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# Code of Administrative Court Procedure

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# Part 1
# Principal provisions

## Chapter 1
## Administrative court procedure

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

(1) Procedure in administrative courts means the procedure that governs the determination of administrative matters. An administrative matter is a matter dealt with by an administrative court.

(2) This Code lays down the competence of administrative courts and the procedure for recourse to administrative courts and for the determination 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 in 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 must be based on the law applicable at the time such acts are performed.

**§ 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 adjudicate a matter to the extent requested in the action or other declaration provided in the law. The filing of such declarations is in the discretion of participants of the proceedings.

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

(5) At every stage of the proceedings, the court must provide sufficient explanation to participants of the proceedings to guarantee that no declaration or evidentiary item necessary to protect a participant's interests remains unrecognised 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 determining the matter, the courts must guarantee participants of the 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 in administrative courts are public unless the law provides otherwise.

# Chapter 2
# Courts

**§ 3. Courts to adjudicate administrative matters**

In the first instance, administrative matters are adjudicated 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 determines petitions to review a case and other declarations provided in the law.

**§ 4. Competence**

(1) Administrative courts are competent to adjudicate disputes arising in public law relationships unless the law provides a different procedure for determining 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 organisation or a body of such an organisation 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 determining 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 determines 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 points 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 the procedure in administrative courts, the following are deemed to constitute administrative acts: administrative acts as defined in section 51 of the Administrative Procedure Act, public law contracts as defined in section 95 of the Administrative Procedure Act, as well as any internal regulation of an administrative authority which determines an individual case.

(2) For the purposes of the procedure in administrative courts, 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 a 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 a 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 a 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 ruling 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 as the respondent is brought in the court having jurisdiction of the location of the residence or seat of the applicant.
[RT I, 25.10.2012, 1 – entry into force 01.12.2012]

**§ 9. Conclusive effect of accepted jurisdiction**

(1) Regardless of the provisions of sections 7 and 8 of this Code, a court has jurisdiction of an administrative matter also in the case that participants of the 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 ordered the matter to be entered in the court's docket, 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 of participants of the proceedings.

**§ 10. Verification and determination of jurisdiction**

(1) Should the court determine, after an action has been brought, that the administrative matter is not within the jurisdiction of the court, it will make a ruling ordering a transfer of the matter to the court which has jurisdiction. If a 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 appeal against a ruling made in the matter may be filed with the circuit court. The order by which the circuit court determines the appeal is not subject to further appeals.

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

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

(4) Pursuant to the application made by a participant of the proceedings or by the court in which the action was brought, jurisdiction is to be determined 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 determined by a single judge. The president of the court may assign a matter to be determined 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 for a new determination, or in the case that the claims of the matter have been separated or in the case that proceedings are terminated in a part of the matter. Procedural acts and rulings in relation to the opening of proceedings on an action and acts of preliminary procedure in relation to the action, as well as rulings made by the court outside a court session, except for rulings 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 a circuit court, an administrative matter is determined 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 the proceedings, there is a change in the panel assigned to determine a matter, proceedings in the matter must be commenced anew. 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) A ruling which prepares a matter for determination or any other ruling by which the court gives directions in a matter, and regarding which the law does not provide for the possibility of appeal, including the ruling by which the court orders the opening of proceedings in relation to an action, the ruling by which the court refuses to open proceedings in relation to an action or other application, and the ruling 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 sections 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 falls to be determined in the case.

**§ 14. Assistance between courts**

(1) The courts must tender assistance, in accordance with section 15 of the Code of Civil Procedure, to a court dealing with an administrative matter. 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, pursuant to section 239 of the Code of Civil Procedure, rule that a procedural act be performed, under a letter of request, in a county court or administrative court in whose jurisdiction it is possible to take the evidence. The request made by the court must be complied with in accordance with section 240 of the Code of Civil Procedure.

(3) In the proceedings in administrative courts, evidence taken in a foreign country in accordance with the laws of that country is admissible, provided the procedural actions performed in order to take that evidence are not in contravention of important principles of the 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 of proceedings before administrative courts

## Division 1
## General provisions concerning participants of proceedings

**§ 15. Types of participants**

(1) Participants of proceedings are:
1) the parties (the applicant and the respondent);
2) a third party;
3) an 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, an administrative authority is deemed to refer to administrative authorities as defined in subsection 1 of section 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 in the 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. Determining the respondent**

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

(2) If, during the 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 will join the additional respondent(s) to the proceedings. If, during the proceedings, the court finds that the respondent has been identified wrongly, it will replace 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 in relation to the same of similar facts.

(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 pursuant to an application of a participant of the 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 a decision entered in the matter. In such a case the issue of joinder is decided at the same time that the question of opening of proceedings on the appeal is determined. Unless the court determines otherwise, any procedural acts performed prior to the joinder of a third party are valid with respect to the third party.

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

(3) A party or third party may appeal a ruling which orders joinder of a third party to the proceedings. The ruling 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 a ruling by which the court refuses to join the third party to the proceedings, and the ruling 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 clear that the decision to be made in the matter can no longer affect the rights of the third party, the court may order that third party to be removed from the proceedings. The

corresponding ruling may be appealed by a party or third party, and the ruling 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 section 23 of this Code.

(2) The court will join to the class proceedings, in accordance with the general procedure for such proceedings, 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 falls to be determined in the administrative matter.

(3) In the case that the notice specified in subsection 2 of section 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 ruling 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 good 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 of 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 in whose respect it may be assumed 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 determination of the matter.

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

# Division 2
# Participation in administrative court proceedings

**§ 25. Active legal capacity**

(1) Unless the law provides otherwise, in administrative court proceedings a person of restricted active legal capacity as defined in subsection 2 of section 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 age is deemed to have active legal capacity for the purposes of administrative court proceedings in the case that, in the court's assessment:
1) the restriction of active legal capacity piiratus has no relevance for 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 jeopardise a right of the person of restricted active legal capacity or of another participant of the proceedings, or jeopardise 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 proceedings if, in the court's assessment, he or she understands the meaning of his or her procedural actions and does not jeopardise his or her interests or the interests of his or her close relatives.

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

(5) If an adult person has not been appointed a guardian, the court arranges an expert assessment before making a ruling 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 a ruling specified in subsection 4 of this section without examining or interviewing the person concerned.

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

**§ 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 in the law.

(2) The court may assign a representative to a person specified in subsection 2 of section 25 of this Act. If a participant of the proceedings who does not possess active legal capacity for the purposes of administrative court proceedings has no legal representative or no appropriate authorised 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 of the proceedings who is a person of restricted active legal capacity possesses active legal capacity for the purposes of administrative court proceedings 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 of the proceedings who is a person of restricted active legal capacity are also delivered to his or her legal representative and the court guarantees him or her the right to be heard in all issues of importance for determining the matter.

(5) The court may hear a participant of the 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 of proceedings**

(1) In addition to other rights provided in this Code, a participant of 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 reasons of other participants of the proceedings;
8) put questions to other participants of the 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) abandon 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 of proceedings**

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

(2) The court does not permit any participant of proceedings or the representative or adviser of any participant of proceedings to abuse his or her rights, to delay proceedings or to mislead the court. The court may impose a fine on any participant of proceedings who in bad faith interferes with the just and speedy conduct of the proceedings and with the conduct of the proceedings in a manner fraught with the least possible cost.

(3) A participant of the 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. [RT I, 29.06.2012, 3 – entry into force 01.01.2013]

(4) A participant of 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 of 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 of the proceedings who is a natural person or the dissolution of a legal person who is a participant of the proceedings or in any other case of universal succession, the court will permit the universal successor of the participant to enter the proceeding, unless the law provides otherwise. Universal succession is possible at any stage of the proceedings.

(2) All procedural acts performed before the universal successor entered 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 create an independent ground to dismiss the action.

(2) An assignee may, in the case specified in subsection 1 of this section, take the place of the assignor in the proceedings, provided the assignor assents to that, and provided judgment in the matter could, in the assessment of the court, obviously no longer affect the rights of the assignor. All procedural acts performed before the assignee joined the proceedings apply in respect of the assignee in the same manner as they would apply in respect of the assignor.

(3) If, in the case of a transfer of ownership of a physical object, it is not possible for the assignee to join the proceedings in accordance with subsection 2 of this section, the court joins the assignee to the proceedings as a third party. In such a case, in the event of abandonment of the action proceedings may only be terminated if the assignee of the applicant consents to that.

(4) Assent to replacement of an assignor is assumed to exist if the facts show that the 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 assignor at the address notified to the court, or any other address known to the court.

# Division 3

# Representation and advice

**§ 31. Representation**

(1) Unless the law provides otherwise, a participant of proceedings may participate in the proceedings either in person or through a representative. Personal participation does not extinguish a person's right to have a representative or adviser. The participation of a representative or adviser does not extinguish the participant's 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. A participant of proceedings may limit the scope of representation provided in the law. Any limitation of the scope of representation provided in the law is only valid with regard to the court and other participants of proceedings to the extent that it concerns the representative's right to conclude the matter by judicial settlement or to abandon or admit the action, provided the limitation has been notified to the court and participants of the proceedings.

(3) Representation is subject to subsections 5–8 of section 217, subsections 3–7 of section 219 and sections 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 administrative court proceedings is the person who can show that the majority of the members of the association agree to him or her representing the association.

**§ 32. Authorised representatives**

(1) In administrative court proceedings, an authorised 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 of the proceedings, the participant's procurist;
5) an official or employee of the participant of the 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 authorised respectively by another applicant, respondent or third party;
7) the spouse or an ascendant or descendant of the participant of the proceedings who is being represented;
8) any other person whose right to be a representative in administrative court proceedings arises from the law.

(2) The persons specified in points 2 and 3 of subsection 1 of this section may not be representatives in 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 recognised Master's degree, an equivalent qualification within the meaning of subsection $2^2$of section 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 court proceedings, shown himself or herself to be dishonest, incompetent or irresponsible, as well as if the representative has in bad faith hindered the just and speedy conduct of proceedings in the matter and the conduct of proceedings 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 of the proceedings is also deemed to be an official of the participant of the proceedings for the purposes of applying point 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 of the 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 determination of the matter within reasonable time.

(2) To select a joint representative, the majority of participants of the 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 appeal against a ruling specified in subsections 1 and 2 of this section may be filed with the circuit court. The ruling 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 extinguish the right of any participant of the proceedings to participate in the proceedings in person, as well as 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 of 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 of the proceedings may request verification of the authority of representation of the representative of another participant of the proceedings at every stage of the proceedings in every judicial instance.

(3) If the absence of authority of representation is established in the course of the proceedings, the participant of those proceedings is deemed to not 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 assumed to have the authority of representation. If a procedural document is signed by an advocate as the representative of a participant of the 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 of proceedings may enlist a person with unrestricted active legal capacity as an adviser.

(2) An adviser may appear in court together with the participant of proceedings and give 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 of proceedings unless the participant immediately retracts or corrects the submission. The court explains this right to the participant of proceedings.

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

# Chapter 4
# Actions

**§ 37. Actions**

(1) Administrative court proceedings start when an action is brought in 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 section 5 of this Code.

**§ 38. Content of actions**

(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 of the 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 pursuant to section 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 way of written proceedings or in simplified proceedings;
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) An action may also include an application for interim relief, as well as for determining the time-limit for complying with the judgment or for determining any other important conditions relating to compliance with the judgment pursuant to section 168 of this Code.

(7) If the applicant wants to enlist 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 delivery 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 in the 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) a power of attorney, if the action is signed by an authorised 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) For other participants of the proceedings, except for the other applicants, copies of the action and of any annexes thereof must be appended to a written action. The copies do not need to be appended if the other participant has the document in his or her possession as an original or copy or if the applicant has to transmit the document directly to another participant.

**§ 40. How to bring an action**

(1) An action may be brought:
1) in writing by post, by delivering it to the court in person or by having it delivered to the court by another person, unless section 53 of this Code provides otherwise, or
[RT I, 29.06.2012, 3 – entry into force 01.01.2013]
2) by electronic means pursuant to the procedure specified in section 336 of the Code of Civil Procedure.

(2) A written action may be delivered to any courthouse of an Estonian administrative or county court. The court immediately transmits the action together with any annexes of the action to the court who has jurisdiction in the matter.

**§ 41. Subject matter of dispute**

(1) The subject matter of the dispute in administrative court proceedings is determined by the claim made in the action pursuant to section 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 pursuant to the conditions provided in the 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 determining 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 brought in an administrative court an action which contains the same claim and is made on the same cause and:
1) a judgment made in respect of the previous action has become final;
2) a court ruling made in respect of the previous action concerning termination of the proceedings has become final or
3) proceedings on the previous action are pending in the court.

(2) The return of an action and refusal to hear an action does not extinguish a person’s right of recourse to the courts. When an action is returned or the court refuses to hear it, the court is deemed never to have opened proceedings on the action.

**§ 44. Right of action**

(1) A person may have recourse to an administrative court only for the protection of his or her 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 in the law.

(3) An association of persons which is not a legal person may file an action with an administrative court only in the cases provided in the 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 public law 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. The possibility of bringing a compensation action does not rule out the right to bring a declaratory action to determine the unlawfulness of an administrative act or measure which may have caused the damage. The intention to file a compensation action at a later date does not give an applicant the right to bring a declaratory action if it is obvious that the compensation action has no prospects.

(3) An action may be brought against a procedural act without contesting the administrative act or administrative measure, if that act or measure infringes the applicant's non-procedural rights independently of the administrative act or measure, or if the unlawfulness of the procedural act would inevitably lead to the issue of an administrative act or the taking of an administrative 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 determine the unlawfulness of an administrative act or measure may be filed within three years after the administrative act was issued or the administrive 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 proceedings**

(1) The law may prescribe mandatory challenge proceedings or other mandatory pre-action proceedings for determining 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 satisfied 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 in pre-action proceedings unlawfully delays with the making of the decision in those proceedings, the action must be brought within one year after 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 after the filing of the claim in pre-action proceedings.

**§ 48. Joinder of actions and separation of claims**

(1) If at 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, pursuant to section 19(1) and 37(3) 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 determination of the matter.

(2) If the court finds that the separation of claims made in the same action allows an expedited determination of the matter or that the claims should not have been made in the same action, it enters a ruling by which it separates the claims into independent proceedings.

