

NATIONAL LEGISLATION: ESTONIA

1. Slovak Family Act (no. 36/2005) **Error! Bookmark not defined.**
2. Constitutional Law (no. 161/2014) amending the 1992 Constitution **Error! Bookmark not defined.**
3. The Constitution of the Slovak Republic as the fundamental act of the Slovak Republic (460/1992 Coll.) **Error! Bookmark not defined.**
4. Slovak Civil Code (No. 40/1964) 12
5. Slovak Law on the Amendment of the Police Force **Error! Bookmark not defined.**
6. Slovak Act on Mediation **Error! Bookmark not defined.**

1. REGISTERED PARTNERSHIP ACT

Chapter 1: Procedure for entry into registered partnership contract

Division 1: Entry into registered partnership contract

§ 1. Prerequisites for entry into registered partnership contract

(1) A registered partnership contract may be entered into between two natural persons of whom at least one has residence in Estonia.

(2) Only adults of active legal capacity may enter into a registered partnership contract.

(3) An adult with restricted active legal capacity may enter into a registered partnership contract only if he or she understands sufficiently the legal consequences of registered partnership contract. If a guardian has been appointed to a person, it is presumed that the person is unable to understand the legal consequences of registered partnership contract unless otherwise provided in the ruling concerning the appointment of a guardian.

(4) A promise of entry into a registered partnership contract does not provide grounds for a claim for entry into a registered partnership contract or for compensation of damage upon failure to keep the promise. Any agreement which derogates from the provisions of the first sentence of this subsection is void.

§ 2. Circumstances precluding entry into registered partnership contract

(1) A registered partnership contract shall not be entered into between persons of whom at least one is married or has a valid registered partnership contract at the time of entry into a registered partnership contract.

(2) A registered partnership contract shall not be entered into between relatives in the ascending and descending lines.

(3) A person shall not enter into a registered partnership contract with the person's sister, brother, half-sister or half-brother.

(4) The provisions of subsections (2) and (3) of this section apply even if the family relationship between the persons has terminated as a result of adoption of one person.

(5) A registered partnership contract shall not be entered into between persons whose family relationship specified in subsections (2) and (3) of this section is based on adoption.

§ 3. Procedure for entry into registered partnership contract

(1) A registered partnership contract shall be entered into in a notarially authenticated form.

(2) A registered partnership contract shall be entered into with both being present in person at the same time. A declaration of intention to enter into a registered partnership contract shall be unconditional.

(3) A notary shall examine the prerequisites for entry into a registered partnership contract. A notary shall not perform the act if there is reason to presume that grounds for annulment or nullity of the registered partnership contract exist.

(4) The details of a registered partnership contract shall be entered in the population register pursuant to the procedure provided for in the Vital Statistics Registration Act and the selection of proprietary relationship of the parties shall be entered in the proprietary relationship register pursuant to the procedure provided for in the Proprietary Relationship Register Act.

Division 2: Invalidity of registered partnership contract

§ 4. Grounds for annulment of registered partnership contract

(1) A registered partnership contract shall be annulled if:

1) a requirement for residence, age of majority or active legal capacity has been violated upon entry into the registered partnership contract;

2) any circumstances precluding entry into a registered partnership contract provided for in subsections 2 (1)–(5) of this Act exist;

3) the procedure prescribed in subsection 3 (2) of this Act has been violated upon entry into the registered partnership contract;

4) at the time of entry into the registered partnership contract, at least one person wishing to enter into a registered partnership contract had a temporary mental disorder or was incapable to exercise his or her will for any other reason;

5) the registered partnership contract was entered into by fraud, threat or violence, including by concealing the state of health or other personal details of a party, where such details are relevant to entry into the registered partnership contract.

(2) Annulment of registered partnership contract cannot be claimed if a party has concealed his or her financial status.

§ 5. Grounds for refusal to annul registered partnership contract

A registered partnership contract shall not be annulled if:

1) the requirement for residence has been violated, but the residence of at least one registered partner is in Estonia by the time of annulment of the registered partnership contract;

2) the requirement for age of majority has been violated, but the registered partner approves the registered partnership contract upon becoming an adult;

3) the requirement for active legal capacity has been violated, but the adult registered partner whose active legal capacity was restricted at the time of entry into the registered partnership contract approves the registered partnership contract after restoration of his or her active legal capacity;

4) the registered partner who has entered into the registered partnership contract in a state where he or she was incapable to exercise his or her will approves the registered partnership contract after restoration of his or her capability.

§ 6. Consequences of annulment of registered partnership contract

(1) If a court judgment concerning annulment of a registered partnership contract has entered into force, the registered partnership contract is void from inception.

(2) In the case of nullity of a registered partnership contract, all transactions related to the registered partnership contract which a registered partner had not presumably made if the registered partnership contract had not been entered into are also void. Unless otherwise provided by the relations between the parties, the provisions concerning civil law partnerships apply to their proprietary relations.

(3) If a registered partnership contract is annulled because one of the registered partners concealed from the other registered partner that he or she was already married or had entered into a registered partnership contract, or influenced the registered partner to enter into the registered partnership contract by fraud, threat or violence, a court may order support for the person who was in a void registered partnership with him or her and apply the provisions of the Family Law Act concerning the provision of maintenance to a divorced spouse.

