attend. In the contrary case, the hearing of the matter is adjourned.

(2) The court may consider the matter without the participation of a party or third party regardless of any valid reason if the hearing of the matter has already been adjourned due to that party's or third party's non-appearance and the party or third party has been given the opportunity to present his or her declarations, submissions and evidence regarding all issues of material importance in the matter.

(3) The court may consider the matter without the participation of a participant in proceedings regardless of any valid reason if adjournment of the hearing of the matter would disproportionately harm the public interest or the right of other participants in proceedings to have the matter heard within reasonable time. In such a case the court must take all possible steps to ascertain any facts of the matter which are material from the point of view of protection of the rights of that participant in proceedings.

(4) The court does not adjourn hearing a matter for the reason that a participant in proceedings cannot attend the court session in person if that participant is represented at the court session and the court does not deem the participant's personal attendance of the court session necessary.

(5) In the case that an administrative authority joined to the proceedings fails to appear at the court session, the court gives judgment without that administrative authority being present if the court considers this possible. In the contrary case, the hearing of the matter isadjourned.

§ 144. Dismissal of action

(1) The court may dismiss the action if the applicant does not produce an evidentiary item, explanation or response required by the court, or if the applicant fails to cure, within the time-limit established by the court, a defect of a procedural document which is such as to hinder the hearing of the matter, if it is not complied with.

(2) The court may dismiss the action if:
1) the applicant has applied for a court session to be held in the matter and neither the applicant nor his or her representative attends the court session or
2) the court has ordered the applicant to attend the court session in person and the applicant does not so attend.

§ 145. Limitations concerning dismissal of action

In the cases specified in § 144 of this Code, the court may not dismiss the action if:
1) the respondent or third party has a valid reason for demanding that the matter be considered, and the matter can be resolved without the evidentiary item, explanation or response which the applicant has been required to provide, or without the applicant's participation;
2) the applicant has not been duly notified of the court's order regarding the presentation of an evidentiary item, explanation or response, or the applicant has not been duly summonsed to attend court;
3) the applicant has not been cautioned regarding the consequences of failing to respond to the court or of failing to attend the court session;

4) the applicant has, before expiration of the time-limit established for providing a response or before the court session, notified the court of a valid reason for failing to respond or to attend the court session and substantiated such a reason or
5) the respondent has admitted the action.

§ 146. Resumption of proceedings and reopening of proceedings

(1) If, in the case specified in subsection 1 of § 143 of this Code, the substantive hearing of the matter in the court session was concluded, the court makes an order on resumption of proceedings in the matter, if, before judgment or other decision terminating proceedings in the matter is entered, the party or third party who failed to attend the court session makes the corresponding application and that party or third party had a valid reason for not attending the court session and was unable to notify this to the court in due time.

(2) In the case that the court dismissed the action in accordance with § 144 of this Code, the applicant may, within 14 days from service of the corresponding order, apply for proceedings in the matter to be restored, provided he or she had a valid reason for not responding or not attending the court session and he or she was unable to notify this to the court in good time. In the case that the order dismissing the action must be delivered outside the Republic of Estonia or by means of public pronouncement, the application to restore proceedings in the matter may be made within 28 days as of service of the order. In the case that proceedings in the matter are restored, they resume, insofar as reopened, at the point in proceedings which was reached before dismissal of the action.

(3) To obtain resumption or restoration of proceedings, it is not necessary to submit or substantiate a valid reason, provided that the court's order to respond, or the summons, has not been handed over against written receipt to the participant in proceedings or a representative of that participant, or if dismissal of the action was unlawful.

§ 147. Limitations concerning resumption and restoration of proceedings

(1) The court may refuse to resume or restore proceedings in the matter if the same participant in proceedings has repeatedly failed to respond to the court within the time-limit established, or has repeatedly failed to attend the court session for a reason other than those provided in subsection 3 of § 146 of this Code.

(2) If a participant in proceedings did not attend the court session for a reason other than those provided in subsection 3 of § 146 of this Code, the court may also refuse to restore proceedings in the case that this would disproportionately harm the public interest or the right of the other participants in proceedings to have the matter heard within reasonable time.

§ 148. Resolution of applications

(1) An application made on the basis of subsection 1 or 2 of § 146 of this Code for resuming or restoration of proceedings in the matter is resolved by an order. The court may, without adhering to a specific format and provided this is possible without delaying the proceedings, invite the parties or third parties to state their positions concerning the application.

(2) An interlocutory appeal may be lodged against the order specified in subsection 1 of this section, and the order entered by the circuit court in respect of the appeal may be further appealed to the Supreme Court. When appealing a decision subsequently entered in the proceedings, incorrect resumption or restoration of proceedings in the matter may not be relied on.

§ 149. Failure to participate in the proceedings and the leaving of court session

Failure to participate in proceedings during the court session and the leaving of court session is subject to § 421 of the Code of Civil Procedure.

§ 150. Valid reason

(1) A valid reason for a failure to respond to the court or for failure to appear at the court session without notifying the court thereof is, in particular, constituted by a disruption of traffic, an unexpected illness of the participant in proceedings or a death or unexpected serious illness of a person close to the participant in proceedings, which prevents the participant in proceedings from responding to the court or attending court, or from endowing a representative with the corresponding authority.

(2) To substantiate an illness which prevented the participant in proceedings from responding to the court or from attending the court session, the participant in proceedings or a representative of that participant present to the court an evidentiary item which shows that the illness may be deemed an obstacle preventing the participant from responding to the court or from attending the court session. The form of the evidentiary item and the

conditions of issue of such forms are subject to the procedure established on the basis of subsection 2 of § 422 of the Code of Civil Procedure.

(3) The evidentiary item specified in subsection 2 of this section, or the absence of such an item, do not preclude ascertainment of the illness or of the absence thereof by means of other evidence.

Chapter 16
Dismissal of action and termination of proceedings

§ 151. Grounds for dismissal of action

(1) The court enters an order by which it dismisses the action, if:
1) the presence of circumstances specified in subsection 1 of § 121 of this Code is ascertained after the opening of proceedings on the action;
2) the applicant does not comply with the requirement of the court to enlist an interpreter or a representative who knows the Estonian language;
3) the applicant has not, by the time specified by the court, paid the state fee or the fee for translation of a procedural document.

(2) The court may enter an order by which it dismisses the action, if:
1) the presence of circumstances specified in subsection 2 of § 121 of this Code is ascertained after acceptance of the action;
2) it has proved to be impossible, in spite of repeated attempts, to serve the court's demands or summons on the applicant at the address stated in the action, or at the applicant's registered address, and the applicant has not informed the court of a change in his or her address;
3) the applicant does not submit the requisite response to a demand of the court or does not appear at the court session under circumstances specified in § 144 of this Code.

§ 152. Grounds for termination of proceedings

(1) The court terminates proceedings in the matter by an order:
1) if the applicant has previously already submitted to the administrative court an action which makes the same claim on the same cause and a judgment or court order concerning termination of proceedings in the matter has become final in respect of the action;
2) in the case the time-limit for bringing the action has lapsed in accordance with subsection 2 of § 124 of this Code;
3) when the court accepts discontinuation of the action or approves a compromise;
4) if the administrative act contested in the action has been declared invalid, or the administrative act demanded in the action has been issued or the administrative measure taken;
5) in the case of the death or dissolution of a party, if the legal relationship in which the dispute arose does not allow succession or assignment.

(2) The court does not terminate proceedings on the basis of clause 4 of subsection 1 of this section, but continues proceedings in which ascertainment of the unlawfulness of an administrative act or of omission to issue the same or of omission to take an administrative measure, if this is necessary to protect the rights of the applicant and the applicant makes the corresponding application.

(3) In the case that the circumstances provided in subsection 1 of this section become apparent before acceptance of the action, proceedings are terminated without the action having been accepted.
[RT I, 28.11.2017, 1 – entry into force 01.01.2018]

§ 153. Discontinuation of the action

(1) An applicant is entitled to discontinue the action by making the corresponding declaration until the concluding decision in respect of the action becomes final. In the case that the applicant does not possess active legal capacity for the purposes of administrative court procedure, and it is manifest that discontinuation of the action is contrary to the interests of the applicant, the court refuses to accept the discontinuation which is communicated to the court by the legal representative of the applicant and appoints a new representative to the applicant.

(2) Where a declaration concerning discontinuation of the action is made outside a court session, the court, before it decides the termination of proceedings, notifies the respondent and third parties in the matter of the making of that declaration and gives them a time-limit for submitting a response. If the respondent or a third party wishes the applicant to be ordered to pay the procedure expenses, he or she must make the corresponding application in the response and submit expense documents.

§ 154. Compromise

(1) The parties may, until the concluding decision in respect of the action becomes final, conclude the proceedings by means of a compromise. If the compromise limits the rights of a third party, the third party must

also agree to the compromise. The court does not approve a compromise if it is unlawful, if it impinges on the rights of a person who is not a participant in proceedings or if it is impossible to perform the compromise.

(2) The making of an agreement which settles the matter as a compromise approved by the court is equivalent to notarial authentication of the agreement. The compromise may be conditional.

(3) In the case that the compromise contains civil law conditions, it is subject additionally to subsections 8 and 9 of § 430 of the Code of Civil Procedure.

(4) Throughout the entire proceedings, the court must take every action within its power to dispose of the matter or a part of the matter by way of compromise or other mutual arrangement of the participants in proceedings, if this is reasonable in the assessment of the court. To achieve that, the court may, amongst other things, present a draft compromise to the participants in proceedings, or to summons the participants to attend court in person, and to propose to the participants that they settle the dispute out of court, or to propose to conduct the conciliation procedure provided in Subchapter 5 of Chapter 14 of this Code.

§ 155. Rules for dismissing the action and for termination of proceedings

(1) Where this is possible, the order by which the court dismisses the action should state how the circumstance which precludes consideration of the action may be eliminated. If the applicant is not represented by an advocate, the court, prior to entering an order by which it terminates the proceedings, explains to him or her the consequences of such termination.

(2) If the court finds that the action must be dismissed because resolution of the dispute is in the competence of a court which deals with civil, criminal or misdemeanour matters, but that court has previously ruled that it is not competent to deal with that dispute, the competent court for resolving the dispute is appointed by the Supreme Court in accordance with the procedure provided in § 711 of the Code of Civil Procedure.

(3) In the case that a court of higher instance dismisses the action or terminates proceedings in the matter, that court, by an order, also annuls the decision entered by the lower court. If, on the basis of a declaration submitted within the time-limit for appealing the decision entered in the matter, the court which dealt with the matter dismisses the action or terminates the proceedings, that court also annuls the decision it entered in the matter.

(4) The court accepts discontinuation of the action, and approves a compromise, in an order by which it also terminates proceedings in the matter. The order which approves a compromise states the terms and conditions of the compromise. Should the court refuse to accept discontinuation of the action or refuse to approve a compromise, it enters the corresponding order which states its reasons. Before it accepts discontinuation of the action, the court explains to the applicant the consequences of discontinuing the action. Before it approves a compromise, the court explains to the applicant and third party the consequences of the compromise.

(5) An interlocutory appeal may be lodged against the order of the administrative court or circuit court by which the court dismisses the action, or by which it terminates proceedings or by which it refuses to accept discontinuation of the action or approbation of a compromise, and the order entered by the circuit court in respect of the appeal is subject to interlocutory appeal to the Supreme Court.

(6) The consequences of dismissal of the action and termination of proceedings are provided in § 43 of this Code.

Chapter 17
Decisions of the court

Subchapter 1
Judgments

§ 156. Judgment as substantive decision

(1) Judgment means a court decision which has been made as a result of judicial proceedings and which adjudicates the action in substance.

(2) Judgments are subject to §§ 435, 441, 446 and 447 of the Code of Civil Procedure and clause 2 of § $2^2$of the Code of Civil Procedure and Code of Enforcement Procedure Implementation Act.
[RT I, 29.06.2012, 3 – entry into force 01.01.2013]

§ 157. Legality and reasons of judgments

(1) A judgment must be in conformity with the law and state its reasons.

(2) In reaching its decision, the court may only rely on the evidence taken in the matter which the parties and third parties have been able to examine, and on the facts regarding which the parties and third parties have been able to express their opinion. In the case that the court assesses a fact submitted in the matter differently from the participants in proceedings, it must have alerted the participants to that possibility ahead of time and have provided the participants an opportunity to express their opinion.

(3) If the matter was considered at a court session, the court may not found its decision on an evidentiary item which was not examined at the court session.

(4) If an evidentiary item was examined and assessed in previous administrative proceedings, including challenge proceedings, the court may decide not to conduct a new examination and assessment of the item, except if the applicant contests a fact ascertained in the administrative act or decision on challenge, and the court deems it necessary to conduct a new examination and assessment of the item.

§ 158. Issues to be resolved when entering judgment

(1) When it enters a judgment in the matter, the court assesses the evidence and identifies the legislative or regulatory act of general application which falls to be applied in the matter and whether the action is to be granted. In the case that the action includes several claims, the court enters judgment regarding all of these claims.

(2) Unless the law provides otherwise, the court ascertains any fact of the matter as that fact stands at the time of entering the judgment. The court assesses the lawfulness of an administrative act or measure by reference to the time that the act was issued or the measure taken.

(3) In assessing the lawfulness of an administrative act issued or an administrative measure taken as a result of the exercise of a discretionary power, the court also verifies compliance by the administrative authority with the limits and purpose of the power, and with other rules which govern the exercise of discretion. The court does not conduct a separate assessment of the expediency of a discretionary decision. When verifying the lawfulness of an administrative act or measure, the court does not engage in an exercise of the discretionary power in the stead of the administrative authority.

(3^1) The lawfulness of a decision refusing the grant of international protection is assessed by the administrative court as of the time of entering a judgment in the matter. In international protection matters, the respondent may, at the stage of court proceedings, submit considerations that are supplementary to those that it has provided with respect to the refusal to grant international protection.
[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

(4) When deciding a matter, the court sets aside any Act of Parliament or other legislative act if that Act of Parliament or legislative act contravenes the Constitution of the Republic of Estonia or the law of the European Union.

(5) In the judgment, the court also determines the division of procedure expenses and the procedure expenses that are awarded from participants in proceedings.

§ 159. Admissions

(1) If the respondent admits the action, at the court session or in a declaration made to the court, the court grants that action.

(2) Admission of the action at the court session is recorded in the minutes of the session.

(3) If admission of the action is made in a written declaration, the declaration is included in the file. If the respondent admits the action in a declaration made during preliminary proceedings, the court resolves the matter without holding a court session.

(4) The court refuses to accept an admission if a third party does not agree to the grant of the action admitted. In this case the court enters an order which states its reasons, and proceeds to deal with the matter in accordance with regular procedure. The court explains to the third party that in the case of non-agreement to the grant of the action which has been admitted, the procedure expenses of the applicant may be awarded from the third party in accordance with subsection 5 of § 108 of this Code.

§ 160. Content of the judgment

(1) A judgment is composed of the introduction, the operative part, explanations, the descriptive part and reasons.

(1[1]) The court may, in a separate document appended to the decision that orders a participant in proceedings to pay a sum of money to the Republic of Estonia on account of a claim that has not arisen through the participation before the court, as a participant in proceedings, of the government or a government agency, set out the particulars necessary for the payment of the claim.
[RT I, 21.06.2014, 11 – entry into force 01.07.2014]

(1[2]) The particulars necessary for the execution of the claim referred to in subsection 1[1] of this section, and the technical requirements concerning their presentation are established 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 may omit the descriptive part and reasons from the judgment. In this case, the judgment must state that the court will supplement the judgment in accordance with subsection 2 of § 170 of this Code if a participant in proceedings notifies the court within ten days following public proclamation of the judgment of his or her intention to appeal the judgment.
[RT I, 28.11.2017, 1 – entry into force 01.01.2018]

(3) A judgment may not be entered without a descriptive part and without reasons if any participant in proceedings has, during the proceedings, made an application to have the judgment entered together with the descriptive part and the reasons.

§ 161. Introductory part of judgment

The introductory part of a judgment contains the following:
1) a statement that the judgment is entered in the name of the Republic of Estonia;
2) the name of the court which enters the judgment;
3) the court panel which made the judgment;
4) the time and place of public pronouncement of the judgment;
5) the docket number of the administrative matter;
6) a general description of the subject matter of the dispute;
7) the name of participants in proceedings and of their representatives;
8) the time when the previous court session was held or a reference to the matter being dealt with by written procedure or by simplified procedure.

§ 162. Operative part of judgments

(1) In the operative part of the judgment, the court clearly and unambiguously adjudicates the claims made in the action and any outstanding applications of participants in proceedings.

(2) In the case that, in the administrative matter, the court sets aside an Act of Parliament or another legislative or regulatory act of general application because of incompatibility with the Constitution or with the law of the European Union, a corresponding note is included in the operative part of the judgment.