**§ 49. Amending an 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 proceedings, 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 in cassation, the claim made in the action and the cause of action may only be amended on the conditions specified in subection 1 of this section and only if a valid reason exists for such amendment, primarily when this is necessitated by a fact which a court of higher instance must take into consideration in pursuance to this Code or when a rule of procedure is infringed by a court of lower instance.

(3) The following are not deemed to constitute amendment of an 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 determining 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 point 5 of subsection 3 of this section is subject to the provisions which govern abandonment 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 determination of the matter.

# Part 2
# General provisions concerning proceedings

# Chapter 5

# Declarations of participants of 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, abandonment 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 ruling and petitions for review.

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

**§ 51. The time at which a declaration is made**

(1) Participants of the proceedings must submit their declarations at the earliest possible stage of the proceedings and when this is needful for an expedited and just determination of the matter.

(2) Any declarations concerning which, without considering what has been submitted, a participant of the proceedings is unlikely to be able to adopt a position, must be submitted before the court session in which the matter is to be heard such that other participants of the 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 of the proceedings at least seven days before the court session. In the case that the matter is dealt with as written proceedings, a declaration which contains new facts or applications must be submitted such that it can be transmitted to other participants of the proceedings at least seven days before the expiration of the time-limit for submissions of procedural documents. If the court sets a time-limit for submission of procedural documents in simplified proceedings, the second sentence of this subsection must also be applied in simplified proceedings.

(4) Where a participant of the 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 recognises the declaration if, in the court's assessment, this does not cause a delay of the proceedings, or if the participant of the 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 in section $60^1$ of the Code of Civil Procedure.

**§ 52. Format of declaration**

(1) The wording of a declaration must be as clear and brief as possible.

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

(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 assumed that an electronic declaration cannot be transmitted to another participant of the proceedings or if that participant cannot be assumed to take notice of the content of such declaration or make a printout thereof. The making of such copies or printouts is not subject to a state fee.

(4) Where a declaration is signed by a representative of a participant of the 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 section 340 of the Code of Civil Procedure is to be disregarded in the case of a participant of the 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 sections 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 authorised 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 authorised representative specified in points 1–5 of subsection 1 of section 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 of the proceedings and to the administrative authorities participating in the proceedings, and notifies the court thereof in pursuance of section 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 of the proceedings must state the following:
1) the names of parties 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 of the 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 of the proceedings or of his or her representative or, in the case of an electronic declaration, a digital signature or other mark permitting identification in accordance with the provisions of section 336 of the Code of Civil Procedure.

**§ 55. The curing of defects in declarations**

(1) In the case that a declaration submitted by a participant of the proceedings does not meet formal or substantive requirements, or its submission is tainted by other defects which are curable, including cases in which the state fee or security in cassation has not been paid, the court refuses to open proceedings on the declaration and assigns the participant of the proceedings a time-limit for curing the defects.

(2) If the participant of the proceedings does not cure, by the time-limit established by the court, the defects of the declaration which contains an application, the court will, by a ruling which sets out the relevant reasons, refuse to consider the declaration. If the defects of other declarations are not cured by the time-limit established by the court, the court is entitled 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 determined declaration.

# Chapter 6
# Presentation of evidence

**§ 56. Evidence**

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

(2) The evidence admissible in administrative court proceedings is any evidence permitted by virtue of sections 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 sections 236–243 of the Code of Civil Procedure.

(3) Where a participant of the proceedings so requests, the court may, where this is necessary, employ the procedure of pre-trial taking of evidence provided in sections 244–250 of the Code of Civil Procedure.

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

**§ 57. Professional assistance**

(1) Where certain information, which is inevitably necessary in order to determine 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 section 18 of the Administrative Cooperation Act.

(2) An administrative authority provides professional assistance on the basis of a court ruling. The ruling must, amongst other particulars, state the aim of the request for professional assistance and the nature of the assistance. The ruling 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 ruling 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 information necessary for determining the matter from a participant of the proceedings, as well as from an administrative authority which is not a participant of the proceedings, from the employer of a participant of the proceedings, from an insurance company or a credit institution, if the administrative authority or other person can be assumed to possess such information and provided the law does not provide otherwise. The participant of the 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 determines otherwise, a participant of proceedings must prove the factual assertions on which his or her submissions are founded and, if the court requires, also the facts in relation to which it may be assumed that the participant has 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 in administrative court proceedings may not be redistributed by an agreement of the parties in a manner different from that provided in the law.

(3) Where evidence required for a just determination of the matter has not been presented or where insufficient evidence has been presented, the court proposes that the participant of the 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 of proceedings does not present an evidentiary item concerning a fact which he or she is required to prove by virtue of subsection 1 of this section, and evidence concerning that fact or a rebuttal thereof cannot be obtained by other means, the court may adopt an assessment of the fact 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 of the proceedings to have been proved if the other participants of the 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 assent to a factual assertion which is made to the court in accordance with the procedure provided in subsection 2 of section 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 of the 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 determination of the matter may not be assumed by the court merely on the basis of absence, in declarations or objections made by other participants of the proceedings, of an express contestation of the presence of the fact, unless it had to be obvious 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 of 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 considers relations between evidentiary items.

(3) In administrative court proceedings, no evidentiary item may be assigned pre-determined strength by an agreement of participants of the proceedings, nor may the type or format of evidence be limited by such agreement, or the manner of submission, taking or examination of the evidence. The abandoning or withdrawing of an evidentiary item has no binding force on the administrative court when it determines 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 establishing the amount of a patrimonial or non-patrimonial claim, including a claim for compensation, or if the establishing of 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 proceedings, the court sets a time-limit to participants of the 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 section 51 of this Code are fulfilled. In the case the court does not hold a court session, and has not, in preliminary proceedings, 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 proceedings, but only on the presumption that this does not cause delays in determining the matter.

(2) The court only admits or arranges for the taking of, evidentiary items, and has regard, in determining 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 an application by a participant of the proceedings for the taking of evidence was dismissed 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 ruling in which it states its reasons.

(6) In the cases specified in subsections 2 and 3 of this section, the court may, when determining 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 of proceedings may use evidence as well as information which is not in a format that the law foresees in relation to the proceedings.

**§ 64. Examination under oath of participant of proceedings**

(1) A participant of 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 of the proceedings to be examined under oath. The court will only examine a participant of the proceedings under oath if the participant of the proceedings on whom the obligation to present evidence lies provides a substantiated submission showing that the taking or presentation of evidence by other means is subject to significant difficulties.

(2) A participant of 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 determined in the administrative matter.

(4) In all other respects, examination under oath of a participant of proceedings is subject to the provisions of sections 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 determining a matter, consider as evidence any statements recorded in writing 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 determined in the administrative matter.

(2) When the court declares admissible an evidentiary item mentioned in subsection 1 of this section, a participant of the 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. The court may only dismiss such an application in the case provided in point 2 of subsection 3 or in subsection 4 of section 62 of this Code.

# Chapter 7
# Time-limits in proceedings

**§ 66. Time-limits and due dates in proceedings**

(1) Time-limit means a specific time period which entails legal consequences in administrative court proceedings. 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 delivery 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 delivery, 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 a due date is subject to the provisions of subsections 1–7 and 9 of section 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 working day, the time-limit ends on the next working 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 on 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 working 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 of 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 of proceedings does not have the right to perform that act at a later time, unless the court restores the relevant time-limit provided in the law or extends the time-limit that it has established itself. This principle applies without regard to whether or not the participant of proceedings had been cautioned of such a consequence.

**§ 71. Restoration of time-limits provided in law**

(1) If a participant of proceedings has allowed a time-limit provided in the law to expire, the court may, on the basis of an application of the participant of 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 in the 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) An application for restoration of a time-limit is determined by the court in a court ruling.

(6) An appeal may be lodged against a ruling by which the court restores or refuses to restore a time-limit. Unless the law provides otherwise, the ruling 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 immediately preceding the point at which the time-limit was allowed to expire.

# Chapter 8

# Delivery of procedural documents

**§ 72. General provisions on delivery**

(1) Delivery of a procedural document means transfer of the document to the recipient such that the recipient is able to consider the document in good time. The recipient means a participant of 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 rulings which establish and start the run of a time-limit, any other procedural documents which establish time-limits, and any summonses are to be delivered to participants of proceedings, except where such have been notified to the participants during a court session.

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

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

(5) Delivery of procedural documents in a foreign country is effected in accordance with the provisions of the relevant foreign treaty or in accordance with subsections 3–7 of section 316 of the Code of Civil Procedure.

**§ 73. Electronic delivery**

Electronic delivery of procedural documents and making procedural documents electronically available is governed by section $311^1$ of the Code of Civil Procedure and section $2^2$(1) 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. Delivery to representative**

(1) Delivery of a procedural document to a person who, for the purposes of administrative court proceure, does not possess active legal capacity, is deemed to be effected when the document is delivered to the person's legal representative. In the case of a person who has several legal representatives, delivery to any one of these suffices.

(2) In the case of an administrative authority or legal person, the procedural document is delivered to the legal representative of the administrative authority or legal person. In the case of a person who has several legal representatives, delivery to any one of these suffices. A procedural document addressed to an administrative authority or legal person is deemed to be delivered also in the case that it has been delivered in the place of business of the administrative authority or legal person to 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 of proceedings is represented in court proceedings by an authorised representative, any documents in the matter are delivered, and any other notices are communicated, exclusively to the representative, unless the court deems it needful to dispatch such documents or notices also to the participant himself or herself. In the case of a person who has several representatives, delivery 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 the court proceedings, may, if the court requires this, appoint a person resident in Estonia to whom procedural documents may be delivered. Delivery of procedural documents to a person authorised to take delivery of such documents is equivalent to delivery of the documents to the participant himself or herself.

(5) The court may, by a ruling, require a participant of proceedings to appoint a person authorised to take delivery of procedural documents also in other cases, in particular where unfounded difficulties can be assumed to intervene in the course of delivery.

**§ 75. Delivery by participant of proceedings**

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

(2) In respect of a delivery, the participant of proceedings must present the court with a delivery notice which must contain the following particulars:
1) the time when and place where the document was delivered;
2) the name of the person to whom the document was to be delivered;

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 delivery;
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 delivered the document;
7) the name, signature and particulars concerning identification of the person who took delivery 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 the document was left undelivered for a reason specified in the law.

**§ 76. Delivery in class proceedings**

(1) In the case that the same procedural documents must be delivered to more than 50 persons and the relevant participants of the proceedings do not have a joint representative or joint representatives, the court may order, for the purpose of subsequent proceedings in the matter, delivery by publication or other means which are different from, and simpler than, the means provided in this Code, provided this facilitates determination of the matter in a manner which is speedier and involves lower costs, and provided this does not represent an unreasonable burden for participants of the proceedings in view of the nature and importance of the matter. On the basis of an application made by a participant of the proceedings, the court notifies any procedural documents to that participant in person by regular post or electronically, or, at the participant's own expense, in the manner specified in section 313 of the Code of Civil Procedure. In the case of delivery by publication, the ruling 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 delivered.

(2) A ruling specified in subsection 1 of this section is delivered to the participant of the proceedings in person. The ruling may not be appealed. The court may vary the ruling at any time. The ruling 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 ruling, vest the obligation of delivery of procedural documents in one or several participants of the proceedings, provided that participant or those participants assent to this. An assent to delivery of procedural documents may only be withdrawn if the situation in the proceedings has changed in a significant manner.

# Chapter 9
# Procedural acts in the court

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

(1) The publicity of administrative court proceedings, the order for proceedings in an administrative matter to be conducted as *in camera*proceedings, the broadcasting and recording of court sessions is subject to sections 37–42 of the Code of Civil Procedure.

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

(3) An appeal against a ruling 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 ruling entered by the circuit court in respect of the appeal may be further appealed to the Supreme Court.

**§ 78. Application to defer a procedural act**

An application to defer the court session or other procedural act is determined 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 of the proceedings.

**§ 79. Removal of participant of proceedings**

(1) In the case of proceedings which have been declared *in camera*proceedings, a participant of the 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 of the proceedings, of a witness or other person;
3) in order to protect the privacy of a participant of the 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 of the proceedings on a ground specified in subsection 1 of this section is possible only in the case that the interest to maintain the secret clearly overrides the right of a participant of the proceedings to be present when the procedural act is performed.

(3) Removal of a participant of the 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) A participant of the proceedings is removed from a procedural act to the smallest extent possible. The court discloses the content of the procedural act to the participant to the maximum extent which is 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 of the proceedings is decided in a court ruling. An appeal may be lodged against the ruling, and the ruling entered by the circuit court in respect of the appeal may be further appealed to the Supreme Court. Until the ruling becomes final, the court does not disclose any information to the participant.

(6) Where necessary, the court determines the question of removal of a representative or adviser of a participant of 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) Records of the court session or any other procedural act are made in the Estonian language.

**§ 81. Foreign-language documents**

(1) Where a declaration made or evidentiary document submitted to the court by a participant of the 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 of the proceedings bearing the costs.

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

(3) The court may require a participant of the proceedings to present a translation made by a sworn translator or a notarially certified translation, 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 01.01.2014]

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

(5) Documents in a language other than Estonian may only be given to a participant of proceedings who agrees to receive such documents.

(6) Where a participant of the proceedings applies for this, the court makes the arrangements for translating the judgment or ruling for the participant at the 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 section $228^1$ of this Code, and the translation, into the Estonian language, of the ruling of the European Court of Human Rights made in respect of that request, is arranged by the Supreme Court at the expense of the statel.
[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 of the proceedings does not know the Estonian language, the court, based on that participant's application, or of its own motion, enlists an interpreter to assist the proceedings if this is possible. An interpreter does not need to be enlisted if the participant of the proceedings has not applied for this and if the declarations of that participant are understandable to the court and the other participants of the 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 a ruling by which it obligates the participant of the 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 hinder the court from determining the matter. If it is the applicant who fails to observe the demand of the court, the court may refuse to hear the action.

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

(4) In the case that a participant of the 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 section 31 of the Code of Civil Procedure.

**§ 83. Oath and signature**

(1) A person who does not know the Estonian language takes the oath or signs a receipt concerning his or her being cautioned in respect of the liability in the language which he or she knows.

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

**§ 84. Minutes, written records and recordings**

(1) Minutes are taken at any court session and, in the cases provided in the law, a written record is made of other procedural acts, including any acts performed pursuant to an order or letter of request by the court.

(2) The making of minutes, written records or recordings of a procedural act is subject to sections 49–55 of the Code of Civil Procedure.