Chapter 2: Legal consequences of registered partnership contract

Division 1: General legal consequences of registered partnership contract

§ 7. Cohabitation of registered partners and their rights and obligations

(1) By entry into a registered partnership contract the parties who have entered into a registered partnership contract (hereinafter registered partners) are required to support and maintain each other. Registered partners have equal rights and duties with respect to each other. They organise together their cohabitation considering the well-being of each

other and they shall each accept responsibilities relating to cohabitation with regard to the other.

(2) A registered partnership registered in a foreign state is deemed to be valid in Estonia in accordance with the provisions of the Private International Law Act.

§ 8. Registered partnership contract as circumstance precluding contraction of marriage

(1) Marriage shall not be contracted by a person who has a valid registered partnership contract at the time of contraction of the marriage.

(2) Registered partners may contract marriage between themselves considering the provisions of this Act concerning termination of registered partnership contract.

§ 9. Maintenance obligation of registered partners

(1) Registered partners have reciprocal obligations to maintain their family by their work and assets.

(2) Maintenance includes the activities and proprietary contributions necessary according to the living conditions of the family for covering the expenses of shared household and for the satisfaction of the common and special needs of the family.

(3) Upon entry into a registered partnership contract, the registered partners may also agree that maintenance shall be provided by regularly paid amounts of money on the bases provided for in subsection (2) of this section even after termination of the registered partnership contract.

(4) Registered partners may agree in the registered partnership contract on the manner of providing and the amount of maintenance provided by regularly paid amounts of money when they live separately or after termination of the registered partnership contract.

(5) Registered partners may agree in the registered partnership contract that the provisions of Division 2 of Chapter 5 of the Family Law Act concerning the provision of maintenance to the divorced spouse apply to the maintenance obligation after termination of cohabitation.

§ 10. Registered partner in order of persons required to provide maintenance

(1) A registered partner shall provide maintenance to the registered partner who needs assistance before his or her relatives. If the registered partner is, considering his or her other obligations and financial situation, unable to provide maintenance to the registered partner without damage to his or her own usual maintenance, maintenance shall be provided by the persons who are obliged to do it next.

(2) Subsection (1) of this section also applies to the maintenance obligations of the registered partners on which they have agreed on in accordance with § 9 of this Act.

(3) The provisions of subsection 106 (2) of the Family Law Act apply to the transfer of the right of claim.

§ 11. Transactions for organisation of cohabitation

(1) A solidary obligation of the registered partners arises from a transaction made by one registered partner in the interests of organisation of cohabitation or in order to satisfy other common needs of the family if the amount of the transaction does not exceed the reasonable rate according to the living conditions of the registered partners.

(2) The registered partners are solidary obligees with respect to the obligated party of the transaction specified in subsection (1) of this section.

(3) The registered partners shall not, by agreement with each other, derogate, to the detriment of the obligee, from the provisions of subsection (1) of this section.

§ 12. Liability for obligation assumed by other registered partner

A registered partner shall be liable for the performance of the obligation assumed by the other registered partner in so far as the registered partner may represent the other registered partner or obligate the other registered partner by his or her acts.

§ 13. Scope of diligence obligation

Upon the performance of the obligations arising from a registered partnership contract the registered partners shall exercise such care with respect to each other as they would exercise in their own affairs.

§ 14. Housing of family

A dwelling where the members of a family reside regularly is deemed to be the housing of the family.

§ 15. Registered partner's right of access and right to adopt

(1) A registered partner who is not a parent of the other registered partner's child has the right of access to the other registered partner's child on the basis of subsection 143 (4) of the Family Law Act.

(2) During the period of validity of a registered partnership contract, a registered partner may only adopt the other registered partner's child pursuant to the procedure provided for in Chapter 11 of Part 2 of the Family Law Act.

(3) A registered partner may adopt a child if:

1) the other registered partner is a biological parent of the child; or
2) the other registered partner was a parent of the child before entry into the registered partnership contract.

(4) A registered partner may, during the period of validity of the registered partnership contract, adopt a child of a third person or a child whose parent was not the other registered partner before entry into the registered partnership contract if the restrictions provided for in subsections (2) and (3) of this section would be extremely unfair to the registered partners.

Division 2: Proprietary relations of registered partners

§ 16. Selection of proprietary relationship of registered partners

(1) Upon entry into a registered partnership contract the registered partners shall, by agreement, select a proprietary relationship from among the types of proprietary relations provided in Division 2 of Chapter 4 of Part 1 of the Family Law Act pursuant to the procedure prescribed in the Vital Statistics Registration Act. The provisions concerning the types of proprietary relations apply without taking account of any references to the general legal consequences of marriage provided for in Chapter 3 of Part 1 of the Family Law Act.

(2) The registered partners may, by agreement, derogate from the proprietary relationship by the registered partnership contract taking account of the provisions of Division 3 of Chapter 4 of the Family Law Act concerning marital property contract.

(3) Upon entry into a registered partnership contract the selection of proprietary relationship shall be entered in the proprietary relationship register pursuant to the procedure provided for in the Proprietary Relationship Register Act.

Chapter 3: Termination of registered partnership contract

Division 1: Procedure for termination of registered partnership contract

§ 17. Grounds for termination of registered partnership contract

A registered partnership contract terminates upon death of a registered partner, contraction of marriage between the registered partners or termination of the registered partnership contract.

