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State-funded Legal Aid Act¹

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 RT I 2004, 56, 403
 Entry into force 01.03.2005

Amended by the following acts

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| 15.06.2005 | RT I 2005, 39, 308 | 01.01.2006 |
| 07.12.2006 | RT I 2006, 58, 439 | 01.01.2007 |
| 13.12.2006 | RT I 2007, 2, 7 | 01.02.2007 |
| 21.11.2007 | RT I 2007, 67, 413 | 28.12.2007 |
| 10.12.2008 | RT I 2008, 59, 330 | 01.01.2009 |
| 03.12.2008 | RT I 2009, 1, 1 | 01.01.2010 |
| 16.12.2009 | RT I 2009, 67, 460 | 01.01.2010 |
| 27.01.2011 | RT I, 23.02.2011, 3 | 01.01.2012 |
| 17.02.2011 | RT I, 14.03.2011, 2 | 18.06.2011 |
| 17.02.2011 | RT I, 14.03.2011, 3 | 24.03.2011 |
| 07.12.2011 | RT I, 28.12.2011, 1 | 01.01.2012 |
| 13.03.2013 | RT I, 22.03.2013, 9 | 01.04.2013, in part01.01.2014 |
| 28.03.2013 | RT I, 18.04.2013, 2 | 28.04.2013 |
| 19.02.2014 | RT I, 13.03.2014, 4 | 01.07.2014 |
| 07.05.2014 | RT I, 21.05.2014, 1 | 01.01.2015, in part31.05.2014 |
| 12.06.2014 | RT I, 21.06.2014, 11 | 01.07.2014 |
| 19.06.2014 | RT I, 29.06.2014, 109 | 01.07.2014, the ministers' official titles have been replaced on the basis of subsection 4 of § 107 ³ of the Government of the Republic Act starting from the wording in force as of 1 July 2014. |
| 10.12.2014 | RT I, 31.12.2014, 1 | 10.01.2015 |
| 18.02.2015 | RT I, 12.03.2015, 4 | 01.10.2015 |
| 17.12.2015 | RT I, 06.01.2016, 5 | 16.01.2016 |
| 26.04.2016 | RT I, 28.04.2016, 2 | 26.04.2016 - based on point 1 of the operative part of the judgment of the Supreme Court en banc in case No 3-2-1-40-15, sentences 1-3 of subsection 3 of § 21 have been declared unconstitutional and repealed and, based on point 4 of the operative part, the entry into force has been postponed by six months as of the entry force of this judgment, except with regard to sentences 1-3 of subsection 3 of § 21 to the extent that these authorise the Estonian Bar Association to establish the provisions contained in subpoints 2-3 of point 4 of the operative part of this judgment. |
| 07.06.2016 | RT I, 22.06.2016, 21 | 01.08.2016 |

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|------------|----------------------|--------------------------------|
| 15.12.2016 | RT I, 28.12.2016, 14 | 07.01.2017 |
| 15.11.2017 | RT I, 28.11.2017, 1 | 01.01.2018 |
| 19.12.2018 | RT I, 04.01.2019, 12 | 14.01.2019 |
| 09.12.2020 | RT I, 22.12.2020, 34 | 01.01.2021, in part 01.07.2021 |

Chapter 1

GENERAL PROVISIONS

§ 1. Scope of application of Act

This Act sets out the types of legal aid granted by the state and the conditions of and procedure for obtaining such legal aid.

§ 2. Purpose of Act

The purpose of this Act is to ensure the timely and sufficient availability of competent and reliable legal services to all persons.

§ 3. Application of Administrative Procedure Act

The provisions of the Administrative Procedure Act apply to the administrative proceedings set out in this Act, taking account of the specifications provided for in this Act.

§ 4. State-funded legal aid

(1) State-funded legal aid means providing a natural person or a legal person with a legal service at the cost of the state on the grounds and in accordance with the procedure provided for in this Act.

(2) Under this Act, state-funded legal aid is granted to a natural person or a legal person in connection with proceedings in an Estonian court or administrative body or otherwise in the protection of their rights where deciding thereon is within the competence of an Estonian court, unless otherwise provided for in Chapter 7 of this Act.

(3) The types of state-funded legal aid include the following:

- 1) appointed defence in criminal proceedings;
- 2) representing a person in pre-trial proceedings in a criminal case and in court;
- 3) defending a person in out-of-court proceedings in a misdemeanour case and in court;
- 4) representing a person in pre-trial proceedings in a civil case and in court;
- 5) representing a person in administrative court proceedings;
- 6) representing a person in administrative proceedings;
- 7) representing a person in enforcement proceedings;
- 7¹) representing a person in proceedings for review of a judicial decision that has entered into effect;
[RT I 2009, 1, 1 – entry into force 01.01.2010]
- 8) drawing up legal documents;
- 9) other legal counselling or representing of a person.

