

Issuer:	Riigikogu
Type:	act
In force from:	15.03.2019
In force until:	06.05.2020
Translation published:	29.03.2019

# Act on Granting International Protection to Aliens<sup>1</sup>

Passed 14.12.2005  
RT I 2006, 2, 3  
Entry into force 01.07.2006

Amended by the following acts

Passed	Published	Entry into force
19.04.2006	RT I 2006, 21, 159	01.07.2006
08.02.2007	RT I 2007, 19, 92	11.03.2007
15.02.2007	RT I 2007, 24, 127	01.01.2008
18.12.2008	RT I 2009, 4, 26	26.01.2009
15.06.2009	RT I 2009, 39, 262	24.07.2009
26.11.2009	RT I 2009, 62, 405	01.01.2010 The words „Citizenship and Migration Board“are replaced by the words „Police and Border Guard Board“ in the Act.
09.12.2009	RT I 2010, 3, 4	01.10.2010
25.11.2010	RT I, 09.12.2010, 1	01.01.2011
28.03.2013	RT I, 18.04.2013, 2	28.04.2013
13.06.2013	RT I, 02.07.2013, 3	01.09.2013
12.06.2013	RT I, 03.07.2013, 2	01.10.2013
05.12.2013	RT I, 21.12.2013, 1	22.12.2013, partially01.01.2014
19.02.2014	RT I, 13.03.2014, 4	01.07.2014
19.06.2014	RT I, 04.07.2014, 13	01.01.2015
19.06.2014	RT I, 29.06.2014, 109	01.07.2014, the official titles of the ministers have been replaced on the basis of subsection 107 <sup>3</sup> (4) of the Government of the Republic Act.
18.02.2015	RT I, 19.03.2015, 2	29.03.2015
18.02.2015	RT I, 23.03.2015, 1	02.04.2015, partially01.08.2015 and 01.01.2016
16.03.2016	RT I, 06.04.2016, 1	01.05.2016 The words “asylum”, „applicant for asylum”, „application for asylum”, „asylum system” and „asylum proceedings” have been replaced respectively by the words „international protection”, „applicant for international protection”, „application for international protection”, „international protection system” and „proceedings for granting international protection” in the respective case.
14.12.2016	RT I, 03.01.2017, 1	18.01.2017
15.11.2017	RT I, 28.11.2017, 2	01.01.2018
20.02.2019	RT I, 13.03.2019, 2	15.03.2019

## Chapter 1

# GENERAL PROVISIONS

## § 1. Scope of Act

(1) This Act regulates the bases for granting international protection to an alien, the legal status of an alien who is applying for international protection and of an alien who has been granted international protection and the legal bases for his or her temporary stay, residence and employment in Estonia on the basis of treaties and the legislation of the European Union.

[RT I 2010, 3, 4 - entry into force 01.10.2010]

(2) International protection is granted to an alien with regard to whom refugee status or subsidiary protection status is established or to an alien with regard to whom it is established that he or she belongs to the category of persons in need of temporary protection as defined in a decision of the Council of the European Union.

(3) The provisions of the Administrative Procedure Act apply to administrative proceedings prescribed in this Act, taking account of the specifications provided for in this Act.

## § 2. Alien and third-country national

(1) An alien is a third-country national or a stateless person.

(2) A third-country national is an alien who is a national of a country other than a Member State of the European Union, a Member State of the European Economic Area or the Swiss Confederation.

## § 3. Applicant for international protection and application for international protection

(1) An applicant for international protection (hereinafter also applicant) is an alien who has submitted an application for international protection (hereinafter also application) in respect to which final decision has not been made.

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

(2) [Repealed - RT I, 06.04.2016, 1 – entry into force 01.05.2016]

(3) An application for international protection is an application submitted by an alien in any way with a view to be recognised as a refugee or a person eligible for subsidiary protection and to be granted international protection.

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

(4) The Police and Border Guard Board shall receive and resolve an application for international protection.

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

## § 3<sup>1</sup>. Final decision

A final decision for the purposes of this Act is:

1) a decision made by the Police and Border Guard Board with regard to the dismissal of an application or revocation of international protection, which has not been contested in an administrative court during the time-limit for an appeal ;

a decision of the Police and Border Guard Board with regard to the dismissal of an application or revocation of international protection, the appeal against which has been dismissed by the administrative court;

a decision of the Police and Border Guard Board, including the decision arising from the respective guidelines of the administrative court, to recognise an applicant as a refugee or a person eligible for subsidiary protection and grant international protection to him or her.

The proceedings for international protection terminate when the final decision has been made. Upon termination of the proceedings for international protection the person shall retain the right to an effective remedy.

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

## § 4. Refugee and refugee status, person eligible for subsidiary protection and subsidiary protection status

A refugee is an alien who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, political opinion or membership of a particular social group, is outside the country of nationality and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of that country and with regard to whom no circumstance exists precluding recognition as a refugee. Upon assessing persecution it does not matter whether the alien has a real basis for persecution specified in this subsection or only the circumstance of persecution.

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

(2) Refugee status is the status granted to an alien who is recognised as a refugee.

(3) A person eligible for subsidiary protection is an alien who does not qualify as a refugee and with regard to whom no circumstance exists which would preclude granting of subsidiary protection and in respect of whom

substantial grounds have shown for believing that his or her return or expulsion to his or her country of origin may result in a serious risk in the specified country, including:

- 1) imposition or execution of death penalty on him or her, or
- 2) torture or inhuman or degrading treatment or punishment of him or her, or
- 3) individual threat to his or her life or the lives of civilians or violence towards him or her or civilians by reason of international or internal armed conflict.

(4) Subsidiary protection status is the status granted to an alien who is recognised as a person eligible for subsidiary protection.

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

## **§ 5. Temporary protection and person eligible for temporary protection**

(1) Temporary protection is a procedure of exceptional character to provide, in the event of a mass influx or imminent mass influx of aliens who are unable to return to their country of origin, immediate and temporary protection to aliens, in particular if there is also a risk that the international protection system will be unable to process this influx without adverse effects for its efficient operation in the interests of aliens requesting temporary protection.

(2) A person eligible for temporary protection is an alien who has had to leave his or her country or region of origin, or has been evacuated, in particular in response to an appeal by international organisations, and is unable to return in safe and durable conditions because of the situation prevailing in that country and who may fall within the scope of provisions regulating international protection, and

- 1) who has fled an area of armed conflict or endemic violence;
- 2) who is at serious risk of, or who has been the victim of, systematic or generalised violations of his or her human rights.

(3) Mass influx is the arrival of a large number of aliens, who come from a specific country or geographical area, whether their arrival was spontaneous or prescribed by an evacuation programme.

## **§ 5<sup>1</sup>. Resettlement and relocation**

(1) Resettlement is admission in Estonia of a person, who has been granted international protection, from a third country.

(2) Relocation is admission in Estonia of a person, who has been granted international protection, from another member state of the European Union.

(3) The Government of the Republic shall decide on the participation of Estonia in resettlement and relocation, coordinating it with the European Union Affairs Committee of the Riigikogu.

(4) The decision specified in subsection (3) of this section shall determine at least the quota and country of origin of the persons to be resettled or relocated and the year of resettlement or relocation.

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

## **§ 6. Unaccompanied minor alien**

(1) An unaccompanied minor alien is an alien less than 18 years of age who arrives or has arrived in Estonia without a parent, guardian or other responsible adult person or who loses a parent, guardian or other responsible person while staying in Estonia.

(2) A parent, guardian or another adult responsible person who is staying in Estonia together with a minor alien is presumed to have the right of custody. At the request of the Police and Border Guard Board or the Estonian Internal Security Service a parent, guardian or another responsible adult person is required to certify the existence of the right of custody.

(3) A minor specified in subsection (1) of this section, for whom a natural person has been appointed as a guardian by the court in Estonia, is not deemed to be an unaccompanied minor alien.

[RT I, 18.04.2013, 2 - entry into force 28.04.2013]

## **§ 6<sup>1</sup>. Representation of applicant for and beneficiary of international protection who is unaccompanied minor and adult with restricted active legal capacity**

[Repealed - RT I, 06.04.2016, 1 – entry into force 01.05.2016]

## **§ 6<sup>2</sup>. Services offered to applicant for and beneficiary of international protection who is unaccompanied minor**

[Repealed - RT I, 06.04.2016, 1 – entry into force 01.05.2016]

## **§ 7. Family member**

Family members of an applicant for international protection are:

- 1) his or her spouse;
- 2) his or her unmarried minor child, including an adopted child;
- 3) an unmarried minor child, including an adopted child, of him or her and his or her spouse; his or her parent or guardian if the applicant is a minor for the purposes of the Estonian law, except in the case his or her active legal capacity has been expanded for the purpose of getting married and his or her spouse is considered to be his or her family member.

[Repealed - RT I, 06.04.2016, 1 – entry into force 01.05.2016]

(2) Family members of a refugee and of a person eligible for subsidiary protection are:

- 1) his or her spouse;
- 2) his or her and his or her spouse's unmarried minor child, including an adopted child;
- 3) an unmarried and minor child under his or her or his or her spouse's custody, including an adopted child. In the case of shared custody the agreement of the other party sharing custody is required; [RT I, 21.12.2013, 1 - entry into force 22.12.2013]
- 4) an unmarried adult child of him or her or his or her spouse if the child is unable to cope independently due to his or her state of health or disability;
- 5) a parent or grandparent maintained by him or her or his or her spouse if the country of origin does not provide support resulting from other family ties.

(3) Family members of an unaccompanied minor refugee and an unaccompanied minor person eligible for subsidiary protection are:

- 1) his or her parent;
- 2) his or her guardian or other family member if he or she has no parents or if the parents cannot be traced unless this is contrary to the rights and interests of the minor.

(4) Family members of a person eligible for subsidiary protection are:

- 1) his or her spouse;
- 2) his or her or his or her spouse's unmarried minor child, including an adopted child;
- 3) a close relative not mentioned in clauses (1) and (2) of this section who lived with him or her in the country of origin and was dependent on him or her.

(5) Family members specified in this Act shall be considered a family if the family existed in the country of origin, including if the marriage that was contracted before entry into Estonia.

## **§ 8. Country of origin, safe third country and safe country of origin**

(1) A country of origin is the country of nationality or former country of habitual residence.

A country where the following principles are guaranteed is considered a safe third country:

- 1) the life and freedom of an alien who is seeking asylum is not at risk on the grounds of his or her race, religion, nationality, membership of a particular social group or political opinions;
- 2) the principle of prohibition of expulsion or return is observed in the country pursuant to the Geneva Convention of 28 July 1951 relating to the status of refugees, as amended by the New York Protocol of 31 January 1967 (RT II 1997, 6, 26) (hereinafter Geneva Convention);
- 3) the country observes the principle of non-refoulement established in international legislation if he or she is threatened by torture or other cruel, inhuman or degrading treatment;
- 4) an alien has the possibility to apply for refugee status and upon recognition as a refugee, to receive protection pursuant to the Geneva Convention;
- 5) an alien is not faced with a serious threat specified in subsection 4 (3) of this Act.

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

(3) A safe country of origin is a country where an alien is not faced with a serious risk specified in subsection 4 (3) of this Act.

## **§ 9. Determining of safe third country and safe country of origin**

Upon determining a safe third country, it shall be taken into account and assessed whether an applicant for international protection has connections with that country on the basis of which it can be expected that the applicant applies for protection from the specified third country and there is a good reason to believe that the applicant shall be allowed to enter that country or he or she shall be readmitted there. Upon assessment of the safety of a third country the applicant for international protection shall be given a possibility to submit justifications as to why that country cannot be considered a safe third country.

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

(2) If a safe third country does not allow an applicant for international protection to enter its territory, the Police and Border Guard Board must ensure access to the proceedings for international protection for the applicant for international protection.

[RT I 2009, 62, 405 - entry into force 01.01.2010]

(3) A country shall be considered a safe country of origin if it can be proved on the basis of legal situation, the application of legislation in a democratic system and the general political climate that there is no general and persistent persecution specified in § 19 of this Act.

(4) The following circumstances shall be taken into account and assessed in determining a safe country of origin:

1) to what extent the legislation of the country and the application thereof guarantees the protection of persons from persecution and abuse, the principle of prohibition of expulsion or return provided for in the Geneva Convention and a system of efficient legal protection instruments against the violation of the said rights and freedoms;

2) whether or not the country has acceded to the main treaties concerning human rights and if, as a general rule, it adheres to the provisions thereof.

(5) A country can be considered a safe country of origin for a specific applicant for international protection if the applicant for international protection has not presented substantial reasons as to why the country cannot be considered a safe country of origin for him or her and the applicant for international protection has the citizenship of that country or he or she last resided in that country as a stateless person.

(6) The Police and Border Guard Board shall determine a safe third country and a safe country of origin.

(6<sup>1</sup>) The Police and Border Guard Board shall have the right to establish a list of safe countries of origin.

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

(7) The Police and Border Guard Board may specify as safe a part of the country of origin or third country.

[RT I, 21.12.2013, 1 - entry into force 22.12.2013]

(8) If a person may safely and legally travel to one part of the state, he or she is permitted to stay there and it is reasonable to expect that he or she settles there, the part of such country of origin may be determined as safe in compliance with the provisions of subsections (3)-(5) of this section.

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

## **§ 10. Rights of applicant for international protection and applicant for residence permit on basis of temporary protection**

Rights and freedoms arising from the Constitution, laws and other legislation and the treaties of the Republic of Estonia, the European Union legislation, the generally recognised norms of international law and international customs shall be guaranteed to an applicant for international protection and an applicant for residence permit on the basis of temporary protection.

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

An applicant for international protection and an applicant for residence permit on the basis of temporary protection shall be entitled to:

1) receive information, at the earliest opportunity but no later than within fifteen days as of the submission of the application for international protection or for residence permit, orally and in writing in a language which he or she understands concerning his or her rights and obligations, including information concerning legal assistance, assistance relating to reception conditions, organisations providing information, time-frame for proceedings for international protection and the consequences of failure to comply with obligations;

2) stay in Estonia until a final decision has been taken on application for international protection, except in the cases provided for in subsection § 251 (3) of this Act. The right of the applicant to remain in the state shall not constitute an entitlement to a residence permit;

3) an interview provided for in subsection 18 (4) unless bases exist provided for in subsections 18 (6) and (7) of this Act;

4) arrange for a medical examination on their own initiative and at their own cost if the determining authority did not deem the conduct thereof necessary for taking a decision;

5) get support based on his or her special needs;

6) perform procedural acts via a representative, except in the cases specified in subsection 10 (3) and subsection 17 (9) of this Act;

7) to communicate with family members, a legal adviser, relevant competent state authorities, representatives of international or non-governmental organisations and the United Nations High Commissioner for Refugees (UNHCR);

8) get victim support service, where necessary, pursuant to the procedure provided for in the Victim Support Act;

9) get legal assistance in the administrative court proceedings for contestation of the decision made on the basis of this Act for the purposes of clause 4 (3) 5) of the State Legal Aid Act;

10) have recourse to the courts if his or her rights and freedoms are violated.  
[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

### **§ 10<sup>1</sup>. Right for employment of applicant for international protection**

[RT I, 23.03.2015, 1 - entry into force 02.04.2015]

(1) An applicant for international protection may take employment in Estonia if the decision on his or her application for international protection has not entered into force within six months as of the submission of the application for international protection due to reasons beyond the applicant's control.  
[RT I, 23.03.2015, 1 - entry into force 02.04.2015]

(2) An applicant for international protection may take employment in Estonia until the termination of the proceedings of his or her application for international protection.  
[RT I, 23.03.2015, 1 - entry into force 02.04.2015]

(3) [Repealed - RT I, 23.03.2015, 1 - entry into force 02.04.2015]

(4) [Repealed - RT I, 23.03.2015, 1 - entry into force 02.04.2015]

(5) [Repealed - RT I, 23.03.2015, 1 - entry into force 02.04.2015]

### **§ 10<sup>2</sup>. Right of access to education of minor applicant for international protection**

(1) An applicant for international protection who is subject to the obligation to attend school shall be guaranteed access to education pursuant to the procedure provided for in the Basic Schools and Upper Secondary Schools Act within three months as of the submission of the application for international protection.