**§ 85. Content and signing of records of proceedings**

(1) A record of proceedings 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 hearing the matter and the names of the judges, the person taking the minutes and the interpreter;
3) particulars concerning attendance by the participants of the 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 of the proceedings;
6) assent to the action, abandonment of the action and compromise;
7) the substance of any positions and objections of participants of the 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 of the proceedings, and of the testimony of witnesses, oral replies by the experts and information concerning scene examinations;
9) the directions given and rulings made in 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 record.

(2) The minutes or record is signed within three working days following the procedural act.

**§ 86. Correction of minutes**

(1) In the case that the minutes of proceedings were not disclosed without delay at the court session, a participant of the proceedings is entitled, within three working days following the signing of the minutes, to apply to have the minutes corrected. The court asks the other participants of the proceedings to provide their positions regarding the application. Should the court decide to dismiss 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 section 53 of the Code of Civil Procedure in relation to making objections to the minutes and the correction of the minutes do not need to be explained to an administrative authority or a participant of the 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 sections 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 clearly 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 binding. 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 of the 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. Inspection of the file by participants of proceedings**

(1) A participant of the 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 section 79 of this Code. A participant of the 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 of the 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 of the 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) In the case that a party or third party has applied to have permission to peruse refused, refusal of permission to peruse, as well as the grant of such permission is decided by a court ruling. An appeal may be lodged against the ruling, and the ruling entered by the circuit court in respect of the appeal may be further appealed to the Supreme Court. The court does not disclose any information to the participant of the proceedings until the ruling becomes final.

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

(7) Any applications made by a representative of a participant of the proceedings to peruse the file are also determined by the court pursuant to the grounds and procedure provided in this section.

**§ 89. Inspection of the file by persons not participating in proceedings**

(1) A person who does not participate in 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 who does not participate in the proceedings and who has a legitimate interest in the perusal may peruse the file and obtain copies of any procedural document pursuant to 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 who was not a participant in 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 in the law, a person who is not a participant of the

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 hearing the matter also without the agreement of the parties and third parties.

(5) Perusal by a person who does not participate in the 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 procedure established in subsections 2–7 of section 88 of this Code.

**§ 90. Objection to court's actions**

(1) A participant of 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 determines the objection by a court ruling.

(2) If a participant of 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 correcting 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 ruling, 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 of the proceedings, or other person authorised 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 authorised representative. In such a case, the court orders a stay of proceedings on an application from the representative of another participant of the proceedings.

(3) The court may, on the basis of an application from another participant of the 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 of the 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 of the 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 a guardian**

The court may order a stay of proceedings until a guardian is appointed to a participant of the proceedings who does not possess active legal capacity for the purposes of administrative court proceedings, if this is necessary to protect the rights of that participant of the 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 fact 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 a judgment entered in another administrative matter becomes final, provided the matter concerns interpretation of a rule of law which is of crucial importance also for determining the matter at hand. A stay of proceedings may only be ordered if there are at least ten like matters in which the court is conducting proceedings.

(3) The court may order a stay of proceedings in order to allow determination of a constitutional review matter in which proceedings have been opened in the Supreme Court, until the judgment of the Supreme Court becomes final, if this may affect the validity of a legislative act applicable 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 heard by the court.

(5) When the Supreme Court requests from the European Court of Human Rights an advisory opinion under section $228^1$ 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 abandoned.
[RT I, 26.06.2017, 17 - entry into force 06.07.2017, 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 the pre-trial taking 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 made in the proceedings.

(4) If the stay of proceedings was ordered under subsection 5 of section 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 abandon 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 reason.

(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. Ruling which orders a stay of proceedings and appealing that ruling**

(1) The court orders a stay of proceedings by a ruling.

(2) An appeal may be lodged against a ruling by which the court stays proceedings in the matter. The ruling 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 ruling and on the basis of an application by a party or third party, or of its own motion, order that proceedings stayed by operation of law or by a court ruling be resumed.

(2) Proceedings which were stayed pursuant to a ground provided in section 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 determined.

(3) A resumption of proceedings is deemed effective when the ruling ordering resumption has been delivered to the parties and third parties.

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

**§ 100. Application to expedite court 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 needful procedural act, including not ordering, in due time, a court session to be held, a party of third party may, in order to ensure the conclusion of court 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 court proceedings.

(2) If the court considers the application well founded, it will, within 30 days of receipt of the application, order a measure which can be assumed 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 formalised as a substantiated ruling within the time-limit provided in subsection 2 of this section.

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

(5) When determining the appeal, the court may order a measure which can be assumed to allow court 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 pursuant to subsection 1 of this section when six months have elapsed since the court ruling 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 ruling in due time.

# Chapter 11
# Procedure expenses

**§ 101. Elements and accounting of procedure expenses**

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

(2) Legal costs are the state fee, the security payable in relation to certain proceedings and the costs essential to proceedings.

(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 delivery and forwarding or procedural documents through a bailiff and of delivery and forwarding in a foreign jurisdiction, or of extra-territorial delivery 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 of 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 of 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 ruling from the Court of Justice of the European Union.

**§ 104. Payment and return of state fee**

(1) A state fee at the rate established in the law must be paid when an action is brought in an administrative court, or when an appeal is submitted to the circuit court against a judgment or against a court ruling 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 is subject to the highest of the 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 in the law.
[RT I, 29.06.2012, 3 – entry into force 01.07.2012]

(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 declared unrecognised 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 section 121 of this Code;
3) if the court refuses to hear the action, except where this takes place by virtue of point 2 or 3 of subsection 1, or of subsection 2 of section 151 of this Code;
4) if the court terminates proceedings in the matter pursuant to point 2 or 4 of subsection 1 of section 152 of this Code.

(6) In the case that the amount of the state fee paid exceeds 31.94 euros, one half of the fee paid is returned if:
1) the parties reach a compromise;
2) the applicant abandons the action.

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

(8) The state fee is returned by ruling of the court who was the last to conduct proceedings in the matter. In the cases specified in points 2 and 3 of subsection 5 of this section, the costs essential to proceedings are deducted from the amount to be returned. Any state fees paid in excess of the amount required by the law are returned on the basis of a corresponding application of the person concerned.

(9) Abandonment 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 their procedure expenses.

(10) The Republic of Estonia as a participant of 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 of 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 of 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 ruling of the court in which the court requires, as a precondition for performing an act, the advance payment of the corresponding costs. The ruling entered by the circuit court in respect of the appeal is not subject to further appeal.

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

**§ 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 sections 151–161 of the Code of Civil Procedure.

**§ 107. Payment and return of security**

(1) An appeal in cassation or appeal against a ruling or petition for review which is lodged with the Supreme Court is subject to the payment of a security in cassation.

(2) When lodging an appeal in cassation or appeal against a ruling or petition for review, a security of 25 euros is paid to the bank account designated for this purpose or paid in court by an electronic means of payment.

(3) No procedural acts related to the security are performed before the security is paid or exemption is granted in respect of payment of the security. The participant of proceedings is given a time-limit to pay the security. If the security is not paid by the due date, the court refuses to open proceedings in relation to the appeal or declaration.

(4) In the case of a full or partial grant of an appeal or declaration the full amount of the security is returned on the basis of the decision of the Supreme Court. The security is also returned if the court refuses to hear the appeal or declaration or returns the same or if proceedings in the matter are terminated. In the case that the court refuses to open proceedings on the appeal or declaration, or dismisses the same, the security is appropriated into government receipts.

(5) Any amount paid in excess of the required amount of the security is returned on the basis of a demand presented by the payer of the security.

(6) The security is returned on the basis of a decision of the Supreme Court to the participant of proceedings who paid that security or on whose behalf the security was paid, or to the person who paid the security. The costs essential to proceedings are not deducted from the amount to be returned. When lodging an appeal or declaration which is subject to the payment of a security, the appeal or declaration must state the name of the person to whom and the bank account to which the security is to be returned.

(7) The claim for return of the security is extinguished when two years have lapsed after the end of the year in which the security was paid, but not before proceedings in the matter are concluded by a decision which has become final.

(8) Compensation of the security paid may not be demanded from other participants of the proceedings regardless of the decision which concludes the proceedings.

(9) The Republic of Estonia as a participant of proceedings is exempt from paying the security.

**§ 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 appeal against a ruling 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 refuses to hear the action and terminates proceedings in the matter, the procedure expenses are borne by the applicant, unless this section provides otherwise.

(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 refuses to accept 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 in the case that the court terminates proceedings in the matter pursuant to point 4 of subsection 1 of section 152 of this Code, except for 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.

(7) An applicant who abandons the action bears the procedure expenses. If the participants of 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 of 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 in bad faith, the court may order the participant to pay a part of the expenses which the other participants of the proceedings incurred as a result of such actions.

(10) In the case that an appellant against judgment or against a ruling 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 sections 173 and 175 of the Code of Civil Procedure. The court also verifies whether the expenses of an authorised 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 working days after the end of the court session. In written proceedings, 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.

(2) The court which conducted proceedings in the matter sets out the division of procedure expenses between participants of the proceedings and, in a ruling 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 of the 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 a ruling imposing a fine, or any other similar decision ordering payment of money becomes final, the court

dispatches a copy of that decision or ruling without delay to the authority designated by the directive of the minister responsible for the area.
[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 responsible for the area.
[RT I, 21.06.2014, 11 – entry into force 01.07.2014]

(4) In the case that the higher court varies the decision of a lower court or enters a decision without returning the matter for a new hearing, the higher court changes the division of legal costs.

(5) Compensation of procedure expenses to a participant of the 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 of proceedings may not claim, from another participant of the 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 the security on certain proceedings or from the payment of other legal costs or the costs of translation of procedural documents;
2) is allowed to pay the state fee, the security on certain proceedings or the costs of translation of procedural documents in instalments by way of periodic payments during a period established by the court;
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 prt from the expenses related to mandatory pre-action proceedings, or is ordered to pay those expenses by instalments during a period estblished 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 sge 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 obvious 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 are not expected to amount to a sum which exceeds two times the average monthly income 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 any maintenance obligations imposed by the law, as well as reasonable cost of accommodation and transport;
[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 section 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 point 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 points 1, 2 and 4 of subsection 1 o section 110 of this Code the limitation set out in point 3 of subsection 1 of this section is not applied.

**§ 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 pursuant to 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 points 1, 2 or 4 of subsection 1 of section 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 of the 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 of the 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 section 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. Determination of application for procedural assistance**

(1) An application for procedural assistance is determined by a court ruling. Where this is necessary, the court may, before determining the application, invite other participants of the proceedings to state their positions.

(2) In assessing the economic situation of the applicant, the court takes guidance from section 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 section 188 of the Code of Civil Procedure and suspend the payment of the instalments or vary the amount of such instalments.

(4) In the case that is possible by virtue of this Code to appeal the ruling by which the court granted procedural assistance, the court transmits to the Ministry of Finance or to an authority designated in the sphere of government of the Ministry of Finance by the minister responsible for the area, without delay, a copy of the ruling.

(5) The presentation of an application for procedural assistance does not suspend the run of any time-limit provided in the law or established by the court. In the case of a time-limit established by the court, the court, after it has determined 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 in the 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 determined 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 of 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, pursuant to subsection 11 of section 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 government receipts in proportion to the extent to which the action was granted.

(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. Appeal against a ruling concerning procedural assistance**

(1) An applicant for or recipient of procedural assistance, or the Ministry of Finance or an institution designated by the minister responsible for the area may appeal any ruling entered by the administrative court or the circuit court concerning the grant or refusal of procedural assistance, and any ruling by which either of the previously mentioned rulings is varied or revoked, and the ruling entered by the circuit court in respect of the appeal may be further appealed to the Supreme Court.

(2) The expenses of proceedings on appeal against the ruling are not subject to recovery.

# Part 3
# Proceedings in administrative courts

## Chapter 13
## Opening of proceedings on actions, preliminary proceedings in the matter

**§ 120. Acts in relation to opening of proceedings on an 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) determines 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) determines 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 open proceedings on the action.

(2) If there are no grounds for returning the action or refusing to open proceedings on the action, the court will make a ruling by which it opens proceedings on the action.

(3) If the court finds that the action has defects which can be cured, it will make a ruling by which it refuses to open proceedings on the action, and establish a time-limit of up to 15 days for curing the defects and dispatching the ruling for immediate execution. 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 opening proceedings on the action, and to hear participants of the proceedings.

**§ 121. Return of action**

(1) By making a corresponding ruling, the court returns the action to the person who submitted that action if:
1) adjudicating the dispute is not within the competence of the administrative court;
2) the action does not meet the requirements of sections 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 in the court;
4) the applicant has not complied with a mandatory pre-action procedure for settlement of 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 ruling, return the action to the person who submitted that action if:
1) it is evident that the applicant has no right of action in the matter, assuming the factual assertions made by him or her to be proved;
2) the action is not suited to achieve the aim it seeks to achieve;
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 delivery of the document hinders the determination 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 a determination of the matter. If, when returning the action, the court finds that determination of the dispute is within the competence of a court dealing with civil, criminal or misdemeanour matters, but that court has previously ruled that determination of the same 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 section 711 of the Code of Civil Procedure.

(4) An appeal may be lodged against a ruling by which the court returns the action, and the ruling entered by the circuit court in respect of the appeal may be further appealed to the Supreme Court.

**§ 122. Acts of preliminary proceedings**

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

(2) In particular, in preliminary proceedings the court performs the following acts:
1) verifies whether the subject matter of the dispute and the participants of the proceedings have been correctly identified when proceedings were opened in the matter, 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 opening of proceedings on the action was correct;
3) delivers the action to other participants of the 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 of the proceedings to supplement his or her assertions and to submit supplementry evidence, and takes evidence of its own motion if this is necessary;
8) establishes what applications participants of the proceedings are making and, where necessary, the positions of the other participants of the proceedings in regard to those applications;

9) establishes whether it is possible to dispose of the matter by way of a compromise or other mutual arrangement;
10) sets the format for the hearing of the matter and the composition of the court panel, establishing, if this is necessary, any additional positions that participants of the proceedings may have in regard to these issues;
11) notifies participants of the proceedings of the time and place of the hearing of the matter in court or of the details concerning the hearing of the matter by way of written proceedings in accordance with section 132 of this Code.

(3) In order to perform its tasks in preliminary proceedings, the court may hold a preliminary hearing, require participants of the proceedings to provide explanations and put questions to participants of the 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 proceedings on the action to have been opened correctly or whether there are grounds for refusing to hear 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 the matter being heard by way of written proceedings or in simplified proceedings, or whether the respondent wishes the matter to be heard in 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 other mutual arrangement.