(3) If this is necessary, the court lays down, in the operative part of the judgment, the conditions for execution of the judgment and any issues concerning interim relief.

(4) The operative part of the judgment must be understandable and capable of execution also in the absence of the other parts of the judgment. The operative part of the judgment must be clearly distinguishable from the other parts of the judgment.

§ 163. Explanations to the judgment

Explanations are provided with the operative part. In the explanations, the court states the time-limits and procedure for appealing the judgment, including the name of the court to which the appeal lies, as well as any other explanations required by the law.

§ 164. Descriptive part of the judgment

The descriptive part of the judgment states, in logical sequence, briefly and with an emphasis on the material substance, a description of the administrative matter and of hitherto proceedings in the matter, the claims made in the action and any submissions made in support of or in objection to those claims by participants in proceedings.

§ 165. Reasons of the judgment

(1) The reasons of the judgment state the following:

1) facts which are declared to have been proved in the course of investigation of the evidence by court and the evidentiary items which the court relies on in declaring those facts proved;
2) such evidence taken in the matter which the court considers unreliable or irrelevant, together with reasons why the court considers that evidence to be unreliable or irrelevant;
3) facts which the court has declared generally known, together with reasons why the court considers them generally known;
4) reasons why the court does not agree with the assertions of the participants in proceedings;
5) the law applied by the court;
6) conclusions of the court.

(2) If the court refuses to grant the application and the reasons for the court's disagreement with an assertion made by the applicant in the course of the proceedings or the court's refusal to take into account an evidentiary item referred to by the applicant have already been provided in the contested administrative act or the decision on challenge made in respect of the claim contained in the action, and the court follows those reasons, the court does not need to repeat the reasons in its judgment and may refer to its agreement with the reasons.

§ 166. Particulars of participants in proceedings

(1) The judgment must also indicate any substitution of participants in proceedings and state who the previous participants were.

(2) The judgment states the names of the participants in proceedings and, if required, their personal identification codes and registry codes. If a natural person has no personal identification code, his or her birth date will be entered in the judgment instead. If a legal person has no registry code, the judgment includes, if this is necessary, a reference to the legal basis for the legal person.

§ 167. Judgment containing an award of money

(1) If an applicant seeks an award of money or an order imposing the obligation to pay money, the court, if it grants the action, also ascertains in the judgment the amount to be paid. If ascertaining the amount by the court requires too much time, the court may address an enforcement order to the respondent in which it directs the respondent to ascertain the amount and to make the corresponding payment. The court determines the general conditions for ascertaining the amount and for its payment in the enforcement order.

(2) If the respondent is an official or collegial body of a local authority or of the government, the sum is ordered to be paid by the agency which serves the official or the collegial body or is in some other manner the most closely related to that official.

(3) A claim for late interest or for interest may be granted together with the principal claim in the action such that the payment of late interest or interest is ordered as payment of a lump sum or fully or partially as a percentage of the principal claim.

§ 168. Conditions for execution of judgments

(1) When granting an action, the court may, in the operative part of the judgment, establish a time-limit for execution of the judgment, or any other important conditions relating to execution of the judgment, ensuring to participants in proceedings the right to present their views in relation to this issue. At the same time, the court may also rule that execution of the judgment is to be ensured by some form of interim relief or that interim relief is to be applied until a new administrative act is issued in the stead of the administrative act annulled in the judgment.

(1^1) With respect to awards of sums of money, the judgment must be executed within 30 days following its becoming final, except in the case that it is to be executed without delay or provides a different time-limit. [RT I, 28.11.2017, 1 – entry into force 01.01.2018]

(2) The court may declare the judgment to be enforceable without delay in accordance with the conditions and procedure specified in § 247 of this Code.

§ 169. Judgment in simplified procedure

(1) In simplified procedure, the court may enter a judgment without the descriptive part and the reasons, provided all of the following conditions are met:
1) the court refuses to grant the action;
2) the reasons for the court's disagreement with the assertions made by the applicant in judicial proceedings and for the court's refusal to take into account the evidentiary items referred to by the applicant are set out exhaustively and clearly in the administrative act, decision on challenge or the response submitted to the action;
3) the court follows the reasons referred to in clause 2 of this subsection, stating its agreement with those reasons and referring to this subsection and to the document in which the reasons are set out.

(2) In simplified procedure, the court may initially publicly pronounce the judgment without the descriptive part and the reasons, among other things, confining itself to an oral pronouncement of the operative part of the judgment. A judgment formalized as its operative part is to be supplied by the court with the descriptive part and

the reasons if, within 15 days following public proclamation of the operative part, a participant in proceedings notifies the court of his or her intention to appeal the judgment. No reasons are required to be given for the intention to appeal. Such a judgment must be publicly pronounced in full within 30 days following presentation of the intention to appeal. If the time of public pronouncement of the judgment was not announced at the court session or if such time was announced at a court session that a participant in proceedings did not attend for a valid reason, and if the notice concerning the time of announcement of the judgment has not been served on the participant in proceedings in advance, the time-limit for notifying the intention to lodge an appeal against the judgment begins to run starting from service of the operative part of the judgment.
[RT I, 28.11.2017, 1 – entry into force 01.01.2018]

(3) If the participant in proceedings does not notify the court, within the corresponding time-limit, of his or her intention of lodging an appeal against the judgment, the participant is deemed to have waived his or her right to appeal.
[RT I, 28.11.2017, 1 – entry into force 01.01.2018]

§ 170. Supplemental judgment

(1) The court which decides the matter may, on the basis of an application of a participant in proceedings or of its own motion, enter a supplemental judgment if:
1) a claim or application has not been resolved in the operative part of the judgment;
2) the operative part of the judgment is not intelligible or cannot be executed, in particular if there is no indication regarding the amount of money which is to be paid or the general conditions for ascertaining the amount and for the payment of the money, or when the content of the administrative act to be issued or administrative measure to be taken by the respondent have not been described in sufficient detail;
3) the court has not divided the procedure expenses or has not set out the amount of procedure expenses which it awarded from a participant in proceedings.

(2) If, within ten days following public pronouncement of the judgment, a participant in proceedings notifies the administrative court of his or her intention to appeal the judgment, the court supplies the part missing from the judgment which it entered without the descriptive part or the reasons. No reasons are required to be given for the intention to appeal. The supplying of the judgment with the missing part is dealt with by written procedure and other participants in proceedings are not notified of the judgment being so supplied. Such a judgment must be publicly pronounced in full within 30 days following presentation of the intention to appeal. If the time of public pronouncement of the judgment was not announced at the court session or if such time was announced at a court session that a participant in proceedings did not attend for a valid reason, and if the notice concerning the time of announcement of the judgment has not been served on the participant in proceedings in advance, the time-limit for notifying the intention to lodge an appeal against the judgment begins to run starting from the service of the supplemental judgment.
[RT I, 28.11.2017, 1 – entry into force 01.01.2018]

(3) If a participant in proceedings has failed to notify the court within the time-limit specified in subsection 2 of this section of his or her intention to appeal a judgment entered without the descriptive part and the reasons, the participant is deemed to have waived his or her right to appeal.

(4) Subsections 3, 4 and 6 of § 448 of the Code of Civil Procedure apply to supplemental judgments.

(5) The application for entering a supplemental judgment may be filed within 15 days following public pronouncement of the judgment. If the time of public pronouncement of the judgment was not announced at a court session or if such time was announced at a court session which the participant in proceedings had a valid reason not to attend and the participant was not delivered a notice regarding the time of public pronouncement of the judgment in advance, the time-limit for filing the application for a supplemental judgment starts to run on the day the judgment is served on the participant. The supplemental judgment, or an order refusing to enter a supplemental judgment, must be given within 15 days following presentation of the application. The court may, of its own motion, give a supplemental judgment within 20 days following public pronouncement of the judgment.
[RT I, 28.11.2017, 1 – entry into force 01.01.2018]

§ 171. Interim judgment and partial judgment

(1) The court may enter an interim judgment regarding a circumstance material to dealing with the claim on its merits if this facilitates expeditious resolution of the matter at lower cost.
[RT I, 28.11.2017, 1 – entry into force 01.01.2018]

(2) For the purposes of appeals, an interim judgment is equivalent to a conclusive judgment. When an interim judgment becomes final, the court continues proceedings concerning other circumstances of the case and enters a conclusive judgment in their respect. If the court finds that the claim is unfounded, it proceeds to enter a conclusive judgment in the matter and discontinues proceedings.
[RT I, 28.11.2017, 1 – entry into force 01.01.2018]

(3) When several independent but related claims are joined in the same proceedings or when one of several claims made in a single action or a part thereof is ready for a concluding decision, the court may enter a separate judgment in respect of each of these claims, provided this expedites the hearing of the matter. The court continues proceedings in respect of the claims that have not been decided on.

§ 172. Deciding on applications

(1) If an application for refusal to hear the action or for termination of proceedings in the matter, including termination on account of discontinuation of the action or of the conclusion of a compromise, or an application for interim relief, or another similar application is filed after judgment is entered in the matter but before that judgment has become final and before an appeal is lodged against the judgment, the application is resolved by the court which made the decision. If the court dismisses the action or terminates proceedings, it also enters an order by which it annuls the decision given in the matter.

(2) After an appeal has been lodged, the acts specified in subsection 1 of this section may be performed by the higher court, even if the appeal has not been accepted yet.

Subchapter 2
Pronouncement and finality of judgments

§ 173. Public pronouncement

(1) A court judgment is publicly pronounced through the court office or pronounced in a court session in accordance with §§ 453 and 454 of the Code of Civil Procedure.

(2) If judgment is not given in the court session which concludes the hearing of the matter, the court announces the time and manner of public pronouncement of the judgment in that session. If the matter is considered without holding a court session or if a participant in proceedings did not attend the court session, the court notifies the participants of the scheduled time of pronouncement of the judgment. The court also notifies the participants of any changes in the scheduled time of public pronouncement of the judgment.

(3) Only a valid reason, in particular, the significant volume and complexity of the matter, justifies public pronouncement of a judgment later than 30 days after the last court session in which the matter was heard or after the due date for submission of applications and documents in written procedure. The public pronouncement of the judgment may not be scheduled to take place later than 60 days after the last court session in which the matter is heard or after the due date for submission of applications and documents in written procedure. Expiration of the time-limit for public pronouncement of a judgment in itself does not constitute grounds for annulment of the judgment.

(4) The scheduled time of public pronouncement of a judgment and any changes in the schedule are published on the court's webpage without delay after such time or changes are decided, stating the docket number of the administrative matter, the names of participants in proceedings and a general description of the subject matter of the dispute. The name of a participant is not made public if this is required for the protection of his or her privacy. In the case of a judgment given in *in camera* proceedings, only the time of public pronouncement of the judgment and any changes to such time, the docket number of the administrative matter and a note regarding the *in camera* status of the proceedings are published. The time of public pronouncement of a judgment is removed from the court's webpage after 30 days have elapsed since the pronouncement.

(5) On the basis of an order which includes a statement of reasons, the court may, due to a reason specified in subsection 1 or 2 of § 38 of the Code of Civil Procedure, publicly pronounce only the operative part of its judgment. In that case, the participant in proceedings may, in addition to service of the judgment, also request a certified copy of the judgment which includes the introductory part and the operative part.

(6) The court may, during the time for public pronouncement of the judgment, initially pronounce the judgment without its descriptive part and reasons, and amongst other things, pronounce orally only the operative part of the judgment or dictate that operative part at a court session and orally provide a brief explanation of the reasons for the judgment. If the court dictates the operative part of its judgment in a court session, the operative part is made available in written form at the court office on the business day following the session.

§ 174. Service of judgment

The court serves the judgment on participants in proceedings without delay.

§ 175. Publication of judgments

(1) A judgment which has become final is published at the designated address in the computer network. This has no effect on the judgment's attainment of finality.

(2) Regardless of whether a judgment has or has not become final, the court may, observing the conditions provided in § 89 of this Code, disclose the judgment to any person who requests this.

(3) On the basis of an application of the data subject, or on the court's initiative, the name of the data subject in the judgment to be published is replaced by initials or a sequence of letters, and of his or her personal identification code, date of birth, registration number, address or other particulars which would permit specific identification of the data subject are not published. The particulars of an agency of the State or of a local authority, of a legal person in public law or other person vested with public authority are not concealed in a court decision.

(4) Where a judgment contains sensitive personal data or other data whose publication may significantly harm the right to privacy of the person concerned, and where it is impossible to avoid encroachment on the person's right to privacy by observing, among other things, the provision of subsection 3 of this section, the court, on the basis of the application of the data subject, or on its own initiative, publishes the judgment without the particulars which encroach on the right to privacy, publishes solely the operative part of the judgment, or does not publish the judgment.

(5) If a judgment contains information which is subject to other limitations of access provided by law, the court, on the basis of the application of the interested person, or on its own initiative, publishes the judgment without that information, only publishes the operative part of the judgment, or does not publish the judgment.

(6) A court order is entered in the case in respect of any partial publication or non-publication of a judgment following the applications referred to in subsections 2−5 of this section. Where this is necessary and possible, the court hears the data subject before making the order. The person who made the application may lodge an appeal against the order of the administrative court or of the circuit court by which his or her application was refused, and the order entered by the circuit court in respect of the appeal may be further appealed to the Supreme Court only if the application was made after the conclusion of judicial proceedings.
[RT I, 28.11.2017, 1 – entry into force 01.01.2018]

§ 176. Finality of judgments

(1) A judgment becomes final when it can no longer, without obtaining restoration of the relevant time-limit, be contested by any means other than proceedings for review.

(2) Contestation of the judgment within the relevant time-limit precludes the judgment from becoming final until the court decision entered concerning the appeal becomes final. In the case of partial contestation of the judgment, that judgment becomes final to the extent that it was not contested. If the time-limit for contesting a judgment is restored, the judgment is deemed not to have attained finality.

(3) [Repealed – RT I, 28.11.2017, 1 – entry into force 01.01.2018]

(4) A note concerning the attainment of finality of the judgment is made on the judgment in accordance with § 458 of the Code of Civil Procedure by the office of the administrative court which resolved the matter.

§ 177. Consequences of finality of judgments

(1) A judgment which has become final is binding on participants in proceedings insofar as it adjudicates any claim made in the action in relation to the facts which constitute the cause of the action.

(2) To the extent that the judgment annuls an administrative act or ascertains the nullity of such an act, that judgment is applicable to every person.

(3) It is presumed that the descriptive part of the judgment constitutes proof of the declarations made by participants in proceedings during the proceedings.

(4) A judgment which was entered in class proceedings and which has become final also applies to the persons who did not, within due time, apply for being joined to the proceedings, provided the notice concerning class proceedings was published in accordance with the requirements and provided the court observed the provision of subsection 2 of § 22 of this Code in regard to those persons.

(5) A judgment which has become final also applies to any person who, after the action was brought in the matter, became an assignee or successor of the participant in proceedings. In the case that the relation of succession or assignment results from the acquisition of a corporeal object, the judgment does not apply to the assignee who acquired the object which is subject to dispute without knowing, at the time of the acquisition, of the judgment or of the action.

Subchapter 3

Orders

§ 178. Order

(1) By orders, the court resolves the procedural applications made by participants in proceedings and conducts and manages proceedings. In the cases provided by law the court may resolve the matter by an order.

(2) Orders are subject to §§ 464 and 465 of the Code of Civil Procedure.

(3) Unless the law provides otherwise or unless this is incompatible with the nature of the order, orders are subject to the provisions regarding judgments.

(4) An order which may not be appealed by way of interlocutory appeal may also be made by way of a superscription on the declaration of the participant in proceedings which is resolved by the order.

§ 179. Notification and finality of orders

(1) The following are served on the participants in proceedings:
1) any order which constitutes an enforcement instrument;
2) any order which may be appealed by way of interlocutory appeal;
3) any order which sets a time-limit for a person to perform a procedural act or which determines the time and place of public pronouncement of the judgment.

(2) An order by which the court returns or dismisses an action, or terminates proceedings in the matter is made public in accordance with the rules governing the public pronouncement of judgments.

(3) An order which may be appealed by way of interlocutory appeal becomes final when, under the law, it can no longer be appealed without obtaining restoration of the relevant time-limit, other than in review proceedings, or when the court refuses to grant the interlocutory appeal, or dismisses that appeal, by a decision which has become final. Unless the law provides otherwise, any other order becomes final upon service or upon public pronouncement.

(4) An order which has become final and by which the court returns or dismisses the action or terminates proceedings in the matter is published in the computer network in accordance with § 175 of this Code.