(2) In order to ensure access to education a minor applicant for international protection is entitled to preparatory training, including language training.

(3) Access to upper secondary school education shall not be limited solely for the ground that the minor has come of age.  
[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

### **§ 11. Duties of applicants**

An applicant is required to observe the constitutional order of Estonia and to comply with the legislation of Estonia, respect the constitutional values and principles, the state founded on freedom, justice and law and the organization of society in Estonia, the Estonian language and culture.  
[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

(2) An applicant for international protection is required to co-operate in every way in the clarification of the circumstances of the application for international protection, among others:

1) to submit an application for international protection at the request of the Police and Border Guard Board;  
[RT I, 03.01.2017, 1 - entry into force 18.01.2017]

2) to provide government agencies that are performing acts with oral and written information and explanations;

3) to submit all information and documents in his or her possession and other evidence which are relevant to the proceedings relating to the application for international protection;

4) to enable the examination of his or her personal effects and his or her person, the performance of radiograph, the performance of a test for establishing his or her age and the admission for deposit of documents and personal effects;

5) to co-operate in obtaining documents in evidence of the circumstances presented in the application for international protection;

6) to enable the examination of his or her state of health for public health considerations;

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

7) to enable photographing, fingerprinting and taking of DNA probes;

8) to co-operate in the collection of information needed for identification and verification of his or her person;

9) to comply with the surveillance measures provided by law;

10) to appear at the Police and Border Guard Board for performance of procedural acts.

(3) The duty to co-operate specified in clause (2) 3) of this section also extends to the representative of the applicant for international protection in proceedings for international protection.

(4) If at the time of using the services specified in subsection 32 (1) of this Act, except emergency care, an applicant for international protection had sufficient financial resources to pay for the specified services, he or she is required to compensate for corresponding expenses.

[RT I, 03.07.2013, 2 - entry into force 01.10.2013]

(5) An applicant for residence permit on the basis of temporary protection is required to co-operate in every way in the clarification of the circumstances of the refusal to issue a residence permit.

(6) An applicant is required to notify the Police and Border Guard Board of changes in marital status and data on the place of residence and of the birth of a child.

(7) An applicant is prohibited from taking employment in Estonia or engaging in enterprise in Estonia during proceedings for international protection or application for residence permit on the basis of temporary protection except in the case provided for in § 10<sup>1</sup> of this Act. An applicant who violates the prohibition of taking employment or engaging in enterprise shall be held liable pursuant to the provisions of the Aliens Act. [RT I, 03.07.2013, 2 - entry into force 01.10.2013]

(8) The extent and procedure of funding from the state budget the medical screening of an applicant for international protection and necessary health services provided to him or her shall be established by the minister responsible for the field. [RT I, 03.07.2013, 2 - entry into force 01.10.2013]

(9) At the request of the Police and Border Guard Board an applicant is required to deposit his or her identity document until the termination of proceedings for international protection. [RT I, 03.07.2013, 2 - entry into force 01.10.2013]

(10) Upon the admission for deposit of the identity document of an applicant for international protection the provisions of the Obligation to Leave and Prohibition on Entry Act regarding the depositing of the travel document issued by a foreign state and identity document shall be applied. [RT I, 03.07.2013, 2 - entry into force 01.10.2013]

## **§ 12. Initial reception centre and reception centre**

[Repealed - RT I, 03.07.2013, 2 – entry into force 01.10.2013]

## **§ 13. Protection of information in proceedings concerning international protection and proceedings concerning of temporary protection**

(1) Proceedings concerning international protection and proceedings concerning temporary protection shall not be public.

(2) The Police and Border Guard Board, the Ministry of Social Affairs and the agencies within the area of government thereof, the detention centre, the accommodation centre for applicants for international protection, as well as the translator and other relevant persons shall maintain the confidentiality of information related to applicants and adhere to the requirements for the protection of personal data in the processing of the personal data of the said alien. [RT I, 03.07.2013, 2 - entry into force 01.10.2013]

(3) Information containing the personal data of applicants is classified as information intended for internal use. The processing of information containing the personal data of such aliens is permitted solely for the performance of duties prescribed by law.

(4) Communication of information collected with respect to an applicant to a foreign state and collection of information with respect to an applicant from a foreign state is permitted for the performance of duties arising from a treaty or the European Union law. Upon communication of information to a foreign state it shall be ensured that such information is not communicated to the country of origin of the applicant in the cases provided for in subsection 4 (3) and subsection 5 (2) of this Act. [RT I, 06.04.2016, 1 – entry into force 01.05.2016]

(5) If information collected during proceedings for international protection is communicated to an authorities other than those specified in this Act, the duties arising from subsections (2)-(4) of this section also apply to such agencies and officials thereof. [RT I, 19.03.2015, 2 – entry into force 29.03.2015]

## **§ 13<sup>1</sup>. Processing of personal data**

(1) In the proceedings provided for in this Act the Police and Border Guard Board, the Ministry of Social Affairs and the agencies within the area of government thereof, the detention centre and the accommodation centre for applicants for international protection may process personal data, including special type of personal data, without the consent of a person. [RT I, 13.03.2019, 2 – entry into force 15.03.2019]

(2) An alien is required to provide the competent government authorities with the data specified in subsection (1) for the performance of the functions provided for in this Act. [RT I 2007, 24, 127 - entry into force 01.01.2008]

(3) Personal data obtained from a foreign state or an international organization may be processed for the performance of obligations arising from an international agreement, a legislation of the European Union or other legislation.

[RT I, 13.03.2019, 2 - entry into force 15.03.2019]

(4) The right of a data subject to receive information and access to personal data collected about him or her, as well as the right to access information concerning him or her entered in the database, including the procedural file, may be restricted if it may:

- 1) prevent or damage the prevention, detection, processing or execution of a punishment;
- 2) damage the rights and freedoms of another person;
- 3) endanger the security of the Republic of Estonia, another Member State of the European Union, a Member State of the Schengen Convention or a Member State of the North Atlantic Treaty Organization;
- 4) jeopardize the protection of public order.

[RT I, 13.03.2019, 2 - entry into force 15.03.2019]

(5) The restriction of publication of the information specified in subsection (4) of this section shall apply to the data subject with respect to the following rights:

- 1) to obtain information about the processing of his or her personal data, including which personal data are processed, as well as the manner, method, purpose, legal basis, scope or reason for the processing;
- 2) to know the recipients of his or her personal data and the categories of personal data to be disclosed and whether his or her personal data are transferred to a foreign state or international organization;
- 3) to demand that the processing of his or her personal data be restricted;
- 4) to object to the processing of his or her personal data;
- 5) to find out about a personal data breach.

[RT I, 13.03.2019, 2 - entry into force 15.03.2019]

(6) The restriction on publication of the information specified in subsection (4) of this section may also be applied to data received from a foreign state or an international organization.

[RT I, 13.03.2019, 2 - entry into force 15.03.2019]

### **§ 13<sup>2</sup>. Identification and verification of identity**

(1) Upon performance of proceedings arising from this Act the administrative authority is required to identify a person or verify his or her identity.

(2) A person is required to enable identification of his or her person and verification of his or her identity.

(3) If it is impossible to identify an alien or other relevant person or verify his or her identity, an administrative act conferring a benefit shall not be issued or the proceeding that was applied for not performed.

[RT I 2009, 62, 405 - entry into force 01.01.2010]

### **§ 13<sup>3</sup>. Identification of person on basis of identity document**

(1) A person is required to present a document certifying his or her identity at the request of the administrative authority for identification of his or her person and verification of the identity.

(2) A person is identified and his or her identity verified on the basis of a document provided for in subsection 2 (2) of the Identity Documents Act or a travel document issued by a foreign state.

(3) An alien less than 15 years of age is identified on the basis of the statements of his or her legal representative and other evidence if he or she has not been issued a document specified in subsection (2) of this section.

(4) If an alien does not have a document specified in subsection (2) of this section, then, as necessary, he or she shall be identified or his or her identity verified on the basis of other evidence.

[RT I 2009, 62, 405 - entry into force 01.01.2010]

### **§ 13<sup>4</sup>. Identification of person on basis of biometric data**

(1) Biometric data may be obtained from an alien and other relevant person and such data may be processed for the identification of a person and verification of the identity.

(2) A person is required to enable being taken biometric data at the request of an administrative authority.

[RT I 2009, 62, 405 - entry into force 01.01.2010]

### **§ 13<sup>5</sup>. Identification of person on basis of DNA data**

(1) An alien may be taken DNA probes and the respective data may be processed for identification of a person and verification of the identity if identification of a person or verification of his or her identity is impossible.

(2) Upon deciding of the taking of DNA probes of a minor alien, the rights and interests of a minor shall be taken into consideration in particular.

(3) A person shall enable being taken DNA probes at the request of the administrative authority.

[RT I 2009, 62, 405 - entry into force 01.01.2010]

The procedure for taking DNA samples from a person shall be based on the procedure established on the basis of subsection 33 (5) of the Law Enforcement Act.

[RT I, 13.03.2019, 2 - entry into force 15.03.2019]

#### **§ 13<sup>6</sup>. Identification of person on basis of other evidence**

An administrative authority may identify a person or verify his or her identity on the basis of the data known to an administrative authority that are not specified in this Act, including the data collected in the proceedings with regard to the person performed before or processed in databases.

[RT I 2009, 62, 405 - entry into force 01.01.2010]

## **Chapter 2 REFUGEE STATUS AND SUBSIDIARY PROTECTION STATUS**

### **Division 1 Proceedings for international protection**

#### **§ 14. Submission of application for international protection**

(1) An application for international protection shall be submitted to the Police and Border Guard Board immediately after entering Estonia.

(1<sup>1</sup>) An application for international protection of an alien to be received within the framework of resettlement or relocation may be accepted by the Police and Border Guard Board in the territory of a foreign state.

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

(2) If an alien who is at a border checkpoint has no legal bases for entry in Estonia provided for in the Aliens Act and he or she wishes to apply for asylum in Estonia, the alien shall submit the application for international protection immediately to the Police and Border Guard Board.

[RT I 2009, 62, 405 - entry into force 01.01.2010]

(3) An alien apprehended by the Police and Border Guard Board in the unauthorised entry who wishes to apply for asylum in Estonia shall submit an application for international protection to the Police and Border Guard Board.

[RT I 2009, 62, 405 - entry into force 01.01.2010]

(3<sup>1</sup>) Where there is a reasoned ground to believe that aliens staying in detention facilities or at border crossing points, including transit zones, at external borders, may wish to make an application for international protection, the Police and Border Guard Board Member States shall ensure provision of the persons with information on the possibility to do so.

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

(4) An application for international protection shall be submitted in person.

(4<sup>1</sup>) The registration of an application shall take place immediately after a person has submitted a wish to be granted international protection but no later than three working days after the application is submitted. Where due to a large number of applications for international protection it is impossible in practice to respect the specified time limit, the application may be registered within ten days as of the date of its submission.

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

(5) An applicant for international protection (hereinafter in this Chapter applicant) is required to submit all of the following documents in his or her possession immediately after submission of an application for international protection:

- 1) identification documents and proof of nationality and other documents that may facilitate verification of identity and nationality;
- 2) visas, residence permits or other documents concerning the crossing of borders;

3) documents in evidence of the circumstances of arrival in Estonia and stay in other countries after departure from the country of origin (documents in evidence of travel, transportation, accommodation and other received services);

4) documents and other evidence to demonstrate that application for international protection is justified.

(6) [Repealed - RT I, 06.04.2016, 1 – entry into force 01.05.2016]

(7) In an application for international protection an applicant shall submit data on his or her race, religion, nationality, political opinion or membership of a particular social group for identification of the circumstances specified in subsections 4 (1) and (3) of this Act. For identification of the right to family reunification of the applicant, the applicant shall submit data about his or her family ties, including about his or her partner.  
[RT I 2007, 19, 92 - entry into force 11.03.2007]

## **§ 15. Acts after submission of application for international protection**

(1) The following acts shall be immediately performed by an authority conducting the proceedings for international protection after the submission of an application for international protection:

1) receipt of an application for international protection;

[RT I, 03.01.2017, 1 - entry into force 18.01.2017]

2) examination of a person and his or her personal effects;

3) admission for deposit of personal effects and documents;

4) identification;

5) taking explanations for arrival in Estonia or at the Estonian border and concerning the circumstances constituting the bases for application for international protection;

6) photographing and, in case of an alien of at least fourteen years of age, fingerprinting;

7) the communication of data concerning an applicant of at least fourteen years of age to the Central Unit of Eurodac for comparison in accordance with Regulation (EU) No 603/2013 of the European Parliament and of the Council of 26 June 2013 on the establishment of Eurodac for the comparison of fingerprints for the effective application of Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person and on requests for the comparison of fingerprint information with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes, and amending the and amending Regulation (EU) No 1077/2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (OJ L 180, 29.06.2013, pp. 1-30);

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

8) arrangement for medical examination, subject to the consent of the applicant, due to signs that might indicate past persecution or serious harm if the determining authority finds it necessary for assessment of the statements presented in the application for international protection;

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

9) taking of DNA probes and, in case of an alien less than fourteen years of age, fingerprinting if the person cannot be identified or his or her filiation cannot be established otherwise.

(1<sup>1</sup>) The expenses of the medical examination of the applicant specified in clause (1) 8) of this section shall be covered from the state budget.

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

(1<sup>2</sup>) The procedural acts relating to the resettlement or relocation in Estonia or relating to the proceedings of application for international protection may be conducted in the state where the alien is staying during the proceedings of the application..

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

(1<sup>3</sup>) In the case of resettlement the Police and Border Guard Board may recognise the procedural acts conducted by other Member States of the European Union.

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

(1<sup>4</sup>) An applicant for and beneficiary of international protection or an alien received within the framework of resettlement or relocation shall be introduced his or her rights and obligations in writing against signature.

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

(1<sup>5</sup>) An alien who has submitted an application for international protection may be relocated or resettled in Estonia after the recognition of the person as a beneficiary of international protection and the grant of residence permit by Estonia.

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

(2) Upon deciding of the fingerprinting of an alien less than fourteen years of age and the taking of DNA probes of him or her, the rights and interests of such person shall be taken into consideration in particular.

(3) A person shall be examined by a person of the same sex.

(4) The acts specified in subsection (1) of this section shall be performed even if an applicant withdraws his or her application for international protection.

(5) If the acts specified in subsection (1) of this section have been performed with regard to the applicant in the course of infringement proceedings, the information gathered during infringement proceedings may be used in proceedings for international protection.

(6) An applicant shall be detained for the time of performance of the acts established in subsection (1) of this section, and he or she is required to stay in the premises assigned to him or her. If the performance of the acts continues for longer than forty-eight hours, the applicant shall be detained with the permission of an administrative court.

(7) The data collected during fingerprinting shall be entered into the national fingerprint register and the data obtained as a result of DNA probes shall be entered into the National DNA Register.