§ 5. Provider of state-funded legal aid

(1) State-funded legal aid is provided by an attorney on the basis of the Bar Association Act, taking account of the specifications provided for in this Act.

(2) The management of a law office ensures that explanations concerning the grounds of and procedure for obtaining state-funded legal aid provided for in this Act are given to persons in need of state-funded legal aid during the opening hours of the law office without charge.

Chapter 2

GROUND AND WAYS OF GRANTING STATE-FUNDED LEGAL AID

§ 6. Persons entitled to state-funded legal aid

(1) A natural person may receive state-funded legal aid where the person is unable to pay for competent legal services due to the person's financial situation at the time the person needs legal aid or where the person is able to pay for legal services only partially or in instalments or where the person's financial situation does not allow for meeting basic subsistence needs after paying for legal services.

(1¹) State-funded legal aid is granted to a natural person who, at the time of submission of the application for state-funded legal aid, is domiciled in the Republic of Estonia or another Member State of the European Union or is a citizen of the Republic of Estonia or another Member State of the European Union, except in the event specified in subsection 2 of this section. Determination of a domicile within the meaning of this Act is based on Article 62 of Regulation No 1215/2012 of the European Parliament and of the Council on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ L 351, 20.12.2012, pp 1–32). Legal aid is granted to other natural persons only where this arises from an international obligation binding upon Estonia.

[RT I, 31.12.2014, 1 – entry into force 10.01.2015]

(2) In criminal proceedings, a suspect or accused natural person who has not chosen a criminal defence counsel by agreement and in whose criminal case the participation of a criminal defence counsel is required by a statute (except in the events specified in § 44¹ and subsection 5 of § 227 of the Code of Criminal Procedure) or who applies for the participation of a criminal defence counsel receives state-funded legal aid regardless of their financial situation. In misdemeanour proceedings, a natural person subject to the proceedings who has not chosen a defence counsel by agreement and in whose misdemeanour case the participation of a defence counsel is required by a statute receives state-funded legal aid regardless of their financial situation.

[RT I, 21.06.2014, 11 – entry into force 01.07.2014]

(2²) In criminal proceedings, state-funded legal aid is available to the injured party whose active legal capacity is limited, regardless of their economic situation, where:

- 1) based on the circumstances, it can be presumed that the interests of the legal representative of the injured party are in conflict with the interests of the injured party;
- 2) the underage injured party has been separated from the family;
- 3) the injured party is an unaccompanied minor for the purposes of the Act on Granting International Protection to Aliens.

[RT I, 06.01.2016, 5 – entry into force 16.01.2016]

(2³) In criminal proceedings, the victim of a criminal offence specified in § 237 of the Penal Code receives state-funded legal aid regardless of their economic situation.

[RT I, 04.01.2019, 12 – entry into force 14.01.2019]

(3) A non-profit association or foundation that has been entered in the list of non-profit associations and foundations entitled to income tax incentives or is equal thereto or that is insolvent and applies for state-funded legal aid in the field of environmental protection or consumer protection, or there are other overriding public reasons for granting state-funded legal aid, may receive state-funded legal aid on the grounds and in accordance with the procedure provided for in this Act to achieve the goals and objectives specified in its articles of association, in order to prevent possible damage to the rights of a large number of people, which are protected by a statute.

(4) In criminal proceedings, a suspect or accused legal person who has not chosen a criminal defence counsel by agreement and in whose criminal case the participation of a criminal defence counsel is required by a statute (except in the events specified in § 44¹ and subsection 5 of § 227 of the Code of Criminal Procedure) or who applies for the participation of a criminal defence counsel receives state-funded legal aid. In misdemeanour proceedings, a legal person that has not chosen a defence counsel by agreement and in whose misdemeanour case the participation of a defence counsel is required by a statute receives state-funded legal aid as a person subject to the proceedings.

[RT I, 21.06.2014, 11 – entry into force 01.07.2014]

(5) In proceedings for review of a judicial decision that has entered into effect, a natural person specified in subsection 1 of this section may receive state-funded legal aid regardless of the type of the case.

