

Issuer: Riigikogu
Type: act
In force from: 01.07.2009
In force until: In force
Translation published: 20.05.2014

Act on Procedure for Taking Oath

Passed 08.07.1992
RT 1992, 31, 408
Entry into force 06.09.1992

Amended by the following acts

Passed	Published	Entry into force
22.09.1994	RT I 1994, 68, 1170	14.11.1994
17.12.2008	RT I 2009, 5, 35	01.07.2009

§ 1. On the basis of the Constitution of the Republic of Estonia Implementation Act, a candidate standing in an election of the President, of the Riigikogu or of the council of a local authority, or a person who seeks the position of Prime Minister, minister, Chief Justice of the Supreme Court, justice of the Supreme Court, judge, Chancellor of Justice, Auditor General, President of the Bank of Estonia, Commander or Commander-in-Chief of the Defence Forces, or any other elected or appointed position in an agency of the national government or a local authority, is required to take the following written oath of conscience: “Annan vande, et ma ei ole olnud Eestit okupeerinud riikide julgeolekuorganite või relvajõudude luure või vastuluure teenistuses ega agent ega ole osalenud kodanike jälitamisel ja represseerimisel nende poliitiliste veendumuste, ebalojaalsuse, klassikuuluvuse või Eesti Vabariigi riigi- või kaitseteenistuses olemise eest.” [I swear that I have not been in the service or an operative of a security service, or of an intelligence or counterintelligence service of the armed forces, of a state which has occupied Estonia, or participated in the persecution or repression of citizens because of their disloyalty or the political beliefs or social class that they represented or because they had been part of the civil service or defence forces of the Republic of Estonia.]

Operatives of a security service, or of an intelligence or counterintelligence service of the armed forces, of a state which has occupied Estonia are persons who were recruited by the said services as operatives, residents, or keepers of a conspiratorial flat, or who were trustees or who knowingly and voluntarily co-operated with the services in another manner.

[RT I 1994, 68, 1170 - entry into force 14.11.1994]

An operative, resident, keeper of a conspiratorial flat or trustee is deemed to be a person who co-operated or who granted consent for co-operation with a security service, or an intelligence or counterintelligence service of the armed forces, of a state which has occupied Estonia without having an employment relationship with the service. A person's co-operation with the said services is deemed to be proved by signing a corresponding obligation (consent) or a report expressing co-operation addressed to such services by him or her or receipt of monetary or other compensation for co-operation, and other evidence evaluated pursuant to the procedure prescribed by the law governing criminal procedure.

[RT I 1994, 68, 1170 - entry into force 14.11.1994]

The persecution or repression of citizens because of their disloyalty or the political beliefs or social class that they represented or because they had been part of the civil service or defence forces of the Republic of Estonia is deemed to be all extra-judicial mass repressions during the 1940s and the 1950s in Estonia as well as all intentional acts which have resulted in or contributed to making a judgment of conviction in respect of persons who by now have been rehabilitated on the basis of the Rehabilitation of Persons Extra-judicially Repressed and Unfoundedly Convicted Act of the Republic of Estonia or who are subject to rehabilitation on the basis of an individual application.

[RT I 1994, 68, 1170 - entry into force 14.11.1994]

For the purposes of the fourth subsection of this section, persons who participated in the persecution or repression of citizens are:

- 1) persons who planned or gave orders for extra-judicial mass repressions (including deportation) or who supervised or gave orders for the preparation thereof;
- 2) persons who commanded the preparation of deportation lists and persons who had the right to decide the preparation of such lists or organise and monitor the preparation of such lists;

3) persons who knowingly and of their free will, although without relevant authority, collected and forwarded information which resulted in other people being included in deportation lists or deported;

4) persons who directly organised or carried out deportation or commanded it and who had the relevant authority or who had the power to decide or were responsible for it or who did it knowingly and of their free will, although without relevant authority;

5) persons who belonged to the People's Self-defence or defence battalions or destruction battalions and who knowingly gave or followed criminal commands or orders to persecute or repress citizens;

6) persons who acted as an investigator, expert, specialist, judge, lay judge or prosecutor in the pre-trial or court proceedings preceding the conviction of persons who were unfoundedly convicted and who have been rehabilitated by the date of entry into force of this Act, if it has been proved in court that the intentional activity of such persons lead to the unfounded conviction of a person.

[RT I 1994, 68, 1170 - entry into force 14.11.1994]

§ 2. The oath of conscience shall be autographic and the text of the oath of conscience must correspond exactly to § 1 of this Act.

§ 3. A candidate standing in an election of the President or of the Riigikogu shall present the oath of conscience to the National Electoral Committee together with other information which must be submitted according to the Election Act to be nominated as a candidate. The procedure for taking the oath of conscience shall be provided by the Local Government Council Election Act for a candidate standing in an election of a local government council.