§ 18. Making of registry entries upon contraction of marriage between registered partners

If a registered partnership contract terminates due to contraction of marriage between the registered partners, entries relating to the termination of registered partnership contract shall be made upon contraction of marriage in the population register pursuant to the procedure provided for in the Vital Statistics Registration Act and in the proprietary relationship register pursuant to the procedure provided for in the Proprietary Relationship Register Act.

§ 19. Termination of registered partnership contract by agreement

(1) A registered partnership contract shall be terminated on the basis of notarially authenticated applications of the registered partners.

(2) Upon termination of a registered partnership contract, entries shall be made in the population register pursuant to the procedure provided for in the Vital Statistics Registration Act and in the proprietary relationship register pursuant to the procedure provided for in the Proprietary Relationship Register Act.

§ 20. Time of termination of registered partnership contract

The time of termination of a registered partnership contract is:

- 1) upon the death of a registered partner, the moment of his or her death;
- 2) upon contraction of marriage between the registered partners, the moment of contraction of marriage;
- 3) upon termination of a registered partnership contract at court, the date of entry into force of the court judgment;
- 4) upon termination of a registered partnership contract at a notary, the entry into force of the entry on termination of the registered partnership contract.

Division 2: Consequences of termination of registered partnership contract

§ 21. Termination of transactions related to registered partnership contract

Upon termination of a registered partnership contract, all transactions related to the registered partnership contract which a registered partner had not presumably made if the registered partnership contract had not been entered into also terminate.

§ 22. Housing and property connected with housing of family upon termination of registered partnership contract

Upon termination of a registered partnership contract, the provisions of §§ 68–70 of the Family Law Act apply to the housing and property connected with housing of family.

§ 23. Registered partner's access to other registered partner's child after termination of registered partnership contract

A registered partner who is not a parent of the other registered partner's child has the right of access to the other registered partner's child after termination of the registered partnership contract on the basis of subsection 143(4) of the Family Law Act.

§ 24. Specifications of consequences of termination of registered partnership contract upon contraction of marriage between registered partners

(1) The provisions of the Family Law Act concerning the relationship between the spouses apply to the relationship between the registered partners as of the contraction of marriage.

(2) Any agreements and related transactions between the registered partners terminate upon termination of the registered partnership contract unless the registered partners agree otherwise. The provisions of the Family Law Act concerning divorce apply to the termination of agreements and related transactions.

(3) The registered partners may agree that the proprietary relationship specified in subsection 16 (1) of this Act applies to their proprietary relationship as of contraction of marriage.

(4) The registered partners may agree that the provisions of Division 3 of Chapter 4 of the Family Law Act concerning marital property contract apply to the agreement between the registered partners on derogating from the proprietary relationship specified in subsection 16 (2) of this Act as of contraction of marriage.

(5) To the extent that the spouses cannot derogate from the provisions of the Family Law Act by agreement, the provisions of law apply as of contraction of marriage.

§ 25. Restoration of registered partnership contract

If a registered partner who has been declared dead returns, a registered partnership contract shall be deemed to be restored if neither registered partner has entered into another registered partnership contract or married in the meantime. A registered partnership contract shall be deemed to be restored after the entry into force of the court judgment recalling the declaration of death.

Chapter 4: Implementing provision

§ 26. Entry into force of Act

This Act enters into force on 1 January 2016 together with implementing legislation.

2. LAW OF OBLIGATIONS ACT

§ 129. Compensation for patrimonial damage upon causing death

(6) If a person whose death is caused maintained, on a continuous basis up to the death of the person, another person with whom the deceased lived together as a family or whom the deceased person maintained on the basis of a moral obligation, the person obligated to compensate for the damage shall pay compensation to the person to the extent specified in subsection (3) of this section if:

- 1) the person needs maintenance, and
- 2) the person cannot receive maintenance in any other manner, and
- 3) the person whose death was caused would presumably have continued to maintain the person in the future.

§ 767. Provision of health care services to patients without capacity to exercise their will

(2) Within the meaning of this Chapter, immediate family means the spouse, parents, children, sisters and brothers of the patient. Other persons who are close to the patient may also be deemed to be immediate family if this can be concluded from the way of life of the patient.

3. CODE OF CIVIL PROCEDURE

§ 23. Obligation of judge to remove himself or herself

A judge shall not adjudicate a civil matter and shall remove himself or herself in the following cases:

- 1) in a matter in which he or she is a participant in the proceeding or a person against whom a claim arising from the proceeding may be filed;
- 2) in a matter of his or her spouse or cohabitee, and in a matter of a sister, brother or direct blood relative of his or her spouse or cohabitee even if the marriage or permanent cohabitation has ended;
- 3) in a matter of a person who is his or her direct blood relative or other person close to him or her as defined in subsection 257 (1) of this Code;

- 4) in a matter in which he or she is or has been a representative or adviser of a participant in the proceeding or in which he or she participated or had the right to participate as the legal representative of a participant in the proceeding;
- 5) in a matter in which he or she has been heard as a witness or expert providing an opinion;
- 6) in a matter in which he or she participated in pre-trial proceedings, in the preceding court instance or in making a decision in arbitration proceedings;
- 7) if any other circumstances exist which give reason to doubt the impartiality of the judge.