(8) After performance of the acts provided for in subsection (1) of this section, the Police and Border Guard Board shall refer the applicant to the accommodation centre for applicants for international protection or the detention centre.

[RT I, 03.07.2013, 2 - entry into force 01.10.2013]

(9) [Repealed – RT I 2009, 62, 405 - entry into force 01.01.2010]

(10) Acts performed on the basis of this Act shall not prevent the performance of other acts by competent authorities in infringement proceedings, acts to ensure satisfaction of international applications for legal assistance, and acts to prevent offences.

### **§ 15<sup>1</sup>. Assessment of special need of applicant and taking account of**

(1) The specific situation of a vulnerable person and the special needs arising therefrom are taken account of in the international protection proceedings. An applicant with special needs is, in particular, a vulnerable person, such as a minor, an unaccompanied minor, a disabled person, an elderly person, a pregnant woman, a single parent with minor children, a victim of trafficking, a person with serious illness, a person with mental health problems and a victim of torture or rape or a person who has been subjected to other serious forms of psychological, physical or sexual violence.

(2) A person is deemed to be an applicant with special needs when the Police and Border Guard Board have established his or her special need. In such case all the specifications provided for in this Act shall be applied to him or her and he or she shall be enabled the support corresponding to his or her special need.

(3) Where necessary, other administrative authority or expert shall be involved in the identification of a special need. The special need shall be identified as soon as possible after the submission of the application.

(4) The Police and Border Guard Board shall fix the special need of an applicant in writing.

(5) All the administrative authorities and persons who are in contact with an applicant shall observe the special need of the applicant and consider it systematically and individually during the whole international protection proceedings, taking also account of the special need which has become evident in a later stage of the international protection proceedings.

(6) The Police and Border Guard Board shall communicate the information on a special need of an applicant to other administrative authorities and persons who are in contact with the applicant to the extent which is necessary for taking into account a special need of an applicant. If another administrative authority identifies a special need of an applicant or notices a circumstance indicating a special need, it shall immediately notify the Police and Border Guard Board thereof.

(7) All the officials and employees who are in contact with the applicants for international protection shall comply with such competency requirements which enable them to observe a special need and take it into account.

[RT I, 06.04.2016, 1- entry into force 01.05.2016]

### **§ 16. Refusal to admit entry into state of applicant**

[Repealed - RT I, 06.04.2016, 1- entry into force 01.05.2016]

### **§ 17. Minor and unaccompanied minor applicant**

[RT I, 06.04.2016, 1- entry into force 01.05.2016]

(1) In the proceedings for international protection of a minor, including upon provision of services, the rights and interests of a minor shall be taken account of in particular. In proceedings for international protection involving an unaccompanied minor, the rights and interests of the minor shall be taken into consideration above all.

(2) A minor has the right to submit an application for international protection in his or her own name if his or her active legal capacity has been extended or through his or her parent, other adult family member responsible for him or her or a representative.

(3) The provisions of the Family Law Act shall be applied to the representation of a minor alien in the procedural acts performed on the basis of this Act, taking account of the specifications provided for in this Act.

(4) If the age of an alien is unknown and there is good reason to believe that the person is less than 18 years of age, the alien is deemed to be a minor. The Police and Border Guard Board shall decide on treating an alien as a minor or an adult.

(5) If the Police and Border Guard Board have reasoned doubts regarding the information provided by the applicant in respect of his or her age, medical examination for establishing his or her age may be conducted with the consent of the applicant. The Police and Border Guard Board shall inform the applicant of the conduct of medical examinations, of the manner of the conduct thereof and of the consequences that may follow if the applicant refuses to undergo medical examination

(6) The decision on determining the age can only be contested together with an administrative act or act relating to which the decision on determining the age was made.

(7) The active legal capacity of a minor valid in the country of origin pursuant to the law of the country of origin of the alien shall not be taken into account in the proceedings for international protection if the definition of active legal capacity differs from the corresponding definition provided for by the Estonian law.

(8) If a minor is accommodated in the accommodation or detention centre for applicants for international protection, the minor is ensured a possibility for leisure time activities, including age-appropriate games and hobby activities and activities in the open air.

(9) An unaccompanied minor shall be appointed a representative for performance of procedural acts as soon as it has been identified that the applicant is a minor. A representative shall not be appointed if the minor shall probably attain the age of maturity before the Police and Border Guard Board makes a decision on the application. In such case the unaccompanied minor may independently perform the acts provided for by law.

(10) An unaccompanied minor may be represented by a natural or legal person who is reliable and has the knowledge and skills needed for representing an unaccompanied minor.

(11) The Police and Border Guard Board may enter into a contract with a natural or legal person for the representation of an unaccompanied minor in the proceedings provided for in this Act. If an organisation has been appointed as a representative of an unaccompanied minor, it shall nominate a person who shall be responsible for the performance of the duties of a representative of an unaccompanied minor.

(12) An applicant for or beneficiary of international protection who is an unaccompanied minor shall be placed in the accommodation centre, referred to substitute home service or to an adult relative. The Ministry of Social Affairs or an agency within the area of government of the Ministry of Social Affairs shall ensure the provision of services specified in clauses 32 (1) 3)-7) of this Act also in the case the unaccompanied minor is referred to substitute home service or to an adult relative.

[RT I, 28.11.2017, 2 - entry into force 01.01.2018]

(13) The Police and Border Guard Board shall commence family tracing of an unaccompanied minor as soon as possible after the submission of an application for international protection.

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

### **§ 17<sup>1</sup>. Incapacitated adult applicant**

The provisions of subsections 17 (2), (3) and (7) of this Act shall be applied to the representation of an incapacitated adult applicant and assessment of the active legal capacity thereof.

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

### **§ 18. Review of application for international protection**

(1) The Police and Border Guard Board shall review an application for international protection, which has been assigned as examining responsibility of the Republic of Estonia in accordance with a treaty or Regulation (EU) No 604/2013 of the European Parliament and of the Council, establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast) (OJ L 180, 29.06.2013, pp.31-59).

[RT I, 21.12.2013, 1 - entry into force 01.01.2014]

The Police and Border Guard Board shall review each application for international protection individually and impartially and shall verify the correctness of the evidence and information provided, the credibility of the statements made by the applicant and other circumstances, and shall perform the procedural acts necessary for such purpose.

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

(3) The Police and Border Guard Board shall determine a safe country of origin and a safe third country and verify if the applicant for international protection can be sent to the specified countries.

(4) An authority conducting proceedings of an application for international protection shall conduct an interview with an applicant in the course of which the applicant is provided with an opportunity to present facts and give explanations with regard to the circumstances of essential importance in the proceedings of his or her application for international protection, including the circumstances that prevent the expulsion of the applicant from the country.

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

(4<sup>1</sup>) The procedure for the conduct of an interview provided for in subsection (4) of this section shall be established by a regulation of the minister responsible for the area.

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

(5) The possibility specified in subsection (4) of this section shall be granted to a minor of at least ten years of age or to a younger minor if the level of development of the minor so permits.

(6) The procedural act provided for in subsection (4) of this section may be omitted if the decision on the granting of international protection can be made on the basis of available evidence or if the applicant is not able to use the right provided for in subsection (4) of this section owing to enduring circumstances beyond his or her control. In case of doubt an authority conducting the proceedings of the application for international protection shall consult with a health care professional to establish whether the condition that makes the applicant unable to use the right provided for in subsection (4) of this section is of a temporary or enduring nature.

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

(7) The provisions of subsection (6) of this section shall not be applied if it is necessary to decide whether or not to review the content of the application, and the applicant shall be given an opportunity in any case to present his or her position regarding the bases specified in clauses 21 81) 1)-3) and 5) of this Act.

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

(8) If technical equipment is used in the course of performing procedural acts, the participants in the procedural act shall be notified thereof in advance and the objective of using the technical equipment shall be explained to them.

(9) [Repealed - RT I, 06.04.2016, 1 – entry into force 01.05.2016]

(10) The Police and Border Guard Board may give priority to examining an application of an applicant with a special need and to an application the examining of which is given priority for a well-founded need.

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

(11) [Repealed - RT I, 06.04.2016, 1 – entry into force 01.05.2016]

## **§ 18<sup>1</sup>. Time-limit for examining of application**

(1) An application shall be reviewed as soon as possible but no later than six months after the receipt of the application. If pursuant to Regulation (EU) No 604/2013 of the European Parliament and of the Council Estonia is responsible for the examining of the application for international protection, the term of six months shall commence as of the moment the applicant has been surrendered to Estonia and is located in the territory of Estonia.

(2) The time-limit specified in subsection (1) of this section may be extended by a period not exceeding nine months where at least one of the circumstances exists:

- 1) complex issues of fact or law are involved;
- 2) a large number of persons simultaneously apply for international protection;
- 3) the delay can be attributed to the failure of the applicant to comply with his or her obligations arising from § 11 of this Act.

(3) By way of derogation and in duly justified circumstances, the time limits provided for in subsections (1) and (2) of this section may be extended by three months, where it is necessary in order to ensure an adequate and complete examination of an application for international protection.

(4) The completion of the proceedings may be postponed where the determining authority cannot reasonably be expected to take a decision within the time-limits provided for in subsections (1)-(3) of this section due to an uncertain situation in the country of origin of the applicant, which is expected to be temporary. In such a case, the Police and Border Guard Board shall:

- 1) conduct assessment of the situation in that country of origin at least every six months;
- 2) notify the applicant within a reasonable time of the reasons for the postponement of the decision on the application;
- 3) notify the European Commission within a reasonable time of the postponement of proceedings of application of a person from that country of origin.

(5) In any event, an application shall be reviewed within 21 months as of the receipt of the application.

(6) If the Police and Border Guard Board cannot take a decision with regard to an application for international protection within six months as of the receipt of the application for international protection, the applicant concerned shall be informed of the delay; and upon the request of the applicant, of the reason for the delay and the time when the decision is to be expected.

[RT I, 06.04.2016, 1 – entry into force. 01.05.2016]

### **§ 19. Bases for establishing persecution and serious risk**

Persecution specified in subsection 4 (1) of this Act must be: serious or continuous, violating human rights except in the case provided for in point 2 of Article 15 of the Convention for the Protection of Human Rights and Fundamental Freedoms (RT II 1996, 11/12, 34), or a set of different acts, including violation of human rights which may affect a person in the same manner as specified in point 1.

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

Among others, the following circumstances observable in a state shall be considered to be persecution:

- 1) physical or mental violence, including sexual abuse;
- 2) discriminatory measures of legislative, executive or judicial power or implementation of measures by the said powers in a discriminatory manner;
- 3) discriminatory or disproportional prosecution or punishment;
- 4) dismissal of a claim for compensation for acts specified in clause 3) of this section;
- 5) convicting or punishment for refusal to perform military service in a situation which results in commission of criminal offences or acts specified in § 22 of this Act;
- 6) gender-specific acts and acts directed against minors;
- 7) absence of access to legal remedy.

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

(3) When assessing the reasons for persecution, the Police and Border Guard Board shall take into account the concepts of race, religion and nationality recognised in a country and discrimination on the basis of political opinions or membership of a particular social group.

(4) Fear of persecution and serious risk may be based on events which have taken place in the country of origin of the applicant after the applicant left the country.

(5) The sources of persecution and serious risk shall be considered:

- 1) a state;
  - 2) political parties or organisations leading the state or a part thereof;
- non-governmental associations if the state, international organisations or political parties or organisations leading the state or a part thereof are unable or unwilling to offer protection against persecution or serious risk.

[RT I, 21.12.2013, 1 - entry into force 22.12.2013]

(6) International protection may only be granted by a state, or an organisation or association controlling the state or an essential part of the territory of the state if such state or association expresses willingness to provide protection and is able to do so. The protection shall be efficient, stable and accessible to applicant.

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

### **§ 20. Unfounded application**

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

Where it is evident on the basis of the available evidence that the applicant does not qualify for international protection prescribed in Directive 2011/95/EU of the European Parliament and of the Council on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast) (OJ L 337, 13.12.2011, pp.9-26), the application shall be considered unfounded.

Where the application is unfounded, the Police and Border Guard Board shall take a decision to reject the application.

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

## **§ 20<sup>1</sup>. Clearly unfounded application**

An application is considered clearly unfounded if the claims and reasons presented therein are not related to the circumstances specified in subsection 20 (1) of this Act or the application is clearly submitted with the purpose of abusing the international protection system and one of the following bases exists:

- 1) there is reason to consider the applicant's country of origin as a safe country of origin;
- 2) upon the processing of the application for international protection the applicant has knowingly provided incorrect information, given incorrect explanations, has knowingly failed to provide information or give explanations which are of essential importance to the processing of his or her application for international protection, or has knowingly submitted falsified documents;
- 3) there is reason to believe that the applicant has destroyed or disposed of a document or any other evidence that would have helped to establish his or her identity or citizenship;
- 4) the applicant has made clearly false or clearly improbable representations which contradict sufficiently verified country-of-origin information, thus making his or her claim clearly unconvincing in relation to whether he or she qualifies to the criteria of a beneficiary of international protection;
- 5) the application is subsequent and subsection 24 (1) of this Act shall be applied thereto;
- 6) the applicant has submitted an application for international protection only to avoid the compliance with the obligation to leave;
- 7) the applicant has arrived in Estonia or has stayed in the territory of Estonia illegally or has failed to submit an application for international protection at the earliest opportunity;
- 8) the applicant has refused or refuses to be fingerprinted;
- 9) the applicant poses a threat to national security or public order or he or she has been expelled from Estonia for the specified reasons.

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

## **§ 20<sup>2</sup>. Review of application under expedited procedure**

(1) A clearly unfounded application for international protection may be reviewed under the expedited procedure, including at the border, taking account of the provisions of this section.

(2) A clearly unfounded application shall not be reviewed under the expedited procedure or the application of the expedited procedure shall be terminated if upon the application thereof it is impossible to take account of the special needs of the applicant, primarily in the case when the applicant has become a victim of torture of rape or he or she has been subjected to other serious forms of psychological, physical or sexual violence.

(3) The application of an unaccompanied minor, if it is in the interests of the minor, may be reviewed under the expedited procedure only in the following cases:

- 1) in the cases specified in clauses 201 1) and 9) of this Act;
- 2) in the cases specified in clauses 201 2) and 3) of this Act on condition that the special needs of the unaccompanied minor have been taken account of and he or she has been given an opportunity to justify his or her action, including to consult his or her representative;
- 3) in the cases specified in clause 201 6) of this Act on condition that the review of the content of the application is not refused on the basis of subsection 24 (3) and clause 21 (1) 4) of this Act;
- 4) in the case specified in clause 21 (1) 3) of this Act.

(4) Upon application of the expedited procedure the application shall be reviewed within 30 days. The specified time-limit may be extended where necessary in order to ensure an adequate and complete review of the application, taking account of the provisions of subsections 181 (1)–(5) of this Act.

[RT I, 06.04.2016, 1 - entry into force 01.05.2016]

## **§ 21. Refusal to review application**

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

(1) The content of an application shall not be reviewed if one of the following bases exists:

- 1) another country may be considered as a first country of asylum for the applicant for the purposes of Article 35 of Directive 2013/32/EU of the European Parliament and of the Council on common procedures for granting and withdrawing international protection ( OJ L 180, 29.06.2013, pp. 60–95 ); another Member State has granted international protection to the applicant and this protection is still accessible; the applicant has arrived in Estonia through a country which can be considered a safe third country; the application is subsequent and subsection 24 (4) of this Act shall be applied thereto; a dependant family member of the applicant lodges an application, after he or she consented to have his or her case be part of the proceedings of an application lodged on his or her behalf and there are no facts which would justify submission of a separate application; another country is responsible for examination of an application for international protection pursuant to Regulation (EU) No 604/2013 of the European Parliament and of the Council.