§ 4. A candidate for Prime Minister shall present the oath of conscience to the President of the Republic upon being directed to form the new Government. A ministerial candidate shall present the oath of conscience to the Prime Minister who shall inform the President of the Republic thereof together with a recommendation to appoint the minister to office according to §§ 89 and 90 of the Constitution.

§ 5. A person who seeks the position of Chief Justice of the Supreme Court, Chairman of the Supervisory Board of the Bank of Estonia, Auditor General, Chancellor of Justice, Commander or Commander-in-Chief of the Defence Forces shall present the oath of conscience to the President of the Republic. The President of the Republic shall inform the Riigikogu of the oath of conscience together with a recommendation to appoint the person to office pursuant to clause 65 7) of the Constitution. A person who seeks the position of justice of the Supreme Court shall present the oath of conscience to the Chief Justice of the Supreme Court. The Chief Justice of the Supreme Court shall inform the Riigikogu of the oath of conscience together with a recommendation to appoint the person as justice of the Supreme Court pursuant to clause 65 8) of the Constitution. A judicial candidate shall present the oath of conscience to the Supreme Court. The Supreme Court shall inform the President of the Republic of the oath of conscience together with a recommendation to appoint the person as judge pursuant to clause 78 13) of the Constitution.

§ 6. A person who seeks an elected or appointed position in an agency of the national government or a local authority not included in §§ 3 to 5 of this Act shall present the oath of conscience to the official or authority who is competent to decide the filling of the position.

§ 7. A person who wishes to maintain his or her position specified in §§ 5 and 6 of this Act where he or she commenced work before the assembly of the Riigikogu is required to take the oath of conscience within 30 days as of the assembly of the Riigikogu pursuant to the procedure provided for in §§ 1, 2, 5 and 6 of this Act. In the case of failure to take the oath of conscience, the person is released from office on the basis set out in clause 88 (1) 2) of the Employment Contracts Act.

[RT I 2009, 5, 35 - entry into force 01.07.2009]

§ 8. A person who has taken the oath of conscience pursuant to the procedure provided by this Act is not required to take the oath of conscience again if in being nominated as a candidate or in seeking a position he or she submits a notice setting out to whom and when he or she has presented the oath of conscience.

§ 9. Oath of conscience taken pursuant to §§ 1 to 8 of this Act may be contested in court by every person or national authority who files with the court an application together with evidence concerning the untruthfulness of the facts confirmed by the oath of conscience. The burden of proof lies with the person contesting the oath of conscience and on the Office of the Prosecutor General as the representative of the state of Estonia. The Office of the Prosecutor General has the right to waive the charges when it assesses the evidence to be incomplete, insufficient or false. Anonymous statements are not considered as evidence. The Office of the Prosecutor General is required to contest an oath of conscience in court if it is warranted by materials in its possession. An interested party may bring an action against the refusal of the Office of the Prosecutor General to contest an oath of conscience.

[RT I 1994, 68, 1170 - entry into force 14.11.1994]

The court shall inform persons or national authorities who have contested an oath of conscience of possible liability for the defamation of a person's honour or good name and for degrading the person.

[RT I 1994, 68, 1170 - entry into force 14.11.1994]

Disputes related to the issue of whether to deem an activity as the activity specified in the fourth subsection of section one of this Act and also whether to deem a person as a person specified in the second and fifth subsection of section one of this Act are settled in court.

[RT I 1994, 68, 1170 - entry into force 14.11.1994]

The court may declare a hearing to be closed.
[RT I 1994, 68, 1170 - entry into force 14.11.1994]

Only a judgment which has entered into force and which has established the untruthfulness of the facts confirmed by the oath of conscience may serve as the basis for removing a candidate from the list of candidates or for voiding his or her mandate or for releasing him or her from office due to the untruthfulness of the facts confirmed by the oath of conscience.
[RT I 1994, 68, 1170 - entry into force 14.11.1994]

§ 10. It is prohibited to publish in the media information about contesting in court the facts confirmed by the oath of conscience before a court judgment has entered into force.

§ 11. If persons specified in the second subsection of section one of this Act, including persons who have taken the oath of conscience (except for the President of the Republic, members of the Riigikogu and the Government of the Republic, and justices of the Supreme Court), appear voluntarily at the Office of the Prosecutor General or before a prosecutor specified by the Office of the Prosecutor General and confess their guilt and voluntarily withdraw from the election or waive their mandate or voluntarily resign from the position which requires taking the oath of conscience according to the Constitution of the Republic of Estonia Implementation Act, their names will not be made public. The voluntary withdrawal of said persons from the election or their voluntary waiver of their mandate serves as the basis for removing such candidates from the list of candidates or for voiding their mandate.
[RT I 1994, 68, 1170 - entry into force 14.11.1994]

For ensuring the adherence to this Act, the Office of the Prosecutor General is required to accept a statement concerning persons specified in the second subsection of section one of this Act or a statement submitted (or a voluntary confession made) by the persons themselves, and to keep records of such persons.
[RT I 1994, 68, 1170 - entry into force 14.11.1994]