Part 4
PROCEDURE IN CIRCUIT COURTS

Chapter 18
Procedure on appeal

Subchapter 1
Lodging an appeal against judgment of administrative court

§ 180. Right to appeal the judgment

(1) In the case that the administrative court has misapplied a rule of substantive law, incorrectly assessed any evidence in the matter or significantly infringed a rule of court procedure, any party or third party in the matter has the right to lodge an appeal to the circuit court against the judgment of the administrative court. The reasons stated in the judgment may only be contested if the operative part of the judgment is contested, except in the case that such reasons affect the rights or duties of a participant in proceedings independently of the operative part.

(2) An appeal against a judgment may also be lodged by a person who was not joined to judicial proceedings, if the judgment of the administrative court affects that person’s rights and freedoms which are protected by the law.

(3) If, in accordance with subsection 3 of § 169 and subsection 3 of § 170 of this Code, the participant in proceedings has waived the right to lodge an appeal, they have no right to lodge the appeal.
[RT I, 28.11.2017, 1 – entry into force 01.01.2018]

§ 181. Time-limit for appeal

(1) The appeal must be lodged within 30 days following public pronouncement of the judgment. If the time of public pronouncement of the judgment was not notified to participants in proceedings in the court session or if such time was notified at a court session which the participant in proceedings did not attend because of a

valid reason, and if the participant in proceedings has not been served a notice concerning the time of public pronouncement of the judgment in advance, the time-limit for appealing the judgment starts to run from the time that the judgment is served on the participant. In the case that a judgment entered without the descriptive part or without the reasons is supplied with the missing part in accordance with subsection 2 of § 169 and subsection 2 of § 170 of this Code, the time-limit for appealing the judgment starts to run from the time that the full judgment has been served.
[RT I, 28.11.2017, 1 – entry into force 01.01.2018]

(2) In the case that, when resolving the matter, the administrative court has, in the operative part of the judgment, declared a legislative or regulatory act of general application that falls to be applied in the matter to be unconstitutional and has set it aside, the time-limit for appealing the judgment is calculated as of the pronouncement of the decision entered in constitutional review proceedings by the Supreme Court regarding the act set aside.

(3) When an appeal against a judgment is lodged after the expiration of the time-limit for the appeal, the circuit court decides the issue of restoring the time-limit for lodging the appeal in accordance with the provisions of § 71 of this Code.

§ 182. Requirements for appeals against judgments

(1) An appeal against a judgment is lodged in writing to the circuit court according to jurisdiction.
The appeal against judgment must state the following:
1) the names, addresses and procedural status of participants in the proceedings, as well as the particulars of their means of telecommunication;
2) the name and address of the person who lodges the appeal (hereainafter, 'the appellant'), and the particulars of his or her means of telecommunication;
3) the name of the circuit court;
4) the name of the administrative court who made the judgment against which the appeal is lodged, the date of the judgment and the docket number of the administrative matter;
5) the reasons of the appeal, identifying any rule of law which the administrative court has applied wrongly or any fact which that court has established wrongly or inadequately, and the substance of the infringement of the rule or rules or of the wrong or inadequate establishment of the fact or facts;
6) a reference to the evidence on which the appellant relies to prove each of the facts submitted;
7) a clearly stated application of the appellant, specifying the scope within which the appellant contests the judgment of the administrative court and the judgment which the appellant seeks from the circuit court;
8) particulars concerning the payment of the state fee;
9) whether the appellant wishes the matter to be heard in a court session. If the appellant does not state that wish, it is to be presumed that he or she agrees to the matter being dealt with by written procedure;
10) a list of the documents annexed to the appeal.

(2) In the case that, in proceedings on appeal, new evidence is submitted or an application to take new evidence is made, the appeal must state the reasons for which it was not possible to submit the evidence, or for which it was not possible to make an application to obtain that evidence, in the administrative court.

(3) An appeal may not include any claims which were not made before the administrative court.

§ 183. Amending the appeal

Until the expiration of the time-limit for lodging appeals in the matter, the appellant may extend the scope of his or her appeal to the part or parts of the judgment which he or she did not initially contest. After the expiration of the time-limit for lodging appeals in the matter, participants in proceedings may submit additional opinions and additional reasons.

§ 184. Lodging a counter-appeal

(1) Counter-appeal means an appeal which is lodged by another participant in proceedings as a response to the appeal lodged in the matter in order to have it considered together with that appeal.

(2) Unless this section provides otherwise, counter-appeals are governed by the provisions regarding appeals. A counter-appeal may also contest parts of the judgment which were not contested in the appeal.

(3) A counter-appeal may be lodged within 14 days as of service of the appeal on the person lodging the counter-appeal, or within the rest of the time-limit for appealing the judgment, if this exceeds 14 days.

(4) Where a counter-appeal is lodged after the expiration of the time-limit for appealing the judgment but within the 14-day time-limit provided in subsection 3 of this section, the court dismisses the counter-appeal if the appellant discontinues the appeal, if the court refuses to accept or dismisses the appeal, or if proceedings in the matter are terminated.

[RT I, 19.03.2015, 1 – entry into force 29.03.2015]

Subchapter 2
Proceedings concerning the appeal

§ 185. Application of procedural provisions

(1) In the procedure on appeal, the provisions concerning procedure in the court of first instance apply, unless procedure on appeal is subject to other provisions and unless the provisions concerning procedure in the court of first instance are incompatible with the nature of procedure on appeal.

(2) The circuit court may deal with the matter by written procedure or by simplified procedure, having regard to the provisions of Subchapters 3 and 4 of Chapter 14 of this Code and regardless of the type of procedure by which the administrative court had dealt with the matter. The circuit court does not conduct conciliation proceedings.

§ 186. Requiring production of the file

(1) Having received an appeal, the circuit court, without delay, requires the administrative court which dealt with the matter to produce the corresponding file. Having receiving the requirement, the office of the administrative court transmits the relevant file to the circuit court without delay.

(2) Upon conclusion of proceedings on the appeal, the file is returned to the administrative court, save for the case in which the file must be further transmitted to the Supreme Court.

§ 187. Deciding on acceptance of the appeal

(1) Having received an appeal, the circuit court, by order, decides whether to accept or refuse to accept that appeal.

(2) If acceptance of the appeal is refused, the appeal is returned by the corresponding order without having been considered. When returned, the appeal is deemed not to have been lodged.

(3) An appeal is returned if:
1) the circuit court does not have jurisdiction to deal with the appeal;
2) the appeal has been lodged after the expiration of the time-limit for the appeal and the circuit court refuses to restore the relevant time-limit;
3) the state fee has not been paid;
4) the person who lodged the appeal on behalf of the appellant has not substantiated his or her authority of representation;
5) it is manifest that the appeal cannot be granted, presuming that the assertions made are true;
6) the appellant does not have right of appeal or if it is manifest that, because of a change in the circumstances, the judgment to be entered in the matter could no longer affect the rights of obligations of the appellant;
7) the appeal does not meet the requirements provided in § 182 of this Code.

(3^1) The circuit court may return the appeal if the law permits the matter to be considered by simplified procedure and if, under the circumstances, there is little probability for the appeal to be granted.
[RT I, 28.11.2017, 1 – entry into force 01.01.2018]

(4) In the case that it is likely that the defect which precludes acceptance of the appeal can be cured, the court enters an order by which it refuses to proceed with the appeal and sets a reasonable time-limit for the appellant to cure the defect. If the appellant fails to comply with the order of the court by the due date, the court makes an order by which it returns the appeal to the appellant.

(5) When the appeal is returned for the reason that the matter is outside the jurisdiction of the circuit court, the court transmits the appeal to the circuit court which has jurisdiction. The appeal is deemed to have been lodged at the time that it reached the first circuit court. The same rule is applied when the appeal is filed in the administrative court which gave judgment in the matter.

(6) The court arranges service of the order returning the appeal on the participants in proceedings. Together with the order, the circuit court returns to the appellant his or her appeal and any annexes to the appeal.

(7) The appellant may lodge an interlocutory appeal with the Supreme Court against the order by which the court refuses to accept their appeal.

§ 188. Preliminary proceedings

(1) After having accepted the appeal, the circuit court:
1) arranges service on the other participants in proceedings of a copy of the appeal and of any annexes to the appeal and requires the adverse party in the proceedings on appeal, and the administrative authority joined to the

proceedings to submit a response to the appeal by the due date established by the court, and explains to any third parties their right to submit a response to the appeal;
2) explains to the other participants in proceedings their right to respond to the appeal, sets the corresponding time-limit, and explains the right to lodge a counter-appeal;
3) arranges service to the other participants in proceedings of the responses submitted to the appeal;
4) resolves any applications by participants in proceedings which need to be dealt with before the court session or, in written procedure, before the giving of judgment
5) ascertains whether, in preliminary proceedings, it is possible to resolve the matter by compromise or in another manner;
6) where this is necessary, invites the participants in proceedings to submit supplementary positions or takes other evidence required for resolving the matter;
7) where this is necessary, joins the persons specified in clauses 1, 2 and 3 of subsection 1 of § 15 of this Code to proceedings.

(2) After acceptance of the appeal, the matter is prepared for the hearing by a designated member of the panel of the circuit court with sufficient attention to detail to ensure that, in the case a court session is convened in the matter, the case can be dealt with in a single session.

(3) The member of the court panel, sitting alone, resolves any applications made by the participants in proceedings in relation to preparation of the matter for hearing, and enters any orders which prepare the hearing or give directions in the matter. Refusal to admit an evidentiary item in the matter is decided by the panel.

§ 189. Response to the appeal

(1) A response to the appeal must, amongst other things, state the following:
1) whether the appeal was accepted by the circuit court correctly;
2) whether the participant in proceedings agrees with the appeal or opposes it;
3) any objections concerning the applications made and the reasons given in the appeal, as well as the facts relied on;
4) the applications of the participant in proceedings together with the corresponding reasons and with other particulars necessary for resolving each application;
5) whether the participant in proceedings wishes the matter to be heard in a court session, taking into account the fact that, if the corresponding wish is not stated, the participant in proceedings is presumed to consent to written procedure;
6) in the case of submission of new facts and evidentiary items, the reasons why those facts and items were not submitted in the administrative court.

(2) The court arranges service of the response to the appeal on the other participants in proceedings together with copies of any documents annexed to the response, unless it can be presumed that the participant in proceedings already possesses the document or a copy of the document.

§ 190. Dismissal of the appeal

In the case that the circumstances specified in subsection 3 of § 187 of this Code become apparent after acceptance of the appeal in the course of the corresponding proceedings, the court dismisses the appeal without considering it, having regard to the provisions of subsections 4–7 of § 187 of this Code.

§ 191. Discontinuation of the appeal

(1) The appellant may, by making a corresponding declaration to the circuit court, discontinue the appeal up to the time that the court has concluded hearing the case or, in the case of written procedure, up to the expiration of the time-limit for the submission of declarations.
[RT I, 19.02.2015, 1 – entry into force 29.03.2015]

(2) In the case of discontinuation of the appeal, the appellant is deemed not to have performed any procedural acts in the appellate court. Having discontinued the appeal, the appellant may not lodge a new appeal concerning the same subject matter of appeal, and bears the procedure expenses related to the appeal.

(3) If no other participant in proceedings has appealed the judgment of the administrative court or if a counter-appeal has been lodged after the expiration of the time-limit for appealing the judgment, the circuit court enters an order by which it terminates proceedings on the appeal.

(4) If, during the time-limit for appealing the judgment, appeals have been lodged by several participants in proceedings, proceedings are terminated solely in relation to the appeal which was discontinued.

(5) In the order concerning discontinuation of the appeal, the court states the legal consequences of discontinuation of the appeal.

(6) An interlocutory appeal may be lodged with the Supreme Court against an order by which proceedings on the appeal were terminated, as well as against an order by which the circuit court does not accept discontinuation of the appeal.

§ 192. Annulment of judgment of administrative court solely on the basis of appeal

The circuit court may decide the matter solely on the basis of the appeal, if the court finds that the administrative court has significantly infringed a rule of procedure which, in accordance with § 199 of this Code, entails annulment of the judgment of the administrative court. In this case the judgment of the administrative court is annulled and the matter is returned to the administrative court to be considered anew.

§ 193. Scheduling the court session and the time of delivery of judgment in written procedure

After accepting the appeal and receiving the response to that appeal, or after the expiration of the time-limit for submission of response, the circuit court schedules a court session or, in written procedure, the time of delivery of judgment, establishes the composition of the court panel to consider the matter and arranges service on the participants in proceedings of the summonses to attend the court session, or, in the case of written procedure, notifies the parties of the time of delivery of judgment in the matter.

§ 194. Hearing of matter at the session of the circuit court

(1) If this is considered necessary, the judge who prepared the matter presents, at the session of the circuit court, a report on the matter in which he or she gives an overview of the matter including sufficient details of the judgment of the administrative court and of the substance of the appeal against that judgment and of the response to the appeal.

(2) Unless the court orders otherwise, after the report the appellant is invited to make an oral submission, then the adverse party of the proceedings on appeal, then any third parties. The court may limit the duration of the submissions. A participant in proceedings may not be allocated less time than 10 minutes for their submission.

(3) The court may put questions to participants in proceedings.

(4) In the case of conducting the hearing of the matter in the absence of a participant in proceedings, the court may, to the extent necessary, set out the position of the absent participant on the basis of the information in the file.

(5) The court may allow participants in proceedings to make a closing statement.

§ 195. Consequences of appellant's non-attendance at the court session

(1) The circuit court may dismiss the appeal if:
1) the appellant has applied for a court session to be held in the matter, yet neither the appellant nor his or her representative attend the session;
2) the court has ordered the appellant to attend the court session in person, but the appellant does not appear.

(2) The appeal is not dismissed if:
1) the adverse party or third party in the proceedings on appeal has a valid reason to demand that the matter be considered and it is possible to deal with the matter without the participation of the appellant in the court session;
2) the appellant has not been duly summonsed to attend court, or cautioned with respect to the consequences of non-attendance;
3) the appellant has, prior to the court session, notified the court of a valid reason for non-attendance, and substantiated that reason.

§ 196. Reopening the proceedings on appeal

(1) In the case that the appeal was returned to the appellant in accordance with subsection 4 of § 187 of this Code on account of failure to respond to the demands of the circuit court, the circuit court reopens the proceedings on appeal on the basis of the corresponding application from the appellant provided a valid reason prevented the appellant from complying with the demands of the court within the established time-limit, and from applying for an extension of the time-limit for responding.

(2) In the case the court dismissed the appeal due to the appellant's absence from the court session, resumption and reopening of the proceedings is possible on the conditions provided in § 146 of this Code.

Subchapter 3

Judgment of the circuit court

§ 197. Scope of consideration of the appeal

(1) The circuit court, under the procedure on appeal, scrutinizes the lawfulness and well-foundedness of the judgment of the administrative court exclusively within the scope of the appeal filed against that judgment.

(2) The circuit court is not bound by the reasons of law stated in the appeal.

§ 198. Facts and evidence taken into account in procedure on appeal

(1) In considering and resolving an appeal, the circuit court proceeds on the basis of facts which have been established in the course of lawful proceedings before the administrative court, and in relation to which the circuit court considers further inquiries to be unnecessary. If this is necessary for a just resolution of the matter, the circuit court may re-evaluate any evidentiary item submitted or any facts established in the administrative court.

(2) The circuit court may establish a fact which has not been established in the proceedings before the administrative court, and assess an evidentiary item not assessed in the judgment of the administrative court, provided:
1) the administrative court's refusal to take notice of the evidence or facts submitted is unfounded;
2) in the proceedings before the administrative court it was impossible to rely on the fact or evidentiary item because of an infringement of the rules of procedure by the court;
3) it was impossible to refer to the fact or evidentiary item for other reasons, amongst other things for the reason that the fact or evidentiary item developed or became known or accessible to the party after the matter was adjudicated by the administrative court and there are no grounds to consider the course of action pursued by the participant in proceedings to have been pursued in bad faith.

(3) A participant in proceedings must substantiate the admissibility of new facts or evidence. If no reasons are given, or if the court does not regard the reasons given to be valid reasons, the court refuses to take notice of the fact or reason, except in the case that the evidentiary item is clearly necessary for a just resolution of the matter. Before the circuit court relies on a new fact or evidentiary item, participants in proceedings must be given an opportunity to submit their opinions concerning that fact or item.

(4) An admission made by a participant in proceedings before the administrative court is binding also in the proceedings on appeal.

§ 199. Consequences of infringement of a rule of procedure

(1) The circuit court annuls the decision of the administrative court regardless of the reasons given in the appeal against that decision and in any objections, and return the case to the administrative court to be heard anew, if:
1) the matter was adjudicated by the court (judge), who by law did not possess the authority to adjudicate the matter;
2) the decision is entered in respect of a person who was not summonsed to court in accordance with the requirements of the law;
3) the judge, or any one of the judges, has not signed the judgment or the judgment has been signed by a judge other than the judge named in the judgment;
4) there are no minutes of the court session in the matter;
5) the matter was dealt with by an unlawful panel, including a panel one of whose judges should have recused himself or herself.