(2) In the cases specified in subsection (1) of this section the proceedings for international protection shall be terminated by a decision to reject an application stating, inter alia, that the content of the application has not been reviewed and thereby the Police and Border Guard Board are not required to estimate whether the applicant complies with the requirements for the grant of international protection provided for in Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification as beneficiary of international protection.

(3) If an application is dismissed on the basis provided for in clause (1) 3) of this section, the Police and Border Guard Board shall issue to the person a document in which the authorities of a third country shall be notified in the official language of that state of the circumstance that the content of the application has not been reviewed.

(4) The provisions of subsection (1) of this section shall be applied to an unaccompanied minor only in the case specified in clause (1) 3) of this section on condition that it is used in the interests of the minor.

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

## **§ 22. Circumstances precluding recognition as refugee or person eligible for subsidiary protection**

(1) An alien shall not be recognised as a refugee if:

- 1) he or she falls within the scope of Article 1 D) of the Geneva Convention;
- 2) he or she is a permanent resident of Estonia;
- 3) there is good reason to believe that he or she has committed a crime against peace or humanity or a war crime as defined in international instruments;
- 4) there is good reason to believe that he or she has committed a serious non-political crime outside Estonia before arrival in Estonia;
- 5) there is good reason to believe that he or she is guilty of committing an act contrary to the purposes and principles of the United Nations.

(2) Amongst other acts, a particularly cruel act committed with an allegedly political objective shall be deemed to be a serious non-political crime as specified in clause (1) 4) of this section.

(3) An alien shall not be recognised as a person eligible for subsidiary protection if:

- 1) there is good reason to believe that he or she has committed a crime against peace or humanity or a war crime as defined in international instruments;
- 2) there is good reason to believe that he or she has committed a serious crime;
- 3) there is good reason to believe that he or she is guilty of committing an act contrary to the purposes and principles of the United Nations;
- 4) there is good reason to believe that he or she may pose a threat to public order or national security;
- 5) he or she has left the country of origin on the ground that he or she has committed an act other than those specified in clauses 1)-4) of this subsection for which imprisonment is prescribed.

[RT I, 03.07.2013, 2 - entry into force 01.10.2013]

(4) The bases provided for in clauses (1) 3)-5) and (3) 1)-4) of this section apply to an alien who has incited the specified acts or crimes or participated in the specified acts in whatever manner.

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

## **§ 23. Withdrawal of application for granting international protection and waiver of application**

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

(1) An applicant has the right to withdraw the application for international protection throughout the proceedings for the granting of international protection. In such case the proceedings for the granting of international protection terminate.

(2) The Police and Border Guard Board presumes that the application has been withdrawn or waived if the applicant:

- 1) has not fulfilled the obligation provided for in clauses 11 (2) 2) and 3) of this Act unless he or she proves within a reasonable period of time that he or she was unable to fulfil the specified obligations with good reason;
- 2) applicant is in hiding or has left his or her residence, the detention centre or accommodation centre for applicants for international protection without permission, without having informed the Police and Border Guard Board, the detention centre or the accommodation centre for applicants for international protection thereof within a reasonable period of time;
- 3) has not appeared at the Police and Border Guard Board for performance of a procedural act within one month without good reason.

(3) If an applicant has withdrawn the application indirectly or has waived it, the Police and Border Guard Board shall make a decision on the rejection of the application in accordance with Article 4 of Directive 2011/95/EU of the European Parliament and of the Council.

(4) The applicant has the right to request a new review of the application for international protection, except if the application for international protection was reviewed pursuant to the proceedings provided for in § 24 of this Act.

(5) In the case specified in subsection (4) of this section the Police and Border Guard Board shall cancel the decision of rejection and continue review of the application, renewing the previous proceedings concerning international protection.

(6) If the application specified in subsection (4) of this section has been submitted more than nine months after the decision specified in subsection (3) of this section has been made, a new application may be treated as the subsequent application with regard to which the provisions of § 24 of this Act apply.

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

#### **§ 24. Subsequent application**

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

(1) Where an applicant submits additional explanations or a subsequent application the Police and Border Guard Board shall review additional explanations or documents accompanying the subsequent application within the framework of reviewing the previous application for international protection, renewing the previous proceedings for granting international protection.

(2) Where new facts have been identified or an applicant has submitted new documents or evidence which he or she, for reasons beyond his or her control, was unable to submit or prove in the course of the previous proceedings and which significantly add to the likelihood of the applicant qualifying as a beneficiary of international protection, the application shall be further examined pursuant to the proceedings provided for in § 18 of this Act.

(3) Where it has been established that there are no new facts and the applicant has failed to submit new documents or evidence which significantly add to the likelihood of the applicant qualifying as a beneficiary of international protection, the application shall not be reviewed.

(4) The provisions of this section shall also be applied in the case an applicant who is a dependant person or a minor independently submits an application for international protection which his or her legal representative has already submitted on behalf of him or her.

(5) In the cases provided for in subsections (1) and (2) of this section an applicant has the right to stay in Estonian for the time of the proceedings of a subsequent application if that subsequent application is submitted for the first time. The right to stay provided for in this subsection does not include the proceedings provided for in § 251 of this Act.

(6) If an application has been dismissed for at least one of the bases provided for in subsection 21 (1) of this Act, a new application following shall not be deemed as a subsequent application for the purposes of this section.

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

#### **§ 25. Decision to reject application for international protection**

(1) [Repealed - RT I, 06.04.2016, 1 – entry into force 01.05.2016]

(2) [Repealed - RT I, 06.04.2016, 1 – entry into force 01.05.2016]

(2<sup>1</sup>) If another Member State is responsible for examining an application for international protection on the basis of Regulation (EU) No 604/2013 of the European Parliament and of the Council, a person is not issued a precept to leave but he or she is imposed, in a decision to reject the application, an obligation to leave Estonia to a country responsible for examining the application. If the person does not perform the obligation to leave voluntarily or if he or she is detained on the basis provided for in subsection 361 (2) of this Act, the obligation to leave may be compulsorily enforced pursuant to the procedure provided for in the Obligation to Leave and Prohibition on Entry Act.

(3) The decision to reject an application for international protection shall be communicated to an alien without delay.

(4) If an application for international protection is rejected at least on one of the bases specified in subsection 21 (1) of this Act, it shall be indicated in the decision that the content of the application for international protection has not been reviewed.

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

## **§ 25<sup>1</sup>. Contestation of decision**

The decision on rejection of an application or revocation of international protection may be contested in the administrative court within ten days as of the announcement of the decision. The specified decision may not be contested pursuant to the proceedings concerning a challenge.

Upon contestation of the decision made with regard to an application for international protection an applicant has the rights and obligations specified in this Act within the time limit for an appeal and during the judicial proceedings, including the right to stay in the territory of Estonia until the final decision is made.

If an applicant files an appeal against a decision which is made:

on some of the bases specified in § 20<sup>1</sup>, except for clause 7), of this Act;

2) on the basis specified in clauses 21 (1) 1), 2) or 4) of this Act;

3) on the basis specified in subsection 23 (3) or (6) of this Act or

4) on the basis of Regulation (EU) No 604/2013 of the European Parliament and of the Council,

the court conducting the proceeding of the matter shall decide on the right of the applicant to stay in Estonia during the judicial proceedings. Until the making of the decision specified in this subsection the applicant has the right to stay in the territory of Estonia.

(4) If the court has decided to restrict the right of stay in the state of a person during the judicial proceedings in the cases specified in subsection (3) of this section, the applicant shall retain the right to an effective remedy.

(5) Application for international protection and contestation of the decision made with regard to an application for international protection shall not give an applicant the right to apply for temporary residence permit on the basis of the Aliens Act.

(6) In the cases specified in subsection (3) of this section the court shall make a ruling to decide on the right to stay in Estonia during the judicial proceedings.

(7) If the derogation provided for in clauses (3) 1)–3) of this section is applied to the decision made at the border, it is ensured that the applicant is enabled the rights specified in clauses 10 (2) 1), 7), 8) and 9) of this Act during the period of ten days for contestation provided for in subsection (1) of this section for preparation of the appeal and presenting the arguments to the court.

(8) An applicant has the right to waive the right of appeal pursuant to the procedure provided for in the Code of Administrative Court Procedure.

[RT I, 06.04.2016, 1 – entry into force. 01.05.2016]

## **§ 26. Compulsory execution of precept to leave**

[Repealed - RT I, 06.04.2016, 1 – entry into force. 01.05.2016]

## **§ 27. Transfer of applicant on basis of treaty or EU legislation**

[Repealed - RT I, 06.04.2016, 1 – entry into force. 01.05.2016].

## **§ 28. Suspension of proceedings for granting international protection**

The Police and Border Guard Board shall suspend proceedings for granting international protection proceedings for the period of validity of temporary protection.

## **§ 29. Surveillance measures**

(1) For the purposeful and efficient, simple and expedient conduct of proceedings for international protection, the Police and Border Guard Board may apply the following surveillance measures with respect to applicants:

1) residing in a determined place of residence;

2) appearing for registration at the Police and Border Guard Board at prescribed intervals;

3) notifying the Police and Border Guard Board of the absence from the place of residence for a period longer than three days;

4) depositing the travel document issued by a foreign state at the Police and Border Guard Board.

[RT I, 03.07.2013, 2 - entry into force 01.10.2013]

(2) The Police and Border Guard Board and the Estonian Internal Security Service have the right to verify the compliance of applicants with the surveillance measures at any time.

[RT I 2009, 62, 405 - entry into force 01.01.2010]

(3) An applicant shall be informed in writing of the application of surveillance measures.

## **§ 30. Language of proceedings for international protection**

(1) Proceedings for international protection shall be conducted in Estonian. With the consent of the official performing a procedural act, the act may be performed in another language in which the alien is able to express him or herself orally in an understandable manner.

(2) If an applicant is not sufficiently proficient in Estonian, an interpreter shall be asked to be present at the procedural acts directly related to the applicant, and the interpreter shall translate the circumstances relevant to the proceedings into a language in which the alien is able to express himself or herself orally in an understandable manner. An interpreter need not be involved if the procedural act is conducted in a language in which the alien is able to express him or herself orally in an understandable manner.

(3) The Police and Border Guard Board may involve an interpreter in the translation of procedural acts by using means of communications.

[RT I 2009, 62, 405 - entry into force 01.01.2010]

(4) An alien has the right to ask at his or her expense an interpreter of his or her choice to be present at a procedural act provided that this is possible without delay and the objectivity of the interpretation can be guaranteed.

(5) Where necessary, the evidence provided by an applicant shall be translated into Estonian. The evidence provided by an applicant shall not be translated into Estonian if it has no direct relevance to the proceedings for international protection.

(6) The decision to reject an application for international protection, to issue a residence permit or to refuse issue of a residence permit shall be translated to the applicant wholly unless the applicant has a representative.

### **§ 31. Delivery of documents**

(1) A decision, summons, notice or other document is deemed to be delivered to an applicant staying at the detention centre or accommodation centre for applicants for international protection as of the date on which such document is received at the detention centre or accommodation centre for applicants for international protection.  
[RT I, 03.07.2013, 2 - entry into force 01.10.2013]

(2) If an applicant resides outside the accommodation centre for applicants for international protection, a decision, summons, notice or other document is deemed to be delivered to an applicant as of the date on which such document is forwarded to the applicant at the address of the applicant's residence indicated by him or her, or forwarded to the representative of the applicant.  
[RT I, 03.07.2013, 2 - entry into force 01.10.2013]

(3) The detention centre or accommodation centre for applicants for international protection shall immediately deliver the decision, summons, notice or other document to the applicant against a signature.  
[RT I, 03.07.2013, 2 - entry into force 01.10.2013]

### **§ 31<sup>1</sup>. Ensuring family unity**

(1) Family members shall be accommodated together.

(2) A minor child of an applicant or an applicant who is a minor shall be accommodated together with his or her parent, his or her single minor sister or brother or guardian on condition that it is in the interests of the minor.

(3) A dependant adult applicant with a special need shall be accommodated, where possible, together with his or her guardian, who is already staying in Estonia.  
[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

## **Division 2 Admission of Applicant**

### **§ 32. Accommodation centre for applicants for international protection**

[RT I, 03.07.2013, 2 - entry into force 01.10.2013]

(1) The function of the accommodation centre for applicants for international protection is to arrange, as necessary, for the provision of the following services in assistance to applicants during proceedings for international protection or proceedings for temporary protection:

- 1) accommodation;
- 2) supply of foodstuffs or provision of food, supply of essential clothing and other necessities and toiletries, and supply of money for urgent small expenses within the limits provided for in subsection 36 (6) of this Act to applicants residing in the accommodation centre for applicants for international protection and to applicants residing outside the accommodation centre for applicants for international protection on the basis of clause 34 (2) 3) or clause 62 (2) 3) of this Act;
- 3) access to medical examinations and necessary health services;

- 4) essential translation services and Estonian language instruction;
- 5) information regarding their rights and duties;
- 6) transportation necessary for the performance of procedural acts pursuant to this Act;
- 7) other essential services

(2) The performance of the functions of the accommodation centre for applicants for international protection shall be ensured by the Ministry of Social Affairs or an agency in the area of government thereof.

(3) The minister responsible for the field may transfer the performance of the functions of the accommodation centre for applicants for international protection to a sole proprietor or a legal person (hereinafter the accommodation centre for applicants for international protection service provider) on the basis of an administrative contract concluded in the procedure provided for in the Administrative Co-operation Act.

(4) The accommodation centre for applicants for international protection service provider may perform the functions of the accommodation centre for applicants for international protection through a person who is an Estonian citizen with active legal capacity whose Estonian language proficiency is at least at the level of B2 provided for in the Language Act or a level corresponding thereto, who is not serving a sentence for the commission of a criminal offence.

[RT I 2009, 4, 26 - entry into force 26.01.2009]

(5) The functions transferred on the basis of the administrative contract shall bring about the rights, obligations and liability provided for in this Act.

(6) The minister responsible for the field shall exercise state supervision over the accommodation centre for applicants for international protection service provider.

(7) In the accommodation centre for applicants for international protection it is prohibited to hold items that may endanger the life or health of a person himself or herself or other persons or the security of the accommodation centre for applicants for international protection.

(8) The internal procedure rules of the accommodation centre for applicants for international protection shall be established by a regulation of the minister responsible for the field.

(9) The internal procedure rules of the accommodation centre for applicants for international protection shall at least provide for the following:

- 1) the procedure for accommodation of an applicant in the accommodation centre for applicants for international protection;
- 2) the procedure for staying in the territory and buildings of the accommodation centre for applicants for international protection;
- 3) the procedure for the staying away of the accommodation centre for applicants for international protection during night time;
- 4) the procedure for the visiting of an applicant in the accommodation centre for applicants for international protection;
- 5) the procedure for the using of the property and rooms of the accommodation centre for applicants for international protection;
- 6) a list of items which are prohibited in the accommodation centre for applicants for international protection on the ground that they may endanger the life and health of the person himself or herself or other persons or the security of the accommodation centre for applicants for international protection;
- 7) the procedure for the conduct of supervision over the accommodation centre for applicants for international protection;
- 8) the procedure for the submission of complaints;
- 9) the procedure for the payment of financial support provided for in §§ 32 and 64 of this Act.