§ 257. Right of witness to refuse to give testimony

(1) The following persons have the right to refuse to give testimony as witnesses:

- 1) the descendants and ascendants of the plaintiff or defendant;
- 2) a sister, stepsister, brother or stepbrother of the plaintiff or defendant, or a person who is or has been married to a sister, stepsister, brother or stepbrother of the plaintiff or defendant;
- 3) a step parent or foster parent or a step child or foster child of the plaintiff or defendant;
- 4) an adoptive parent or an adopted child of the plaintiff or defendant;
- 5) the spouse of or a person permanently living together with the plaintiff or defendant, and the parents of the spouse or person, even if the marriage or permanent cohabitation has ended.

(2) A witness may refuse to give testimony also if the testimony may lay blame on him or her or a person specified in subsection (1) of this section for the commission of a criminal offence or a misdemeanour.

(3) A witness has the right to refuse to give testimony concerning the fact to which the State Secrets and Classified Information of Foreign States Act applies.

(4) A person processing information for journalistic purposes has the right to refuse to give testimony concerning the fact which enables to identify the person who has provided the information.

(5) A person who comes professionally into contact with the facts that may identify the person who has provided information to the person processing information for journalistic purposes has the right to refuse to give testimony in the case provided in subsection (4) of this section.

4. CODE OF CRIMINAL PROCEDURE

§ 49. Bases for judge to remove himself or herself

(1) A judge is required to remove himself or herself from a criminal proceeding if he or she:

1) has previously made a decision or a judicial decision of a lower court in the same criminal matter which was annulled by a higher court in part or in full, except in the case the higher court referred the criminal matter in the annulment of the decision for a new hearing by the same court panel;

2) has made a court ruling specified in §§ 132, 134, 135 or 137 of this Code as a preliminary investigation judge in the same criminal matter, except in the hearing of the criminal matter in settlement and summary proceedings.

3) has previously been subject to criminal proceedings on another basis in the same criminal matter;

4) is or has been a person close to the accused, victim or civil defendant pursuant to subsection 71 (1) of this Code;

5) [repealed - RT I, 23.02.2011, 1 - entry into force 01.09.2011]

(2) The participation of a judge in the Criminal Chamber of the Supreme Court does not constitute a basis for the judge to remove himself or herself from further hearing of the same criminal matter by the Supreme Court.

(3) Adjudication of an appeal against a ruling of a preliminary investigation judge or an order of a Prosecutor's Office does not constitute a basis for a judge to remove himself or herself.

(4) Persons who are or have been close to each other pursuant to subsection 71 (1) of this Code shall not be members of the same court panel.

(5) The removal of a judge by himself or herself shall be formalised by a reasoned petition for removal which shall be included in the court file.

(6) If a judge finds that he or she cannot be impartial for a reason not specified in subsection (1) of this section, the judge shall submit a petition of challenge pursuant to the procedure prescribed in § 491 of this Code.

§ 71. Refusal to give testimony for personal reasons

(1) The following persons have the right to refuse to give testimony as witnesses:

1) the descendants and ascendants of the suspect or accused;

2) a sister, stepsister, brother or stepbrother of the suspect or accused, or a person who is or has been married to a sister, stepsister, brother or stepbrother of the suspect or accused;

- 3) a step or foster parent or a step or foster child of the suspect or accused;
 - 4) an adoptive parent or an adopted child of the suspect or accused;
 - 5) the spouse of or a person permanently living together with the suspect or accused, and the parents of the spouse or person, even if the marriage or permanent cohabitation has ended.
- (2) A witness may also refuse to give testimony if:
- 1) the testimony may lay blame on him or her or a person listed in subsection (1) of this section for the commission of a criminal offence or a misdemeanour.
 - 2) he or she has been acquitted or convicted in the same criminal offence as a joint principal offender or an accomplice.

5. BANKRUPTCY ACT

§ 117. Persons connected with debtor

(1) The following persons are deemed to be connected with a debtor who is a natural person:

- 1) the spouse of the debtor even if the marriage was contracted after the conclusion of the transaction subject to recovery, and the former spouse of the debtor if the marriage was divorced within one year before the conclusion of the transaction;
- 2) persons who live in a shared household with the debtor or who lived in a shared household with the debtor during the year preceding the conclusion of the transaction subject to recovery;
- 3) the debtor's ascendants and descendants and their spouses;
- 4) the debtor's sisters and brothers and their descendants and spouses;
- 5) the ascendants, descendants, brothers and sisters of the debtor's spouse.

(2) The following persons are deemed to be connected with a debtor who is a legal person:

- 1) the members of the management bodies, the liquidator, procurator and the person responsible for the accounting of the legal person;
- 2) the shareholders of the legal person who hold more than one-tenth of the votes determined by shares;
- 3) such partner or member in the legal person who is liable for the obligations of the debtor additionally with his or her assets;
- 4) the subsidiaries of the company and the members of the management bodies of the subsidiaries;
- 5) natural and legal persons who share significant economic interests with the debtor;

6) the persons connected with the persons specified in clauses 1)–4) of this subsection as specified in subsection (1) of this section.

(3) A court may consider a person close to a debtor but not specified in subsection (1) or (2) of this section to be connected with the debtor.