[RT I 2009, 1, 1 – entry into force 01.01.2010]

§ 7. Grounds for refusal to grant state-funded legal aid

(1) State-funded legal aid is not granted where:

- 1) the applicant is able to protect their rights on their own;
- 2) the applicant cannot have the right for the protection of which the applicant is applying for state-funded legal aid;
- 3) the applicant could bear the costs of legal services at the cost of their existing property that can be sold without any major difficulties, except at the cost of the assets specified in subsection 2 of § 14 of this Act;
- 4) the costs of legal services do not presumably twice exceed the applicant's average monthly income that is calculated on the basis of the average monthly income in the last four months preceding the submission of the application, from which taxes and compulsory insurance payments, amounts earmarked for fulfilment of a maintenance obligation arising from law and also reasonable housing and transport costs have been deducted;

[RT I 2009, 1, 1 – entry into force 01.01.2010]

- 5) under the circumstances it is clearly unlikely that the applicant will be able to protect their rights;

6) state-funded legal aid is applied for in order to file a claim for non-pecuniary damages and there are no overriding public reasons in the case;

[RT I 2005, 39, 308 – entry into force 01.01.2006]

7) the dispute is related to the business activities of the applicant and does not harm their rights that are unrelated to their business activities;

8) state-funded legal aid is applied for to protect a trademark, patent, utility model, industrial design or a layout-design of integrated circuits or another form of intellectual property, except rights arising from the Copyright Act;

9) state-funded legal aid is applied for in a case in which the applicant clearly has joint interests with a person who is not entitled to state-funded legal aid;

10) state-funded legal aid is applied for to protect a right transferred to the applicant and there is reason to believe that the right was transferred to the applicant in order to receive state-funded legal aid;

11) provision of legal services is guaranteed to the applicant under a legal costs insurance contract or compulsory insurance;

12) the possible gains of the applicant upon adjudication of the case are unreasonably small in comparison with the estimated legal aid costs of the state.

(1¹) In addition to the ground for refusal specified in subsection 1 of this section, state-funded legal aid is also not granted for judicial review proceedings where the grounds for review are not indicated in the application for state-funded legal aid or where, based on the grounds for review indicated, it is evident that the applicant is clearly unlikely to succeed in protecting their rights or where the term for submission of an application for review has expired. The Supreme Court does not have to give reasons for its refusal to grant state-funded legal aid.

[RT I 2009, 1, 1 – entry into force 01.01.2010]

(2) State-funded legal aid is not refused on the ground specified in subsection 1 of this section where state-funded legal aid is applied for in the case specified in subsection 2 of § 6 of this Act. State-funded legal aid is not refused on the basis of clauses 1, 2, 5–10 or 12 of subsection 1 of this section where state-funded legal aid is applied for in the case specified in subsection 4 of § 6 of this Act.

(3) State-funded legal aid may be granted without the restriction provided for in clause 1 of subsection 1 of this section where the assistance of an attorney is clearly necessary for the correct adjudication of the case in order to ensure the equality of the parties or due to the complexity of the case.

§ 8. Manners of granting state-funded legal aid

State-funded legal aid is granted as follows:

- 1) without the obligation to compensate for the state-funded legal aid fee or state-funded legal aid costs;
- 2) with the obligation to partially or fully compensate for the state-funded legal aid fee and state-funded legal aid costs in a lump sum;
- 3) with the obligation to partially or fully compensate for the state-funded legal aid fee and state-funded legal aid costs in instalments.

Chapter 3 DECIDING GRANTING OF STATE-FUNDED LEGAL AID

§ 9. Applying for state-funded legal aid

(1) The granting of state-funded legal aid is decided on the basis of an application of a person.

(2) [Repealed – RT I 2008, 59, 330 – entry into force 01.01.2009]

§ 10. Submission of application for state-funded legal aid

(1) An application for state-funded legal aid in judicial proceedings as a party to proceedings in civil, administrative or misdemeanour cases is submitted to the court conducting proceedings in the case or the court that would be competent to conduct proceedings in the case.

(2) Where an applicant would like to receive state-funded legal aid for drawing up a statement of claim, a petition in a non-contentious action by petition or an appeal in administrative court proceedings or misdemeanour proceedings, the applicant submits an application to the court that is competent to hear the claim, application or appeal.

(3) An application for state-funded legal aid in the form of representation in pre-litigation proceedings in a civil case or out-of-court proceedings in a misdemeanour case, preparation of a legal document or other legal counselling or representation is submitted to the district court of the applicant's place of residence or seat or of the presumed place of provision of the legal service. Where an applicant for state-funded legal aid has no place of residence in Estonia, the applicant may submit an application to the district court in the judicial district of which the applicant is staying.