(2) The circuit court may annul the decision of the administrative court regardless of the reasons given in the appeal against that decision and in any objections, and return the case to the administrative court to be heard anew, if:
1) the court decided on the rights or obligations of a person who was not joined to proceedings in the administrative court and whose joinder to proceedings on appeal does not allow for a more expeditious and just resolution of the matter;
2) to a significant extent, the judgment does not state its reasons as required by law and it is impossible for the circuit court to cure that defect;
3) other significant infringements of the rules of court procedure cannot be cured in the proceedings on appeal.

(3) In the case that a significant infringement of a rule of procedure has taken place, and that infringement cannot be cured either in the administrative court or in the proceedings on appeal, the circuit court, instead of returning the matter to the administrative court, resolves the matter substantively.

§ 200. Powers of the circuit court when dealing with the appeal

When dealing with the appeal, the circuit court has the power to:
1) refuse to grant the appeal and uphold the judgment of the administrative court without any variation;
2) annul the judgment of the administrative court in part or in full and return the matter to the administrative court to be considered anew;
3) vary or annul the judgment of the administrative court and enter a new judgment without returning the matter to be considered anew;
4) vary the reasons stated in the judgment of the administrative court while upholding the operative part of the judgment;
5) make an order by which it annuls the judgment of the administrative court in part or in full and dismiss the appeal or terminate proceedings in the matter.

§ 201. Content of judgment of the circuit court

(1) Unless the law provides otherwise, the circuit court resolves the appeal against a judgment of an administrative court by a judgment of its own.

(2) If the circuit court annuls the judgment of an administrative court and does not return the matter to the administrative court to be considered anew, it must, when making a new decision in the matter, state its opinion concerning each submission, objection and issue of procedure which would have to be ruled on by the administrative court.

(3) If the circuit court adopts an opinion which differs from that of the administrative court, it must state its reasons for differing.

(4) If the circuit court upholds the judgment of the administrative court without varying it and agrees with the reasons stated by the administrative court, it is not required to state reasons for its judgment. In such a case, the circuit court must state that it agrees with the reasons given by the administrative court.

(5) In simplified procedure, the circuit court may enter a judgment without the descriptive part or the reasons, provided all of the following conditions are fulfilled:
1) the court refuses to grant the appeal;
2) the reasons for disagreeing with the assertions made by the appellant in the proceedings on appeal and for disregarding the evidence referred to by the appellant are set out exhaustively and clearly in the administrative act, decision on challenge, response submitted to the action or appeal or in the judgment of the administrative court;
3) the court follows the reasons referred to in clause 2 of this subsection, stating its agreement with those reasons and referring to this subsection and to the document in which the reasons are set out.

(6) The circuit court judgment which is initially entered in simplified procedure without the descriptive part and the reasons is subject to subsection 2 and 3 of § 169 of this Code. If the participant in proceedings does not, within the corresponding time-limit, notify to the court his or her intention to lodge an appeal in cassation against the judgment, he or she is deemed to have waived the right to lodge such appeal.
[RT I, 28.11.2017, 1 – entry into force 01.01.2018]

§ 202. Consequences of annulment of the judgment of administrative court and of return of the matter to be adjudicated anew

(1) If the judgment of the administrative court is annulled and the matter is returned to be adjudicated anew, proceedings resume in the administrative court from the point that they had reached by the time that hearing of the matter was concluded. The administrative court undertakes anew any procedural acts which, according to the judgment of the circuit court, were unlawful.

(2) The opinion which the circuit court expresses concerning the interpretation and application of a rule of law in the judgment by which it annuls the judgment appealed against has binding force in respect of the court which gave the annulled judgment when that court considers the matter anew.

Chapter 19
Interlocutory appeal in the circuit court

§ 203. Lodging an interlocutory appeal

(1) A participant in proceedings may appeal any order of the administrative court which concerns him or her provided that appeal against the order is allowed by the law or that the order precludes further proceedings in the matter. Unless the law provides otherwise, any other order may be the objected to in an appeal against the judgment in the matter.

(2) Unless this Chapter provides otherwise, the lodging of an interlocutory appeal and proceedings on the interlocutory appeal are governed by the provisions regarding appeals.

§ 204. Procedure for lodging interlocutory appeals

(1) An interlocutory appeal is submitted to the circuit court in writing within 15 days following service of the order appealed on the person filing the appeal.
[RT I, 28.11.2017, 1 – entry into force 01.01.2018]

(2) [Repealed – RT I, 28.11.2017, 1 – entry into force 01.01.2018]

(3) In the case that, when dealing with the matter by an order, the court declared a legislative or regulatory act of general application to be unconstitutional and set it aside, the time-limit for appealing the order does not start to run before pronouncement of the judgment entered in constitutional review proceedings by the Supreme Court regarding the act that was set aside.

§ 205. Requirements for interlocutory appeals

(1) An interlocutory appeal states the following:
1) the name of the court which entered the order, the date of the order and the docket number of the administrative matter;
2) the subject matter in respect of which or the person in respect of whom the order was entered;
3) a clearly stated application of the appellant, showing the scope within which he or she contests the order of the administrative court, and the decision that the appellant seeks;
4) the reasons of the appeal against the order;
5) [Repealed – RT I, 28.11.2017, 1 – entry into force 01.01.2018].

(2) The reasons of an interlocutory appeal must containg the following:
1) assertions of fact and of law concerning the circumstances which, in the opinion of the appellant, render the contested order unlawful;
2) a reference to evidentiary items which are relied on to prove each asserted fact.

§ 206. Proceedings in administrative courts on interlocutory appeals

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

§ 207. Rules for acceptance of interlocutory appeals

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

(1) When it receives an interlocutory appeal, the circuit court decides on acceptance of the appeal without delay. The court verifies whether the law allows the lodging of the appeal and whether the appeal has been lodged in observance of the requirements provided by law and within the relevant time-limit. Unless otherwise provided by law, acceptance of interlocutory appeals is subject to the provisions on acceptance of appeals in the circuit court.

(2) In addition to the grounds provided in subsection 3 of § 187 of this Code, the circuit court may, by a corresponding order, return the interlocutory appeal in the case that it is manifest that the chances of the appellant to obtain protection of his or her right are negligible.

(3) The circuit court may make the order mentioned in subsection 2 of this section without the descriptive part and the reasons, stating the legal basis for returning the interlocutory appeal if:
1) the order of the circuit court is not subject to further appeal to the Supreme Court or
2) the law permits the matter to be considered by simplified procedure.

(4) In the case provided in clause 1 of subsection 3 of this section the order of the circuit court is not subject to further appeal to the Supreme Court regardless of whether or not the circuit court states its reasons for the order.
[RT I, 28.11.2017, 1 – entry into force 01.01.2018]

§ 208. Stay of execution of an order contested by an appeal against the order and interim relief in relation to the appeal

(1) Unless the law provides otherwise, lodging an interlocutory appeal does not stay the execution of the order. Lodging an interlocutory appeal which orders payment of a fine stays the execution of the order.

(2) The court whose order is contested, and the circuit court which is to consider the interlocutory appeal, may, before the appeal is resolved, order interim relief in relation to the appeal, including staying the execution of the order contested or applying other measures of interim relief.

§ 209. Discontinuation of interlocutory appeal

The person who lodged an interlocutory appeal is entitled to discontinue the appeal up to the time that the court has concluded hearing that appeal, in the case of written procedure up to the expiration of the time-limit for the submission of declarations. The court terminates proceedings on the appeal by entering the corresponding order. The person who lodged the appeal may not lodge a new appeal against the order contested.
[RT I, 19.03.2015, 1 – entry into force 29.03.2015]

§ 210. Resolving the interlocutory appeal

(1) In the circuit court the interlocutory appeal is heard by a single judge of the circuit court. An interlocutory appeal lodged against the order by which the court rejected or dismissed the action, or terminated proceedings in the matter, or against any other order which bars further proceedings in the matter, is considered and resolved by a three-member panel of the circuit court. An interlocutory appeal lodged in relation to an issue of interim relief may be resolved by a single judge of the circuit court, provided this is necessary to expedite resolution of the matter.

(2) An interlocutory appeal is resolved on by an order which includes a statement of its reasons.

(3) If the circuit court finds that an interlocutory appeal is well founded, it annuls the order and, where this is possible, itself enters a new order in the matter. Where this is necessary, the circuit court returns the matter to the court which made the annulled order, to be resolved again.

(4) In the case that the court does not consider it necessary to hold a court session in the matter, an interlocutory appeal is dealt with by written procedure. If this is necessary, the court panel which considers the interlocutory appeal may take new evidence in the matter.

(4^1) When dealing with an interlocutory appeal, the circuit court is not required to announce to participants in proceedings the time when it will make the order to be made in written procedure or the composition of the panel of judges to deal with the case.
[RT I, 28.11.2017, 1 – entry into force 01.01.2018]

(4^2) If the circuit court has not, prior to deciding on the interlocutory appeal, given participants in proceedings a time-limit for presenting the list of procedural expenses and expense documents, the participants in proceedings may, within ten days following service of the order of the circuit court, present these to the circuit court together with the application for the making of an additional order concerning procedural expenses.
[RT I, 28.11.2017, 1 – entry into force 01.01.2018]

(5) The order entered by the circuit court in respect of an interlocutory appeal is served on participants in proceedings.

(6) Unless the law provides otherwise, the order of the circuit court becomes final if no interlocutory appeal against that order is lodged with the Supreme Court or if that court refuses to accept the interlocutory appeal or refuses to grant it.

Part 5
PROCEDURE IN THE SUPREME COURT

Chapter 20
Cassation procedure

Subchapter 1
Appeals in cassation to the Supreme Court

§ 211. Right of cassation

(1) In the case that the circuit court has wrongly applied a rule of substantive law or significantly infringed a rule of court procedure, a party or third party of the matter has the right to lodge an appeal against the judgment of the circuit court with the Supreme Court. The reasons stated in the judgment may only be contested if the operative part of the judgment is contested, except in the case that such reasons affect the rights or duties of a participant in proceedings independently of the operative part.

(2) The judgment of the circuit court may not be appealed in cassation with respect to a claim concerning which the judgment of the administrative court was not contested in the appeal against that judgment.

(3) An appeal in cassation may be lodged also by a person who was not joined to judicial proceedings in the matter, if the judgments of the lower courts affect that person's rights and freedoms which are protected by the law.

(4) A participant in proceedings does not have the right of cassation if the participant has waived that right in accordance with subsection 6 of § 201 of this Code.

(5) Cassation procedure is governed by the provisions concerning proceedings before the administrative court, including the provisions regarding written procedure and simplified procedure, unless cassation procedure is subject to other provisions and unless the provisions concerning proceedings before the administrative court are incompatible with the nature of cassation procedure. The Supreme Court does not conduct conciliation proceedings.

(6) The appellant in cassation is the person who has lodged an appeal in cassation.

§ 212. Time-limit for cassation

(1) An appeal in cassation must be lodged within 30 days as of the public pronouncement of the judgment. If the time of public pronouncement of the judgment was not notified to participants in proceedings in the court session or if such time was notified at a court session which the participant in proceedings did not attend because of a valid reason, and if the participant in proceedings has not been previously delivered a notice concerning the time of public pronouncement of the judgment, the time-limit for lodging an appeal in cassation against the judgment starts to run from the time of service of the judgment. Where, under simplified procedure, the judgment entered without the descriptive part or the reasons is supplemented by the missing part in accordance with subsection 6 of § 201 of this Code, the time-limit for cassation starts to run anew from the public pronouncement of the judgment.
[RT I, 19.03.2015, 1 – entry into force 29.03.2015]

(2) In the case that an appeal in cassation is lodged after the expiration of the time-limit for cassation, the Supreme Court decides restoration of that time-limit having regard to the provisions of § 71 of this Code.

(3) Where the circuit court, when resolving the administrative matter, in the operative part of the judgment declared a legislative or regulatory act of general application which falls to be applied in the matter to be unconstitutional and set that act aside, the time-limit for lodging an appeal in cassation is calculated to start from the pronouncement of the decision concerning the act thus set aside, entered in constitutional review proceedings by the Supreme Court.

§ 213. Requirements for appeals in cassation

(1) An appeal in cassation is lodged in writing with the Supreme Court and must state the following:
1) for each participant in proceedings, the name, place of residence or seat, postal address and status in proceedings, as well as particulars of the means of telecommunications if these have changed during the proceedings and are known to the appellant in cassation;
2) the name of the court which entered the judgment against which the appeal is lodged, the date of the judgment and the docket number of the administrative matter;
3) a clearly stated application of the appellant in cassation, showing the scope within which he or she contests the judgment of the circuit court and the decision that he or she seeks from the Supreme Court;
4) the reasons for the appeal in cassation, showing which rule of substantive law the circuit court has, in the opinion of the appellant in cassation, applied incorrectly, or which rule of court procedure the circuit court has significantly infringed and what the substance of the infringement is;
5) whether the appellant in cassation wishes the matter to be heard in a court session. If the appellant in cassation has not stated the corresponding wish, it is assumed that he or she agrees to the matter being resolved by written procedure;
6) particulars concerning payment of the statutory fee;
[RT I, 08.12.2021, 1 – entry into force 01.01.2022]
7) a list of the documents appended to the appeal in cassation.

(2) Claims which were not made in the administrative court may not be made in the appeal in cassation.

§ 214. Amendment of appeals in cassation

An appellant in cassation may, until the end of the time-limit for cassation extend the scope of the appeal in cassation to those parts of the judgment which were not initially contested. After the end of the time-limit for cassation, participants in proceedings may submit supplementary positions and reasons.

§ 215. Lodging a counter-appeal in cassation

(1) Counter-appeal in cassation means an appeal in cassation which is lodged by another participant in proceedings as a response to the appeal in cassation lodged in the matter in order to be considered together with that appeal.

(2) Unless the provisions of this section dispose otherwise, a counter-appeal in cassation is subject to the provisions regarding appeals in cassation.

(3) A counter-appeal in cassation may be lodged within 14 days from service of the appeal in cassation to the counter-appellant in cassation, or within the rest of the time-limit for cassation, if this exceeds 14 days.

(4) The court dismisses a counter-appeal in cassation which is lodged after the time-limit for cassation has lapsed but which remains within the 14-day time-limit provided in subsection 3 of this section if the appellant in cassation discontinues the appeal in cassation, if the court refuses to accept that appeal or dismisses it, or if proceedings in the matter are terminated.
[RT I, 19.03.2015, 1 – entry into force 29.03.2015]

§ 216. Requiring production of the file

(1) The Supreme Court, when it receives an appeal in cassation, without delay requires the circuit court which dealt with the matter to produce the corresponding file. The circuit court, having learned of the requirement of the Supreme Court concerning production of the file, transmits the file to the Supreme Court without delay.

(2) Upon conclusion of cassation proceedings, the Supreme Court returns the file to the court which dealt with the matter.

§ 217. Refusal to proceed with an appeal in cassation

(1) In the case of a defect which precludes consideration of the appeal in cassation but which is likely to be curable, the court enters an order by which it grants the appellant a reasonable time-limit for curing the defect and, pending compliance, refuses to proceed with that appeal.
[RT I, 19.03.2015, 1 – entry into force 29.03.2015]

(2) If the appellant in cassation fails to comply with the demand of the court by the due date, the Supreme Court enters an order by which it returns the appeal in cassation.

(3) The Supreme Court also returns an appeal in cassation if:
1) the appeal has been lodged after the expiration of the time-limit for cassation and the appellant in cassation has not applied for restoration of the time-limit, or if the Supreme Court has refused to restore that time-limit;
2) the appeal has been lodged by a person who does not have that right under § 211 of this Code.

§ 218. Response to an appeal in cassation

(1) After accepting an appeal in cassation which complies with the requirements provided by law, the Supreme Court arranges service of copies of that appeal and of any annexes to the appeal to the other participants in proceedings. Concurrently with the service of the appeal, the Supreme Court informs participants in proceedings of the time-limit within which they are allowed to submit a written response to the appeal. The Supreme Court may require a participant in proceedings to submit a written response.

(2) A response to the appeal in cassation must, amongst other things, state the following:
1) whether there is a defect which precludes the conduct of proceedings on the appeal;
2) whether the participant in proceedings agrees with the appeal or opposes it;
3) any objections together with the relevant reasons, concerning the claims made and reasons stated in the appeal, and any facts and law on which the participant in proceedings founds his or her objections;
4) the applications of the participant in proceedings together with the reasons for those applications and other particulars necessary for resolving each application;
5) whether the participant in proceedings wishes to attend the court session, considering the fact that, if the wish to have the matter heard in a court session is not stated, it is assumed that the participant agrees to written procedure in the matter.