(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 points 1 and 3–7 of subsection 1 of this section.

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

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

(5) If this is necessary for an expedited or just determination 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 determines any application for restoration of the time-limit for bringing the action after it has received a written response concerning the application from the other participants of the proceedings.

(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 a ruling by which it terminates proceedings in the matter.

(3) An appeal may be lodged against a ruling by which the court determines an application for restoration of a time-limit, and the ruling entered by the circuit court in respect of the appeal may be further appealed to the Supreme Court.

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

**§ 125. End of preliminary proceedings**

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

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

# Chapter 14

# Hearing the matter

## Division 1
## General provisions

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

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

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

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

## Division 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 heard in a court session, the time interval between delivery 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 hearing the matter within the time-limit provided in the 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 determine the matter in substance. If the hearing of the matter is not concluded during 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 of the 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 of the 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 of the 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 exists, cancel or change the scheduled time of a court session or adjourn the hearing of the matter.

(2) The non-appearance of a participant of the proceedings at the court session only constitutes the grounds for adjourning the hearing of the matter under the conditions specified in section 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 of the 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 a 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 appeal against the ruling if the party finds that the hearing of the matter is adjourned for an unreasonably long period of time. The ruling entered by the circuit court in respect of the appeal is not subject to further appeal.

**§ 129. Procedure in court session**

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

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

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

**§ 130. Rehearing of the matter**

The court makes a ruling concerning the rehearing 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 corrected;
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 determination of the matter to take or examine additional evidence or discuss the facts with the participants of the proceedings;
3) in the case of non-appearance, for a valid reason, of a party or third party to attend the court session pursuant to section 146 of this Code.

# Division 3
# Written proceedings

**§ 131. Preconditions for written proceedings**

(1) The court may hear a matter by way of written proceedings if, in the assessment of the court, the facts material for determining the matter can be ascertained without holding a court session, and:
1) all parties and third parties have agreed to the matter being heard by way of written proceedings or
2) it is evident 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 of the proceedings are points of law, participants of the 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 his or her agreement to the matter being heard by way of written proceedings, it is to be assumed that he or she wishes the matter to be heard in a court session. A participant of the proceedings may only withdraw his or her consent to the matter being heard by way of written proceedings 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 of the proceedings, it is to be assumed that that participant agrees to the matter being heard by way of written proceedings.

(4) Irrespective of the agreement of participants of the proceedings, or of the assignment of the matter to be heard by way of written proceedings, the court may, until it makes a decision in the matter, order the matter to be heard in a court session.

(5) Where, under subsection 1 of this section, a matter may be heard by way of written proceedings, but the court considers it necessary to examine an issue material to the matter in a court session, the court may limit the list of issues dealt with in the court session, and confine examination of the rest to presentation of written submissions.

(6) If the court, pursuant to point 2 of subsection 1 of this section, dismisses an application by a participant of the proceedings to hear the matter in a court session, it must do so by way of a ruling which states the relevant reasons.

**§ 132. Rulings which give directions**

(1) In the case of written proceedings, 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 needful, the time of public pronouncement of the judgment may be set at a later date.

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

# Division 4
# Simplified proceedings

**§ 133. Prerequisites for simplified proceedings**

(1) The court may hear a matter in simplified proceedings provided the court is satisfied that this is fair and if infringement of the right for which the action seeks protection is a minor one. The infringement of rights is deemed to be minor in particular when the disputed legal value has a money value and that money value does not exceed 200 euro.

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

(3) Regardless of the infringement being a minor one, and regardless of the consent given by participants of the proceedings or of allocation of the matter to be heard in simplified proceedings, the court may, until it enters a judgment in the matter, order the matter to be heard pursuant to the procedure specified in Division 2 or 3 of this Chapter.

**§ 134. Arrangements in simplified proceedings**

(1) In simplified proceedings, 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 of the proceedings are observed, and that the participants are heard if they so request.

(2) If it facilitates determination of the matter in a manner which is speedier and involves lower costs, in simplified proceedings the court may, amongst other things:
1) make a written record of procedural acts only to the extent deemed necessary by the court;
2) forgo inviting the other participants of the proceedings to state their positions regarding the application to have the record corrected;
3) establish time-limits otherwise than provided in the 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 foresees in relation to proceedings, including explanations of participants of the 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 in the law in respect of delivery of procedural documents and the documents submitted by participants of the proceedings, except in respect of delivery of the action to the respondent and to any third party;
6) forgo conducting written preliminary proceedings or convening a court session;
7) enter a judgment without the descriptive part and reasons pursuant to the conditions specified in section 169 of this Code.

(3) In simplified proceedings, 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 proceedings, the court does not need to hold a court session to hear a person.

(2) In the case that no court session is held in simplified proceedings for hearing a person or persons, such hearing does not need to take place in the presence of other participants of the proceedings and, before entering

judgement, the court is not obligated to inform the other participants of the submissions made during the hearing.

(3) In simplified proceedings, the court may, amongst other means, hear an explanation of a participant of the proceedings via the telephone or, in relation to the hearing of a person, deem the person's written or electronic position 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 positions 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. Rulings which give directions**

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

# Division 5
# Conciliation proceedings

**§ 137. Preconditions for conciliation proceedings**

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

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

**§ 138. Arrangements in conciliation proceedings**

(1) Unless this Division provides otherwise, conciliation proceedings are subject to the provisions governing simplified proceedings.

(2) In conciliation proceedings, the court establishes whether it is expedient to join to the proceedings, in addition to participants of the proceedings, any persons who ae not participants of the proceedings. The joinder is decided in a ruling.

(3) When it has made the preparations for conciliation proceedings, the court summons participants of the proceedings and any persons who have been joined to conciliation proceedings but who are not participants of the proceedings to negotiations, 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) establishes, 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) engages the participants in a discussion concerning settlement of the dispute by way of 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 of the proceedings does not attend negotiations, the court defers the negotiations, or reopens proceedings in the administrative matter in accordance with point 3 of subsection 1 of section 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 proceedings**

(1) Conciliation proceedings are concluded:
1) by approval of the compromise and termination of proceedings in the administrative matter;

2) by ordering a rehearing of the matter without having reached a compromise, if the corresponding application is made by a participant of the proceedings;
3) by ordering a rehearing of the matter without having reached a compromise, in the case that the court does not consider it likely that a compromise can be reached within reasonable time, or considers conciliation proceedings to be impractical for another reason.

(2) If a rehearing is ordered, the initial court panel resumes conduct of proceedings in the matter.

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

**§ 141. Expenses of conciliation proceedings**

The expenses incurred by a participant of 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 the court and of failure to attend the court session

**§ 142. Failure to respond to the court**

(1) Failure to respond to the court by the established time-limit is no obstacle to determining the matter, provided that the time-limit for submitting a response has been duly notified to the participant of the proceedings.

(2) In the case that a participant of the 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 of the proceedings may apply for an extension of the time-limit.

**§ 143. Failure to attend the court session**

(1) Failure by a party or third party to attend the court session does not prevent the court from hearing 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 must be adjourned.

(2) The court may hear 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 hear the matter without the participation of a participant of the 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 of the 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 of the proceedings.

(4) The court does not adjourn hearing a matter for the reason that a participant of the 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 makes its decision without that administrative authority if the court considers this to be possible. In the contrary case, the hearing of the matter must be adjourned.

**§ 144. Refusal to hear an action**

(1) The court may refuse to hear an 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 refuse to hear an 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 refusal to hear an action**

In the cases specified in section 144 of this Code, the court may not refuse to hear the action if:
1) the respondent or third party has a valid reason for demanding that the matter be heard, and the matter can be determined 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 section 143 of this Code, the substantive hearing of the matter in the court session was concluded, the court makes a ruling ordering resumption of proceedings in the matter, provided the party or third party who failed to attend the court session makes the corresponding application before judgment or other decision determining the matter is entered 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 good time.

(2) In the case that the court refuses to hear an action pursuant to section 144 of this Code, the applicant may, within 14 days as of delivery of the corresponding ruling, apply for proceedings in the matter to be reopened, 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 ruling refusing to hear the action must be delivered outside the Republic of Estonia or by means of public announcement, the application to reopen proceedings in the matter may be made within 28 days as of delivery of the ruling. In the case that proceedings in the matter are reopened, they resume, insofar as reopened, at the point in proceedings which was reached before refusal to hear the action.

(3) To obtain resumption or reopening 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 of the proceedings or a representative of that participant, or if refusal to hear the action was unlawful.

**§ 147. Limitations concerning resumption and reopening of proceedings**

(1) The court may refuse to resume or reopen proceedings in the matter if the same participant of 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 section 146 of this Code.

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

**§ 148. Determination of applications**

(1) An application made on the basis fo subsection 1 or 2 of section 146 of this Code for resuming or reopening proceedings in the matter is determined by a ruling. 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 appeal may be lodged against the ruling specified in subsection 1 of this section, and the ruling 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 reopening 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 section 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 of the proceedings or a death or unexpected serious illness of a person close to the participant of the proceedings which prevents the participant of the proceedings from responding to the court or attending court, or endowing a representative with the corresponding authority.

(2) To substantiate an illness which prevented the participant of the proceedings from responding to the court or from attending the court session, the participant of the 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 section 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
# Refusal to hear an action and termination of proceedings

### § 151. Grounds for refusal to hear an action

(1) The court enters a ruling by which it refuses to hear an action, if:
1) the presence of circumstances specified in subsection 1 of section 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 a ruling by which it refuses to hear the action, if:
1) the presence of circumstances specified in subsection 2 of section 121 of this Code is ascertained after the opening of proceedings on the action;
2) it has proved to be impossible, in spite of repeated attempts, to deliver the court's demands or summons to 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 in circumstances specified in section 144 of this Code.

### § 152. Grounds for termination of proceedings

(1) The court terminates proceedings in the matter by a ruling:
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 ruling 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 pursuant to subsection 2 of section 124 of this Code;
3) when the court accepts abandonment 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 point 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 administative 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 specified in points 1 or 3-5 of subsection 1 of this section become apparent before the opening of proceedings on the action, proceedings are terminated without being opened in respect of the action.

### § 153. Abandoning the action

(1) An applicant is entitled to abandon 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 proceedings, and it is obvious that abandonment of the action is contrary to the interests of the applicant, the court refuses to accept an abandonment of the action 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 abandonment 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 of the proceedings or if it is impossible to perform the compromise.

(2) The making of an arrangement which is approved by the court is equivalent to notarial authentication of the arrangement. The compromise may be conditional.

(3) In the case that the compromise contains civil law conditions, it is subject additionally to subsection 8 and 9 of section 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 of the 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 of the 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 proceedings provided in Division 5 of Chapter 14 of this Code.

**§ 155. Procedure for refusing to hear an action and for termination of proceedings**

(1) Where this is possible, the ruling by which the court refuses to hear an action should state how the circumstance which hinders the action from being heard may be rendered inoperative. If the applicant is not represented by an advocate, the court, prior to entering a ruling by which it terminates the proceedings, explains to him or her the consequences of such termination.

(2) If the court finds that the hearing of the action must be refused because determination 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 determine that dispute, the competent court for determining the dispute is appointed by the Supreme Court in accordance with the procedure provided in section 711 of the Code of Civil Procedure.

(3) In the case that a court of higher instance refuses to hear the action or terminates proceedings in the matter, that court, by a ruling, 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 determined the matter refuses to hear the action or terminates the proceedings, that court also annuls the decision it entered in the matter.

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

(5) An appeal may be lodged against the ruling of the administrative court or circuit court by which the court refuses to hear the action, or by which it terminates proceedings or by which it refuses to accept abandonment of the action or approbation of a compromise, and the ruling entered by the circuit court in respect of the appeal may be further appealed to the Supreme Court.

(6) The consequences of refusal to hear the action and termination of proceedings are provided in section 43 of this Code.

# Chapter 17
# Court decision

## Division 1
## Judgment

**§ 156. Judgment as substantive decision**

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

(2) Judgments are subject to sections 435, 441, 446 and 447 of the Code of Civil Procedure and section $2^2$(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 of the 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 heard in a court session, the court may not found its decision on an evidentiary item which was not examined in the court session.

(4) If an evidentiary item was examined and assessed in 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 determined when entering judgment**

(1) When it enters a judgment in the matter, the court assesses the evidence and determines the legislative act 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 objective 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 place 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 determining a matter, the court sets aside any Act of Parliament or other legislative act if that Act of Parliament or legislative act contravenes the Consitution 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 participants of the proceedings are ordered to pay.

**§ 159. Admissions**

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

(2) Admission of the action in 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 determines the matter without holding a court session.

(4) The court refuses to accept an admission if a third party of the matter does not agree to the grant of the action admitted. In this case the court enters a ruling which states its reasons, and determination of the matter proceeds in accordance with standard procedure. The court explains to the third party that in the case of

non-agreement to the grant of an action which has been admitted, the third party may be ordered to pay the procedure expenses of the applicant pursuant to subsection 5 of section 108 of this Code.

**§ 160. Content of the judgment**

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

($1^1$) The court may, in a separate document appended to the decision that orders a participant of the 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 of the proceedings, of the government or a governmental 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 responsible for the area.
[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 pursuant to subsection 2 of section 170 if a participant of the proceedings notifies the court within 10 days as of delivery of the judgment of his or her intention to appeal the judgment.

(3) A judgment may not be entered without a descriptive part and without reasons if any participant of the 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 of the proceedings and of their representatives;
8) the time when the previous court session was held or a reference to the matter being determined by way of written proceedings or by way of simplified proceedings.

**§ 162. Operative part of judgments**

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

(2) In the case that, in the administrative matter, the court sets aside an Act of Parliament or other legislative act 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 determines, in the operative part of the judgment, the conditions for its execution 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 of the 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 of the proceedings;
5) the law applied by the court;
6) conclusions of the court.

(2) If the application is dismissed 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 consideration 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 state that it agrees to the reasons.

**§ 166. Particulars of participants of proceedings**

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

(2) The judgment states the names of the participants of the 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. Money judgment**

(1) If an applicant seeks an order for money compensation or for the payment of money, the court, if it grants the action, also ascertains in the judgment the amount of the money. The court may order the respondent to ascertain the amount of the money and to make the corresponding payment, if ascertainment of the amount of the money by the court requires too much time. The court determines the general conditions for ascertaining the amount of the money and for its payment in the order it issues to the respondent.