6. CODE OF ENFORCEMENT PROCEDURE

§ 9. Removal of bailiff and requirements for impartial observers

(1) A bailiff shall not conduct enforcement proceedings and shall remove himself or herself by a decision if he or she is:

1) a debtor or a claimant or their representative, unless the bailiff collects enforcement costs;

2) a descendant or ascendant or a sister, half-sister, brother or half-brother of a debtor or a claimant or if he or she has been married to a sister, half-sister, brother or half-brother of a debtor or a claimant;

3) a step-parent or foster-parent or a stepchild or foster-child of a debtor or a claimant;

4) an adoptive parent or adoptive child of a debtor or a claimant;

5) a spouse of a debtor or a claimant, a person permanently living together with a debtor or a claimant, even if the marriage or permanent cohabitation has ended;

6) is directly or indirectly interested in the compulsory enforcement or if other circumstances which create doubt as to his or her impartiality exist.

(1¹) A bailiff shall also remove himself or herself in the case a person connected with the bailiff within the meaning of subsection 117 (1) of the Bankruptcy Act, an employee of the bailiff's office or another bailiff with whom the bailiff operates a common office is a participant in the proceedings or beneficiary of the enforcement action. Transfer of an enforcement action to a bailiff's assistant or a substitute bailiff is not a justifying circumstance.

(2) In the case specified in clause (1) 6) of this section, collection of a bailiff's fee is not deemed to be a circumstance causing partiality.

(3) On the bases specified in subsections (1) and (11) of this section, a participant in enforcement proceedings or his or her representative may submit a reasoned application for the removal of a bailiff. The application may be submitted immediately after becoming aware of the circumstance which is the basis for the removal.

(4) If a bailiff does not remove himself or herself on the basis of an application, the person who submitted the application may submit the application for the removal of the bailiff to a court within ten days after the delivery of the decision on the refusal of removal.

(5) Upon receipt of the application specified in subsection (4) of this section, a court shall hear the opinion of the bailiff and participants in the enforcement proceedings. The court shall adjudicate a removal by a ruling.

(6) Upon removal of a bailiff, an enforcement instrument shall be given to another bailiff on the basis of an application of a claimant. If all bailiffs servicing a territorial jurisdiction are removed, an enforcement instrument shall be given to a bailiff who is the closest to the residence or seat of a debtor on the basis of an application of a claimant for enforcement. If the claimant fails to submit an application for transfer within five working days after the delivery of the ruling, a court shall determine the transfer of the matter to another bailiff on the basis of an application of the removed bailiff.

(7) The provisions of clauses (1) 1), 2), 5) and 6) of this section also apply to impartial observers participating in enforcement proceedings. Acting as a bailiff or employment in a bailiff's office does not impede acting as an impartial observer.

7. PUBLIC PROCUREMENT ACT

§ 120. Removal

(1) A member of the Review Committee will not review a request and will remove themselves from reviewing the request in the event of occurrence of a fact that gives reason to call their impartiality into doubt.

(2) The occurrence of the fact specified in subsection (1) of this section will be presumed if a member of the Review Committee reviewing a request has the following relationship with a party to the proceedings or to the legal representative of the party to the proceedings:

- 1) relative in descending or ascending line;
- 2) sister, half-sister, brother, half-brother or the person who is or has been married to the party to the proceedings or the sister, half-sister, brother or half-brother of their representative;
- 3) step-parent or foster-parent, step-child or foster-child;
- 4) adoptive parent or adopted child;
- 5) spouse, cohabitee, also the sister or brother or direct blood relative of the spouse or cohabitee, including after termination of marriage or permanent cohabitation.

(3) In addition to the provisions provided for in subsections (1) and (2) of this section, the a member of the Review Committee must remove themselves from the reviewing a request in a case where the member of the Review Committee:

- 1) is a party to the procedure or a person against whom a claim may be brought in the course of the procedure;
- 2) is or has been a representative or counsel of the party to the procedure or where the member of the Review Committee participated or had the right to participate as a legal representative of the party to the procedure;
- 3) has given an expert opinion.
- (4) A party to the procedure may request the removal of a member of the Review Committee reviewing a request in the event provided for in subsection (1) of this section.
- (5) An application for removal will be reviewed and a decision will be made by the member of the Review Committee reviewing the request or by the panel of the Review Committee.
- (6) If an application for removal is satisfied, the chairman will appoint a new member of the Review Committee or the panel of the Review Committee to review the request.
- (7) If at a hearing a member of the panel of the Review Committee cannot be replaced or a new member of the Review Committee cannot be appointed to review a request, the hearing will be postponed and a new time and place for a hearing will be set.

8. VICTIM SUPPORT ACT

§ 6. Victim support volunteers

- (1) Victim support volunteers (hereinafter volunteers) are persons who participate in the provision of victim support services in their free time without receiving remuneration under the supervision of an official of the Social Insurance Board who provides victim support services or a person specified in subsection 5 (3) of this Act.
- (2) Persons who meet the following requirements may act as volunteers:
 - 1) he or she is a permanent resident of Estonia of at least 18 years of age;
 - 2) he or she has the personal characteristics required for victim support work;
 - 3) he or she is not a grandparent, parent, brother, sister, child or grandchild, spouse or cohabitee of the official of the Social Insurance Board who provides victim support services and supervises him or her, or of a person specified in subsection 5 (3) of this Act, or a parent, brother, sister or child of the spouse or cohabitee;
 - 4) he or she has not been punished for a criminal offence or the information concerning his or her punishment has been expunged from the punishment register;

5) his or her state of health allows performance of the duties of a volunteer.

(3) A volunteer shall confirm his or her compliance with the requirements provided for in section (2) of this Act by his or her signature.