(3) [Repealed – RT I, 19.03.2015, 1 – entry into force 29.03.2015]

(4) The Supreme Court arranges service on the other participants in proceedings of any response and any other position of a participant in proceedings concerning the appeal in cassation together with copies of any documents annexed to the response or position, unless it can be assumed that a participant in proceedings possesses the document or a copy of the document.

§ 219. Deciding the acceptance of the appeal in cassation

(1) When the time-limit established for the adverse party and any third party in cassation proceedings to submit a response to the appeal in cassation has expired, the Supreme Court, acting by a panel of three members, decides on acceptance of the appeal without summoning the participants in proceedings.

(2) In the case that it is evident to the Supreme Court that the acceptance of the appeal in cassation is well founded, or is unfounded, the court may decide on acceptance of the appeal without transmitting the appeal to the other participants in proceedings, or before the expiration of the time-limit established for responding to the appeal.

(3) The Supreme Court accepts the appeal in cassation if:
1) the positions stated in the appeal warrant the conclusion that the circuit court has incorrectly applied a rule of substantive law, or has significantly infringed the rules of court procedure, which has resulted or could have resulted in an incorrect judgment being entered;
2) regardless of the provision of clause 1 of this subsection, decision on the appeal is of considerable import from the point of view of ensuring legal certainty or uniformity of approach in the case-law of the courts.

(4) If the appeal in cassation is accepted, acceptance of a counter-appeal in cassation may only be refused for the reason that that counter-appeal does not comply with the requirements provided by law.

(5) If one of two or more appeals in cassation lodged with the Supreme Court for acceptance in respect of the same circuit court judgment is accepted, the other appeals which comply with the requirements are also accepted.

(6) Acceptance of an appeal in cassation is refused if the Supreme Court is convinced that the grounds for accepting the appeal under subsection 3 of this section are absent. Acceptance of the appeal is not required also in the case that the Supreme Court is convinced that it will be impossible, by conducting cassation proceedings in the matter, to achieve the aim of the appeal. If impingement on the right that the appeal seeks to protect is a minor one and the law would permit the matter to be considered by simplified procedure, the Supreme Court accepts the appeal only if the decision of the Supreme Court holds fundamental importance from the point of view of uniform application of the law or of development of the law.
[RT I, 28.11.2017, 1 – entry into force 01.01.2018]

(7) Acceptance of the appeal in cassation, or refusal to accept the appeal, is formalized as an order of the Supreme Court. The order concerning the acceptance, or refusal to accept, the appeal sets out the legal basis for the acceptance, or refusal to accept. A copy of the order is sent to all participants in proceedings.

(7^1) If the Supreme Court has not, prior to rejecting the appeal in cassation, given participants in proceedings a time-limit for presenting the list of procedural expenses and expense documents, the participant in proceedings may, within ten days following public pronouncement of the order of the Supreme Court, present these to the Supreme Court together with the application for the making of an additional order concerning procedural expenses.
[RT I, 28.11.2017, 1 – entry into force 01.01.2018]

(8) If the appeal in cassation is rejected, the file is returned to the relevant court.

(9) The outcome of consideration of the application for acceptance of an appeal in cassation is published on the website of the Supreme Court without delay, stating the docket number of the administrative matter, the names of participants in proceedings and a general description of the appeal. In the case of an application to accept an appeal lodged in proceedings which have been declared *in camera*, only the outcome of the consideration and the docket number of the administrative matter together with a note concerning the *in camera*status of the proceedings are published on the website. Refusals to accept the appeal for the reason that the appeal did not comply with the requirements provided by law and was therefore returned are not published on the website. The particulars concerning the outcome of consideration of the application to accept the appeal are removed from the website when 30 days have elapsed since publication of the notice concerning resolution of the application.

§ 220. Dismissal of the appeal in cassation

(1) In the case that, after acceptance of the appeal in cassation, it becomes apparent that the appeal does not comply with the requirements provided by law, or if the appeal has been lodged after the expiration of the time-limit for cassation and the Supreme Court refuses to restore that time-limit, the court enters an order in which, setting out the relevant reasons, it dismisses the appeal.

(2) In the case that the defect which prevents consideration of the appeal in cassation is likely to be curable, the court enters an order by which it refuses to proceed with the appeal and sets a reasonable time-limit for the appellant in cassation to cure the defect.

(3) If the appellant in cassation fails to comply with the order of the court by the due date, the court dismisses the appeal in cassation and returns that appeal to the appellant.

(4) On the basis of a substantiated declaration, or of its own motion, and provided there is a valid reason, the Supreme Court may grant extensions to any time-limit it has established.

§ 221. Discontinuation of appeal in cassation

(1) The appellant in cassation may, by making a corresponding written declaration to the Supreme Court, discontinue the appeal in cassation up to the time that the court concludes hearing that appeal, in the case of written procedure up to the expiration of the time-limit for the submission of declarations.
[RT I, 19.03.2015, 1 – entry into force 29.03.2015]

(2) In the case of discontinuation of the appeal in cassation, the appellant is deemed not to have performed any procedural acts in the court of cassation. Having discontinued the appeal in cassation, the appellant in cassation may not lodge a new appeal in cassation in respect of the same subject matter of cassation, and bears the procedure expenses related to cassation proceedings.

(3) If the declaration concerning discontinuation of the appeal in cassation is made outside the court session, the court notifies the other participants in proceedings of the making of the declaration, setting a time-limit for those participants to submit their responses. If the other participants in proceedings wish procedure expenses to be awarded from the applicant, they must state this in their response.

(4) In the case that the appeal in cassation is discontinued, and if no other participant in proceedings has appealed the judgment of the circuit court or if a counter-appeal in cassation was lodged after the expiration of the time-limit for cassation, the Supreme Court enters an order by which it terminates cassation proceedings.

(5) In the case that, within the time-limit for cassation, several participants in proceedings have lodged an appeal in cassation, proceedings are terminated solely in respect of the appeal which was discontinued.

(6) The Supreme Court accepts discontinuation of an appeal in cassation by an order which states the legal consequences of discontinuation of the appeal.

§ 222. Discontinuation of appeal and compromise

In the case that it accepts discontinuation of the appeal, or approves a compromise, the Supreme Court enters an order by which it annuls previous judgments and terminates proceedings in the matter.

Subchapter 2
Consideration of appeals in cassation in the Supreme Court

§ 223. Resolution of matter by written procedure

(1) The Supreme Court considers appeals in cassation by written procedure, provided it does not consider it necessary to convene a court session. If, during written procedure, the court finds that a court session should be convened, it schedules the court session.

(2) When considering an appeal in cassation by written procedure, the Supreme Court establishes a time-limit within which participants in proceedings may submit to the court supplementary declarations or positions, appoints the court panel to deal with the matter, announces the time of publication of the judgment and notifies this to the participants in proceedings.

§ 224. Scheduling a session of the Supreme Court

Having accepted the appeal in cassation, the Supreme Court schedules a court session, determines the place where the session is to convene, appoints the court panel to deal with the matter and arranges service on participants in proceedings of the summons to attend the session. Where this is possible, the court has regard to the opinions of participants in proceedings when scheduling the court session. Together with the notice concerning the time and place of the court session, copies of any responses to the appeal in cassation are transmitted to the appellant in cassation.

§ 225. Consideration of the matter at a session of the Administrative Law Chamber of the Supreme Court

(1) The session is opened by the presiding justice who announces the composition of the panel to consider the administrative matter and explains which administrative matter, and on whose appeal in cassation, will be considered.

(2) The court ascertains the participants in proceedings who are in attendance at the court session, verifies their authority and asks the appellant in cassation and the other participants in proceedings whether they wish to make a recusal application or any other applications.

(3) At the court session held to consider an administrative matter, the justice who has prepared the matter may, where this is necessary, present a report on the matter, in which they provide an overview of the hitherto course of proceedings in the matter and of the substance of the appeal in cassation and of the response to that appeal.

(4) After the report, the appellant in cassation has the floor, then the adverse party and any third parties. The court may limit the time allocated for the oral submissions of the participants, ensuring that all participants enjoy equal speaking time.

(5) When the parties to cassation proceedings have been heard, the presiding justice concludes the court session and announces the day on which judgment is to be publicly announced. Where this is necessary, the time period preceding public pronouncement of a judgment may be extended.

§ 226. Referral of administrative matter to the full panel of the Administrative Law Chamber

(1) At the proposal of a justice sitting on the panel which deals with the administrative matter, the matter is referred for consideration to the full panel of the Administrative Law Chamber if:
1) within the three-member panel of the Administrative Law Chamber dissenting opinions that raise a point of principle emerge with respect to the application of the law in relation to the resolution of the matter;
2) the majority of the panel favours overorder the position of the Administrative Law Chamber regarding the application of the law, or the panel considers referral to be needed for reasons of ensuring a uniform approach in the case-law of the courts.

(2) Referral of the matter to the full panel of the Administrative Law Chamber is decided by an order a copy of which is transmitted to participants in proceedings. Timely notice is given to the participants regarding the time and place of the holding of the new court session, or of consideration of the matter by written procedure, and of the composition of the panel to deal with the matter.

(3) The full panel of the Administrative Law Chamber must consist of at least five justices of the Supreme Court.

(4) If the matter is heard in a court session, that session is presided by the Presiding Justice of the Administrative Law Chamber, and in his or her absence, the longest serving member of the Administrative Law Chamber, and in the case of equal length of service, the most senior member.
[RT I, 19.03.2015, 1 – entry into force 29.03.2015]

§ 227. Referral of administrative matter to the Special Panel of the Supreme Court

(1) In the case that the panel of the Supreme Court that deals with an administrative matter considers it necessary to derogate, in interpreting the law, from the latest opinion of another chamber or of a special panel of the Supreme Court – or where this is needed in order to ensure uniform application of the law – the matter is referred by an order to a special panel formed between the chambers that hold differing opinions.
[RT I, 19.03.2015, 1 – entry into force 29.03.2015]

(2) The Special Panel of the Supreme Court is convened by the President of the Supreme Court. The Panel is composed of the President of the Supreme Court as the presiding justice, two justices of the Supreme Court from the Administrative Law Chamber and two justices of the Supreme Court from the chamber whose opinion differs from that of the Administrative Law Chamber. In the case that the Special Panel is to be constituted by three chambers, the composition of the panel includes the President of the Supreme Court as the presiding justice and two justices of the Supreme Court from either of the participating chambers.

(3) The *rapporteur*of the matter is a member of the Administrative Law Chamber designated by the President of that Chamber.

§ 228. Referral of the matter to the Supreme Court *en banc*

(1) By order of the Administrative Law Chamber, the administrative matter is referred to be dealt with by the Supreme Court *en banc*if:
1) the majority of the members of the Administrative Law Chamber adopts a position which differs from a principle of law which the Supreme Court *en banc*continues to recognize, or from that court's opinion concerning the application of the law;
2) in the view of the majority of the members of the Administrative Law Chamber, adjudication of the matter by the Supreme Court *en banc*is important from the point of view of uniform application of the law;
3) resolution of the administrative matter requires adjudication of an issue that must be dealt with under the Constitutional Review Procedure Act.

(2) Referral of the matter to the Supreme Court *en banc*, as well as the time and place of the session of that court is notified to the appellant in cassation and to the other participants in the proceedings. The *rapporteur*of a

matter in which referral is made to the Supreme Court *en banc*is a member of the Administrative Law Chamber designated by the President of that Chamber.

§ 228[1]. Making a request to the European Court of Human Rights

(1) In accordance with Protocol No. 16 to the Convention on the Protection of Human Rights and Fundamental Freedoms, the Supreme Court may, in the matter pending before it, request the European Court of Human Rights to give an advisory opinion on a question of principle relating to the interpretation or application of the rights and freedoms defined in the Convention on the Protection of Human Rights and Fundamental Freedoms or in the Protocols to that Convention.

(2) The request must state its reasons and include a description of the relevant facts and legal circumstances of the matter pending before the Supreme Court.

(3) The advisory opinion of the European Court of Human Rights is not binding on the Supreme Court.
[RT I, 26.06.2017, 17 – entry into force 06.07.2017, § 228[1]is applied from the day on which Protocol No. 16 to the Convention on the Protection of Human Rights and Fundamental Freedoms enters into force in respect of Estonia]

Subchapter 3
Judgment of the Supreme Court

§ 229. Scope of consideration of appeals in cassation

(1) On the basis of an appeal in cassation, the Supreme Court verifies whether the circuit court has, in its judgment, correctly applied relevant rules of substantive law and whether, when reaching its judgment, the court has observed the rules of procedure. In cassation proceedings, the Supreme Court only scrutinizes the judgment of the circuit court to the extent that that judgment has been appealed.

(2) When verifying whether an appeal in cassation is well founded, the Supreme Court has regard to the facts as ascertained in the judgment of a lower court. In addition, the Supreme Court has regard to the facts submitted in order to state the reasons of the assertion concerning significant infringement by the circuit court of a rule of procedure, including any facts apparent from the minutes of the court session.

(3) The Supreme Court is bound by the facts as ascertained by the circuit court, except in the case that ascertainment of a fact is contested in the appeal in cassation and, in relation to that ascertainment, the rules of procedure were significantly infringed.

(4) The Supreme Court is not bound by the reasons in law stated in an appeal in cassation.

(5) An admission made by a participant in proceedings in the administrative court or in the circuit court is binding also in the cassation proceedings.

§ 230. Powers of the Supreme Court under cassation procedure

(1) The grounds for annulment of a judgment in cassation proceedings are incorrect application, including non-application, of a rule of substantive law, or significant infringement of a rule of court procedure.

(2) In the case of significant infringement of the rules of court procedure mentioned in subsection 1 of § 199 of this Code the Supreme Court is not bound by the scope of the appeal and annuls the judgment of the circuit court regardless of the reasons stated in the appeal or objections against the appeal and returns the matter to the circuit court for a new hearing. Where a rule of this type was infringed by the administrative court and the circuit court has not annulled the judgment of the administrative court and has not returned the matter to be considered anew to that court, the Supreme Court annuls the judgments of the lower courts and returns the matter to the administrative court to be considered anew.

(3) The Supreme Court may annul the judgment of the circuit court regardless of the reasons stated in the appeal in cassation or objections against that appeal and return the matter for a new hearing to the circuit court of the administrative court also in the case of significant infringement of the rules of court procedure mentioned in subsection 2 of § 199 of this Code.

(4) An infringement not mentioned in subsections 1 and 2 of § 199 of this Code may also be deemed by the Supreme Court to constitute a significant infringement of the rules of procedure, provided it is possible that the infringement affected the outcome of dealing with the matter in the circuit court and is such that it cannot be cured in cassation proceedings.

(5) When considering an appeal in cassation, the Supreme Court has the power to
1) refuse to grant the appeal in cassation and uphold the judgment of the circuit court;
2) annul the judgment of the circuit court in full or in part and return the matter, to be considered anew insofar as it annulled the judgment, to the same or other circuit court;

3) annul the judgment of the administrative court and the judgment of the circuit court and return the matter to the administrative court to be considered anew, or dismiss the appeal or terminate proceedings in the matter;
4) annul the judgment of the circuit court and uphold the judgment of the administrative court;
5) vary the judgment of the circuit court or the judgment of the administrative court, or enter a new judgment without returning the matter to be heard anew provided it is not necessary to take new evidence in the matter or vary the assessment of that evidence stated in the appeal against the judgment of the administrative court;
6) vary the reasons stated in the judgment of the circuit or in the judgment of the administrative court while upholding the operative part of the judgment.

(6) In the case that the administrative court or the circuit court has entered judgment in the matter, although it should have dismissed the action or the appeal or should have terminated proceedings in the matter, the Supreme Court enters an order in which it annuls the judgment of the circuit court or the judgments of both courts, and also dismisses the action or terminates proceedings in the matter.

§ 231. Content of judgment of the Supreme Court

(1) Unless the law provides otherwise, the Supreme Court resolves the appeal against the judgment of a circuit court by a judgment of its own. Unless the otherwise provided in this section, the judgment of the Supreme Court is subject to the provisions applicable to the judgment of the administrative court.

(2) In the introductory part of the judgment, in addition to the particulars of the judgment of the circuit court, the court names the person who has lodged the appeal in cassation.

(3) The descriptive part of the judgment gives an outline of previous proceedings in the matter and of the judgments entered in those proceedings, of the claims made by participants in proceedings in cassation proceedings and of any assertions made in relation to those claims, as well as of the evidentiary items concerning infringement of the rules of procedure and of any applications made by participants in proceedings.

(4) The reasons for the judgment state the conclusions of the Supreme Court and the law that the court applied.

(5) In the case that the Supreme Court annuls the judgment of a lower court but does not return the matter for a new hearing to the lower court, the court must state its position regarding all assertions, objections and points of procedure concerning which the circuit court would have to express its position.