(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 satisfied together with the principal claim in the action in such a manner 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 a claim, 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 of the proceedings the right to present their position in relation to this issue. At the same time, the court may also determine 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 judgement.

(2) The court may declare the judgment to be subject to immediate execution pursuant to the conditions and procedure specified in section 247 of this Code.

**§ 169. Judgment in simplified proceedings**

(1) In simplified proceedings, the court may enter a judgment without the descriptive part and the reasons provided all of the following conditions are met:
1) the action is dismissed;
2) the reasons for the court's disagreement with the assertions made by the applicant in the course of court proceedings and for the court's refusal to consider 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 point 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 proceedings, the court may initially pronounce its judgment in public without the descriptive part and the reasons, amongst other things, to limit itself to an oral pronouncement of the operative part of the judgment. In such a case the full text of the judgment must be made public within 15 days starting from

the pronouncement of the operative part, except in the case that the parties and third parties, before the full judgment is made public, declare in writing or in a court session, that they waive the right to appeal the judgment.

**§ 170. Supplemental judgment**

(1) The court which determines a matter may, on the basis of an application of a participant of the proceedings or of its own motion, enter a supplemental judgment if:
1) a claim or application has not been determined 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 of the money and for the payment of that 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 a participant of the proceedings has been ordered to pay.

(2) In the case that a participant of the proceedings notifies the administrative court within 10 days as of delivery of judgment of his or her intention to appeal the judgment, the court supplements the part or parts missing from a judgment which it entered without the descriptive part and the reasons. The participant does not need to give reasons for the intention to appeal the judgment. Supplementing the judgment with the missing part or parts is dealt with by way of written proceedings and the other participants are not notified of the judgment being so supplemented.

(3) If a participant of the 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 section 448 of the Code of Civil Procedure apply to supplemental judgments.

(5) An application for entering a supplemental judgment may be filed starting from the time of 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 of the proceedings had a valid reason not to attend and the participant was not delivered a note regarding the time of public pronouncement of the judgment in advance, the time-limit for filing an application for a supplemental judgment starts to run on the day the judgment is delivered to the participant. The court may, of its own motion, enter a supplemental judgment within 20 days after public pronouncement of the judgment.

**§ 171. Interim judgment and partial judgment**

(1) If the claim made in an action is aimed at obtaining an order for payment of money, in particular for the compensation of damage, and ascertainment of the money amount claimed is materially complicated or unreasonably expensive, yet it is possible for the court to determine whether the claim is founded or unfounded, the court may, on the basis of an application made by a party, enter an interim judgment on the issue of whether the claim is founded or unfounded.

(2) For the purposes of appeals, an interim judgment on whether the claim is founded or unfounded is equivalent to a conclusive judgment. If the interim judgment declares the claim to be well founded, the court continues proceedings to establish the amount of the claim and enters a judgment regarding the amount of the claim. If the court finds that the claim is unfounded, it proceeds to enter conclusive judgment in the matter and discontinues the proceedings.

(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 it expedites the hearing the matter. The court maintains proceedings in respect of any claims which have not been determined.

**§ 172. Determination of applications**

(1) If an application for refusal to hear the action or for termination of proceedings in the matter, including termination on account of abandonment of the action or of 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 determined by the court which made the decision. If the court refuses to hear the action or terminates the proceedings, it also enters a ruling by which it annuls the decision entered in the matter.

(2) After an appeal has been lodged, the acts specified in subsection 1 of this section are performed by the higher court, even if proceedings have not yet been opened on the appeal.

# Division 2

# Announcement and finality of judgments

**§ 173. Public announcement**

(1) A court judgment is publicly announced through the court office or pronounced in a court session pursuant to sections 453 and 454 of the Code of Civil Procedure.

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

(3) Only a valid reason, in particular, the significant volume and complexity of the matter, justifies public announcement 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 proceedings,. The public announcement 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 proceedings. The expiration of the time-limit for public announcement of a judgment in itself does not constitute grounds for annulment of the judgment.

(4) The scheduled time of public announcement 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 of the 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 entered as a result of *in camera*proceedings, only the time of public announcement 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 announcement of a judgment is removed from the court's webpage after 30 days have elapsed since the announcement.

(5) On the basis of a ruling which includes a statement of reasons, the court may, due to a reason specified in subsection 1 or 2 of section 38 of the Code of Civil Procedure, publicly announce only the operative part of its judgment. In that case, a participant of the proceedings may, in addition to delivery 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 announcement of the judgment, initially announce 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 provide a brief orally 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 working day following the session.

**§ 174. Delivery of judgment**

The court delivers its judgment to participants of the proceedings without delay.

**§ 175. Publication of judgments**

(1) A judgment which has become final is published in the designated location of the computer network. This does not affect the attainment of finality of the judgment.

(2) Regardless of whether a judgment has or has not become final, the court may, observing the conditions provided in section 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 the publication 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. The particulars of an agency of the government 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 the harm to the person's right to privacy by observing, amongst other things, the provision of subsection 3 of this section, the court, on the basis of an application of the data subject, or on its own initiative, publishes the judgment without the particulars which risk harm to 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 a other limitation of access provided in the law, the court, on the basis of an application of the interested person, or on its own initiative, only publishes the operative part of the judgment, or does not publish the judgment.

(6) A court ruling is made in respect of any partial publication or non-publication of a judgment pursuant to the applications specified in subsection 2-5 of this section. Where this is necessary and possible, before it makes the ruling the court hears the data subject. The person who made the application may lodge an appeal against the ruling of the administrative court or of the circuit court which dismissed his or her application, and the ruling entered by the circuit court in respect of the appeal may be further appealed to the Supreme Court.

**§ 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) A judgment declared subject to immediate execution becomes final on its being publicly anounced, regardless of any appeals lodged.

(4) A note concerning the attainment of finality of a judgment is made on the judgment pursuant to section 458 of the Code of Civil Procedure by the office of the administrative court which determined the matter.

**§ 177. Consequences of finality of judgments**

(1) A judgment which has become final is binding on participants of the proceedings insofar as it determines 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 assumed that the descriptive part of the judgment provides proof of declarations made by participants of the 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-limit, 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 section 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 a participant of the 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 an assignee who acquired an object which is subject to a dispute but who, at the time of the acquisition, did not know of the judgment or of the bringing of the action.

# Division 3
# Court ruling

**§ 178. Court ruling**

(1) The court enters a ruling in order to determine an application made by a participant of the proceedings concerning a point of procedure or to conduct the proceedings or give directions in the matter. In the cases provided in the law the court may determine the matter by a ruling.

(2) Rulings are subject to sections 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 ruling, rulings are subject to the provisions regarding judgments.

(4) A ruling which may not be appealed may also be made by way of a superscription on the declaration of a participant of the proceedings which is determined by the ruling.

**§ 179. Notification and finality of rulings**

(1) The following are delivered to the participants of proceedings:
1) any ruling which constitutes an execution document;
2) any ruling which may be appealed;

3) any ruling which sets a time-limit for a person to perform a procedural act or which sets the time and place of public pronouncement of the judgment.

(2) A ruling by which the court returns an action, refuses to hear an action or terminates proceedings in the matter is made public in accordance with the procedure governing the public pronouncement of judgments.

(3) A ruling which may be appealed becomes final when, by virtue of the law, and other than in review proceedings, it can no longer be appealed without obtaining restoration of the relevant time-limit, or when the appeal against the ruling is dismissed, or the court refuses to hear the appeal, by a decision which has become final. Unless the law provides otherwise, any other ruling becomes final upon delivery or upon public pronouncement.

(4) A ruling which has become final and by which the court returns the action of refuses to hear the action or terminates proceedings in the matter is published in the computer network in accordance with section 175 of this Code.

# Part 4
# Proceedings before the circuit court

# Chapter 18
# Proceedings on appeals against judgments of administrative courts

## Division 1
## Lodging an appeal against judgment of administrative court

**§ 180. Right to appeal a 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 to 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 of the proceedings independently of the operative part.

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

(3) A participant of the proceedings does not have the right to appeal against a judgment if the participant has waived that right pursuant to subsection 2 of section 169 of this Code.

**§ 181. Time-limit for appeal**

(1) An appeal against a judgment must be lodged within 30 days as of the day on which the judgment was publicly pronounced. If the time of public pronouncement of the judgment was not notified to participants of the proceedings in the court session or if such time was notified at a court session which the participant of the proceedings did not attend because of a valid reason, and if the participant of the proceedings has not been previously delivered a notice concerning the time of public pronouncement of the judgment, the time-limit for appealing the judgment starts to run from the time that the judgment is delivered to the participant. In the case that a judgment entered without the descriptive part or without the reasons is supplemented with the missing part pursuant to subsection 2 of section 170 of this Code, the time-limit for appealing the judgment starts to run from the time that the full judgment has been delivered.

(2) In the case that, when determining the matter, the administrative court has, in the operative part of the judgment, declared a legislative act applicable 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 legislative 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 determines the issue of restoration of the time-limit for lodging the appeal in accordance with the provisions of section 71 of this Code.

**§ 182. Requirements for appeals against judgments**

(1) An appeal against a judgment is lodged in writing to the circuit court who has jurisdiction.
The appeal against judgment must state the following:
1) the names, addresses and procedural status of participants of 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 assumed that he or she agrees to the matter being heard by way of written proceedings;
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 take the evidence, in the administrative court.

(3) An appeal against the judgment of an administrative may not make 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 of the proceedings may submit additional opinions and additional reasons.

**§ 184. Lodging a counter-appeal**

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

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

(3) A counter-appeal against a judgment may be lodged within 14 days as of delivery of an appeal against the judgment to 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 refuses to hear the counter-appeal if the appellant abandons the appeal, if the court refuses to open proceedings on the appeal, if the court refuses to hear the appeal or if proceedings in the matter are terminated.
[RT I, 19.03.2015, 1 – entry into force 29.03.2015]

# Division 2
# Proceedings on appeal against judgment

**§ 185. Application of rules of procedure**

(1) Proceedings on appeal are governed by the provisions regarding proceedings in the court of first instance, unless proceedings on appeal are subject to other provisions and unless the provisions concerning proceedings in the court of first instance are incompatible with the nature of proceedings on appeal.

(2) The circuit court may determine the matter in written proceedings or in simplified proceedings, having regard to the provisions of Divisions 3 and 4 of Chapter 14 of this Code and regardless of the type of proceedings the the administrative court had conducted in the matter. The circuit court does not conduct conciliation proceedings.

**§ 186. Requiring the file of the matter to be produced**

(1) Having received an appeal, the circuit court, without delay, requires the administrative court which conducted proceedings in 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 the proceedings on 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 the opening of proceedings on an appeal against judgment**

(1) Having received an appeal, the circuit court enters a ruling by which it decides whether to open or refuse to open, proceedings on that appeal.

(2) In the case of refusal to open proceedings on an appeal, the appeal is returned by the corresponding ruling without having been heard. When an appeal is returned, it is deemed never 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 obvious 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 obvious 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 section 182 of this Code.

(4) In the case that it is likely that the defect *which prevents the opening*of proceedings on the appeal can be cured, the court enters a ruling by which it refuses to open proceedings on 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 a ruling 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 sourt, 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 entered judgment in the matter.

(6) The court arranges delivery of the ruling returning the appeal to the participant of the proceedings. Together with the ruling, the circuit court returns to the appellant his or her appeal and any annexes to the appeal.

(7) The appellant may lodge an appeal with the Supreme Court against the ruling by which the court refuses to open proceedings on his or her appeal.

**§ 188. Preliminary proceedings**

(1) After having opened proceedings on the appeal, the circuit court:
1) arranges delivery to the other participants of the 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 of the proceedings their right to respond to the appeal, establishes the corresponding time-limit, and explains the right to lodge a counter-appeal;
3) arranges delivery to the other participants of the proceedings of the responses submitted to the appeal;
4) determines any applications by participants of the proceedings which need to be dealt with before the court session or, in written proceedings, before the giving of the judgment 5) selgitab, kas asja lahendamine on võimalik kokkuleppega või muul viisil eelmenetluses;
6) where this is needful, invites the participants of the proceedings to submit supplementary positions or takes other evidence required for determining the matter;
7) where this is necessary, joins to the proceedings any persons specified in points 1, 2 and 3 of subsection 1 of section 15 of this Code

(2) After having opened proceedings on the appeal, the matter is prepared for the hearing by a designated member of the court panel with a degree of thoroughness sufficient to ensure that, in the case a court session is convened in the matter, the matter can be determined in a single such session.

(3) A member of the court panel, sitting alone, determines any applications made by the participants of the proceedings in relation to preparation of the matter for hearing, and enters any rulings which prepare the hearing or give directions in the matter. A refusal to admit an evidentiary item in the matter must be 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 opening of proceedings on the appeal by the circuit court has been done correctly;
2) whether the participant of the proceedings assents to 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 of the proceedings together with the corresponding reasons and with other particulars necessary for determining each application;
5) whether the participant of the 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 of the proceedings is assumed to consent to written proceedings;
6) in the case of presentation of new facts and evidentiary items, the reasons why those facts and items were not presented in the administrative court.

(2) The cour arranges delivery of a response to the appeal to the other participants of the proceedings together with copies of any documents annexed to the response, unless it can be assumed that the participant of the proceedings already has the document or a copy of the document.

**§ 190. Refusal to hear the appeal**

In the case that the circumstances specified in subsection 3 of section 187 of this Code become apparent after the opening of proceedings on an appeal against a judgment, or in the course of the proceedings on that appeal, the court refuses to hear the appeal in consideration of the provisions of subsection 4–7 of section 187 of this Code.

**§ 191. Abandonment of the appeal**

(1) The appellant may, by making a corresponding declaration to the circuit court, abandon the appeal up to the time that the court has concluded hearing that appeal, in the case of written proceedings 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 abandonment of the appeal, the appellant is deemed not to have performed any procedural acts in the appellate instance. Having abandoned 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 of the proceedings has appealed the judgment of the admnistrative court or if a counter-appeal has been lodged after the expiration of the time-limit for appealing the judgment, the circuit court enters a ruling 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 of the proceedings, proceedings are terminated solely in relation to the appeal which was abandoned.

(5) In the ruling concerning abandonment of the appeal, the court states the legal consequences of abandonment of the appeal.