(4) The Social Insurance Board shall decide granting of the right to operate as a volunteer on the basis of an application of a person which sets out his or her given name, surname, residence and telecommunications numbers and information concerning previous professional experience.

(5) The Social Insurance Board shall declare a decision made on the basis of subsection (4) of this section invalid if a volunteer so wishes or if he or she violates the obligations of volunteers, repeatedly and without good reason refuses to perform the duties assigned to him or her or proves unsuitable for victim support volunteer work in any other way.

(6) Volunteers shall be compensated for travel and telecommunications expenditure incurred in connection with victim support pursuant to the procedure and within the limits established by the Minister of Social Affairs.

9. CREDIT INSTITUTIONS ACT

§ 84. Loans to persons related to credit institutions

(1) Persons related to a credit institution are:

- 1) the managers of the credit institution, the head of the internal audit unit or the chairman of the audit committee, and the controller;
- 2) persons with economic interests equivalent to those of the persons specified in clause 1) of this subsection;
- 3) shareholders who are natural persons and have qualifying holdings in the credit institution;
- 4) members of management boards or of substituting bodies of shareholders who are legal persons and have qualifying holdings in the credit institution.

(2) Persons with equivalent economic interests are the spouse or cohabitee, children, parents, sisters and brothers of a manager of a credit institution, of the head of an internal audit unit or of the chairman of an audit committee.

(3) The following are also deemed to be persons with equivalent economic interests:

- 1) companies controlled, within the meaning of § 10 of the Securities Market Act, by a manager of a credit institution, by the head of the internal audit unit or chairman of an audit committee or by a person

specified in subsection (2) of this section, and by parent companies and subsidiaries of such companies;

2) companies where a manager of a credit institution, head of an internal audit unit or chairman of an audit committee or a person specified in subsection (2) of this section is a member of the directing body.

(4) Loans may be granted to persons related to a credit institution only on the basis of a specific unanimous resolution of the management board. The above-mentioned condition does not apply if the amount of the loan is less than 25 per cent of the annual remuneration which the chairman of the management board of the credit institution received from the credit institution, unless a smaller minimum rate has been established by a resolution of the supervisory board.

(5) A manager of a credit institution or a member of the credit committee thereof, an employee who decides on the grant of loans, and other persons who have equivalent economic interests to such persons shall not participate in the process of deciding on the grant of a loan to him or her.

(6) The conditions of loans granted to persons related to a credit institution and granted to shareholders of a credit institution shall not be less stringent than those of loans granted to other persons who have similar solvency and collateral.

(7) The provisions of clauses 281 (1) 1), 2) and 4) of the Commercial Code do not apply to credit institutions.

(8) The ratio of exposures of a credit institution to own funds shall not be over five percent with regard to the persons specified in subsection (1) of this section and shareholders of a credit institution who are legal persons and such shareholders of a company within the same consolidation group with the credit institution who own less than one percent of the share capital of the company.

(9) The maximum limit specified in subsection (8) of this section shall not apply to a parent company of the credit institution, another subsidiary of the parent company and a subsidiary of the credit institution on condition that these undertakings are subject to consolidated supervision of the financial supervision authority of the contracting state together with the credit institution or to the consolidated supervision of the financial supervision authority of a third state executing consolidated supervision which is equivalent to the requirements established in legislation of the European Union.

(10) A credit institution is required to immediately notify the Financial Supervision Authority of exceeding the maximum limit provided for in subsection (8) of this section.

10. MILITARY SERVICE ACT

§ 92. Appointment to peacetime post

(1) An active serviceman shall be appointed to a peacetime post by the Commander of the Defence Forces or a commander authorised by him or her.

(2) An active serviceman shall be appointed to a peacetime post on the initiative of an active serviceman or in the interests of the service.

(3) The following active serviceman may be appointed to a peacetime post:

1) who has the education required for post;

2) who has the military rank required for the post;

3) who has the military training required for the post;

4) who is not a spouse of an immediate superior or a person in a relationship similar to marriage (hereinafter unmarried partner) or a grandparent of an active serviceman, a parent or descendant of a parent of the immediate commander or his or her spouse or his or her unmarried partner, including a child or grandchild. An adoptive parent and a foster parent are also deemed to be a parent in this Act and an adopted child and a foster child is also deemed to be a descendant. The specified restriction shall also apply upon the appointment of an active serviceman to a post of an immediate commander of the persons specified above;

5) who has a personnel security clearance to state secrets classified at the level required for the post;

6) who complies with the health requirements for the post;

7) who complies with the requirements for physical fitness for the post.

(4) A prior written consent of an active serviceman is required upon appointment of the active serviceman to a lower level peacetime post in the interests of the service.

(5) The location and locality of the peacetime post where the duties are performed shall be indicated upon the appointment of an active serviceman to a peacetime post.

(6) A person without the education, military rank and training specified in clauses (3) 1)-3) of this section may be appointed to a peacetime post if the military training or education can be acquired in Estonia only in the Defence Forces.

(7) The provisions of clause (3) 5) of this section shall not be applied upon the acceptance for active service and appointment to a peacetime post which presume having a personnel security clearance to state secrets classified at the „top level“ required for the post until the decision of the competent authority. An active serviceman, to whom a personnel

security clearance to state secrets required is not issued, shall be appointed to a new peacetime post or released from active service for the reason that unexpected circumstances have become evident.