(6) In the case that the Supreme Court upholds the judgment of the circuit court and agrees with the reasons stated in that judgment, the court does not have to state the reasons for its own judgment. In such a case the Supreme Court must state that it agrees with the reasons given in the judgment of the circuit court.

(7) Where a valid reason for this exists, in particular under simplified procedure, the Supreme Court may, when it refuses to grant the appeal in cassation, enter a judgment which consists solely of the operative part.

§ 232. Finality and publication of decisions of the Supreme Court

(1) The judgment or order of the Supreme Court is transmitted to participants in proceedings. A copy of the judgment or order is sent to the participants within five days as of the making of the judgment or order. The day on which a judgment or order is made is the day on which that judgment or order is signed.

(2) A judgment of the Supreme Court or an order of the Supreme Court by which the court dismisses the appeal in cassation becomes final on the day it is publicly pronounced, and are conclusive.

§ 233. Binding force of opinions of the Supreme Court

(1) An opinion expressed in a judgment of the Supreme Court concerning the interpretation and application of the law is binding on any court which conducts a new hearing in the matter.

(2) In matters concerning the application of the law, a judgment of a special panel of the Supreme Court is binding on the chambers of that court which constituted the special panel, until the special panel or the Supreme Court *en banc*give a different judgment.

(3) A judgment of the Supreme Court *en banc*in matters concerning the application of the law is binding on the chambers and special panels of the court until the Supreme Court *en banc*gives a different judgment.

Chapter 21

Interlocutory appeals to the Supreme Court

§ 234. Application of provisions of cassation procedure

Unless the provisions of this Chapter and the nature of the interlocutory appeal determine otherwise, the lodging of an interlocutory appeal and consideration of that appeal are governed by the provisions of the Chapter on cassation procedure.

§ 235. Right of interlocutory appeal and the time-limit for the appeal

(1) A party and third party has the right to lodge an interlocutory appeal against an order of the circuit court drawn up as a separate document, provided the law permits such appeal or if the order precludes further proceedings in the matter. Unless this Code provides otherwise, in the case of any other order an objection may be raised in the appeal in cassation.

(2) An interlocutory appeal may only rely on the fact that the circuit court has, when making the order, incorrectly applied a rule of substantive law or significantly infringed a rule of procedure and that incorrect application or infringement may have led to an incorrect judgment.

(3) Unless the law provides otherwise, an interlocutory appeal is lodged with the Supreme Court within 15 days from service of the order to the appellant.

(4) In the case that the court, when adjudicating the matter, declared a legislative or regulatory act of general application that falls to be applied in the matter to be unconstitutional and set that act aside, the time-limit for lodging the appeal against the order is calculated as of the pronouncement of the decision made by the Supreme Court in constitutional review proceedings in respect of the legislative act set aside.

§ 236. Requirements for interlocutory appeals

An interlocutory appeal must state, among other things:
1) the name, place of residence or seat, postal address and status in proceedings, as well as particulars of the means of telecommunications of the appellant;
2) the name of the court which entered the order appealed, the date of the order and the docket number of the administrative matter;
3) the subject matter in respect of which or the person in respect of whom the order was made;
4) a clearly stated application of the appellant, showing the scope within which he or she contests the order of the circuit court and the decision he or she seeks;
5) reasons for the appeal against the order, including amongst other things the facts which support the claim and because of which, in the opinion of the appellant, the order under appeal is unlawful;
6) [Repealed – RT I, 28.11.2017, 1 – entry into force 01.01.2018];
7) a list of the documents appended to the appeal.

§ 236[1]. Deciding the acceptance of interlocutory appeal

The Supreme Court decides the acceptance of an interlocutory appeal following the provisions of § 219 of this Code. The Supreme Court only accepts an interlocutory appeal against the order entered by the circuit court on consideration of an interlocutory appeal, or an interlocutory appeal that the law permits to consider by simplified procedure, if the decision of the Supreme Court in the matter holds importance from the point of view of uniform application of the law or of development of the law. The provision of the previous sentence does not apply in cases concerning appeals against orders on the grant or refusal of permission for an administrative measure.
[RT I, 28.11.2017, 1 – entry into force 01.01.2018]

§ 237. Discontinuation of interlocutory appeals

(1) The person who lodged the interlocutory appeal may discontinue that appeal until the hearing of the matter is concluded, in the case of written procedure until the expiration of the time-limit for the submission of declarations.
[RT I, 19.03.2015, 1 – entry into force 29.03.2015]

(2) The Supreme Court accepts discontinuation of an interlocutory appeal in an order by which it terminates proceedings on that appeal. In the case of discontinuation of the appeal, the appellant may not lodge a new interlocutory appeal against the order appealed.

§ 238. Resolution of appeals

(1) The Supreme Court arranges service of copies of the appeal and of any annexes to the appeal on participants in proceedings and invites them to submit, or allows them to submit of their own initiative, a response to the interlocutory appeal, except in the case that the order appealed does not affect the rights of the other participants in proceedings.

(2) An interlocutory appeal is considered by written procedure; where necessary, the court may hold a court session. If the Supreme Court finds the appeal to be well founded, it annuls the order appealed and enters a new order, if this is possible. Where this is necessary, the Supreme Court returns the matter for a new hearing to the circuit court which entered the order, or to another circuit court. The Supreme Court may also annul any order entered in the matter by the administrative court and return the matter for a new hearing to the administrative court.

(3) The order entered in the Supreme Court as a result of the hearing of the appeal is final.

(4) Unless otherwise provided by law, the lodging of the interlocutory appeal does not suspend the execution of the contested order.
[RT I, 19.03.2015, 1 – entry into force 29.03.2015]

(5) The Supreme Court may, prior to deciding the interlocutory appeal, order interim relief in relation to the appeal, including staying the execution of the order contested or applying other measures of interim relief.
[RT I, 19.03.2015, 1 – entry into force 29.03.2015]

Chapter 22
Review

§ 239. Application of provisions of cassation procedure

Unless this Chapter provides otherwise, the lodging of petitions for review and consideration of such petitions is governed by the provisions of the Chapter on cassation procedure.

§ 240. Grounds for review

(1) On the basis of an application from a participant in proceedings or any other person whom the court should have joined to the proceedings when dealing with the matter, judgments and court orders which have become final may be reviewed under review procedure provided new facts have come to light.

(2) The grounds for review of court decisions entered in administrative court proceedings are the following:
1) the decision was made by the court panel which included a judge who should have recused himself or herself;
2) a participant in proceedings was not notified of the proceedings in accordance with the law, amongst other things the action was not served on the participant, or the participant in proceedings was not summonsed to court in accordance with the law, although the decision concerned him or her;
3) a participant in proceedings was not represented by a duly authorized person, although the decision concerned him or her, except in the case that the participant in proceedings has ratified his or her representation in those proceedings;
4) illegality or unlawfulness or unfoundedness of the court decision resulting from false testimony of a witness or knowingly false opinion of an expert, or a knowingly false translation, or the forgery of a document or the fabrication of evidence, as ascertained in a judgment which has been entered in a criminal matter and which has become final;
5) a criminal offence by the judge or a participant in proceedings or a representative of such participant, which has been committed in the course of hearing or considering the matter to be reviewed and which has been established by means of a judgment which was entered in a criminal matter and which has become final;
6) the court decision is based on a previous court decision, arbitration award or administrative act which has since been annulled or varied;
7) a declaration of unconstitutionality rendered in constitutional review proceedings in respect of the legislative or regulatory act of general application or a provision of such act, or the omission to issue such act, which served as the basis for the court decision in the administrative matter to be reviewed;
8) the grant, on account of infringement of the European Convention for the Protection of Human Rights and Fundamental Freedoms or of any protocol to that Convention, of an application lodged with the European Court of Human Rights against a judgment or order entered in an administrative matter, provided the infringement may have affected adjudication of the matter and cannot reasonably be cured, and the harm that it caused cannot be compensated otherwise than by means of review;
9) the becoming apparent of a ground for a stay of proceedings by operation of law which existed at the time of the making of the court decision but which the court did not know and could not have known;
10) other material fact or evidentiary item which existed at the time of the making of the court decision but which the participant in proceedings did not know and could not have known and in the case of the submission of or reliance on which in the proceedings it is manifest that a different court decision would have been entered.

(3) A petition for review in accordance with the ground specified in clause 8 of subsection 2 of this section may also be lodged by a person who has, in a similar matter and on the same legal basis, lodged an application with the European Court of Human Rights or who is entitled, in a similar matter and on the same legal basis, to lodge

such an application in accordance with the time-limit established in paragraph 1 of Article 35 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

(4) The fact specified in subsection 2 of this section does not constitute grounds for review unless it has affected the making of the court decision either in favour of or adversely to the participant in proceedings.

(5) Review of a matter is excluded if the participant in proceedings could, in earlier proceedings, have relied on the facts which would allow the review, in particular by making an objection or bringing an action, and also if the court refused to sustain the objection or grant the action. Review is also excluded in respect of any court orders regarding which the law does not permit further appeal.

§ 241. Submission of petitions for review

(1) A petition for review may be lodged with the Supreme Court within two months as of learning of the existence of a ground for review, but not before the relevant court decision has become final. For the reason that a participant in proceedings was not represented in the proceedings, a petition for review may be lodged within two months starting from the day on which the decision was served on the participant in proceedings or, in the case of participant who, for the purposes of administrative court procedure, does not possess active legal capacity, to the legal representative of that participant. This does not take into account service by publication.

(2) In the case specified in clause 8 of subsection 2 of § 240 of this Code, a petition for review may be lodged within six months from the day on which the corresponding judgment of the European Court of Human Rights became final.

(3) In the case that a legislative or regulatory act of general application or a provision of such act or the omission to issue such, act which served as the basis for the court decision entered in the administrative matter to be reviewed is declared unconstitutional in constitutional review proceedings before the Supreme Court, the petition for review may be lodged within six months from the day on which the judgment of the Supreme Court became final.

(4) A petition for review may not be lodged and the court returns the petition if more than five years have elapsed since the court decision in respect of which review is sought became final. A petition for review may not be lodged for the reason that a participant in proceedings had not participated in the proceedings or was not represented, or in the case specified in clause 8 of subsection 2 of § 240 of this Code, if ten years have elapsed since the court decision became final.

(5) A petition for review which relies on the same facts may not be lodged on several occasions.

§ 242. Requirements for petitions for review

(1) A petition for review states the following:
1) the name, place of residence or seat, postal address and particulars of the means of telecommunications of the petitioner for review;
2) the name of the court in respect of whose decision review is sought, and the date of the court decision and docket number of the administrative matter to be reviewed;
3) the basis in law for the review in accordance with subsection 2 of § 240 of this Code and the relevant reasons;
4) a clearly stated application in respect of the court decision;
5) the facts which show compliance with the time-limit for lodging the petition;
6) the evidence to support the ground for review and compliance with the time-limit for lodging the petition;
7) whether the petitioner for review wishes the matter to be heard in a court session. If the petitioner has not stated that wish, it is assumed that he or she agrees to the matter being dealt with by written procedure;
8) a list of the documents appended to the petition for review.

(2) A copy of the court decision in respect of which review is sought, as well as any documents which constitute the basis for the petition for review, or copies of such documents, are appended to the petition for review. If the documents are not in the possession of the petitioner, the petition must state whether the petitioner applies for the court to require the documents to be produced.

(3) Applications for examination under oath of participants in proceedings in order to prove facts which support the petition are not permitted.

§ 243. Preparations for considering a petition for review

(1) Having received a petition for review, the Supreme court verifies whether the petition meets the requirements.

(2) The Supreme Court may set a time-limit to the petitioner for review to cure any defects in the petition. If the petitioner for review fails to comply with the demand of the court by the due date, the court returns the petition for review.

(3) A copy of the petition for review which has been received by the Supreme Court is transmitted by that court to the other participants in proceedings. Concurrently with the transmission of the petition for review the Supreme Court may require participants in proceedings to provide a written response to the petition by the due date set by the Supreme Court. In the case that the Supreme Court does not require submission of a written response, participants in proceedings may submit written objections also on their own initiative.

(4) The response must state whether the participant in proceedings agrees with the petition for review. Substantiation must be provided for any objections raised by the participant and, where this is possible, evidence to support the objections must be adduced.

(5) The petitioner for review is entitled to discontinue the petition starting from the time that it is lodged until the publication of the decision which concludes the proceedings for review. In the case of discontinuation of the petition, the court terminates proceedings on the petition by an order.

§ 244. Deciding the acceptance of the petition for review

(1) The Supreme Court decides the acceptance of the petition for review within reasonable time. The petition is accepted if the facts submitted in that petition give reason to believe that a ground for review provided by law is present. When it accepts the petition for review, the Supreme Court may, where this is necessary, by order, suspend in part or in full the execution of the judgment or order entered in the administrative matter to be reviewed.

(2) In the case of refusal to accept the petition for review, that petition is included, by order of the Supreme Court, in the file of the administrative matter which is returned to the administrative court. A copy of the order of the Supreme Court is transmitted to the petitioner for review and to the person or persons who submitted a response to the petition for review.

§ 245. Resolution of petition for review

(1) If the grounds for review are absent, the Supreme Court refuses to grant the petition for review.

(2) If the Supreme Court finds that a petition for review is well founded, it enters a judgment or an order by which it annuls the corresponding decision which is under review and returns the matter for a new hearing to the lower court which made the decision.

(3) In the case that the facts of the administrative matter under review are clear, the Supreme Court varies the decision of the lower court, or annuls that decision and enters a new judgment or order in the matter.

Part 6
SPECIAL PROCEDURES

Chapter 23
Execution of court decisions

§ 246. Execution of court decision

(1) A court decision is executed after it has become final. The court may establish a time-limit for execution of a judgment which starts to run when the judgment becomes final.

(2) In the case of restoration of a time-limit for lodging an appeal against a judgment of the administrative court or circuit court the participants in proceedings do not have to execute the judgment appealed, except in the case in which the judgment is enforceable without delay.

§ 247. Execution of court decisions without delay

(1) A court decision which has been declared enforceable without delay is executed before it becomes final. The court enters a separate order in which it declares the decision to be enforceable without delay.

(2) Court decisions which are enforceable without delay include:
1) a decision which reinstates an official in a public service position;
2) a decision which orders payment of due remuneration not received but not for more than two months;
3) other cases provided by law.

(3) The court may, on the basis of an application of a participant in proceedings and by a separate order, declare a court decision to be enforceable without delay also in the case that execution of the decision at a later date would materially harm the rights of a participant in proceedings, or would be subject to difficulty or impossible. When declaring a court decision to be enforceable without delay, the court has regard to the rights of other participants in proceedings and the public interests. Where this is possible, the court invites the other participants in proceedings to submit their position regarding execution without delay.

(4) When declaring a court decision to be enforceable without delay the court may require the participant in proceedings to give a money security in order to provide for return of performance. The security is deposited in the account designated by the court and is returned after the court decision becomes final or after execution without delay is suspended or terminated.

(5) An interlocutory appeal may be lodged against the order which declares a court decision to be enforceable without delay, or refuses to such declaration. The order entered by the circuit court in respect of the interlocutory appeal is not subject to further appeal.

(6) The court may, at any time and on the basis of an application from a participant in proceedings, enter an order by which it suspends the execution of the court decision declared to be enforceable without delay.

(7) A court decision which has been annulled or varied by a new decision which has not yet become final may not be enforced without delay.

(8) Anything received in accordance with a court decision declared to be enforceable without delay, and to any administrative act issued on the basis of that decision, must be returned when the decision declared to be enforceable without delay is annulled or varied, and any other consequences of execution must be eliminated. The obligation of return is subject to the provisions of the Law of Obligations Act concerning unjust enrichment. The court may, of its own motion or on the basis of an application by an interested person, impose, in the judgment which annuls or varies the judgment subject to immediate execution, an obligation on a participant in proceedings to return anything he or she received in accordance with the judgment subject to immediate execution or of any administrative act issued on its basis, or to eliminate any other consequences of execution.

(9) Provided execution was lawful, no claims for the compensation of damage arise from execution of a judgment declared to be enforceable without delay.

§ 248. Failure to execute a court decision which has become enforceable

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

(1) In the case of failure to execute a court decision or a compromise approved by the court, the court imposes a fine of up to 32,000 euros on the participant in proceedings whose fault this is. The imposition of the fine does not relieve the participant who failed to execute the orders contained in the judgment, or the compromise approved by the court, from the obligation to execute the order or compromise within reasonable time, or deprive a participant in proceedings in whose interest the orders were made or the compromise was approved, of the right to apply to the court for the imposition of a new fine on account of failure to execute the order contained in the court judgment or failure to execute the compromise.

(2) In imposing the fine, the court takes into consideration the time that has elapsed since the judgment became final as well as any other circumstances which possess significance in relation to the imposition of the fine and the setting of the amount of the fine. If a period of time reasonable for execution of the court decision has elapsed since the imposition of the previous fine, yet the decision has not been executed, the court may impose the fine again.