[RT I, 03.07.2013, 2 - entry into force 01.10.2013]

### **§ 33. Accommodation of applicant in offices of Police and Border Guard Board**

[RT I, 03.07.2013, 2 - entry into force 01.10.2013]

(1) An applicant for international protection may be temporarily accommodated in the offices of the Police and Border Guard Board (hereinafter in this section offices) if this is necessary for the performance of acts in the proceedings for international protection.

(2) The Police and Border Guard Board shall, as necessary, arrange for providing the services as assistance to applicants accommodated in the office rooms as follows:

- 1) conduct of medical examination and ensuring of the access to necessary health services;
- 2) supply of necessities and toiletries;
- 3) essential translation service;
- 4) informing of his or her rights and obligations;
- 5) provision of food allowance.

(3) The procedure for the payment and the rates of food allowance specified in clause (2) 5) of this section shall be established by a regulation of the minister responsible for the field.

(4) It is prohibited to hold items in the offices which may endanger the life and health of the person himself or herself or other persons or the security of the offices.

(5) The internal procedure rules of the offices shall be established by a regulation of the minister responsible for the field.

(6) The internal procedure rules of the offices shall at least provide for the following:

- 1) the procedure for accommodation of an applicant in the offices;
- 2) the procedure for staying in the territory and buildings of the offices;
- 3) the procedure for staying away from the offices during night time;
- 4) the procedure for the visiting of an applicant in the offices;
- 5) the procedure for using the property and rooms of the offices;
- 6) a list of items that are prohibited in the offices on the ground that they may endanger the life and health of the person himself or herself or other persons or the security of the offices;
- 7) the procedure for the conduct of supervision over the offices;
- 8) the procedure for the submission of complaints;

(7) The Director General of the Police and Border Guard Board may transfer the performance of the functions provided for in subsection (2) of this section to a sole proprietor or a legal person on the basis of the administrative contract concluded in the procedure provided for in the Administrative Co-operation Act.

(8) The functions transferred on the basis of the administrative contract bring about the rights, obligations and liability provided for in this Act.

[RT I, 03.07.2013, 2 - entry into force 01.10.2013]

#### **§ 34. Stay of applicant at accommodation centre for applicants for international protection and outside thereof**

[RT I, 03.07.2013, 2 - entry into force 01.10.2013]

(1) An applicant is required to reside at the accommodation centre for applicants for international protection during the proceedings for international protection.

[RT I, 03.07.2013, 2 - entry into force 01.10.2013]

(2) With the written permission of the Police and Border Guard Board, an applicant may reside outside the accommodation centre for applicants for international protection if:

[RT I, 03.07.2013, 2 - entry into force 01.10.2013]

- 1) the accommodation and support of the applicant is ensured by a person legally residing in Estonia;
- 2) the applicant has sufficient financial resources to ensure his or her accommodation and support;
- 3) it is necessary for the applicant to reside outside the accommodation centre for applicants for international protection in order to ensure his or her safety.

[RT I, 03.07.2013, 2 - entry into force 01.10.2013]

(2<sup>1</sup>) If an applicant is staying in the accommodations centre, the permission shall be granted by the accommodation centre in the case specified in clause (2) 3) of this section, coordinating such decision with the Police and border Guard Board.

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

(3) An applicant is required to provide evidence in proof of the circumstances specified in clauses (2) 1) and 2) of this section.

(4) The Police and Border Guard Board shall withdraw the permission specified in subsection (2) of this section if the circumstances which constituted the basis for granting the permission have ceased to exist, the applicant fails to comply with the surveillance measures applied with respect to him or her, or fails to perform other duties provided by law.

(5) An applicant residing at the accommodation centre for applicants for international protection centre during proceedings for international protection is required to stay at the accommodation centre for applicants for international protection during night time. The period of time from 22.00 to 6.00 is considered night time.

[RT I, 03.07.2013, 2 - entry into force 01.10.2013]

(6) The accommodation centre for applicants for international protection may grant a permission to an applicant to stay away from the accommodation centre for applicants for international protection during night time in the following cases:

[RT I, 03.07.2013, 2 - entry into force 01.10.2013]

- 1) to receive medical care;
- 2) to stay with a family member who needs emergency medical care;
- 3) on the basis of a reasoned application of a person staying in Estonia legally.

[RT I, 03.07.2013, 2 - entry into force 01.10.2013]

4) on the basis of a reasoned application of an applicant in which his or her contact data and address of the stay are noted.

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

(6<sup>1</sup>) In the case specified in clause (6) 3) or 4) of this section permission shall be granted for up to three twenty-four hour periods. In a reasoned case the accommodation centre may decide to extend the permission for up to three twenty-four hour period.

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

(7) An applicant who is residing outside the accommodation centre for applicants for international protection during proceedings for international protection is required to inform the Police and Border Guard Board of the address of his or her residence and any changes thereof.

[RT I, 03.07.2013, 2 - entry into force 01.10.2013]

### **§ 35. Conditions for stay in Estonia for applicants who are unaccompanied minors**

[Repealed – RT I, 18.04.2013, 1 – entry into force 28.04.2013]

### **§ 36. Monetary benefit and rates thereof**

(1) The services offered by the accommodation centre for applicants for international protection specified in clause 32 (1) 2) of this Act, except the supply of essential clothing and other necessities, may be substituted by a monetary benefit at the rate specified in subsections (4) and (5) of this section.

[RT I, 03.07.2013, 2 - entry into force 01.10.2013]

(2) An applicant residing outside the accommodation centre for applicants for international protection on the basis of clauses 34 (2) 1) and 2) of this Act shall not be paid the monetary benefit or provided with the services offered by the accommodation centre for applicants for international protection on the basis of clauses 32 (1) 1), 2), 4) and 6).

[RT I, 03.07.2013, 2 - entry into force 01.10.2013]

(3) An applicant residing in the accommodation centre for applicants for international protection, who is employed in Estonia on the basis of § 10<sup>1</sup> of this Act shall not be paid the monetary benefit or provided with the services offered by the accommodation centre for applicants for international protection on the basis of clauses 32 (1) 2) and 6).

[RT I, 03.07.2013, 2 - entry into force 01.10.2013]

(4) Monetary benefit paid to an applicant shall be equal to the applicable subsistence limit established on the basis of the minimum consumption expenditure.

(5) The amount of benefit paid to the second adult family member and each additional adult member of a family is 80 per cent of the amount of benefit paid to the first member of the family. The amount of benefit paid to each minor family member is equal to the amount of benefit paid to the first family member. Only the family members who are applicants shall be paid a benefit.

[RT I, 04.07.2014, 13 – entry into force 01.01.2015]

(6) [Repealed - RT I, 06.04.2016, 1 – entry into force 01.05.2016]

(7) Laying down limitations provided for in subsections (2) and (3) of this section shall be decided individually in each case, taking account of the specific situation of the person, in particular in the case of a person with a special need, and being based on the principle of proportionality. Thereby access to emergency care services shall not be limited and a decent standard of living is ensured.

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

(8) The provisions of subsections 65 (2) and (3) of the Administrative Procedure Act shall be applied to the amendment and repeal of the decision specified in subsection (7) of this section. [RT I, 06.04.2016, 1 – entry into force 01.05.2016]

### **§ 36<sup>1</sup>. Basis for detention**

(1) An applicant for international protection may be detained on the basis provided for in subsection (2) of this section if the efficient application of the surveillance measures provided for in this Act is impossible. The detention shall be in accordance with the principle of proportionality and upon detention the essential circumstances related to the applicant for international protection shall be taken account of in every single case.

(2) An applicant for international protection may be detained if it is unavoidably necessary on the following bases:

- 1) identification of the person or verification of the identity;
- 2) verification or identification of the citizenship of the person;
- 3) verification of the legal bases of the entry into and the stay in the state of a person;

- 4) identification of the circumstances relevant to the proceedings of the application for international protection, primarily in the case when there is a risk of escape;
  - 5) there is a reason to believe that the person has submitted an application for international protection to postpone the obligation to leave or prevent expulsion;
  - 6) protection of the security of state or public order;
  - 7) transfer of a person in the procedure provided for in Regulation (EU) No 604/2013 of the European Parliament and of the Council, if there is a risk of escape of a person.
- [RT I, 06.04.2016, 1 – entry into force 01.05.2016]

(2<sup>1</sup>) A risk of escape specified in clauses (2) 4) and 7) of this section is deemed to be a circumstance specified in § 6<sup>8</sup> of the Obligation to Leave and Prohibition on Entry Act or if a person has left another Member State of the European Union without a permission.

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

(3) The bases for detention provided for in subsection (2) of this section shall not restrict the detention of a person on other bases provided by law unless otherwise provided for in this Act.

[RT I, 03.07.2013, 2 - entry into force 01.10.2013]

### **§ 36<sup>2</sup>. Deciding on detention of applicant for international protection and on extension thereof**

(1) The Police and Border Guard Board or the Estonian Internal Security Service may detain an applicant for international protection, on the basis provided for in subsection 361(2) of this Act and taking account of the principles specified in subsection (1), without the permission of an administrative court for up to 48 hours in a detention centre or offices.

(2) If it is necessary to detain an applicant for international protection, on the basis provided for in subsection 361(2) of this Act and taking account of the principles specified in subsection (1), for longer than 48 hours, the Police and Border Guard Board or the Estonian Internal Security Service shall apply to the administrative court for the permission to detain the applicant for international protection and place him or her into the detention centre for up to two months.

(3) If an alien lodges an application for international protection during the detention in the detention centre or in the course of expulsion, the Police and Border Guard Board or the Estonian Internal Security Service shall detain him or her and apply for the permission from the administrative court to detain the applicant for international protection for up to two months within 48 hours as of the lodging of the application for international protection if the basis for the detention of the applicant for international protection provided for in subsection 361(2) of this Act or the principles specified in subsection (2) occur.

(4) The detention of an alien with the purpose of expulsion in the case provided for in subsection (3) of this section shall be suspended until the decision with regard to the application for international protection has been taken.

(5) The administrative court shall extend the term provided for in subsection (2) of this section by up to four months at a time in the case the basis provided for in subsection 361(2) of this Act and the principles specified in subsection (1) occur.

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

(6) The detention of the applicant for international protection and the extension of the term thereof shall be decided by the administrative court pursuant to the provisions of the Code of Administrative Court Procedure on deciding the grant of permission for administrative act.

[RT I, 03.07.2013, 2 - entry into force 01.10.2013]

### **§ 36<sup>3</sup>. Arrangement of detention of applicant for international protection**

(1) The provisions of the Obligation to Leave and Prohibition on Entry Act with regard to the detention of a person to be expelled at a detention centre shall be applied to the detention of an applicant for international protection at the detention centre, taking account of the specifications provided for in this Act.

(2) In addition to the services provided to a person to be expelled at the detention centre, an applicant for international protection shall be ensured the translation and transportation services necessary for the performance of procedural acts provided for in this Act.

(3) If the detention of an applicant for international protection at the detention centre is impossible for the security or health protection purposes or for other reasons or is materially complicated an applicant for international protection may be accommodated at the police detention house or under surveillance outside the detention centre on the decision of the head of the detention centre.

Upon detention of the minors, disabled persons, elderly people, pregnant women, single parents with minor children and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence their special needs shall be taken account of and the Police and Border Guard Board shall ensure regular monitoring of the detention thereof.

[RT I, 03.07.2013, 2 - entry into force 01.10.2013]

In addition to the persons specified in subsection 2610 (1) of the Obligation to Leave and Prohibition on Entry Act an applicant shall also be allowed to meet family members.

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

#### **§ 36<sup>4</sup>. Release of applicant for international protection from detention centre**

(1) If the basis for detention provided for in subsection 361(2) of this Act ceases to exist, the head of the detention centre shall immediately release an applicant for international protection from the detention centre.

(2) If an applicant for international protection is taken into custody as a suspect or accused in a criminal matter, he or she shall be released from the detention centre on the basis of the arrest warrant.

[RT I, 03.07.2013, 2 - entry into force 01.10.2013]

### **Division 3 Residence Permit**

[RT I, 02.07.2013, 3 - entry into force 01.09.2013]

#### **§ 37. Issue of residence permit**

An applicant with regard to whom refugee status or subsidiary protection status is established and who is recognised as a refugee or person eligible for subsidiary protection shall be granted international protection and a temporary residence permit unless circumstances precluding recognition as a refugee or person eligible for subsidiary protection or a basis for rejecting the application for international protection become evident.

#### **§ 38. Period of validity of residence permit**

(1) A residence permit shall be issued to a refugee for three years.

(2) A residence permit shall be issued to a person eligible for subsidiary protection for one year.

(3) Within the framework of resettlement and relocation an alien shall be issued a residence permit:

1) to a person eligible for subsidiary protection for one year;

2) to a beneficiary of refugee status for three years.

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

#### **§ 39. Extension of residence permit**

(1) The Police and Border Guard Board may extend the residence permit issued to a refugee for three years if the circumstances due to which the residence permit was issued have not ceased to exist and no circumstance exists which constitutes the basis for revocation thereof.

[RT I, 21.12.2013, 1 - entry into force 22.12.2013]

(2) The Police and Border Guard Board may extend the residence permit issued to a person eligible for subsidiary protection for two years if the circumstances due to which the residence permit was issued have not ceased to exist and no circumstance exists which constitutes the basis for revocation thereof.

[RT I, 21.12.2013, 1 - entry into force 22.12.2013]

#### **§ 40. Refusal to issue residence permit**

[Repealed - RT I, 06.04.2016, 1 – entry into force 01.05.2016]

#### **§ 41. Decision on issue or refusal to issue of residence permit**

[Repealed - RT I, 06.04.2016, 1 – entry into force 01.05.2016]

#### **§ 42. Compulsory execution of precept to leave issued by decision on refusal to issue of residence permit**

[Repealed - RT I, 06.04.2016, 1 – entry into force 01.05.2016]

#### **§ 43. Revocation of residence permit**

(1) The Police and Border Guard Board shall revoke a residence permit issued to an alien, if:

1) circumstances which constitute a basis for revoking refugee status or subsidiary protection status become known in respect of the alien;

2) circumstances which constitute a basis for refusal to issue or extend a residence permit become known in respect of the alien;

3) the alien poses a threat to national security, public safety or public order.

(2) If a residence permit issued to an alien on the basis of refugee status is revoked on the grounds that the basis for the issue thereof has ceased to exist, the alien may be issued a residence permit based on subsidiary protection status on the basis of his or her application for a residence permit, provided that no circumstance exists which constitutes the basis for refusal to issue such residence permit.

(3) A precept to leave shall be issued pursuant to the procedure provided for in the Obligation to Leave and Prohibition on Entry Act to an alien whose residence permit is revoked.

#### **§ 44. Issue of permanent resident's residence permit**

An alien who has been issued a temporary residence permit shall be issued a permanent resident's residence permit on the basis of and pursuant to the procedure provided in the Aliens Act.

[RT I 2006, 21, 159 - entry into force 01.07.2006]

#### **§ 45. Employment in Estonia of alien holding residence permit**

An alien who has been issued a residence permit on the basis of this Act may take employment in Estonia on the same grounds provided by legislation as a permanent resident of Estonia.

[RT I, 23.03.2015, 1 - entry into force 02.04.2015]

#### **§ 46. Residence permits of family members of aliens who have been granted international protection**

(1) If an alien has been issued a residence permit on the basis provided for in § 37 of this Act, the Police and Border Guard Board shall issue a residence permit of a family member to a family member specified in § 7 of this Act.

(2) If a family member of an alien needs international protection, he or she shall also be granted international protection together with the residence permit of a family member on the same basis and with the same period of validity as to an alien.

(3) A residence permit of a family member shall be extended for up to the same period of validity as an alien's residence permit.