(6) An appeal may be lodged with the Supreme Court against a ruling by which proceedings on the appeal were terminated, as well as against a ruling by which the circuit court refused to accept abandonment of the appeal.

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

The circuit court may decide the matter solely on the basis of the appeal, is the court is finds that the administrative court has significantly infringed a rule of procedure which, in accordance with section 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 for a new hearing.

**§ 193. Scheduling the court session and the time when judgment is delivered in written proceedings**

After opening proceedings on the appeal and receiving the response to the appeal, or after the expiration of the time-limit for submission of the response, the circuit court schedules a court session or, in written proceedings, the time when judgment is to be delivered, establishes the composition of the court panel to hear the matter and arranges delivery to participants of the proceedings of summonses to attend the court session, or, in the case of written proceedings, notifies the parties of the time when judgment is to be delivered in the matter.

**§ 194. Hearing of matters in the session of the circuit court**

(1) If this is considered needful, 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 present a statement, then the adverse party of the proceedings on appeal, then any third parties. The court may limit the duration of the statement. A participant of the proceedings may not be allocated less time than 10 minutes for his or her statement.

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

(4) In the case of conducting the hearing of the matter in the absence of a participant of the 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 of the proceedings to make a closing statement.

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

(1) The circuit court may refuse to hear 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 hearing of an appeal is not refused if:
1) the adverse party or third party in the proceedings on appeal has a valid reason to demand that the matter be heard and it is possible to determine 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 against judgment was returned to the appellant pursuant to subsection 4 of section 187 of this Code on account of failure to respond to the demands of the circuit court, on the basis of the corresponding application from the appellant the circuit court reopens the proceedings on appeal 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 refused to hear the appeal against judgment for the reason of the appellant's absence from the court session, resumption and reopening of the proceedings is possible on the conditions provided in section 146 of this Code.

# Division 3
# Judgment of the circuit court

**§ 197. Scope of hearing of appeals against judgments**

(1) The scope of verification performed by the circuit in relation to an appeal against a judgment of an administrative court to determine whether that judgment is in accordance with the law and whether it states its reasons, is limited to the issues contested in the appeal.

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

**§ 198. Facts and evidence to be considered in proceedings on appeal**

(1) In hearing and determining an appeal against a judgment, the circuit court proceeds on the basis of facts which have been established in the course of lawful proceedings before the administrative court, and which the circuit court does not consider necessary to examine any further. If this is necessary for a just determination 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 determined by the administrative court and there are no grounds to consider the course of actions of the participant of proceedings to have been pursued in bad faith.

(3) A participant of 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 evidently necessary for a better determination of the matter. Before the circuit court relies on a new fact or evidentiary item, participants of the proceedings must be given an opportunity to submit their opinions concerning that fact or item.

(4) An admission made by a participant of the 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 for a new hearing to the administrative court, if:
1) the matter was determined by the court (judge), who by law did not possess the authority to determine 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 is no record of the court session in the matter;
5) the matter was determined 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 for a new hearing to the administrative court, if:
1) the court determined any rights or obligations of a person who was not joined to proceedings in the administrative court and whose joinder in the proceedings on appeal does not allow for speedier and better determination of the matter;
2) to a significant extent, the judgment does not state its reasons as required by the 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 against the judgment of the administrative court, the circuit court, instead of returning the matter to the administrative court, determines the matter substantively.

**§ 200. Powers of the circuit court in determining appeals against judgments**

When determining an appeal against a judgment, the circuit court has the power to:
1) dismiss 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 for a new hearing;
3) vary or annul the judgment of the administrative court and enter a new judgment without returning the matter for a new hearing;
4) vary the reasons stated in the judgment of the administrative court while upholding the operative part of the judgment;
5) make a ruling by which it annuls the judgment of the administrative court in part or in full and refuse to hear 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 determines any 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 for a new hearing, 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 assents to 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 assents to the reasons given by the administrative court.

(5) In simplified proceedings, the circuit court may enter a judgment without the descriptive part or the reasons, provided all of the following conditions are fulfilled:
1) the appeal against the judgment is dismissed;
2) the reasons for disagreeing with the assertions made by the appellant in the proceedings on appeal and for refusal to consider 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 point 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) In simplified proceedings, the circuit court may initially pronounce its judgment in public without the descriptive part and the reasons, amongst other things, to limit itself to an oral pronouncement of the operative part of the judgment. In such a case the full text of the judgment must be made public within 30 days starting from the pronouncement of the operative part, except in the case that the parties and third parties, before the full judgment is made public, declare in writing or in a court session that they waive the right to lodge an appeal in cassation against the judgment.

**§ 202. Consequences of annulment of a judgment of administrative court and of return of the matter for a new determination**

(1) If a judgment of an administrative court is annulled and the matter is returned for a new determination, proceedings resume in the administrative court from the point reached before the hearing of the matter was concluded. The administrative court undertakes anew any procedural acts which the circuit court in its judgment has declared unlawful.

(2) The opinion which the circuit court expresses concerning interpretation of application of a rule of law in a judgment by which it annuls the judgment against which it has received an appeal has binding force in respect of the court which entered the judgment annulled when that court hears the matter anew.

# Chapter 19
# Appeal against a ruling in the circuit court

**§ 203. Lodging an appeal against a ruling**

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

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

**§ 204. Procedure for lodging appeals against rulings**

(1) An appeal against a ruling is drawn up in writing, addressed to the circuit court and submitted to the administrative court whose ruling the appeal contests.

(2) The time-limit for lodging an appeal against a ruling is 15 days as of delivery of the ruling to the person who lodges the appeal.

(3) In the case that, in determining the matter by a ruling, the court declared a generally legislative act to be unconstitutional and set it aside, the time-limit for appealing the ruling does not start to run before the judgment entered in constitutional review proceedings by the Supreme Court regarding the legislative act set aside has been pronounced.

**§ 205. Requirements for appeals against rulings**

(1) An appeal against a ruling states the following:

1) the name of the court which entered the ruling, the date of the ruling and the docket number of the administrative matter;
2) the subject matter in respect of which or the person in respect of whom the ruling was entered;
3) a clearly stated application of the appellant, showing the scope within which he or she contests the ruling of the administrative court, and the decision that the appellant seeks;
4) the reasons of the appeal against the ruling;
5) particulars concerning payment of the state fee.

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

**§ 206. Proceedings in administrative courts on appeal against a ruling**

(1) The administrative court determines the opening of proceedings on an appeal against a ruling immediately after it has received the appeal. The court verifies whether the law allows the appeal to be lodged and whether the appeal has been lodged in accordance with the requirements prescribed by the law and within the relevant time-limit. Unless the law provides otherwise, the opening of proceedings on an appeal against a ruling is governed by the provisions concerning the opening of proceedings on an appeal against a judgment in the circuit court. The ruling which orders the opening of proceedings on an appeal against a ruling may be drawn up as a superscription on the appeal and does not need to be notified to participants of the proceedings.

(2) A ruling refusing to open proceedings on an appeal against a ruling may be appealed. The ruling entered by the circuit court in respect of the appeal is not subject to further appeal.

(3) The administrative court delivers to participants of the proceedings whose legal position the appeal against a ruling concerns copies of the appeal and of any annexes thereto and sets a time-limit by which they are to respond, or orders them to respond, to the appeal. An appeal against a ruling does not need to be delivered if the administrative court refuses to open proceedings on the appeal.

(4) If the administrative court finds that an appeal against a ruling is well founded, it issues a ruling by which it grants the appeal.

(5) If the administrative court does not grant the appeal against a ruling, it must transmit it together with any annexes and related procedural documents for hearing and determination to the circuit court which has jurisdiction of the matter. The administrative court ruling which dismisses an appeal against a ruling may be drawn up as a superscription on the appeal. This ruling does not need to be transmitted to participants of the proceedings.

**§ 207. Verification by the circuit court of appeal against a ruling**

(1) When it receives an appeal against a ruling on which proceedings have been opened, the circuit court verifies whether the administrative court's opening of proceedings in the matter is well founded and performs any procedural acts which the administrative court has not performed in relation to the appeal.

(2) In the case that, in the assessment of the circuit court, the opening of proceedings on an appeal against a ruling is unfounded, the circuit court makes a ruling by which it refuses to hear the appeal against the ruling.

(3) In the case that, in the assessment of the circuit court, a decision to refuse to open proceedings on an appeal against a ruling is unfounded, the circuit court annuls the ruling of the administrative court by which the administrative court refused to open proceedings, and determines the appeal against the ruling.

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

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

(2) The court whose ruling is contested, and the circuit court which is to hear an appeal against the ruling, may, before determining the appeal, order interim relief in relation to the appeal, including staying the execution of the ruling contested or applying other measures of interim relief.

**§ 209. Abandonment of appeal against a ruling**

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

**§ 210. Determination of an appeal against ruling**

(1) In the circuit court an appeal against a ruling is heard by a single judge of the circuit court. An appeal lodged against a ruling by which the court refused to open proceedings on an action, refused to hear an action, or terminated proceedings in a matter, or any other ruling which bars further proceedings in a matter, is heard and determined by a three-member panel of the circuit court. An appeal against a ruling made in relation to an issue of interim relief may be determined by a single judge of the circuit court, provided this is necessary to expedite determination of the matter.

(2) An appeal against a ruling is determined by a ruling which includes a statement of its reasons.

(3) If the circuit court finds that an appeal against a ruling is well founded, it annuls the ruling and, where this is possible, itself enters a new ruling in the matter. Where this is necessary, the circuit court returns the matter for a new determination to the court which made the annulled ruling.

(4) In the case that the court does not consider it necessary to hold a court session in the matter, an appeal against a ruling is determined by way of written proceedings. If this is necessary, the court panel which hears an appeal against a ruling may take new evidence in the matter.

(5) The ruling entered by the circuit court in respect of an appeal against a ruling is delivered to participants of the proceedings.

(6) Unless the law provides otherwise, the ruling of the circuit court becomes final if no appeal against that ruling is lodged with the Supreme Court or if that court refuses to open proceedings on the appeal against the ruling or dismisses the appeal.

# Part 5
# Proceedings in the Supreme Court

# Chapter 20
# Cassation proceedings

## Division 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 of the 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 the proceedings, if the judgments of the lower courts affect that person’s rights and freedoms which are protected by the law.

(4) A participant of proceedings does not have the right of cassation if the participant has waived that right pursuant to subsection 6 of section 201 of this Code.

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

(6) Appellant in cassation means a 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 of the proceedings in the court session or if such time was notified at a court session which the participant of the proceedings did not attend because of a valid reason, and if the participant of the 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 delivery of the judgment. Where, in simplified proceedings, the judgment entered without the descriptive part or the reasons is supplemented by the missing part in accordance with subsection 6 of section 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 section 71 of this Code.

(3) Where the circuit court, when determining the administreative matter, in the operative part of the judgment declared a legislative act applicable in the matter to be unconstitutional and set that legislative act aside, the time-limit for lodging an appeal in cassation is calculated to start from the pronouncement of the decision concerning the legislative act 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 of the 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 heard by way of written proceedings;
6) particulars concerning the payment of the security on cassation;
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 of the 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 of the proceedings as a response to the appeal in cassation lodged in the matter in order to be heard jointly 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 delivery 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 refuses to hear the 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 abandons the appeal in cassation, if the court refuses to open proceedings on the appeal in cassation or refuses to hear that appeal, 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 conducted proceedings in 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 proceedings in cassation, the Supreme Court returns the file to the court which conducted proceedings in the matter.

**§ 217. Refusal to open proceedings on an appeal in cassation**

(1) In the case of a defect which precludes the appeal in cassation from being heard but which can presumably be cured, the court enters a ruling by which it grants the appellant a reasonable time-limit for curing the defect and, pending compliance, refuses to open proceedings on 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 a ruling 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 section 211 of this Code.

**§ 218. Response to an appeal in cassation**

(1) After accepting an appeal in cassation which complies with the requirements provided in the law, the Supreme Court arranges delivery of copies of that appeal and of any annexes to the appeal to the other participants of the proceedings. Concurrently with the delivery of the appeal, the Supreme Court informs participants of the 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 of the 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 prevents proceedings from being conducted on the appeal;
2) whether the participant of the proceedings assents to 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 of the proceedings founds his or her objections;
4) the applications of the participant of the proceedings together with the reasons for those applications and other particulars necessary for determining each application;
5) whether the participant of the 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 proceedings in the matter.

(3) [Repealed – RT I, 19.03.2015, 1 – entry into force 29.03.2015]

(4) The Supreme Court arranges delivery to the other participants of the proceedings of any response and any other position of a participant of the 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 of the proceedings has the document or a copy of the document.

**§ 219. Deciding the opening of proceedings on an appeal in cassation**

(1) When the time-limit established for the adverse party any third party in the proceedings in cassation to submit a response to the appeal in cassation has expired, the Supreme Court, acting as a panel of three members, decides the opening of proceedings on the appeal without summonsing the participants of the proceedings.

(2) In the case that is is evident to the Supreme Court that the opening of proceedings on the appeal is well founded, or is unfounded, the court may decide the opening of proceedings on the appeal without transmitting the appeal to the other participants of the proceedings, or before the expiration of the time-limit established for submission of responses to the appeal.

(3) The Supreme Court opens proceedings on an 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 point 1 of this subsection, the determination of 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 proceedings are opened on the appeal in cassation, the opening of proceedings on a counter-appeal in cassation may only be refused for the reason that that counter-appeal does not comply with the requirements provided in the law.

(5) If proceedings were opened in respect of one of two or more appeals in cassation lodged with the Supreme Court with a view to the opening of proceedings in cassation in respect of the same circuit court judgment, proceedings are opened also on those other appeals which comply with the requirements.

(6) The Supreme Court refuses to open proceedings on an appeal in cassation if it is convinced that none of the grounds provided in subsection 3 of this section exists for the opening of proceedings in relation to the appeal. Proceedings do not need to be opened on the appeal also in the case that the Supreme Court is convinced that the conduct of proceedings on the appeal does not allow the aim of the appeal to be achieved.

(7) The opening of proceedings on an appeal in cassation, or refusal to open such proceedings, is formalised as a ruling of the Supreme Court. The ruling concerning the opening of proceedings, or refusal to open proceedings on such appeal sets out the legal basis for the opening of, or refusal to open, those proceedings. A copy of the ruling is sent to all participants of the proceedings.

(8) In the case of refusal to open proceedings on an appeal in cassation, the file is returned to the relevant court.