(3) The fine for failure to execute the judgment of a circuit court or of the Supreme Court is imposed by the administrative court.

(4) A participant in proceedings may file an interlocutory appeal against the order by which a fine is or is not imposed on account of failure to execute a decision of the court or a compromise approved by the court. The order entered by the circuit court in respect of the interlocutory appeal is subject to further interlocutory appeal to the Supreme Court.
[RT I, 28.11.2017, 1 – entry into force 01.01.2018]

Chapter 24
Interim relief

§ 249. Interim relief

(1) The court may, at any stage of the proceedings, on the basis of an application of the applicant which states its reasons, or of its own motion, enter an order ordering a measure of interim relief to give provisional protection to the applicant’s rights if, in the contrary case the protection of the applicant’s rights by the judgment may be rendered significantly more difficult or impossible. In the case of a person who by virtue of the law

enjoys the right to bring an action in the administrative courts on grounds other than the protection of his or her own rights, interim relief measures may be applied provided that, in the contrary case, attainment of the aim of the action by means of the judgment may be rendered significantly more difficult or impossible.

(2) An application for interim relief may be made to the administrative court also during challenge proceedings.

(3) When entering an order on interim relief the court has regard to the public interest and the rights of the persons affected and conducts an assessment of the prospects of the action and the foreseeable consequences of the order for interim relief. In the case that interim relief is no longer needed, the court dismisses the application.

(4) The rights, obligations and prohibitions which arise from an interim relief order, as well as any administrative acts issued on the basis of the order, are valid until judgment in the matter becomes final or until an order on return or dismissal of the action or on termination of proceedings in the matter becomes final. An order for interim relief made during challenge proceedings is valid until:
1) the expiration of the time-limit for bringing an action in the administrative court concerning the claim which forms the subject matter of the challenge, provided the action is not brought within that time-limit;
2) the judgment becomes final or until an order on return or dismissal of the action, or on termination of proceedings in the matter becomes final, provided an action concerning the claim which forms the subject matter of the challenge is brought in due time in the administrative court.

(5) An application for the making of an order concerning interim relief may be made after filing a challenge with the administrative authority, or when bringing the action, or after the bringing of the action.

§ 250. Applications for interim relief

(1) An application for interim relief must, amongst other things, contain the following particulars:
1) subject matter of the dispute;
2) facts on which interim relief is founded;
3) the measure sought as interim relief;
4) particulars of the respondent.

(2) An application for interim relief must be substantiated. The court may require the person who presented the application to submit proof of his or her submissions.

§ 251. Interim relief measures

(1) An order ordering interim relief may:
1) suspend the validity or enforcement of the administrative act contested;
2) prohibit the issue of the contested administrative act or the taking of the contested measure;
3) order the administrative authority to issue the administrative act take the administrative measure applied for or to discontinue a measure which is in progress;
4) attach any property, including entering a notice of prohibition of dispositions of the property in the relevant register, or creating a judicial mortgage provided for in the Code of Civil Procedure, or enter a notice in the relevant register concerning the presence of a dispute pending before the court;
5) prohibit the addressee of the administrative act from engaging in the activity regulated in the adminstrative act or order such activity to be performed, or establish conditions for such activity, including demanding a security to be given in favour of the applicant.

(2) The court may, in an order ordering interim relief, apply several measures at the same time.

(3) The order ordering interim relief may be conditional.

§ 252. Deciding on an application for interim relief

(1) The court decides on an application for interim relief without delay by an order which states its reasons. If the court considers it necessary to hear participants in proceedings first, it may decide on the application at a later date. The presentation of evidence and of opinions of the other participants in proceedings may only be required in the case that this is possible without significantly prejudicing the rights and interests to be considered when entering the order concerning interim relief.

(2) Unless this Chapter provides otherwise, the hearing of an application for interim relief is subject to the provisions of simplified procedure.

(3) An order on interim relief, including an order which refuses to grant the application for interim relief and varies the order on interim relief or revokes such an order, becomes final upon notification, unless the court which entered the order, or the court which hears an appeal lodged against the order, orders otherwise.

(4) The court may order interim relief for a period of up to 30 days by means of an order which does not state its reasons. Such an order may be drawn up as a superscription on the application for interim relief, or as an operative part of the decision in respect of the application which is digitally signed by the judge. If the participants in proceedings do not contest the order, interim relief is applied in the matter until the expiration date provided in subsection 4 of § 249.

(5) The court arranges service of the order for interim relief without delay to the respondent, the applicant and any persons whose rights may be affected by the order.

(6) The court transmits the order for interim relief without delay for execution to the relevant authority, official or other person who performs a duty in public law.

(7) A participant in proceedings may lodge an appeal against the order on interim relief or the order concerning refusal of interim relief to the higher court. The order entered by the circuit court in respect of the appeal is not subject to further appeal.
[RT I, 28.11.2017, 1 – entry into force 01.01.2018]

§ 253. Substitution of interim relief measures and revocation of interim relief

(1) The court may, on the basis of an application of a participant in proceedings, or of its own motion, at any stage of the proceedings, revoke or vary the order on interim relief.

(2) The court notifies any application for substitution of a measure of interim relief or for revocation of interim relief to the other participants in proceedings, giving them the opportunity to submit objections, except in the case that this would result in a delay of the proceedings which would jeopardize, to a significant degree, the rights or interests to be considered in applying interim relief.

(3) The court revokes interim relief by judgment if it refuses to grant the action, and by an order if the action or challenge is returned or dismissed, or if proceedings are terminated in the matter. Unless the law provides otherwise, the court also revokes interim relief in the case that the relief was ordered by another court. Revocation of interim relief becomes effective when the judgment or order terminating the proceedings becomes final.
[RT I, 28.11.2017, 1 – entry into force 01.01.2018]

§ 254. Liability and return of performance

(1) The administrative court may, in accordance with § 248 of this Code, impose a fine on any person who fails to comply with an order on interim relief. The applicant has the right to demand, in reliance on the State Liability Act or the Law of Obligations Act, that the person who was at fault with respect to the order on interim relief not being complied with, make good the resulting harm.

(2) Anything that has been received on the basis of the order on interim relief and on the basis of any administrative act issued under such an order must be returned in proportion to the degree in which the court refused to grant the action, and any other consequences of the application of interim relief must be eliminated. The obligation to return is governed by the provisions regarding unjustified enrichment in the Law of Obligations Act. The court may, in a judgment or separate order, of its own motion or on the basis of an application from an interested party, impose an obligation on a participant in proceedings to return what that participant has received on the basis of the order on interim relief or of an administrative act issued under the order, or to eliminate any other consequences of the application of interim relief.

(3) Execution of an order ordering interim relief does not give rise to a claim for compensation provided the execution was lawful, except in the case that, contrary to the provisions of subsection 1 and 2 of § 28 of this Code, the applicant for interim relief has intentionally misled the court and that course of action has resulted in the order ordering interim relief being entered and in unlawful harm being caused to a third party.
[RT I, 28.11.2017, 1 – entry into force 01.01.2018]

Chapter 25
Protests

§ 255. Claims allowed in protests

A protest brought in an administrative court may make the following claims:
1) annulment in part or in full of an administrative act (annulment protest);
2) the issue of an administrative act or the taking of an administrative measure (mandatory protest);
3) forgoing the issue of an administrative act or the taking of an administrative measure (prohibition protest);
4) elimination of unlawful consequences of an administrative act or measure (reparation protest);
5) ascertainment of the nullity of an administrative act (declaratory protest).

§ 256. Right to protest

(1) A protest to protect the public interest may be brought by an administrative authority in whom that right has been vested by the law.

(2) Unless this Chapter provides otherwise, protests and the administrative court proceedings instituted by those protests are subject, respectively, to the provisions of Parts 1–5 and of Chapters 23 and 24 of this Code.

§ 257. Protester

(1) Unless this Chapter provides otherwise, a protester possesses the procedural status of the applicant.

(2) The consequences of discontinuation the protest, of a compromise or of terminating the proceedings do not need to be explained to a protester. The protester does not need to be cautioned in respect of the consequences of failure to respond to the court and of not attending the court session.

§ 258. Bringing a protest

(1) An annulment protest may be brough within 30 days from learning of the issue of the administrative act. A mandatory protest may be brought within 30 days from the day on which the protester learned of the refusal to issue the administrative act or take the administrative measure. A protest seeking elimination of the consequences of an administrative act or measure may be brought within three years from the day on which the protester learned or should have learned of the consequences.

(2) Regardless of the provisions of subsection 1 of this section, an annulment protest or a mandatory protest may not be brought after three years have elapsed since the issue of the administrative act or since refusal to issue the administrative act of take the administrative measure.

(3) Where the protester is required, before bringing the protest in court, to make to the respondent a proposal to satisfy the claim made in the protest and the protester has complied with the corresponding procedure, the protest may be brought within 30 days starting from receipt of the respondent's position concerning the proposal.

(4) If the court finds that the protester does not have the right of protest, it returns the protest of refuses to hear the protest.

§ 259. Judicial proceedings and judgment

(1) Where there are no third parties in the matter or where the third parties consent to this, the court may consider the protest by written procedure or simplified procedure also regardless of the parties' consent. The absence of a party from the court session does not preclude consideration of the matter.

(2) The protest is granted if the hearing of that protest in the administrative court is permitted and the administrative act or measure or omission to issue the administrative act or take the administrative measure is unlawful.

(3) A protest brought to eliminate the consequences of an administrative act or measure is granted if, in addition to the provision of subsection 2 of this section, the administrative act which entailed the consequences is void or has been declared invalid, if the consequences are unlawful and harmful to the public interest, if there is a legal basis for the application of the measure requested, if the measure requested is proportionate and if there is no valid reason to refuse to apply that measure.

(4) A protest seeking ascertainment of the nullity of an administrative act is granted if, in addition to the provision of subsection 2 of this section, the administrative act is void.

Chapter 26
Actions against private individuals

§ 260. Claims made in the action and the right of action

(1) A party to an administrative contract or an administrative authority who represents such a party may, in particular, claim the following in a action brought against a natural person or a legal person in private law:
1) performance of an obligation resulting from the administrative contract;
2) compensation for harm caused by a breach of the administrative contract.

(2) In the cases provided by law, an administrative authority may bring an action for compensation of harm caused by an official or any other person who performed public duties, including an action for the grant of a claim in subrogation.

(3) Unless this Chapter provides otherwise, actions against private individuals and the administrative court proceedings initiated by such actions are governed by the provisions of Parts 1–5 and Chapters 23 and 24 of this Code.

§ 261. Parties

In the procedure provided in this Chapter, the applicant is the administrative authority who brought the action and the respondent is the person against whom the action has been brought.

§ 262. Bringing the action

(1) In the case that the respondent is a natural person, the action is brought in the court having jurisdiction of the place of residence of the respondent. If the place of residence is not in Estonia or is not known, the action is brought in the court having jurisdiction of the location or place of service of the applicant.

(2) Unless the law provides otherwise, an action against a private individual may be brought within three months as of the learning of the breach of obligation on which the claim is founded, but not later than three years after the breach.

(3) In the case that the law prescribes pre-action proceedings to resolve the matter, and the applicant has duly filed their claim by way of pre-action proceedings, the action may be brought within 30 days as of the day that the decision concluding the pre-action proceedings was notified to the applicant, unless otherwise provided by law.

(4) In addition to the provision of subsection 1 of § 48 of this Code, an action brought against a private individual may be joined to an action brought in accordance with Chapter 4 of this Code, provided the parties in both matters are the same persons and the claims of the matters are related in law.

§ 263. Judicial proceedings and judgment

(1) When an action brought against a private individual is served on the respondent, amongst other things the following must be explained to the respondent:
1) the particulars which a response to the action must contain;
2) the consequences of failure to respond to the action and of failure to attend the court session;
3) the possibility of admitting the action and the consequences of such admission.

(2) When dealing with an action brought against a private individual the court may not make an enforcement order directing the individual to make a new decision in respect of undertaking a measure or setting a money amount which is to be paid out.

(3) Subsection 2 of this section does not rule out an award of the claim for late interest or for interest in terms of a percentage value.

Chapter 27
Granting permission for administrative measure

§ 264. Deciding the grant of permission

(1) In the cases provided by law, the court grants permission for the taking of an administrative measure, and extends such permission.

(2) An application to obtain permission is submitted by the duly empowered administrative authority in writing and together with the reasons for the application as well as with the evidentiary items and explanations specified in the law and required for resolution of the matter. The court may require supplementary evidentiary items and explanations to be submitted. The court may require the applicant for permission to find an interpreter, if this is necessary for resolution of the application.

(3) Unless the law provides a different jurisdictional arrangement, permission for an administrative measure is granted by the court in whose service area the administrative authority which requests the permission is located. The participants in proceedings concerning the grant of permission are the applicant for permission and, in the cases provided by law, the person in whose respect the grant of permission is requested.

(4) Unless the law provides otherwise, the court considers the application and decides the grant of permission without delay in a written order made by a single judge by simplified procedure. The grant of permission may, as an exception, be decided outside the working hours of the court.

(5) In the case that the court has been requested permission to deprive a person of his or her liberty, or for an extension of the period of deprivation of liberty, or for removal of the person from Estonia, the matter must be heard in the court session.

(6) Where the grant of permission is decided in a court session, the participants in proceedings and their representatives are summonsed to the session, yet their absence from the session does not preclude consideration and resolution of the matter. If the holding of the court session was not mandatory, such holding does not preclude the application of other provisions of simplified procedure.

(7) The applicant for permission may withdraw the application and the participants in proceedings may conclude a compromise, applying, respectively, §§ 153 and 154 of this Code.

§ 265. Orders

(1) An application seeking the grant of a permission is resolved by an order.

(2) The court may, by order, vary or revoke any permission it has granted for the taking of an administrative measure.

(3) The order by which permission is given, the order by which permission is refused and the order by which the permission is varied or revoked is subject to § 465 of the Code of Civil Procedure. The order is served on the participants in proceedings unless the law provides otherwise. The order enters into force on service to the applicant for permission.

(4) Unless the law provides otherwise, an order which has entered into force is published in the computer network in accordance with § 175 of this Code.

(5) A participant in proceedings may lodge an interlocutory appeal by which permission is given, against an order by which permission is refused and against an order by which the permission is varied or revoked, and the order entered by the circuit court in respect of the appeal may be further appealed to the Supreme Court. The holding of a court session is not needed for the hearing of the appeal, even if it was required for deciding the grant of the permission.

Chapter 28
Procedure in procurement matters

§ 266. Definition of procurement matter and the application of provisions

(1) A procurement matter is an administrative matter which has resulted from the holding of a public tender, including entry into or amendment of a public contract.

(2) This Chapter governs the bringing and resolution of annulment, mandatory, reparation and declaratory actions in procurement matters.

(3) Section 269 of this Code also applies to the bringing and resolution of compensation actions.

§ 267. Subject matter of dispute in procurement matters

(1) An action may be brought in a procurement matter against any decision, document or public contract mentioned in subsections 2–4 or 6 of § 185 of the Public Procurement Act, and also against a decision of the Review Committee.
[RT I, 01.07.2017, 1 – entry into force 01.09.2017]

(2) The provisions of administrative court procedure concerning administrative acts apply to any decision or document whose purpose is to create, modify or terminate a person’s rights or obligations, including a contracting authority’s decisions and documents by which the authority conclusively determines any facts. Other decisions and documents of the contracting authority are subject to the provisions regarding administrative measures.

(3) Public contracts are subject to the provisions of administrative court procedure concerning administrative acts. The court does not annul a valid public contract. The court may ascertain the nullity of a public contract if such a contract is void on a ground provided in the Public Procurement Act.

(4) If a contracting authority has made a valid public contract, the court does not annul the administrative act on which the contract is founded.

§ 268. Right of action in procurement matters

(1) The tenderer, candidate or interested economic operator may seek protection of their rights by bringing an action against the actions of the contracting authority or entity, provided they have completed proceedings before the Public Procurement Review Committee, except in procurement matters related to a state secret or to foreign intelligence classified as secret.
[RT I, 01.07.2017, 1 – entry into force 01.09.2017]

(11) In a procurement matter related to a state secret or to foreign intelligence classified as secret, the tenderer or applicant or a person interested in participating in public tender proceedings may seek protection of its rights by bringing an action in an administrative court against the actions of the contracting authority.
[RT I, 23.12.2013, 1 – entry into force 01.01.2014]

(2) The person who appealed to the Public Procurement Review Committee, or a third party, may appeal the decision of the Appeals Committee without contesting the administrative act or measure which constituted the subject matter of the appeal, provided the decision of the Appeals Committee infringes the applicant's rights regardless of the subject matter of the appeal.

(3) The contracting authority may appeal the decision of the Appeals Committee insofar as the committee has granted the appeal against the authority's administrative act or measure.