(4) If upon extension of a residence permit it appears that a family member who has been granted international protection in addition to the residence permit of a family member does not need international protection any more, his or her residence permit shall be extended without granting international protection.

(5) A family member shall submit an application for a residence permit at the earliest opportunity but not later than six months as of the date of issuing a residence permit to the alien.

(6) Where family reunification is possible in another country, the Police and Border Guard Board may require that upon application for a residence permit of a family member an alien with whom the family member wishes to reside is required to have, at the time of applying for a residence permit of a family member, permanent legal income which shall ensure that the family be maintained in Estonia, the family shall have an actual dwelling in Estonia and the family member of the alien shall have a valid health insurance policy which guarantees the payment, during the period of validity of the residence permit, of the medical expenses incurred by him or her as a result of illness or injury.

(7) If a family member submits an application for a residence permit later than within the term provided for in subsection (3) of this section, the Police and Border Guard Board may demand compliance with the requirements provided for in subsection (4). In the event of a failure to comply with the requirements, the Police and Border Guard Board may refuse to issue a residence permit to a family member.

(8) A family member shall be refused the issue or extension of a residence permit, or a residence permit shall be revoked, if:

1) the family member poses a threat to national security, public safety or public order;

2) in the case provided for in subsection 22 (1) or (3) of this Act;

3) if family reunification is possible in another country and the conditions provided for in subsection (4) of this section are not complied with.

(9) The following additional conditions apply to a residence permit issued to a family member:

1) the validity of the temporary residence permit issued to him or her shall not exceed the validity of the temporary residence permit of an alien;

- 2) the extension of his or her temporary residence permit shall be refused if the temporary residence permit of an alien is not extended;
- 3) the temporary residence permit issued to him or her shall be revoked at the same time with the revocation of the residence permit of an alien;
- 4) the temporary residence permit issued to him or her shall be revoked if the circumstance which constituted the basis for issue thereof ceases to exist.

(10) If a family member has been issued a residence permit of a family member and the circumstance that constituted a basis for granting the residence permit has ceased to exist but the obligation to leave Estonia would be clearly too burdensome for him or her, he or she may be issued a residence permit to settle with his or her spouse or a residence permit to settle with a close relative under the circumstances and conditions provided for in the Aliens Act.

(11) The residence permit of a minor child shall not be revoked and extension thereof shall not be refused if this does not correspond to the rights and interests of the child.

(12) Subsection (9) of this section shall not apply to an alien who has been issued a residence permit as a minor child after he or she reaches the age of majority.

(13) An alien for the purposes of settling with whom a residence permit was issued to a family member shall have the obligations of a sponsor provided for in the Aliens Act. An unaccompanied minor alien shall have no obligations of a sponsor until he or she reaches the age of majority.

(14) If a residence permit issued to a family member expires and the family member has lodged a new application for a residence permit on the basis provided for in the Aliens Act or this Act, he or she is permitted to stay in the state until a decision has been passed with regard to his or her application for a residence permit.

(15) If the application for a residence permit lodged by a family member is clearly unfounded or there is reason to believe that it is lodged for the purpose of postponing the performance of the obligation to leave the country or for non-compliance with the obligation, the family member may not be allowed to stay in the state until the decision with regard to his or her residence permit has been passed.

(16) A precept to leave Estonia shall be issued, pursuant to the procedure provided for in the Obligation to Leave and Prohibition on Entry Act, to a family member in the case specified in subsection (15) of this section which may become immediately subject to compulsory execution.  
[RT I 2010, 3, 4 - entry into force 01.10.2010]

#### **§ 47. Information provided in application for international protection and residence permit and format of residence permit and organisation of issue of residence permit**

[RT I, 03.01.2017, 1 - entry into force 18.01.2017]

(1) The residence permit of a refugee, a person eligible for subsidiary protection and his or her family member shall be prepared by entering data of the residence permit onto a residence permit card on the basis of the data of the decision on the granting or extension of the residence permit.  
[RT I, 09.12.2010, 1 - entry into force 01.01.2011]

(1<sup>1</sup>) If a residence permit has been issued to a refugee, a person eligible for subsidiary protection and his or her family member, they are required to submit an application for a residence permit card and their fingerprints shall be taken during the processing of the residence permit card.  
[RT I, 09.12.2010, 1 - entry into force 01.01.2011]

(2) The procedure of application for, issue, extension and revocation of a residence permits of a refugee and a person eligible for subsidiary protection and their family members, the list of certificates and information to be submitted upon application for a residence permit and the procedure for entering data of the residence permit on a residence permit card shall be established by the minister responsible for the area.  
[RT I, 23.03.2015, 1 - entry into force 01.01.2016]

(3) [Repealed - RT I, 03.01.2017, 1 - entry into force 18.01.2017]

#### **§ 47<sup>1</sup>. Sending alien to participate in adaptation programme**

(1) The Police and Border Guard Board is sending an alien, who has been granted a residence permit on the basis of this Act or whose residence permit has been extended, to participate in the adaptation programme.

(2) The adaptation programme for aliens, who have been granted a residence permit on the basis of this Act or whose residence permit has been extended, shall be established by a regulation of the minister responsible for the area.

(3) The minister responsible for the area may enter into a civil law contract or an administrative contract for the performance of the task provided for in the adaptation programme depending on the nature of the task in the procedure provided for in the Administrative Co-operation Act.

## **Division 4**

### **End and revocation of refugee status and subsidiary protection status**

#### **§ 48. End of refugee status and subsidiary protection status**

(1) Refugee status shall end if:

- 1) an alien has voluntarily re-availed himself or herself of the protection of the country of his or her nationality;
- 2) having lost his or her nationality, an alien is voluntarily applying for restoration thereof;
- 3) an alien applies for the citizenship of a country other than Estonia and receives protection from that country;
- 4) an alien voluntarily returns to his or her country of origin;
- 5) circumstances for recognition as a refugee have ceased to exist;
- 6) an alien refuses, without reason, to return to the country of origin where he or she is no longer faced with persecution;

(2) Subsidiary protection status shall end if:

- 1) circumstances which constituted the basis for subsidiary protection have ceased to exist;
- 2) the circumstances which constituted the basis for subsidiary protection have changed to such extent that the implementation of protection ceases to be necessary.

(3) In the cases provided for in clause (1) 6) and subsection (2) of this section, the Police and Border Guard Board shall verify that the democratic situation in the country of origin is not temporary and that the alien is not faced with actual persecution or serious threat.

#### **§ 49. Revocation of refugee status and subsidiary protection status**

(1) The Police and Border Guard Board shall notify an alien of the initiation of proceedings for revocation of his or her refugee status or subsidiary protection status and of the reasons for initiating thereof and shall grant the alien an opportunity to submit objections.

(2) The Police and Border Guard Board shall revoke refugee status:

- 1) in the case provided for in subsection 48 (1) of this Act;
- 2) if the circumstance specified in subsection 22 (1) of this Act becomes evident;
- 3) if an alien has knowingly provided incorrect information or given incorrect explanations, or has knowingly failed to provide information or give explanations which were of essential importance for the processing of his or her application for international protection, taking into account the specific alien and his or her case;

(3) The Police and Border Guard Board may revoke refugee status, if:

- 1) there is good reason to believe that an alien poses a threat to national security;
- 2) a judgment of conviction in the first degree crime has entered into force with regard to an alien.

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

(4) In the cases provided for in subsection (3) of this section and clauses 22 (1) 3)-5) of this Act, the Police and Border Guard Board may revoke the refugee status if the decision confirming the corresponding justified reason has not entered into force.

(5) Upon revocation of refugee status in the cases provided for in subsections (3) and (4) of this section, an alien shall be guaranteed the rights prescribed in Articles 3, 4, 16, 22 and 31-33 of the Geneva Convention.

(6) The Police and Border Guard Board shall revoke subsidiary protection status:

- 1) in the case provided for in subsection 48 (2) of this Act;
- 2) if a circumstance specified in clauses 22 (3) 1)-4) of this Act becomes evident;
- 3) if an alien has knowingly provided incorrect information or given incorrect explanations, or has knowingly failed to provide information or give explanations which were of essential importance to the processing of his or her application for international protection.

(7) The Police and Border Guard Board may revoke the subsidiary protection status if the circumstance specified in clause 22 (3) 5) of this Act becomes evident.

(8) [Repealed - RT I, 06.04.2016, 1 – entry into force 01.05.2016]

## **§ 50. Prohibition of expulsion or return of refugee**

(1) The Police and Border Guard Board shall not expel or return a refugee to a state where his or her life or freedom would be threatened on account of race, nationality or religion or membership of a particular social group or political opinions.

(2) The Police and Border Guard Board may expel or return an alien without applying the specifications of subsection (1) of this section, if:

- 1) there is good reason to believe that the alien poses a threat to national security;
  - 2) a judgment of conviction in the first degree crime has entered into force with regard to an alien.
- [RT I, 06.04.2016, 1 – entry into force 01.05.2016]

## **Division 5**

### **Certificate of applicant for international protection**

#### **§ 51. Certificate of applicant for international protection**

(1) The Police and Border Guard Board shall issue to an applicant, within three days as of the submission of an application for international protection, a certificate of an applicant for international protection, which certifies that the alien is applying for international protection in Estonia.  
[RT I, 23.03.2015, 1 - entry into force 02.04.2015]

(2) An applicant who is staying outside the accommodation centre for applicants for international protection is required to, at the request of the Police and Border Guard Board and the Estonian Internal Security Service present his or her certificate for verification thereof and identification of his or her person.  
[RT I, 03.07.2013, 2 - entry into force 01.10.2013]

(3) The Police and Border Guard Board shall revoke a certificate of an applicant for international protection in the following cases:

- 1) upon termination of the proceedings for granting international protection;
- 2) if the document itself, an entry made or information contained therein is incorrect;
- 3) if the document becomes unusable or an entry contained therein is illegible;
- 4) upon the death of the holder of the document;
- 5) if the document is lost or destroyed.

(4) [Repealed - RT I, 06.04.2016, 1 – entry into force 01.05.2016]

(5) If possible, the Police and Border Guard Board shall confiscate the certificate of an applicant for international protection, which has been revoked, from the alien.

(6) The format of the certificate of an applicant for international protection and a list of information entered therein shall be established by a regulation of the minister responsible for the field.

## **Chapter 3**

### **TEMPORARY PROTECTION**

#### **Division 1**

### **Application of temporary protection and duration of temporary protection**

#### **§ 52. Decision on application of temporary protection**

(1) The existence of a mass influx of displaced aliens and the need for application of temporary protection shall be established by the Council of the European Union.

(2) The Government of the Republic shall decide the admission of displaced aliens to Estonia from a danger area or from a Member State of the European Union on the proposal of competent government agencies. The Government of the Republic may decide that temporary protection be applied in respect to applicants for international protection staying in Estonia who belongs to the category of aliens covered by the decision specified in subsection (1) of this section.

(3) Temporary protection shall be applied on the basis of a decision of the Government of the Republic in respect to aliens specified in the decision, unless a basis for refusal to apply temporary protection exists.

(4) After the decision specified in subsection (2) of this section has been made the organisation of emergency response provided for in the Emergency Act is followed..

[RT I 2009, 39, 262 - entry into force 24.07.2009]

### **§ 53. Duration of temporary protection**

- (1) The duration of temporary protection shall be one year.
- (2) Unless the duration of temporary protection is terminated by the Council of the European Union, it may be extended by six monthly periods for up to a maximum of one year.
- (3) Where reasons for the application of temporary protection persist, the Council of the European Union may extend the duration provided for in subsections (1) and (2) of this section by up to one year.

## **Division 2 Proceedings for Granting Temporary Protection and Residence Permit**

[RT I, 02.07.2013, 3 - entry into force 01.09.2013]

### **§ 54. Application for residence permit on basis of temporary protection**

- (1) A person eligible for temporary protection shall submit an application for a residence permit to the Police and Border Guard Board immediately after entering Estonia.
- (2) If a person eligible for temporary protection who is staying at a border checkpoint has no legal bases for entry in Estonia provided for in the Aliens Act and he or she wishes to apply for a residence permit in Estonia on the basis of temporary protection, the person eligible for temporary protection shall submit the application for a residence permit on the basis of temporary protection immediately to the Police and Border Guard Board.  
[RT I 2009, 62, 405 - entry into force 01.01.2010]
- (3) A person eligible for temporary protection apprehended by the Police and Border Guard Board in unauthorised entry who wishes to apply for residence permit in Estonia on the basis of temporary protection shall submit an application for residence permit on the basis of temporary protection to the Police and Border Guard Board.  
[RT I 2009, 62, 405 - entry into force 01.01.2010]
- (4) An application for a residence permit shall be submitted in person.
- (4<sup>1</sup>) In an application for residence permit a person eligible for temporary protection shall submit, among other, the data about his or her religion and nationality for identification of the circumstances specified in subsection 5 (2) of this Act. For identification of the right to family reunification the applicant shall submit data concerning family ties, including about partners.  
[RT I 2007, 19, 92 - entry into force 11.03.2007]

(5) A person eligible for temporary protection is required to submit the following documents after the submission of an application for a residence permit if they are in his or her possession:

- 1) identification documents and proof of nationality and other documents to facilitate identification and verification of nationality;
- 2) visas and residence permits or decisions on refusal of a residence permit and documents forming the basis thereof and other documents concerning the crossing of borders;
- 3) documents concerning the evidence of family ties.

(6) [Repealed – RT I, 18.04.2013, 1 – entry into force 28.04.2013]

(7) [Repealed – RT I, 18.04.2013, 1 – entry into force 28.04.2013]

(8) The Police and Border Guard Board shall issue a certificate to a person eligible for temporary protection for the period of the processing of the residence permit, confirming that his or her application for residence permit is being processed.

[RT I 2009, 62, 405 - entry into force 01.01.2010]

### **§ 55. Issue and extension of residence permit**

- (1) The Police and Border Guard Board shall issue a temporary residence permit to an alien with regard to whom temporary protection is applied.

(2) The Police and Border Guard Board shall extend a residence permit specified in subsection (1) of this section on the basis of an application in accordance with the decision specified in subsection 53 (2) of this Act if no circumstance exists which constitutes a basis for the revocation of the residence permit.

[RT I, 03.01.2017, 1 - entry into force 18.01.2017]

(3) If the temporary protection of a person has not terminated and he or she has been granted residence permit on the basis of temporary protection and has used the right of voluntary return, the application for returning to Estonia shall be proceeded on an expedited basis, taking account of the situation in the country of origin of such person.

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

#### **§ 56. Period of validity of residence permit**

A residence permit specified in subsection 55 (1) of this Act shall be issued for the period of validity of temporary protection but for not longer than three years.

#### **§ 57. Refusal to apply temporary protection and refusal to issue or extend residence permit**

(1) The Police and Border Guard Board shall refuse to apply temporary protection and shall not issue a residence permit or extend the residence permit to an alien:

- 1) with respect to whom there is good reason to believe that he or she has committed a crime against peace or humanity or a war crime, as provided for by law or in international instruments;
- 2) with respect to whom there is good reason to believe that he or she has committed a serious non-political crime outside Estonia prior to his or her admission to Estonia as an alien eligible for temporary protection;
- 3) with respect to whom there is good reason to believe that he or she is guilty of committing an act contrary to the purposes and principles of the United Nations Organisation;
- 4) with respect to whom there is a reason to suspect that his or her arrival in Estonia may pose a threat to national security;
- 5) who has been finally convicted of a serious crime and poses a threat to public safety;
- 6) who is not a person eligible for temporary protection.