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

(3¹) An application for state aid in the form of representation in administrative proceedings is submitted to the administrative court of the place of residence or seat of the applicant or of the presumed place of provision of the legal service.

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

(4) Where the participation of a criminal defence counsel throughout criminal proceedings is not required and a suspect has not chosen a counsel but requests the participation of a criminal defence counsel, the suspect submits an application for state-funded legal aid to the investigative body or the Prosecutor's Office.

(5) Where a person applies for state-funded legal aid as an injured party in criminal proceedings, a civil defendant or a third party, the court conducting the proceedings or, in pre-trial proceedings in a criminal case, the district court competent to conduct proceedings in the given criminal case decides the granting of state-funded legal aid to the person.

[RT I 2007, 2, 7 – entry into force 01.02.2007]

(5¹) Where a person applies for state-funded legal aid for judicial review proceedings, the Supreme Court decides the granting of state-funded legal aid to the person. An application for state-funded legal aid may be submitted to the Supreme Court without the intermediation of an attorney.

[RT I 2009, 1, 1 – entry into force 01.01.2010]

(6) An application for state-funded legal aid in the form of representation in enforcement proceedings is submitted to the court competent to adjudicate an appeal against the activities of an enforcement officer conducting the enforcement proceedings.

(7) Where an application is submitted to a court whose jurisdiction does not include deciding the granting of state-funded legal aid in the given case, the court forwards the application immediately to the competent court and notify the applicant thereof.

(8) The court or another agency specified in subsections 1–6 of this section is also the authority competent to receive applications for procedural assistance within the meaning of Article 14 of Council Directive No. 2003/8/EC to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes (OJ L 026, 31.01.2003, pp. 41–47). The applicant is not requested to have the application legalised or officially certified in another manner.

§ 11. Granting state-funded legal aid where defence counsel is required

(1) A suspect who is a natural person and in whose criminal case the participation of a criminal defence counsel is required under § 45 of the Code of Criminal Procedure and who has not chosen a defence counsel by agreement is not required to submit an application to receive state-funded legal aid in the criminal case.

(2) In judicial misdemeanour proceedings, a natural person subject to proceedings, in whose misdemeanour case the participation of a defence counsel is required under subsection 3 of § 19 of the Code of Misdemeanour Procedure and who has not chosen a defence counsel by agreement, is not required to submit an application for state-funded legal aid.

§ 12. Application form and information contained in application

(1) The following must be set out in an application for state-funded legal aid:

- 1) the name, address and personal identification code or, in the absence of the latter, the date of birth of the applicant, or the registry code of the applicant who is a legal person;
- 2) a description of the problem for the resolution of which state-funded legal aid is applied for;
- 3) the type of state-funded legal aid specified in subsection 3 of § 4 or § 34 of this Act, which is applied for;
- 4) the reasons why state-funded legal aid is necessary to protect the rights of the applicant;
- 5) the extent of profit possibly received by the applicant upon adjudication of the case;
- 6) the name of the provider of state-funded legal aid from whom the applicant wishes to receive legal services where an attorney has granted their consent to the applicant for provision of state-funded legal aid to the applicant in the given case;
- 7) the language in which the applicant is able to communicate with the provider of state-funded legal aid;
- 8) [Repealed – RT I 2008, 59, 330 – entry into force 01.01.2009]
- 9) other relevant information.

(2) Where an application has been submitted outside court proceedings and the type of state-funded legal aid specified in subsection 3 of § 4 of this Act which is applied for has not been indicated in the application, the application for state-funded legal aid is deemed as submitted in for the purpose other legal counselling of the person.

(3) The standard form of the application for state-funded legal aid and a list of information to be specified therein are established by a regulation of the minister responsible for the field, and the standard form of the application must be freely accessible to everyone on the website of the Ministry of Justice as well as in each court and law office.

(4) In criminal proceedings, an application for the appointment of a criminal defence counsel submitted by a suspect who is a natural person must set out at least the information specified in clauses 1 and 7 of subsection 1 of this section and a reference to the criminal case in which participation of the criminal defence counsel is requested.