(9) The outcome of determination of an application for the opening of proceedings on 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 of the proceedings and a general description of the appeal. In the case of an application to open proceedings on an appeal lodged in proceedings which have been declared *in camera*, only the outcome of the determination and the docket number of the administrative matter together with a note concerning the *in camera*status of the proceedings is published on the website. Refusals to open proceedings are not published on the website for the reason that in such cases the appeal did not comply with the requirements provided in the law and was therefore returned. The particulars concerning determination of the application to open proceedings on the appeal are removed from the website when 30 days have elapsed since publication of the notice concerning determination of the application.

**§ 220. Refusal to hear an appeal in cassation**

(1) In the case that, after the opening of proceedings on an appeal in cassation, it becomes apparent that the appeal does not comply with the requirements provided in the 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 a ruling in which, setting out the relevant reasons, it refuses to hear the appeal.

(2) In the case that it is likely that the defect which prevents the opening of proceedings on the appeal can be cured, the court enters a ruling by which it refuses to open proceedings on the appeal in cassation 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 refuses to hear 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. Abandonment of appeal in cassation**

(1) The appellant in cassation may, by making a corresponding written declaration to the Supreme Court, abandon the appeal in cassation up to the time that the court concludes hearing that appeal, in the case of written proceedings 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 abandonment of an appeal in cassation, the appellant is deemed not to have performed any procedural acts in the cassation instance. Having abandoned 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 proceedings in cassation.

(3) If the declaration concerning abandonment of the appeal in cassation is made outside the court session, the court notifies the other participants of the proceedings of the making of the declaration, setting a time-limit for those participants to submit their responses. If the other participants of the proceedings wish the applicant to be ordered to pay the procedure expenses, they must include the corresponding statement in the response.

(4) In the case that the appeal in cassation is abandoned, and if no other participant of the proceedings has lodged an appeal against 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 a ruling by which it terminates the proceedings in cassation.

(5) In the case that, within the time-limit for cassation, several participants of the proceedings have lodged an appeal in cassation, proceedings are terminated solely in respect of the appeal which was abandoned.

(6) The Supreme Court accepts abandonment of an appeal in cassation by a ruling which states the legal consequences of abandonment of the appeal in cassation.

**§ 222. Abandonment of appeal and compromise**

In the case that it accepts an abandonment of appeal, or approves a compromise, the Supreme Court enters a ruling by which it annuls previous judgments and terminates proceedings in the matter.

# Division 2
# Hearing of appeals in cassation in the Supreme Court

**§ 223. Determination of matters in written proceedings**

(1) The Supreme Court hears appeals in cassation by way of written proceedings, provided it does not consider it necessary to convene a court session. If, during written proceedings, the court finds that a court session should be convened, it schedules the court session.

(2) When hearing an appeal in cassation by way of written proceedings, the Supreme Court establishes a time-limit within which participants of the proceedings may submit to the court supplementary declaration or position, appoints the court panel to determine tha matter, announces the time of publication of the judgment and notifies this to the participants of the proceedings.

**§ 224. Scheduling a session of the Supreme Court**

Having opened proceedings on an appeal in cassation, the Supreme Court schedules a court session, sets the place where the session is to convene, appoints the court panel determining the matter and arranges delivery to participants of the proceedings of the summons to attend the session. Where this is possible, the court has regard to the opinions of participants of the 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. Hearing of the matter in a session of the Administrative Law Chamber of the Supreme Court**

(1) The court session is opened by the presiding justice who announces the composition of the panel hearing the administrative matter and explains which administrative matter, and on whose appeal in cassation, is to be heard.

(2) The court establishes attendance at the court session of participants of the proceedings, verifies their authority and asks the appellant in cassation and the other participants of the proceedings whether they have any motions for recusal or other applications.

(3) When an administrative matter is heard in a court session, the justice who has prepared the matter may, where this is needful, present a brief report on the matter, in whcich he or she provides and overview of the previous proceedings in the matter and of the substance of the appeal in cassation and 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 allotted for the statements in court of the participants, ensuring that all participants enjoy equal speaking time.

(5) When the parties of the proceedings in cassation 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 announcement of a judgment may be extended.

**§ 226. Referral of administrative matter to the full panel of the Administrative Law Chamber**

(1) On proposal of a justice sitting on the panel which deals with an administrative matter, the matter is referred for the hearing 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 determination of the matter;
2) the majority of the panel favours overruling 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 a ruling a copy of which is transmitted to participants of the proceedings. Timely notice is given to the participants regarding the time and place of the holding of the new court session, or of the hearing of the matter by way of written proceedings, and of the composition of the panel to hear 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 a 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) A 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 of a special panel 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 each of the court's 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 a ruling of the Administrative Law Chamber, the administrative matter is referred for determination to 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 recognise, 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, determination of the matter by the Supreme Court *en banc*is important from the point of view of uniform application of the law;
3) a prerequisite for disposing of the administrative matter is determination of an issue to be dealt with in constitutional review proceedings.

(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 advisory opinions on questions 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 the protocols thereto.

(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 for the Supreme Court.
[RT I, 26.06.2017, 17 - entry into force 06.07.2017, section 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.]

# Division 3
# Judgment of the Supreme Court

**§ 229. Scope of hearing 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 verifies 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 of the proceedings in the administrative court or in the circuit court is binding also in the proceedings in cassation.

**§ 230. Powers of the Supreme Court in cassation proceedings**

(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 section 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 adminisrtative court and has not returned the matter for a new hearing to that court, the Supreme Court annuls the judgments of the lower courts and returns the matter to the administrative court for a new hearing.

(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 section 199 of this Code.

(4) An infringement not mentioned in subsections 1 and 2 of section 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 the matter in the circuit court and is such that it cannot be cured in cassation proceedings.

(5) When hearing an appeal in cassation, the Supreme Court has the power to
1) dismiss 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 insofar as it annulled the judgment, for a new hearing 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 for a new hearing, or refuse to hear 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 for a new hearing 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 refused to hear the action or the appeal against judgment or should have terminated proceedings in the matter, the Supreme Court enters a ruling in which it annuls the judgment of the circuit court or the judgments of both courts, and also refuses to hear 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 determines an appeal against the judgment of a circuit court in 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 of the proceedings in the proceedings in cassation 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 of the 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 in simplified proceedings, the Supreme Court may, when it dismisses 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 ruling of the Supreme Court is transmitted to participants of the proceedings. A copy of the judgment or ruling is sent to the participants within five days as of the making of the judgment or ruling. The day on which a judgment or ruling is made is the day on which that judgment or ruling is signed.

(2) A judgment of the Supreme Court or a ruling of the Supreme Court by which the court refuses to hear an 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
# Appeal against a ruling to the Supreme Court

**§ 234. Application of provisions governing proceedings in cassation**

Unless the provisions of this Chapter and the nature of the appeal against a ruling determine otherwise, the lodging of an appeal against a ruling and the hearing of that appeal is governed by the provisions of the Chapter regarding proceedings in cassation.

**§ 235. Right of appeal against a ruling and the time-limit for the appeal**

(1) A party and third party has the right to lodge an appeal against a ruling of the circuit court drawn up as a separate document, provided the law permits such appeal or if the ruling amounts to a hindrance of further proceedings in the matter. Unless this Code provides otherwise, in the case of any other ruling an objection may be raised in the appeal in cassation.

(2) An appeal against a ruling may only rely on the fact that the circuit court has, when making the ruling, incorrectly applied a rule of substantive law or significnatly 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 appeal against a ruling is lodged with the Supreme Court within 15 days from delivery of the ruling to the appellant.

(4) In the case that the court, when determining the matter, declared a legislative act applicable in the matter to be unconstitutional and set that act aside, the time-limit for lodging the appeal against the ruling 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 appeals against rulings**

An appeal against a ruling must state, amongst 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 ruling appealed, the date of the ruling and the docket number of the administrative matter;
3) the subject matter in respect of which or the person in respect of whom the ruling was made;
4) a clearly stated application of the appellant, showing the scope within which he or she contests the ruling of the circuit court and the decision he or she seeks;
5) reasons for the appeal against the ruling, including amongst other things the facts which support the claim and because of which, in the opinion of the appellant, the ruling under appeal is unlawful;
6) particulars concerning the payment of the security in cassation;
7) a list of the document appended to the appeal.

**§ 237. Abandonment of appeals against rulings**

(1) The person who lodged the appeal against a ruling may abandon that appeal until the hearing of the matter is concluded, in the case of written proceedings 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 abandonment of an appeal in a ruling by which it terminates proceedings on the appeal. In the case of abandonment of the appeal, the appellant may not lodge a new appeal against the ruling appealed.

**§ 238. Determination of appeals**

(1) The Supreme Court arranges delivery of copies of the appeal and of any annexes to the appeal to participants of the proceedings and invites them to submit, or allows them to submit of their own initiative, a response to the appeal against the ruling, except in the case that the ruling does not affect the rights of the other participants of the proceedings.

(2) The appeal against the ruling is heard by way of written proceedings; where necessarym the court may convene a court session. If the Supreme Court finds the appeal to be well founded, it annuls the ruling appealed and enters a new ruling, 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 ruling, or to another circuit court. The Supreme Court may also annul any ruling entered in the matter by the administrative court and return the matter for a new hearing to the administrative court.

(3) The ruling 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 appeal against a ruling does not suspend the execution of the contested ruling.
[RT I, 19.03.2015, 1 – entry into force 29.03.2015]

(5) The Supreme Court may, prior to deciding the appeal against a ruling, order interim relief in relation to the appeal, including staying the execution of the ruling 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 governing cassation proceedings**

Unless this Chapter provides otherwise, the lodging of petitions for review and the hearing of such petitions is governed by the provisions of the Chapter concerning proceedings in cassation.

**§ 240. Grounds for review**

(1) On the basis of an application from a participant of the proceedings or any other person whom the court should have joined to the proceedings when dealing with the matter, judgments and court rulings which have become final may be reviewed in review proceedings 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 of the proceedings was not notified of the proceedings in accordance with the law, amongst other things the action was not delivered to the participant, or the participant of the proceedings was not summonsed to court in accordance with the law, although the decision concerned him or her;

3) a participant of the proceedings was not represented by a duly authorised person, although the decision concerned him or her, except in the case that the participant of the 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 crminal offence by the judge or a participant of the proceedings or a representtive of such participant, which has been committed in the course of the examination or hearing of the matter under review 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 act or a provision of such act, or the omission to issue a legislative act, which served as the basis for the court decision in the administrative matter under review;
8) the grant, on account of infringement of the European Convention for the Protection of Fundamental Rights and Freedoms or of any protocol to that convention, of an application lodged with the European Court of Human Rights against a judgment or ruling entered in an administrative matter, provided the infringement may have affected the determination 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 of the proceedings did not know and could not have known and in the case of the presentation or reliance on which in the proceedings it is obvious that a different court decision would have been entered.

(3) A petition for review pursuant to the ground specified in point 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 pursuant to the time-limit established in paragraph 1 of Article 35 of the European Convention for the Protection of Fundamental Rights and 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 of the proceedings.

(5) Review of a matter is excluded if the participant of the 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 objection or action was dismissed. Review is also excluded in respect of the court rulings regarding which the law does not permit a further appeal to be lodged.

**§ 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 of the proceedings was not represented in the proceedings, a petition for review may be lodged within two months starting the day on which the decision was delivered to the participant of the 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 delivery by publication.

(2) In the case specified in point 8 of subsection 2 of section 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 act or a provision of such act or the omission to issue a legislative act which served as the basis for the court decision entered in the administrative matter under review is declared unconstitutional in constitutional review proceedings in 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 of the proceedings had not participated in the proceedings or was not represented, or in the case specified in point 8 of subsection 2 of section 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 pursuant to subsection 2 of section 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 heard by way of written proceedings;
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 of the proceedings in order to prove facts which support the petition are not permitted.

**§ 243. Preparations for hearing a petition for review**

(1) Having received a petition for review, the Supreme court verifies whether the petition meets the relevant 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 accepted by the Supreme Court is transmitted by that court to the other participants of the proceedings. Concurrently with the transmission of the petition for review the Supreme Court may require participants of the 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 of the proceedings may submit written objections also on their own initiative.

(4) The response must state whether the participant of the proceedings assents to 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 abandon 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 abandonment of the petition, the court terminates proceedings on the petition by a ruling.

**§ 244. Deciding the opening of proceedings on a petition for review**

(1) The Supreme Court decides the opening of proceedings on a petition for review within reasonable time. Proceedings are opened on the petition if the facts submitted in that petition give reason to believe that a ground for review provided in the law is present. When it opens proceedings on a petition for review, the Supreme Court may, where this is necessary, by ruling, suspend in part or in full the execution of the judgment or ruling entered in the administrative matter under review.

(2) In the case of refusal to open proceedings on the petition for review, by ruling of the Supreme Court that petition is included in the file of the administrative matter which is returned to the administrative court. A copy of the ruling 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. Determination of petition for review**

(1) If there are no grounds for review, the Supreme Court dismisses the petition for review.

(2) If the Supreme Court finds that a petition for review is well founded, it enters a judgment or a ruling 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 ruling in the matter.

# Part 6

# Specialised proceedings

# 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 of the proceedings do not have to execute the judgment appealed, except in the case in which the judgment is subject to immediate execution.

**§ 247. Immediate execution of court decisions**

(1) A court decision which has been declared to be subject to immediate execution is executed before it becomes final. The court enters a separate ruling in which it declares the decision to be subject to immediate execution.

(2) Court decisions which are subject to immediate execution 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 in the law.

(3) The court may, on the basis of an application of a participant of the proceedings and by a separate ruling, declare a court decision to be subject to immediate execution also in the case that execution of the decision at a later date would materially harm the rights of a participant of the proceedings, or would be subject to difficulty or impossible. When declaring a court decision to be subject to immediate execution, the court has regard to the rights of other participants of the proceedings and the public interests. Where this is possible, the court invites the other participants of the proceedings to submit their position regarding the immediate execution.

(4) When declaring a court decision to be subject to immediate execution the court may require the participant of the 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 immediate execution is suspended or terminated.

(5) An appeal may be lodged against the ruling which declares a court decision to be subject to immediate execution, or refuses to make such declaration. The ruling entered by the circuit court in respect of the appeal is not subject to further appeal.

(6) The court may, at any time and on the basis of an application from a participant of the proceedings, enter a ruling by which it suspends the execution of the court decision declared to be subject to immediate execution.