(2) Upon application of the grounds provided for in subsection (1) of this section, the Police and Border Guard Board shall proceed from the principle of proportionality and take into account the acts of a particular alien.

(3) Among other, a particularly cruel act committed with an allegedly political objective shall be deemed to be a serious non-political crime as specified in clause (1) 2) of this section. This provision shall apply both to principal offenders and accomplices.

(4) A precept to leave shall be issued pursuant to the procedure provided by the Obligation to Leave and Prohibition on Entry Act to a person eligible for temporary protection who is refused the grant or extension of a residence permit.

(5) An appeal against the decision on refusal to grant temporary protection and refusal to issue a residence permit or refusal to extend a residence permit may be filed with an administrative court within ten days as of the date of notification of the decision. The said decisions shall not be contested by way of challenge procedure.

#### **§ 58. Revocation of residence permit**

(1) The Police and Border Guard Board shall revoke the residence permit of a person eligible for temporary protection, if:

- 1) the term of temporary protection expires;
- 2) the person eligible for temporary protection is transferred to another Member State of the European Union;
- 3) a person eligible for temporary protection voluntarily settles in another country;
- 4) a circumstance which constitutes the basis for refusal to issue or extend a residence permit provided for in § 57 of this Act becomes known in respect of a person eligible for temporary protection;

(2) A precept to leave shall be issued pursuant to the procedure provided for in the Obligation to Leave and Prohibition on Entry Act to a person eligible for temporary protection whose residence permit is revoked, if such alien has not submitted an application for residence permit pursuant to the procedure provided for in the Aliens Act or Chapter 2 of this Act.

#### **§ 59. Residence permit of family member of person eligible for temporary protection**

(1) The Police and Border Guard Board shall issue a residence permit to a family member of a person eligible for temporary protection to whom a residence permit has been issued on the same basis and with the same period of validity as that of the person eligible for temporary protection.

(2) The residence permit of a family member of a person eligible for temporary protection (hereinafter in this section family member) shall be extended on the same basis and with the same period of validity as the residence permit of the person eligible for temporary protection.

(3) The Police and Border Guard Board shall not issue a residence permit or extend a residence permit of a family member in the cases provided for in subsection 57 (1) and subsection 58 (1) of this Act.

(4) The Police and Border Guard Board shall revoke a resident permit of a family member if:

- 1) the residence permit of a person eligible for temporary protection is revoked;
- 2) the basis for revoking the residence permit specified in clauses 58 (1) 2)-4) of this Act becomes known.

(5) A precept to leave shall be issued pursuant to the procedure provided for in the Obligation to Leave and Prohibition on Entry Act to a family member whose residence permit is revoked if such alien has not submitted an application for a residence permit pursuant to the procedure provided for in the Aliens Act or Chapter 2 of this Act.

#### **§ 60. Information provided in application for residence permit submitted on basis of temporary protection and format of residence permit and organisation of issue of residence permit**

[RT I, 03.01.2017, 1 - entry into force 18.01.2017]

(1) A residence permit of a person eligible for temporary protection and of his or her family member shall be prepared by entering residence permit data to a residence permit card on the basis of the information of the decision on the issue or extension of the residence permit.

[RT I, 09.12.2010, 1 - entry into force 01.01.2011]

(1<sup>1</sup>) If a residence permit has been issued to a person eligible for temporary protection and his or her family member, they are required to lodge an application for a residence permit card and their fingerprints shall be taken in the course of the processing of the application for a residence permit.

[RT I, 09.12.2010, 1 - entry into force 01.01.2011]

(2) The procedure of application for, issue, extension and revocation of a residence permit of a person eligible for temporary protection and his or her family member, the list of certificates and information to be submitted upon application for a residence permit and the procedure for entering residence permit data on a residence permit card shall be established by a regulation of the minister responsible for the area.

[RT I, 23.03.2015, 1 - entry into force 01.01.2016]

(3) [Repealed - RT I, 03.01.2017, 1 - entry into force 18.01.2017]

#### **§ 61. Employment**

[RT I, 02.07.2013, 3 - entry into force 01.09.2013]

A person eligible for temporary protection and his or her family member to whom a residence permit has been issued on the basis of temporary protection may take employment in Estonia on the conditions provided for in the Aliens Act.

### **Division 3 Admission of Applicant for Residence Permit on Basis of Temporary Protection**

#### **§ 62. Stay of applicant for residence permit on basis of temporary protection at designated place**

(1) An applicant for a residence permit on the basis of temporary protection (hereinafter in this Chapter applicant for residence permit) is required to reside in the accommodation centre for applicants for international protection or in a place designated by the Ministry of Social Affairs during the period of the processing of the residence permit.

[RT I, 21.12.2013, 1 - entry into force 22.12.2013]

(2) With the written permission of the Police and Border Guard Board, an applicant for a residence permit may reside outside the accommodation centre for applicants for international protection or the place designated by the Ministry of Social Affairs if:

[RT I, 03.07.2013, 2 - entry into force 01.10.2013]

- 1) the accommodation and support of the applicant for a residence permit is ensured by a person who is legally residing in Estonia;
- 2) the applicant for a residence permit has sufficient financial resources to ensure his or her accommodation and support;
- 3) it is necessary for the applicant for a residence permit to reside outside the accommodation centre for applicants for international protection or the place designated by the Ministry of Social Affairs in order to ensure his or her safety.

[RT I, 03.07.2013, 2 - entry into force 01.10.2013]

(2<sup>1</sup>) If an applicant is staying in the accommodation centre, in the case specified in clause (2) 3) of this section the permission shall be granted by the accommodation centre that is coordinating the decision with the Police and Border Guard Board.

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

(3) An applicant for a residence permit is required to provide evidence of the circumstances specified in clauses (2) 1) and 2) of this section.

(4) The Police and Border Guard Board shall withdraw the permission specified in subsection (2) of this section from an applicant for a residence permit if the circumstances that constitute the basis for granting the permission have ceased to exist.

(5) An applicant for a residence permit who resides at the accommodation centre for applicants for international protection during the period of the processing of the residence permit is required to comply with the provisions of subsections 34 (5) and (6) of this Act.

[RT I, 03.07.2013, 2 - entry into force 01.10.2013]

(6) With the permission of an administrative court judge, an applicant for a residence permit may be detained and be required to stay at the detention centre in the following cases:

- 1) the applicant has repeatedly or seriously violated the internal procedure rules of the accommodation centre for applicants for international protection or the place designated by the Ministry of Social Affairs;
- 2) the staying of the applicant for a residence permit at the detention centre is necessary in the interests of the protection of national security and public order.

[RT I, 21.12.2013, 1 - entry into force 22.12.2013]

### **§ 63. Conditions for stay in Estonia for applicants for residence permit who are unaccompanied minors**

[Repealed – RT I, 18.04.2013, 2 – entry into force 28.04.2013]

### **§ 64. Financial support of applicant for residence permit and rates thereof**

(1) The services offered by the accommodation centre for applicants for international protection specified in clause 32 (1) 2) of this Act, except the supply of essential clothing and other necessities, may be substituted by a financial support at the rates specified in subsections (3) and (4) of this section.

[RT I, 03.07.2013, 2 - entry into force 01.10.2013]

(2) An applicant for a residence permit who resides outside the accommodation centre for applicants for international protection or the place designated by the Ministry of Social Affairs on the basis of clauses 62 (2) 1) and 2) of this Act shall not be paid financial support or provided with the services offered by the accommodation centre for applicants for international protection on the basis of clauses 32 (1) 1) and 2).

[RT I, 03.07.2013, 2 - entry into force 01.10.2013]

(3) Financial support paid to an applicant for a residence permit shall be equal to the current subsistence limit established on the basis of the minimum consumption expenditure.

(4) ) The amount of benefit paid to the second adult family member and each additional adult member of a family is 80 per cent of the amount of benefit paid to the first member of the family. The amount of benefit paid to each minor family member is equal to the amount of benefit paid to the first family member. Only a family member who is staying in Estonia shall be paid a benefit.

[RT I, 04.07.2014, 13 – entry into force 01.01.2015]

(5) [Repealed - RT I, 06.04.2016, 1 – entry into force 01.05.2016]

### **§ 64<sup>1</sup>. Taking account of special need of applicant for residence permit**

In the proceedings of the application for residence permit under temporary protection a special need of an applicant for residence permit shall be taken account of pursuant to the procedure provided for in § 15<sup>1</sup> of this Act.

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

## **Division 4**

## **Reunification of families, transfer to another country, laissez-passer and readmission**

### **§ 65. Reunification of families**

(1) The Police and Border Guard Board shall decide on the reunification of families who were separated due to circumstances surrounding mass influx on the basis of the following circumstances:

- 1) if family members enjoy temporary protection in different Member States of the European Union, the wish of the family members shall be taken into account when reuniting the family members specified in clauses 7 (4) 1) and 2) of this Act;
- 2) if family members enjoy temporary protection in different Member States of the European Union, the family members specified in clause 7 (4) 3) of this Act may be reunited, taking into account the specific circumstances on a case by case basis;
- 3) if an alien is eligible for temporary protection in Estonia and a family member specified in clauses 7 (4) 1) or 2) of this Act is not staying in Estonia, the reunification shall be allowed in Estonia;
- 4) if an alien enjoys temporary protection in Estonia and the family member specified in clause 7 (4) 3) of this Act is not staying in Estonia, they may be reunited in Estonia, taking into account the specific circumstances on a case by case basis.

(2) Upon reunification of families, the rights and interests of minors shall be taken into consideration above all.

(3) An appeal against the decision to refuse to reunite families may be filed with an administrative court within ten days as of the date of notification of the decision. The said decision shall not be contested by way of challenge procedure.

### **§ 66. Transfer to another country**

Upon transfer of an alien to another country, a residence permit shall be revoked and the obligations of Estonia towards the specified alien relating to temporary protection shall come to an end.

### **§ 66. Transfer to another country**

(1) If a person eligible for temporary protection agrees to his or her transfer to another Member State of the European Union, cooperation is made with this Member State for his or her transfer.

(2) An application for transfer of a person eligible for temporary protection to another Member State of the European Union shall be communicated to the other Member State and the European Commission and the United Nations High Commissioner for Refugees shall be notified thereof. If another Member State communicates the respective application to Estonia, Estonia shall notify the Member State that submitted the application of its possibilities to receive the person to be transferred.

(3) At the request of the other Member State Estonia shall provide that Member State with information concerning the person eligible for temporary protection. A list of information to be presented in the case provided for in this subsection shall be established by a regulation of the minister responsible for the area.

(4) Upon transfer of a person eligible for temporary protection his or her Estonian residence permit shall be revoked in the case another Member State has granted temporary protection thereto.

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

### **§ 67. Laissez-passer**

(1) The Police and Border Guard Board shall issue a laissez-passer to a person eligible for temporary protection who is transferred from Estonia to another Member State of European Union.

(2) The format of the laissez-passer and a list of information entered therein shall be established by a regulation of the minister responsible for the field.

### **§ 68. Readmission**

Unless otherwise provided by a treaty, Estonia is required to readmit a person eligible for temporary protection who holds a valid residence permit issued in Estonia and who is illegally staying in another Member State of the European Union or who has illegally entered another Member State of the European Union.

## **Division 5**

# Temporary protection and proceedings for international protection

## § 69. Temporary protection and proceedings for international protection

(1) A person eligible for temporary protection has the right to submit an application for international protection at any time.

(2) An application for international protection specified in subsection (1) of this section shall be accepted for proceedings but the processing thereof shall be suspended. The processing of the application for international protection shall be continued at the request of an alien three months before the period of validity of temporary protection expires. If the alien does not desire continuation of the processing of the application for international protection or if the alien has left Estonia, the proceedings for international protection shall be terminated.

(3) An application for international protection specified in subsection (1) of this section may be processed during the period of validity of temporary protection if there is good reason.

(4) Only the provisions of this Chapter shall be applied during the period of validity of temporary protection, regardless of the fact that a person eligible for temporary protection has submitted an application for international protection. When the temporary protection ends, the provisions of Chapter 2 of this Act shall apply if the alien submits or has submitted an application for international protection.

(5) The Police and Border Guard Board shall accept for proceedings and process an application for international protection submitted by a person eligible for temporary protection who is staying in Estonia.

## Division 6 End of Temporary Protection and Return

### § 70. End of temporary protection

(1) Temporary protection shall come to an end:

- 1) when the maximum duration of protection has been reached; or
- 2) at any time, by a decision of the Council of the European Union.

(2) If a person eligible for temporary protection is transferred to another Member State of the European Union, the obligations of Estonia towards the specified alien relating to temporary protection shall come to an end.

(3) At the end of temporary protection the Police and Border Guard Board shall revoke the residence permit.

### § 71. Stay of an alien in Estonia after end of temporary protection

(1) At the end of temporary protection, the stay of a person eligible for temporary protection and his or her family members in Estonia shall be legal during the review of an application for a residence permit submitted pursuant to the procedure provided for in Chapter 2 of this Act or the Aliens Act.

(2) An application for a residence permit specified in subsection (1) of this section shall be submitted not later than three months before the expiry of the period of validity of a residence permit specified in § 56 of this Act.

(3) After the end of the temporary protection and revocation of a residence permit, an alien is required to leave Estonia and a precept to leave shall be issued to him or her pursuant to the procedure provided for in the Obligation to Leave and Prohibition on Entry Act, if the alien has not submitted an application for a residence permit specified in subsection (1) of this section or an application for international protection or if no circumstance of the suspension of return provided for in § 72 of this Act exists.

### § 72. Suspension of return

(1) When the temporary protection ends, the return of an alien shall be suspended, if:

- 1) there are humanitarian reasons therefor;
- 2) the state of health of the alien does not allow him or her to travel and returning would result in serious consequences for his or her health.

(2) After the end of temporary protection, the return of an alien may be suspended until the end of the school year of a minor child of the alien or his or her spouse.

## Chapter 4 ADMISSION AND SOCIAL RIGHTS AND OBLIGATIONS OF BENEFICIARY OF INTERNATIONAL PROTECTION

[RT I, 06.04.2016, 1 - entry into force 01.05.2016]

### § 73. Organisation of admission

(1) A beneficiary of international protection may stay at the accommodation centre for applicants for international protection or a place designated by the Ministry of Social Affairs or an agency within the area of government of the Ministry of Social Affairs until settling in the territory of the local government.

[RT I, 03.07.2013, 2 - entry into force 01.10.2013]

(2) The Ministry of Social Affairs or an agency within the area of government of the Ministry of Social Affairs shall organise the settlement of a beneficiary of international protection in the territory of a local government in an agreement with the local government, taking into account the state of health of a beneficiary of international protection, the place of the residence of the relatives by blood or marriage and other significant circumstances, and considering the housing and employment opportunities, including the proportional allocation of beneficiaries of international protection among the local governments. Where necessary, the Ministry of Social Affairs or an agency within the area of government of the Ministry of Social Affairs has the right to involve a representative of the Ministry of the Interior in the proceedings for agreement with a local government. A beneficiary of international protection may participate in the selection of the local government most suited to him or her.

(3) The Ministry of Social Affairs or an agency within the area of government of the Ministry of Social Affairs shall organise the settlement of a beneficiary of international protection in the territory of a local government within four months as of the date of the issue of a residence permit to the alien. If agreement is not reached with the local government within this term, the services specified in subsection (4) of this section shall be thereafter provided to a beneficiary of international protection by the Ministry of Social Affairs or an agency within the area of government of the Ministry of Social Affairs.

(3<sup>1</sup>) The Ministry of Social Affairs or an agency within the area of government of the Ministry of Social Affairs shall conclude an administrative contract with the local government or a legal person governed by private law for the admission of the beneficiary of international protection and the provision of services listed in subsection (4) of this section.