(8) A person who is appointed to a peacetime post under the conditions specified in subsection (6) of this section is required to undergo military training required for the post or obtain education within one year as of the date of being appointed to a post. Upon failure to undergo the required military training or acquire the education the active serviceman shall be transferred to the previous peacetime post in the Defence Forces or shall be released from active service due to incompliance with the requirements for peacetime post.

(9) The name of the educational institution, duration of studies and cost of a study place shall be indicated in the directive on the appointment to a post of a cadet in active service for an unspecified term.

§ 180. Conduct of disciplinary proceedings

(1) A person opening the proceedings or a person authorised by him or her shall have the right to conduct disciplinary proceedings.

(2) The person conducting the disciplinary proceedings shall have the right to gather evidence on the disciplinary offence and request explanations.

(3) If it becomes evident in the course of disciplinary proceedings that the facts of a disciplinary offence are not clear or due to the facts of the disciplinary offence a serviceman should be punished by a disciplinary arrest, disciplinary proceedings shall be commenced.

(4) Deriving from the complexity of the facts or the effect of the disciplinary proceedings on the Defence Forces or the National Defence League, the Commander of the Defence Forces shall have the right to refer the disciplinary proceedings conducted with regard to a serviceman to the military police.

(5) A serviceman with regard to whom disciplinary proceedings were commenced shall have the opportunity to submit a written explanation concerning the disciplinary offence within five working days.

(6) The person conducting the disciplinary proceedings may require from a serviceman or other person who was present during the commitment of a disciplinary offence or who was aware of the facts of the disciplinary offence (hereinafter witness) a written explanation about the disciplinary offence and the witness is required to provide such explanation. The refusal to give explanation is a breach of duties, except in the case the witness is requested information concerning an act committed by himself or herself, his or her grandparent, parent, brother, sister, child,

grandchild, spouse or unmarried partner or a parent, brother, sister or child of a spouse or unmarried partner.

(7) In the course of disciplinary proceedings the commander with the appointing authority may exclude an active serviceman from the post for the period of disciplinary proceedings on the proposal of the person conducting disciplinary proceedings in the procedure provided for in subsections 137 (1) and (2) of this Act.

(8) The procedure for the conduct and documentation of disciplinary proceedings shall be established by the Commander of the Defence Forces.

(9) A serviceman with regard to whom the disciplinary proceedings were conducted shall have the right to examine the materials of the disciplinary proceedings after the conduct thereof.

(10) The materials gathered in the course of the disciplinary proceedings shall be preserved in a format which can be reproduced in writing in the structural unit conducting the proceedings or at the location of the position of military rank of a serviceman in the procedure established the Commander of the Defence Forces.

11. CIVIL SERVICE ACT

§ 15. Persons who may not be employed in service

The following person may not be employed in service:

- 1) who is under punishment for an intentionally committed criminal offence;
- 2) who has been punished for an intentionally committed criminal offence against the state, regardless of the deletion of the information concerning punishment;
- 3) who has been deprived of the right to work in a particular post or to operate in a particular area of activity by a court judgement which has entered into force in such office or area of activity;
- 4) who is a spouse or a partner in the marriage-like relationship (hereinafter unmarried partner) or a grandparent, a parent of an official who has direct control over the corresponding post, or a parent or a descendant of the parent, including a child and grandchild, of a spouse or an unmarried partner. Within the meaning of this Act an adoptive parent, foster parent, adopted child and foster child are also deemed to be a relative in the descending line;
- 5) upon occurrence of a circumstance precluding recruitment provided for by law.

§ 73. Conduct of disciplinary proceedings

(1) The initiator of disciplinary proceedings or a person authorised by him or her for that purpose is entitled to conduct disciplinary proceedings.

(2) The person conducting disciplinary proceedings shall gather evidence on the disciplinary offence.

(3) An official who is suspected of the commission of a disciplinary offence shall be granted an opportunity to submit a written explanation with regard to the disciplinary offence. The official shall be given at least five working days for that purpose from the delivery of the directive or order specified in subsection 72 (3) of this Act.

(4) A person conducting disciplinary proceedings may require from an official or employee of the same official authority, who was present during the commission of the offence or who knows the circumstance of the disciplinary offence (hereinafter witness), explanation about the disciplinary offence in a format enabling reproduction in a written form and the witness is obliged to give such explanation. The refusal to give explanation is a breach of obligation unless the person who is suspected of the commission of the disciplinary offence is required to give an explanation damaging to himself or herself or the witness is required to give an explanation about his or her spouse, unmarried partner or grandparent or about the parent or relative in the descending line of the witness or his or her spouse or unmarried partner. An adopting parent and foster parent are deemed to be a parent and an adopted child and foster child are deemed to be a relative in the descending line.

(5) A person conducting disciplinary proceedings shall prepare a summary of the disciplinary proceedings, sign it and submit for making the decision to the person with the right to impose disciplinary penalty.

(6) The summary of the disciplinary proceedings shall include at least the following data:

- 1) the given name and surname and the post of the official who has committed the disciplinary offence;
- 2) the function violated serving as a basis of the disciplinary offence;
- 3) the evidence gathered on the matter;
- 4) the description, time and location of the commission of the disciplinary offence;
- 5) the proposal for punishment, including the type of penalty, or for leaving unpunished together with the justification.