(4) In a procurement matter, a person who has not made use of an opportunity to challenge an administrative act may not rely on the unlawfulness of that act.

§ 269. Participants in proceedings in procurement matters

(1) The respondent in a procurement matter is the contracting authority, except in the case in which the action contests the decision of the Appeals Committee without contesting the administrative act or measure which constituted the subject matter of the appeal lodged with the committee.

(2) The Public Procurement Review Committee is not the respondent in a procurement matter. The court may join the Review Committee to proceedings in a procurement matter in accordance with clause 2 or 4 of subsection 1 of § 24 of this Code.

§ 270. Time-limit for bringing an action in a procurement matter

(1) The time-limit for bringing an action in a procurement matter is 10 days starting from the public pronouncement of the decision of the Public Procurement Review Committee.

(11) In a procurement matter related to a state secret or to foreign intelligence classified as secret, the time-limit for bringing the action is:
1) 10 days from the day on which the person who brings the action learned or should have learned of the infringement of its rights or prejudice to its interests, but not after the conclusion of the public contract;
2) 10 days from the publication, in the public procurement register, of the optional notice, if the action is brought on a ground provided in clause 1 of subsection 4 of § 185 of the Public Procurement Act;
[RT I, 01.07.2017, 1 – entry into force 01.09.2017]
3) 30 days from the publication, in the public procurement register, of the public procurement report, if the action is brought on a ground provided in clauses 2, 4 or 5 of subsection 4 of § 185 of the Public Procurement Act;
[RT I, 01.07.2017, 1 – entry into force 01.09.2017]
4) 30 days from the day on which the party who brings the action learned or should have learned of the infringement of its rights or prejudice to its interests, if the action is brought on a ground provided in clause 6 of subsection 4 of § 185 of the Public Procurement Act;
[RT I, 01.07.2017, 1 – entry into force 01.09.2017]
5) 6 months from the conclusion of the public contract, if the action is brought on a ground provided in clause 3 of subsection 4 of § 185 of the Public Procurement Act.
[RT I, 01.07.2017, 1 – entry into force 01.09.2017]

(2) A reparation action may be brought in a procurement matter:
1) together with a claim for annulment or a with claim for ascertaining the nullity of an administrative act or the unlawfulness of an administrative measure;
2) within 30 days as of the day on which a judgment which grants a claim specified in clause 1 of this subsection, becomes final or
3) within 30 days as of the day on which the court order which approves a compromise that grants the claim specified in clause 1 of this subsection, becomes final.

§ 271. Declarations of participants in proceedings in procurement matters

(1) A declaration of a participant in proceedings in a procurement matter is submitted to the court electronically if the declaration exists in an electronic format and if there is no valid reason to submit it in other format.

(2) A participant in proceedings transmits any declaration sent to the court, together with any annexes to that declaration, directly to other participants in proceedings, notifying the court thereof. Section 337 of the Code of Civil Procedure is applied with regard to transmission of declarations.

(3) A declaration which contains new facts or new applications must be submitted at least two business days before the court session or, if the matter is not heard in a court session, before the end of the time-limit for submission of procedural documents.

(4) In the case that the court refuses to proceed with a declaration made including the action lodged in a procurement matter, the person who made the declaration is obligated to cure the defects of the declaration within two business days starting from receiving the order by which the court refused to proceed with the declaration.

§ 272. Service of procedural documents in procurement matters

(1) In a procurement matter, procedural documents are served on participants in proceedings electronically to the e-mail address that each participant has communicated to the court, to the Public Procurement Review Committee or to the contracting authority. A procedural document may be served by other means only if a valid reason is present.

(2) Electronic service of a procedural document may also be made with automated confirmation of receipt or dispatch.

§ 273. Stay of proceedings by operation of law, court-ordered stay of proceedings and expedition of proceedings in procurement matters

(1) Proceedings in a procurement matter are not stayed by operation of law and are not subject to court-ordered stays of proceedings in the cases provided in subsections 1 and 2 of § 92, in § 94, in subsection 2 of § 95 or in § 97 of this Code.

(2) An application to expedite proceedings may, having regard to other preconditions specified in subsection 1 of § 100 of this Code, be made in the case that proceedings in the procurement matter have been pending before the court at least for 15 days. An application to expedite proceedings may also be made in the case that the court, in a court session, adjourns the hearing of the procurement matter for more than 15 days.

(3) An application to expedite proceedings is resolved by the court without delay. A new application to expedite proceedings may be made after 15 days have elapsed since the day that the court order entered in respect of the previous application became final.

§ 274. Acceptance of actions in procurement matters and preliminary proceedings in procurement matters

(1) Within one business day after receiving the action, the court verifies, in addition to what is provided in subsection 1 of § 120 of this Code, whether the applicant has dispatched the action to all participants in proceedings. In the case that the action has not been dispatched to a participant in proceedings, the court arranges service of the action on that participant.

(2) The court which received the action requires the Public Procurement Review Committee to submit to the court the file of the appeal proceedings and, if this is necessary, require the respondent to submit supplementary documents.

(3) The respondent is obligated to submit to the court, within seven days from receipt of the action, a written response to that action. A third party is entitled to submit a response within the same time-limit.

§ 275. Format and time-limit for considering procurement matters

(1) A procurement matter is heard in a court session or, in the cases provided by law, by written procedure, simplified procedure or by hearing the participants in proceedings in other manner.

(2) A procurement matter is to be heard by the administrative court within 45 days from the date it was brought.

§ 276. Court session and hearing of participants in proceedings in procurement matters

(1) The time interval between service of the action to the respondent and third party, and the court session must be at least ten days. The time interval between service of the summons and the day of the court session must be at least three days. Where the participants in proceedings agree to this, the court may reduce the above-mentioned intervals.

(2) Instead of a court session, the court may hear participants in proceedings without the other participants being present, provided that, in the court's assessment, it is possible in this manner to sufficiently assess the information and positions obtained from the person, and provided the holding of the court session would jeopardize the hearing of the procurement matter within the time-limit provided in subsection 2 of § 275 of this Code.

(3) The hearing of an explanation of a participant in proceedings may, amongst other ways, take place over the telephone or by inviting participants in proceedings to submit a written or electronic position, provided the court has no doubts concerning the indentity of the person who provides the explanation. Where other significant facts become apparent during the hearing, the court, before it concludes the hearing of the matter, gives a summary of such facts to the other participants in proceedings. The hearing of a person and any material facts in relation to the hearing must be mentioned in the judgment.

§ 277. Consequences of failing to respond to the court and of not attending court session in procurement matters

(1) The court does not, regardless of the presence of a valid reason, extend the time-limit for responding to the court if that time-limit has been duly notified to the participant in proceedings and an extension of the time-limit would jeopardize consideration of the procurement matter within the time-limit provided in subsection 2 of § 275 of this Code.

(2) The court does not, regardless of the presence of a valid reason, adjourn the hearing of the matter if the time and place of the hearing have been duly notified to the participant in proceedings and adjournment of the hearing would jeopardize consideration of the procurement matter within the time-limit provided in subsection 2 of § 275 of this Code.

(3) If the court refused to hear the action in accordance with § 144 of this Code, an application to resume proceedings may be made within seven days starting from service of the order by which the court refused to hear the action.

(4) In the case that a participant in proceedings did not attend the court session for a reason other than those provided in subsection 3 of § 146 of this Code, the court may refuse to order resumption of the proceedings provided the resumption would jeopardize the hearing of the procurement matter within the time-limit provided in subsection 2 of § 275 of this Code.

§ 278. Time-limit for appeals in procurement matters

(1) In procurement matters, an appeal against judgment, an appeal in cassation and an interlocutory appeal may be lodged within ten days starting from public pronouncement of the decision against which the appeal is lodged.

(2) In the case that the time of public pronouncement of the court decision has not been notified to a participant in proceedings, the time-limit for appealing the decision starts to run from service of that decision.

(3) No counter-appeal or counter-appeal in cassation may be lodged in a procurement matter.

§ 279. Procedure in procurement matters before the circuit court and the Supreme Court

(1) An appeal against the judgment of an administrative court, an appeal in cassation or an interlocutory appeal in a procurement matter may be dealt with by simplified procedure regardless of the provisions of subsections 1 and 2 of § 133 of this Code. In the case that the preconditions specified in subsections 1 and 2 of § 133 of this Code are not fulfilled, the circuit court does not enter its judgment in the procurement matter without the descriptive part and reasons.

(2) The who party opposes the person who lodged an appeal against the judgment of an administrative court, an appeal in cassation or an interlocutory appeal is obligated to submit, within 10 days as of receipt of the appeal, a written response to the appeal. The other participants in proceedings are entitled to submit their responses within the same period.

§ 280. Interim relief in procurement matters

(1) An application for interim relief may not be made in a procurement matter before proceedings are concluded before the Public Procurement Review Committee.

(1^1) Where a complaint is filed in procurement proceedings concerning a decision that is chronologically the last one made by the contracting authority or entity prior to awarding a public contract and where the significant public interest that may be harmed if the contract is not awarded outweighs potential harm to the complainant's rights, the court may, on a reasoned application of the authority or entity and at any stage of judicial proceedings, authorise the authority or entity to issue the acceptance for awarding the contract.
[RT I, 05.05.2022, 2 – entry into force 01.06.2022]

(2) A complaint against a decision of the Public Procurement Review Committee – or an appeal against a court order – by which an application to suspend procurement proceedings or of an application to authorise the issuing of acceptance for awarding a public contract is disposed of, or a complaint against revocation, by the Public Procurement Review Committee, of such a decision, may be lodged within three business days following notification of the decision.
[RT I, 05.05.2022, 2 – entry into force 01.06.2022]

(3) The appeals specified in subsection 2 of this section are resolved in accordance with the procedure provided in Chapter 24 of this Code.

(4) An interlocutory appeal concerning interim relief, and an order concerning the appeals specified in subsection 2 of this section is to be lodged within three business days. If the order was made by the administrative court, the appeal against the order lies directly to the circuit court.

Part 7
IMPLEMENTING PROVISIONS

Chapter 29
Implementation of the Code of Administrative Court Procedure

§ 281. Jurisdiction

(1) The entry into force of this Code does not change jurisdiction in matters in which the action was brought before the entry into force of this Code.

(2) If an action against the Social Insurance Board was brought before 1 January 2018, jurisdiction in the matter remains unchanged.
[RT I, 28.11.2017, 1 – entry into force 01.01.2018]

§ 282. Participants in proceedings

(1) An administrative authority who was the respondent in a matter in which the action was brought before the entry into force of this Code, remains the respondent of the matter also after this Code has entered into force, with no additional joinder being required of the administrative authority or person who would be the respondent under this Code.

(2) In the case that a supervisory agency or official or a representative of an agency of the government or of a local authority was joined to the proceedings before the entry into force of this Code, such an agency or official or representative is deemed an administrative authority joined to the proceedings.

§ 283. Admissibility of actions

(1) The admissibility of an action, including the right of action as well as conformity to substantive and formal requirements, is ascertained in accordance with the law in force at the time the action was brought.

(2) If the administrative authority delays or omits to issue an administrative act or take an administrative measure which have been requested before the entry into force of this Code, a mandatory action may be brought within two years starting from the entry into force of this Code.

(3) If the administrative authority delays or omits to deal with a claim filed in pre-action proceedings before the entry into force of this Code, an action with the same claim may be brought within two years starting from the entry into force of this Code.

§ 284. Time-limits

Expiration of a time-limit which started to run before the entry into force of this Code is governed by the law in force before the entry into force of the Code.

§ 285. Procedure expenses and procedural assistance

(1) Where procedural acts have been undertaken prior to the entry into force of this Code, the division and award of the corresponding costs are governed by the provisions of the Code of Administrative Court Procedure hitherto in force.

(2) An application for exemption from a state fee or a security payable in relation to proceedings which was made before the entry into force of this Code is to be heard in accordance with the provisions of this Code which govern procedural assistance.

§ 285[1]. Application of lower rates of the state fee

The state fee paid in accordance with the rate applicable from 1 January 2009 through 30 June 2012 on an action or appeal against judgment lodged as part of administrative court proceedings, is returned on the basis of the application submitted by the participant in proceedings to the extent that it exceeds, by more than 50 euros, the rate applicable to performing the corresponding procedural act at the time that the decision concerning the return is made, provided that, by the date the application is submitted, the proceedings have not been completed by a conclusive decision that has become final.
[RT I, 21.06.2014, 8 – entry into force 01.07.2014]

§ 285[2]. Changes in the rate of the state fee and return of the state fee

(1) If the rate of the state fee or of the security in cassation changes during the run of the time-limit for the lodging of the appeal against judgment, appeal in cassation or interlocutory appeal, the state fee or the security in cassation is paid at the rate in force at the time when the appeal is lodged.

(2) Claims for return of the state fee that arose before 1 January 2018 are extinguished on 31 December 2019.
[RT I, 28.11.2017, 1 – entry into force 01.01.2018]

§ 286. Refusal to proceed with and return of action

(1) An action brought before the entry into force of this Code is returned if it does not meet the substantive and formal requirements in effect at the time of bringing the action, if the applicant has not cured the corresponding defects within the time-limit established by the court and if these defects preclude consideration of the matter.

(2) The court does not refuse to proceed with an action which was brought before the entry into force of this Code, or return such action, on account of failure to meet any substantive or formal requirements applicable to the action if that action meets the substantive and formal requirements applicable after the entry into force of this Code.

§ 287. Written procedure

If the time-limit established for the submission of a response by a third party expired before the entry into force of this Code and if the third party has not submitted a response to the court, the court may not presume that the third party consents to the matter being dealt with by written procedure.

§ 288. Return and dismissal of action

(1) An action brought before the entry into force of this Code is not returned or dismissed in accordance with clause 2 of subsection 2 of § 121 of this Code.

(1[1]) An action brought before 1 January 2018 is not returned or dismissed on the basis of clauses 2[1]and 2[2]of subsection 2 of § 121 of this Code. Actions brought before 1 January 2018 are governed by clauses 1 and 2, in the version in force at the time the action was brought, of subsection 2 of § 121 of this Code.
[RT I, 28.11.2017, 1 – entry into force 01.01.2018]

(1[2]) An appeal in cassation lodged before 1 January 2018 is not returned or dismissed on the basis of subsection 3[1]of § 187 of this Code.
[RT I, 28.11.2017, 1 – entry into force 01.01.2018]

(2) An action is not to be dismissed on account of failure to submit the evidentiary item, explanation or response required by the court or on account of a defect in the corresponding procedural document, if the time-limit for submission of the procedural document or for the curing of the defect expired before the entry into force of this Code.

§ 289. Resumption of proceedings

Section 147 of this Code does not apply if the court dismissed the action or concluded the hearing of the matter before the entry into force of this Code.

§ 289[1]. Procedure for appeals

Appeals lodged before 1 January 2018 are governed by the version of this Code in force prior to 1 January 2018.
[RT I, 28.11.2017, 1 – entry into force 01.01.2018]

§ 290. Admissibility of protests and of actions against private individuals

(1) Sections 281 and 282, subsection 1 of § 283 and §§ 284–289 apply respectively to protests, to actions brought against private individuals and to the administrative court proceedings initiated by such declarations.

(2) In the case that an administrative contract was breached before the entry into force of this Code and the law in force before the entry into force of this Code did not provide an earlier time-limit, an action against a private individual for the performance of an obligation resulting from the administrative contract, or for compensation of the harm caused by breach of the administrative contract may be brought within three months starting from the entry into force of this Code.

§ 291. Application of provisions governing class proceedings and simplified procedure

Provisions of the Code of Administrative Court Procedure regarding class proceedings and simplified procedure do not apply to matters in which proceedings were opened before the entry into force of this Code.

§ 292. Right of recourse to administrative courts in environmental matters

[Repealed – 08.07.2014, 3 – entry into force 01.08.2014]

§ 292[1]. Proceedings in accordance with Protocol No. 16 to the Convention on the Protection of Human Rights and Fundamental Freedoms

Subsection 7 of § 81, subsection 5 of § 95, subsection 4 of § 96 and § 228[1] of this Code are applied from the day on which Protocol No. 16 to the Convention on the Protection of Human Rights and Fundamental Freedoms enters into force in respect of Estonia.
[RT I, 26.06.2017, 17 – entry into force 06.07.2017]

§ 292[2]. Publication in the computer network of court decisions which have become final

Subsection 1 of § 175 of this Code applies to court decisions which became final on 1 January 2006 or later.
[RT I, 13.03.2019, 2 - entry into force 15.03.2019]

Chapter 30
Amendments to other Acts

§ 293.–§ 314.[Omitted from this text]

Chapter 31
Entry into force of this Code

§ 315. Entry into force of this Code

(1) This Code enters into force on 1 January 2012.

(2) Section 292 of this Code enters into force following standard procedure.