(7) Immediate execution may not be ordered in respect of a court decision which has been annulled or varied by a new decision which has not yet become final.

(8) Anything received pursuant to a court decision declared to be subject to immediate execution, and to any administrative act issued on the basis of that decision, must be returned when the decision subject to immediate execution 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 of the proceedings to return anything he or she received pursuant to 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 subject to immediate execution.

**§ 248. Failure to execute a court decision which has become final**

(1) In the case of failure to execute a court decision or a compromise approved by the court, the court imposes a fine of 32,000 euros on the participant of the proceedings whose fault this is. The imposition of the fine does not relieve the participant who failed to execute the order made 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 of the proceedings in whose interest the order was 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 an order made 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 an administrative court.

# 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 a ruling 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 a ruling ordering interim relief tha 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 ruling for interim relief. In the case that interim relief is no longer needed, the court refuses to hear the application.

(4) The rights, obligations and prohibitions which arise from an interim relief ruling, as well as any administrative acts issued on the basis of the ruling, are valid until judgment in the matter becomes final or until a ruling concerning return of the action or refusal to hear the action or termination of proceedings in the matter becomes final. A ruling 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 a ruling concerning return of the action, or refusal to hear the action or 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 a ruling 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) A ruling 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 a ruling ordering interim relief, apply several measures at the same time.

(3) The ruling ordering interim relief may be conditional.

**§ 252. Determining an application for interim relief**

(1) The court determines an application for interim relief without delay in a ruling which states its reasons. If the court considers it necessary to hear participants of the proceedings first, it may determine the application at a later date. The presentation of evidence and of opinions of the other participants of the proceedings may only be required in the case that this is possible without significantly harming the rights and interests to be considered when entering a ruling for interim relief.

(2) Unless this Chapter provides otherwise, the hearing of an application for interim relief is subject to the provisions governing simplified proceedings.

(3) A ruling for interim relief, including a ruling which dismisses the application for interim relief and varies the ruling for interim relief or revokes such a ruling, becomes final upon notification, unless the court which entered the ruling, or the court which hears an appeal lodged against the ruling, orders otherwise.

(4) The court may order interim relief for a period of up to 30 days by means of a ruling which does not set out its reasons. Such a ruling 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 of the proceedings do not contest the ruling, interim relief is applied in the matter until the due date provided in subsection 4 of section 249.

(5) The court arranges delivery of the ruling for interim relief without delay to the respondent, the applicant and any persons whose rights may be affected by the ruling.

(6) The court transmits the ruling 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 of the proceedings may lodge an appeal against the ruling for interim relief or the ruling concerning refusal of interim relief directly to the higher court. The ruling entered by the circuit court in respect of the appeal is not subject to further appeal.

**§ 253. Substitution of interim relief measure and revocation of interim relief**

(1) The court may, on the basis of an application of a participant of the proceedings, or of its own motion, at any stage of the proceedings, revoke or vary the ruling for 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 of the proceedings, giving them the opportunity to present objections, except in the case that this would result in a delay of the proceedings which would jeopardise, to a significant degree, the rights or interests to be considered in applying interim relief.

(3) The court revokes interim relief by the judgment if the action is dismissed, and by the ruling if the action or challenge is returned or if a refusal to hear the same is entered, 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.

**§ 254. Liability and return of performance**

(1) An administrative court may, pursuant to section 248 of this Code, impose a fine on any person who fails to comply with a ruling concerning interim relief. The applicant is entitled to claim, in reliance on the State Liability Act or the Law of Obligations Act, that the person who was at fault with respect to the ruling for interim relief not being complied with, make good the resulting harm.

(2) Anything that has been received pursuant to a ruling concerning interim relief and to any administrative act issued on the basis of such a ruling must be returned in proportion to the degree in which the action was dismissed, 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 ruling, of its own motion or on the basis of an application from an interested party, impose an obligation on a participant of the proceedings to return what that participant has received on the basis of the ruling concerning interim relief or of an administrative act issued pursuant to the ruling, or to eliminate any other consequences of the application of interim relief.

(3) Execution of a ruling ordering interim relief does not give rise to a claim for compensation, provided the execution was lawful.

# 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 of 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 Chpater provides otherwise, protests and the administrative court proceedings opened on 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 an applicant.

(2) The consequences of abandoning 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. Court proceedings and judgment**

(1) Where there are no third parties in the matter or where the third parties consent to this, the court may hear the protest by way of written proceedings or simplified proceedings also in the case that the parties do not consent. The absence of a party from the court session does not preclude the matter from being heard.

(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 a contract in public law 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 contract in public law;
2) compensation for harm caused by a breach of the contract in public law.

(2) In the cases provided in the 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 proceedings 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 determine a matter, and does not provide otherwise in respect of the matter, and the applicant has duly made its claim in the pre-action proceedings, an action may be brough within 30 days as of the day that the decision concluding the pre-action proceedings was notified to the applicant.

(4) In addition to the provision of subsection 1 of section 48 of this Code, an action brought against a private individual may be joined to an action brought pursuant to 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. Court proceedings and judgment**

(1) When an action brought against a private individual is delivered, 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) In determining 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 any orders for payment made on a 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 in the 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 determination 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 determination 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. Participants of the proceedings concerning the grant of permission are the applicant for permission and, in the cases provided in the law, the person in whose respect the grant of permission is requested.

(4) Unless the law provides otherwise, the court hears the application and decides the grant of permission without delay in a written ruling made by a single judge in simplified proceedings. 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 of the proceedings and their representatives are summonsed to the session, yet their absence from the session does not preclude the hearing and determination 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 proceedings.

(7) The applicant for permission may withdraw the application and the participants of the proceedings may conclude a compromise, applying, respectively, sections 153and 154 of this Code.

**§ 265. Court rulings**

(1) An application seeking the grant of a permission is determined by a court ruling.

(2) The court may, by ruling, vary or revoke any permission it has granted for the taking of an administrative measure.

(3) The ruling by which permission is given, the ruling by which permission is refused and the ruling by which the permission is varied or revoked is subject to section 465 of the Code of Civil Procedure. The ruling is delivered to the participants of the proceedings unless the law provides otherwise. The ruling enters into force on delivery to the applicant for permission.

(4) Unless the law provides otherwise, a ruling which has entered into force is published in the computer network in accordance with section 175 of this Code.

(5) A participant of the proceedings may lodge an appeal against a ruling by which permission is given, against a ruling by which permission is refused and against a ruling by which the permission is varied or revoked, and the ruling 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 determination of annulment, mandatory, reparation and declaratory actions in procurement matters.

(3) Section 269 of this Code also applies to the bringing and determination 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 subsection 2 or $2^1$of section 117 of the Public Procurements Act, and also against a decision of the Appeals Committee.

(2) The provisions of administrative court procedure which regard 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 which regard 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 Procurements 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,or applicant or a person interested in participating in public tender proceedings may seek protection of its rights by bringing an action against the actions of the contracting authority, provided it has completed proceedings before the Public Procurement Appeals Committee, except in procurement matters related to a state secret or to foreign intelligence classified as secret.
[RT I, 23.12.2013, 1 – entry into force 01.01.2014]

($1^1$) 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 Appeals 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 of 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 Appeals Committee is not the respondent in a procurement matter. The court may join the Appeals Committee to proceedings in a procurement matter pursuant to point 2 or 4 of subsection 1 of section 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 Appeals Committee.

($1^1$) 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 register of public procurements, of the voluntary notice, if the action is brought on a ground provided at point 1 of subsection $2^1$of section 117 of the Public Procurement Act;
3) 30 days from the publication, in the register of public procurements, of the report of the procurement, if the action is brought on a ground provided at points 2, 4 or 5 of subsection $2^1$of section 117 of the Public Procurement Act;
4) 30 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, if the action is brought on a ground provided at point 6 of subsection $2^1$of section 117 of the Public Procurement Act;
5) 6 months from the conclusion of the public contract, if the action is brought on a ground provided at point 3 of subsection $2^1$of section 117 of the Public Procurement Act.
[RT I, 23.12.2013, 1 – entry into force 01.01.2014]

(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 point 1 of this subsection, becomes final or

3) within 30 days as of the day on which the court ruling which approves a compromise that grants the claim specified in point 1 of this subsection, becomes final.

**§ 271. Declarations of participants of proceedings in procurement matters**

(1) A declaration of a participant of the 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 of the proceedings transmits any declaration sent to the court, together with any annexes to that declaration, directly to other participants of the proceedings, notifying the court thereof. Section 337 of the Code of Civil Procedure applies.

(3) A declaration which contains new facts or new applications must be submitted at least two working days before the court session or, if the matter is not heard in a court session, before the end of the time-limilt for submission of procedural documents.

(4) In the case that the court refuses to open proceedings on 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 working days starting from receipt of the ruling by which the court refused to open proceedings on the declaration.

**§ 272. Delivery of procedural documents in procurement matters**

(1) In a procurement matter, procedural documents are delivered to participants of the proceedings electronically to the e-mail address that each participant has communicated to the court, to the Public Procurement Appeals Committee or to the contracting authority. A procedural document may only be delivered by other means for a valid reason.

(2) Electronic delivery 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 section 92, in section 94, in subsection 2 of section 95 or in section 97.

(2) An application to expedite proceedings may, having regard to other preconditions specified in subsection 1 of section 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 determined 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 ruling entered in respect of the previous application became final.

**§ 274. Opening proceedings on actions in procurement matters and preliminary proceedings in procurement matters**

(1) Within one working day after receiving the action, the court verifies, in addition to what is provided in subsection 1 of section 120 of this Code, whether the applicant has dispatched the action to all participants of the proceedings. In the case that the action has not been dispatched to a participant of the proceedings, the court arranges delivery of the action to that participant.

(2) The court which received the action requires the Public Procurement Appeals 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 hearing procurement matters**

(1) A procurement matter is heard in a court session or, in the cases provided in the law, by way of written proceedings, simplified proceedings or by hearing the participants of the proceedings in a another 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 of proceedings in procurement matters**

(1) The time interval between delivery of the action to the respondent and third party, and the court session must be at least ten days. The time interval between delivery of the summons and the day of the court session must be at least three days. Where the participants of the proceedings agree to this, the court may reduce the above-mentioned intervals.

(2) Instead of a court session, the court may hear participants of the 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 jeopardise the hearing of the procurement matter within the time-limit provided in subsection 2 of section 275 of this Code.

(3) The hearing of an explanation of a participant of the proceedings may, amongst other ways, take place over the telephone or by inviting participants of the 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 of the 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 of the proceedings and an extension of the time-limit would jeopardise the hearing of the procurement matter within the time-limit provided in subsection 2 of section 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 havebeen duly notified to the participant of the proceedings and adjournment of the hearing would jeopardise the hearing of the procurement matter within the time-limit provided in subsection 2 of section 275 of this Code.

(3) If the court refused to hear the action pursuant to section 144 of this Code, an application to resume proceedings may be made within seven days starting from delivery of the ruling by which the court refused to hear the action.

(4) In the case that a participant of the proceedings did not attend the court session for a reason other than those provided in subsection 3 of section 146 of this Code, the court may refuse to order resumption of the proceedings provided the resumption would jeopardise the hearing of the procurement matter within the time-limit provided in subsection 2 of section 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 appeal against a ruling 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 of the proceedings, the time-limit for appealing the decision starts to run from delivery of that decision.

(3) No counter-appeal or counter-appeal in cassation may be lodged in a procurement matter.

**§ 279. Proceedings in procurement matters in the circuit court and the Supreme Court**

(1) An appeal against the judgment of an administrative court, an appeal in cassation or an appeal against a ruling in a procurement matter may be heard in simplified proceedings regardless of the provisions of subsections 1 and 2 of section 133 of this Code. In the case that the preconditions specified in subsections 1 and 2 of section 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 appeal against a ruling is obligated to submit, within 10 days as of receipt of the appeal, a written response to the appeal. The other participants of the 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 until proceedings before the Public Procurement Appeals Committee are concluded.

(2) An appeal against a decision of the Public Procurement Appeals Committee concerning an application to suspend procurement proceedings, a design contest, or a concession for public works, or concerning an application to allow a decision to grant acceptance to an offer for the making of a public contract, or an appeal against any revocation by the Public Procurement Appeals Committee of its decisions in these matters, may be lodged within three working days as of notification of the decision.

(3) The appeals specified in subsection 2 of this section are determined in accordance with the procedure provided in Chapter 24 of this Code.

(4) An appeal against a ruling concerning interim relief, and a ruling concerning the appeals specifiedin subsection 2 of this section is to be lodged within three working days. If the ruling was made by the administrative court, the appeal against the ruling lies directly to the circuit court.

# Part 7
# Implementing provisions

## Chapter 29
## Implementation of the Code of Administrative Court Procedure

**§ 281. Jurisdiction**

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.

**§ 282. Participants of 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 pursuant to 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 of proceedings**

Expiration of a time-limit of proceedings 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 orders for payment of costs are governed by the provisions of the Code of Administrative Court Procedure in force before this Code.

(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 pursuant to 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 of the 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]

**§ 286. Refusal to open proceedings 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 amount to an impediment to hearing the matter.

(2) The court may not refuse to open proceedings on an action which was brought before the entry into force of this Code, or return the 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 proceedings**

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 assume that the third party consents to the matter being dealt with in written proceedings.

**§ 288. Return and dismissal of action**

(1) An action brought before the entry into force of this Code is not returned or dismissed pursuant to point 2 of subsection 2 of section 121 of this Code.

(2) The court may not refuse to hear an action 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 refused to hear the action or concluded the hearing of the matter before the entry into force of this Code.

**§ 290. Admissibility of protests and of actions against private individuals**

(1) Sections 281 and 282, subsection 1 of section 283 and sections 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 a contract in public law 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 a contract in public law, or for compensation of the harm caused by breach of a contract in public law may be brought within three months starting from the entry into force of this Code.

**§ 291. Application of provisions governing class proceedings and simplified proceedings**

Provisions of the Code of Administrative Court Procedure regarding class proceedings and simplified proceedings 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 section 81, subsection 5 of section 95, subsection 4 of section 96, and section 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]

# Chapter 30
# Amendments to other Acts

**§ 293.–§ 314.**[Omitted from this text]

# Chapter 31
# Entry into force of this Act

**§ 315. Entry into force of this Act**

(1) This Code enters into force on 1 January 2012.

(2) Section 292 of this Code enters into force pursuant to standard procedure.