(7) Before deciding on the imposition of the disciplinary penalty the person conducting the disciplinary proceedings or the person imposing the disciplinary penalty shall deliver the summary of the disciplinary proceedings to the official against his or her signature and, in case this is

impossible, deliver the summary by registered mail at the address of the place of residence of the official or, with the consent of the official, electronically and offer the official an opportunity to submit his or her opinion on or objections to the summary of the disciplinary proceedings in a format enabling reproduction in a written form mail within five working days.

(8) If the person imposing the disciplinary proceedings was not the person conducting the disciplinary proceedings, he or she shall have the right to interview the official personally before the imposition of the penalty. Such interview shall be recorded.

(9) An official who is suspected of the commission of the disciplinary offence and his or her representative are entitled to access to the materials of the disciplinary proceedings at every stage and to submit significant requests in the course of the proceeding.

12. PROSECUTOR'S OFFICE ACT

§ 15. Requirements for prosecutors

(1) An Estonian citizen with active legal capacity who has attained at least 21 years of age may be appointed as the Prosecutor General, a Chief State Prosecutor, Chief Prosecutor, State Prosecutor, Senior Prosecutor, Specialised Prosecutor or District Prosecutor provided that he or she:

1) has acquired in the field of law at least an officially certified Master's degree, a corresponding qualification for the purposes of subsection 28 (22) of the Republic of Estonia Education Act or a corresponding foreign qualification;

2) has proficiency of the Estonian language at the level C1 provided for by the Language Act or a corresponding level;

3) is of high moral character;

4) has the abilities and personal characteristics necessary for working as a prosecutor.

(1¹) An Estonian citizen with active legal capacity who has attained at least 21 years of age, has completed higher education, is proficient in Estonian to the extent established by or pursuant to law, is of high moral character and has the necessary abilities and personal characteristics may be appointed as an Assistant Prosecutor.

(2) The following shall not be appointed as a prosecutor:

1) a person in respect of whom a conviction for an intentionally committed criminal offence has entered into force;

2) a person who has been released from the public service for a disciplinary offence;

3) a person who has been disbarred from the Estonian Bar Association or expelled from the notarial profession;

4) a person who is a spouse, cohabitant or grandparent of the person who exercises direct control over the position of or of direct superior of a prosecutor, or who is a parent or a relative in descending line of the person exercising direct control over the position of or direct superior of a prosecutor or their spouse or cohabitant, including a child and grandchild. A parent is also deemed to include an adoptive parent and foster parent, and a relative in descending line is also deemed to include an adopted child and foster child. The specified restriction also applies to filling of the position of the person exercising direct control over the position of or direct superior of a prosecutor;

5) a person who due to his or her state of health is unable to work as a prosecutor. In the case of doubt, a medical committee shall determine the state of health of a person.

(3) A person who has been employed for one year as a prosecutor or for three years as a judge, police officer, sworn advocate or in another position which requires in-depth knowledge of penal law and procedure may be appointed as a District Prosecutor.

(4) A person who is employed as a prosecutor, except an Assistant Prosecutor, before appointment to office may be appointed as a Specialised Prosecutor.

(5) A person who has been employed as a judge, prosecutor, police officer or sworn advocate for three years before appointment to office may be appointed as a Chief Prosecutor or Senior Prosecutor. The clerkship or probationary period of an Assistant Prosecutor shall not be included in the period of employment as a prosecutor.

(6) A person who has been employed in a position which requires high qualification in law for at least two years may be appointed as a Chief State Prosecutor and a State Prosecutor.

(7) [Repealed - RT I 2008, 1, 3 - entry into force 14.01.2008]

(8) A person who is an experienced and recognised lawyer may be appointed as the Prosecutor General.

§ 15¹. Scrutiny of background of persons applying for prosecutor's service

(1) A person who applies for prosecutor's service shall submit the following to the prosecutors' competition committee:

1) the form concerning personal data;

2) declaration of interests conforming to the requirements provided for in the Anti-corruption Act as at the first day of the month preceding the application.

(2) In the form concerning personal data, the applicant shall also indicate the given names, surnames, personal identification codes (in the absence of identification code, the date and place of birth) and details of the applicant's relatives and relatives by marriage (parents, sisters, brothers, children, spouse, former spouse).

(3) The form used to apply for prosecutor's service shall be approved by the Minister of Justice.

(4) In order to verify the information submitted pursuant to the provisions of subsection (1) of this section, the Prosecutor General and officials of the Prosecutor's Office authorised by him or her have the right to:

1) address local government agencies, officials of local governments, legal persons and natural persons by inquiry concerning the personal data of a person applying for prosecutor's service;

2) interview the person indicated in the form concerning personal data, and with employers, representatives of educational institutions and other persons in order to ascertain the moral character and other personal characteristics of the person and if necessary, obtain a written explanation from the interviewed person with his or her permission;

3) ascertain whether the persons specified in subsection (2) of this section participate in a criminal proceeding as the suspect or the accused;

4) examine the data obtained by surveillance activities.

(5) An agency or person who receives the inquiry specified in this section shall immediately answer the inquiry.

(6) The prosecutors' competition committee shall immediately inform a person applying for prosecutor's service of the scrutiny conducted with regard to his or her background and enable to examine the materials gathered in the process of the checks.

(7) If a person who applies for prosecutor's service intentionally presents incorrect data to the prosecutors' competition committee or conceals material information, such person is excluded from the competition by resolution of the prosecutors' competition committee.