[RT I, 03.07.2013, 2 - entry into force 01.10.2013]

(4) The local government or a legal person governed by private law shall arrange for the admission of a beneficiary of international protection and, if necessary, shall provide assistance to him or her in:

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

- 1) finding housing;
- [RT I, 06.04.2016, 1 – entry into force 01.05.2016]
- 2) obtaining social and health services;
- 3) organising for translation and the Estonian language instruction;
- 4) obtaining information concerning his or her rights and duties;
- 5) resolving other issues.

(5) The following costs incurred by a local government or a legal person governed by private law shall be covered from the state budget:

- 1) one-time expenses related to the entering into a rental contract of a dwelling granted for use to a beneficiary of international protection;
- 2) costs of the Estonian language learning offered to the beneficiary of international protection during up to two years;
- 3) cost of translation services offered to a beneficiary of international protection during up to two years.

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

(5<sup>1</sup>) The period of covering the expenses provided for in subsection (5) of this section may be extended on the basis of the reasoned request of the local government or the legal person governed by private law.

[RT I, 03.07.2013, 2 - entry into force 01.10.2013]

(6) [Repealed - RT I, 03.07.2013, 2 – entry into force 01.10.2013]

(7) A beneficiary of international protection who refuses to settle in the territory of the local government that has agreed to admit him or her shall himself or herself find a place of residence and bear the costs related thereto. The accommodation centre for applicants for international protection shall provide accommodation to a beneficiary of international protection for the period of two months as of the said refusal.

[RT I, 03.07.2013, 2 - entry into force 01.10.2013]

### **§ 73<sup>1</sup>. Rates of covering expenses incurred upon settlement of beneficiary of international protection in local government**

(1) The expenses of the services provided to a beneficiary of international protection shall be covered to a local government or a legal person governed by private law pursuant to the following rates:

- 1) one-time expenses related to the entering into a rental contract of a dwelling - at a rate of up to 6 times the subsistence level for a family;
- 2) cost of the Estonian language learning - at a rate of up to 6 times the subsistence level per person;
- 3) cost of translation services – at a rate of up to 8 times the subsistence level per person or up to 16 times the subsistence level per family.

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

(2) [Repealed - RT I, 06.04.2016, 1 – entry into force 01.05.2016]

### **§ 73<sup>2</sup>. Procedure for covering expenses arising upon settlement of beneficiary of international protection in local government**

(1) A local government or legal person governed by private law shall submit a report to the Ministry of Social Affairs by the 15th day of the month following each quarter with regard to the services and aid provided to the beneficiary of international protection together with the invoice to which the copies of the documents giving evidence of the provision of services and expenses are appended.

(2) The ministry of Social Affairs shall pay to a local government or legal person governed by private law for the services and aid provided to a beneficiary of international protection within 15 days as of the receipt of the invoice.

(3) In the case of a justified necessity the local government or a legal person governed by private law may request advance payment for up to 30 per cent of the expenses related to the admission of the beneficiary of international protection.

(4) The Ministry of Social Affairs shall have the right to check the provision of the services and aid and the purposeful use of the amount allocated and determine the term for the elimination of the faults. The invoice specified in subsection (1) of this section shall be paid after the elimination of the faults.

[RT I, 03.07.2013, 2 - entry into force 01.10.2013]

### **§ 74. Organisation of admission of unaccompanied minor beneficiary of international protection**

[Repealed – RT I, 18.04.2013, 2 – entry into force 28.04.2013]

### **§ 74<sup>1</sup>. Obligations of beneficiary of international protection**

A beneficiary of international protection is required to observe the constitutional order of Estonia and to comply with the legislation of Estonia, respect the constitutional values and principles, the state founded on freedom, justice and law and the organization of society in Estonia, the Estonian language and culture.

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

### **§ 75. Social rights and obligations of beneficiary of international protection and access to education, health services and labour market**

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

(1) During his or her stay in Estonia, a beneficiary of international protection is entitled to receive state pension, family support, employment services and employment subsidies, social benefits, health services and other assistance on the same grounds provided by legislation as a permanent resident of Estonia.

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

(1<sup>1</sup>) Medical examination of a beneficiary of international protection regarding infectious diseases shall be conducted where it is justified by the protection of public health.

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

(1<sup>2</sup>) The conduct of medical examination shall be covered from the state budget.

[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

(2) A local government may pay subsistence benefit to a beneficiary of international protection whose financial status does not allow him or her to support himself or herself.

(3) A one-time benefit may be paid from the state budget to a beneficiary of international protection who returns to his or her country of origin or resettles to another country, in an amount which partially or totally covers his or her travel expenses, and in the case where he or she is unable to cover these expenses.

(4) The procedure for payment of the benefit specified in subsection (3) of this section shall be established by a regulation of the minister responsible for the area.  
[RT I, 23.03.2015, 1 - entry into force 01.01.2016]

(4<sup>1</sup>) A beneficiary of international protection at the age of 18 to the retirement age who is fit for work is required to participate in the Estonian language training organised on the basis of subsection 73 (4) of this Act.  
[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

(4<sup>2</sup>) A beneficiary of international protection who is acquiring basic, secondary or higher education in the Estonian language does not need to participate in the Estonian language training.  
[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

(4<sup>3</sup>) A beneficiary of international protection who is living in Estonia may be required to refund the amounts spent on provision of language learning in the following cases:  
1) a person eligible for subsidiary protection has not acquired language proficiency level A1 provided for in the Language Act within one year as of the grant of international protection;  
2) a person who has been granted a refugee status has not acquired language proficiency level A2 provided for in the Language Act within two years as of being granted international protection;  
3) a person eligible for subsidiary protection has not acquired language proficiency level A2 provided for in the Language Act within two years as from the extension of the residence permit pursuant to subsection 39 (2) of this Act;  
4) a beneficiary of international protection has not acquired language proficiency level A2 provided for in the Language Act within five years as of being granted international protection.  
[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

(4<sup>4</sup>) More specific conditions for participation in the Estonian language training, including the procedure for recovering the costs of the Estonian language training, shall be established by a regulation of the minister responsible for the area.  
[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

(4<sup>5</sup>) A beneficiary of international protection is required to:  
1) participate in the international protection theme module of the adaptation programme if the Police and Border Guard Board has referred him or her thereto;  
2) use the service of a support person of international protection where appointed to him or her.  
[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

(4<sup>6</sup>) The compliance with the obligations provided for in § 741 of this Act and subsections (41) and (45) of this section shall be taken into account upon deciding on the extension of the residence permit or upon deciding on the grant of a new residence permit.  
[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

(4<sup>7</sup>) When a beneficiary of international protection has failed to perform the obligation provided for in subsection (4<sup>1</sup>) or (4<sup>5</sup>) of this section without good reason, the payment of support on the basis of this Act and other acts may be connected to the performance of the obligations specified above.  
[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

(5) A natural persons or legal person may participate in referring a beneficiary of international protection to the territory of a local government and supporting him or her by providing economic or other assistance. Provision of assistance shall be co-ordinated by a local government and in the cases provided in subsection 73 (3) of this Act, by the Ministry of Social Affairs or an agency within the area of government of the Ministry of Social Affairs.

(6) During his or her stay in Estonia, a beneficiary of international protection has the right to education and the right to take employment in Estonia on the bases and pursuant to the procedure provided by law.

(6<sup>1</sup>) During his or her stay in Estonia, an adult beneficiary of international protection shall be guaranteed access to general education, further training and retraining on the same basis as the third country nationals residing in Estonia on the basis of a residence permit or the right of residence.  
[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

(6<sup>2</sup>) During his or her stay in Estonia a beneficiary of international protection who is a minor shall be guaranteed access to education under the same conditions as the citizens of Estonia.  
[RT I, 06.04.2016, 1 – entry into force 01.05.2016]

(7) A family member of a beneficiary of international protection to whom a residence permit has been issued as to a beneficiary of international protection on the basis of this Act has the rights provided for in this section.

## **Chapter 4<sup>1</sup>** **STATE SURVEILLANCE**

[RT I 2009, 62, 405 - entry into force 01.01.2010]

### **§ 75<sup>1</sup>. State supervision**

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

(1) The Police and Border Guard Board and the Estonian Internal Security Service shall have the right to verify whether an applicant for international protection, a refugee, a person eligible for subsidiary protection, a person eligible for temporary protection and a family member is staying, residing and being employed in Estonia pursuant to the requirements provided for in this Act and complies with the obligations and conditions provided for therein.

(2) The Estonian Internal Security Service shall exercise state supervision pursuant to the provisions of subsection (1) of this section over the circumstances relating to the stay, residence and employment in Estonia of an applicant for international protection, a refugee, a person eligible for subsidiary protection, a person eligible for temporary protection and a family member upon performance of functions of the prevention of crime arising from the Security Authorities Act.

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

### **§ 75<sup>2</sup>. Special measures of state supervision**

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

(1) Upon exercise of supervision over the circumstances of the stay, residence and employment in Estonia of an applicant for international protection, a refugee, a person eligible for subsidiary protection, a person eligible for temporary protection and a family member the Police and Border Guard Board and the Estonian Internal Security Service may apply special measures of state supervision provided for in §§ 30-33 and 45-53 of the Law Enforcement Act, taking account of the specifications provided for in this Act. The Estonian Internal Security Service may apply the provisions on the processing of personal data in the Security Authorities Act for the purpose of exercising state supervision provided for in this Act.

[RT I, 13.03.2019, 2 - entry into force 15.03.2019]

(2) The measures provided for in §§ 50 and 51 of the Law Enforcement Act may only be applied in the case when there is a reason to believe that without applying such measures the prevention of the alleged illegal stay and employment in Estonia of an applicant for international protection, a refugee, a person eligible for subsidiary protection, a person eligible for temporary protection and a family member is not efficient and other measures have been depleted.

(3) A measure provided for in § 45 of the Law Enforcement Act may only be applied by a police officer.

(4) The Estonian Internal Security Service may apply direct coercion upon exercise of state supervision on the basis of and in the procedure provided for in the Law Enforcement Act.

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

## **Chapter 5** **FINAL PROVISIONS**

### **§ 76. Co-operation with international organisations, institutions of the European Union and Member States of the European Union**

(1) In resolving problems relating to beneficiaries of international protection, the Ministry of the Interior, the Ministry of Social Affairs and the Police and Border Guard Board shall co-operate with the Office of the United Nations High Commissioner for Refugees and facilitate its duty of supervising the application of laws, treaties and legislation of the European Union.

(2) The Ministry of the Interior, the Ministry of Social Affairs and the Police and Border Guard Board shall ensure performance of the duties set out in the legislation specified in subsection (1) of this section and provide the Office of the United Nations High Commissioner for Refugees with information and statistical data concerning the following:

- 1) the condition of beneficiaries of international protection;
- 2) the application of legislation;
- 3) the legislation which is, or may hereafter be, in force relating to beneficiaries of international protection.

(3) The Government of the Republic shall, on the proposal of the ministers responsible for the area inform the Council of the European Union of the ability of Estonia to admit aliens in need of temporary protection.

(4) The Ministry of Social Affairs, the Police and Border Guard Board shall organise exchange of information and co-operate with other countries according to their competence for the implementation of temporary protection.

[RT I 2009, 62, 405 - entry into force 01.01.2010]

#### **§ 77. Register of granting international protection**

(1) The register of granting international protection (hereinafter register) shall be maintained with regard to applicants for international protection, applicants for a residence permit on the basis of temporary protection, refugees, persons eligible for subsidiary protection and persons eligible for temporary protection.

(2) The register is a database established by the Government of the Republic whose statutes shall be established by a regulation of the minister responsible for the area.

(3) The purpose of the register is to ensure public order and national security by processing the data of applicants for international protection, applicants for temporary residence permits, refugees, persons eligible for subsidiary protection and persons eligible for temporary protection and applications submitted by them.

(4) In order to comply with the purpose of maintaining the database, personal data, including specific type of personal data, of persons who have submitted an application for residence permit and who have been issued a residence permit on the basis of this Act, the data relating to proceedings for international protection or proceedings for temporary protection, including a specific type of personal data, and data obtained during the acts relating to the adaptation programme and data on administrative acts and actions taken in the relevant procedures shall be processed in the course of the performance of the functions provided in the legislation of the European Union, international agreement, law and regulation.

(5) The following data concerning an applicant for international protection and an alien who has received international protection shall be processed in the register:

- 1) personal data;
- 2) contact and residence data, including previous residence data in the country of origin;
- 3) data on family relationships, education and work;
- 4) information on valid and expired penalties;
- 5) information on the state of health, including the appearance of the data subject;
- 6) data collected during fingerprinting and obtained by analyzing DNA samples;
- 7) information on the country of origin, travel route and arrival in Estonia;
- 8) information on the departure from the country of origin and the reasons for applying for a residence permit;
- 9) information on criminal relationships or relationships;
- 10) information concerning the work or co-operation with foreign armed forces or intelligence or security services of a state;
- 11) information on participation in military operations in the territory of other countries.

(6) The controller of the register is the Police and Border Guard Board and the processor shall be appointed by the statutes of the register.

(7) The statutes of the register may specify the composition of the information specified in subsection (5) of this section.

(8) The data entered in the register shall be retained for a maximum of 50 years and the retention periods shall be specified by data categories in the statutes of the register.

(9) In private and public law relations, the register data on the administrative acts and acts performed in the procedures specified in subsection (4) of this section may be based on the existence of the legal basis for the temporary stay, residence and employment of the applicant for and the recipient of international protection in Estonia and on the conditions of the temporary stay, residence and employment in Estonia.

[RT I, 13.03.2019, 2 - entry into force 15.03.2019]

## **Chapter 6**

# IMPLEMENTING PROVISIONS

§ 78.–§ 85.[Omitted from this text]

## § 86. Transitional provision

(1) Applications for international protection submitted prior to the entry into force of this Act shall be reviewed in accordance with the provisions in force at the time of submission of an application for international protection.

(2) The state register of refugees established on the basis of § 231 of the Refugees Act is reorganised into the state register of granting international protection.

(3) The Government of the Republic shall bring the statutes for the maintenance of the state register of refugees into conformity with this Act by 1 July 2006.

§ 87. [Omitted from this text]

## § 87<sup>1</sup>. Renaming of expulsion centre to detention centre

Instead of the name “detention centre” provided for in this Act, the name “expulsion centre” may be used until 1 July 2015.

[RT I, 03.07.2013, 2 - entry into force 01.10.2013]

## § 88. Entry into force of Act

This Act enters into force on 1 July 2006.

<sup>1</sup>Council Directive 2001/55/EC on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof (OJ L 212 of 07.08.2001, pp. 12-23) Council Directive 2003/9/EC laying down minimum standards for the reception of applicant for international protections (OJ L 31 of 06.02.2003, p. 18-25), as amended by Directive 2013/33/EU(OJ L 180 of 26.06.2013, pp. 96-116) Council Directive 2003/86/EC on the right to family reunification (OJ L 251 of 03.10.2003, pp. 12-18) Council Directive 2004/83/EC on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted (OJ L 304 of 30.09.2004, pp.12-23), as amended by Directive 2011/95/EU (OJ L 337, 13.12.2011, pp.9-26) Council Directive 2005/85/EC on minimum standards on procedures in Member States for granting and withdrawing refugee status (OJ L 326, 13.12.2005, pp. 13–34), as amended by Directive 2013/32/EU (OJ L 180, 29.06.2013, pp. 60–95). [RT I, 06.04.2016, 1 – entry into force 01.05.2016]