(5) An application for state-funded legal aid is submitted in Estonian.
[RT I, 28.12.2016, 14 – entry into force 07.01.2017]

(6) An application can be submitted in English where legal assistance is applied for by a natural person whose place of residence is in another Member State of the European Union or who is a citizen of another Member State of the European Union or a legal person seated in another Member State of the European Union.
[RT I, 28.12.2016, 14 – entry into force 07.01.2017]

(7) The processing authority organises the translation of an application submitted in another language widely used in Estonia.
[RT I, 28.12.2016, 14 – entry into force 07.01.2017]

(8) Where an application has other deficiencies that impede processing, the court explains to the person the possibilities of receiving aid for the submission of an application in accordance with the requirements from the winner of the competition specified in subsection 2 of § 31 of this Act and, where the person requests it, submits the application to the winner of the competition for the purpose of submission in accordance with the requirements.
[RT I, 28.12.2016, 14 – entry into force 07.01.2017]

§ 13. Documents annexed to application

(1) An applicant who is a natural person must annex to an application for state-funded legal aid a proper notice concerning their financial situation, which has been signed by the applicant and, where possible, other evidence pertaining to their financial situation. A suspect in criminal proceedings who applies for the appointment of a criminal defence counsel does not need to annex a notice concerning their financial situation.

(2) Where a person's domicile is not in Estonia, the person must annex to an application a notice the competent authorities of the state where the person is domiciled concerning their income and that of the members of their family during the last three years. Where the notice cannot be submitted for reasons independent of the applicant, the granting of state-funded legal aid may be decided without the notice.

(3) A notice concerning the financial situation of an applicant for state-funded legal aid must be submitted in writing in Estonian. On the conditions provided for in subsection 5 of § 12 of this Act, the notice may also be submitted in English.

(4) A list of information contained in a notice concerning the financial situation of an applicant and the standard form of the notice are established by a regulation of the minister responsible for the field. The standard form must be freely accessible to everyone on the website of the Ministry of Justice as well as in each court and law office. The minister responsible for the field may also establish requirements for documents submitted by the applicant, which set out the reasons for the application.

(5) An applicant who is a legal person must annex to an application for state-funded legal aid a copy of the memorandum of association or foundation resolution that has been submitted to the register in accordance with law and a copy of the registered articles of association, a copy of the registry card and an certified copy of the annual report of the previous financial year.

(6) Where an attorney has granted their consent to an applicant for state-funded legal aid regarding provision of state-funded legal aid to the applicant in the given case and the applicant wishes to receive legal services from the attorney, the consent of the attorney must be annexed to the application or the application must be submitted via the corresponding law office.
[RT I 2005, 39, 308 – entry into force 01.01.2006]

§ 14. Assessment of financial situation of applicant

(1) Upon assessing the financial situation of an applicant, the applicant's assets and income and the assets and income of the family members who live together with the applicant, the number of dependants of the applicant, reasonable housing costs and other relevant circumstances are taken into account.

(2) Upon assessing the financial situation of an applicant, property belonging to the applicant which, in accordance with law, cannot be subject to a claim for payment is not taken into account. The housing or a necessary vehicle belonging to the applicant, which is used on a daily basis by the applicant and the family

members who live together with the applicant, is not taken into account where the number and value of the housing and vehicles equitably correlate to the size, driving needs and income of the family.

(3) Where an applicant applies for state-funded legal aid to file a claim against a family member who lives together with the applicant, neither the income of the said family member nor assets belonging to the applicant are taken into account upon assessing the financial situation of the applicant.

(4) The Tax and Customs Board submits, at the request of a court, a notice concerning the income of an applicant for state-funded legal aid and members of their family during the last year or a notice concerning the lack of information on the income of an applicant for state-funded legal aid and members of their family. The format of the notice is established by a regulation of the minister responsible for the field.

(5) A court may request information from an applicant or other persons or agencies, including credit institutions, concerning the financial situation or solvency of the applicant for state-funded legal aid and of the family members who live together with the applicant. A reply to an enquiry must be given within the term set by the court.

(6) Where an applicant fails to submit evidence-backed data concerning their personal status or financial situation or to answer questions asked or gives insufficient answers, the court refuses to grant the person state-funded legal aid to the extent not supported by evidence.
[RT I 2005, 39, 308 – entry into force 01.01.2006]

§ 15. Deciding granting of state-funded legal aid

(1) An application for state-funded legal aid submitted in the course of judicial proceedings is adjudicated by an order of a court conducting the proceedings in accordance with the procedure provided for in the respective court procedure Act.

(2) A district court or an administrative court decides the granting, in one of the manners provided for in § 8 of this Act in accordance with the action by petition procedure provided for in the Code of Civil Procedure or the procedure established in the Code of Administrative Court of Procedure, of state-funded legal aid on the basis of an application submitted outside court proceedings. In court, an assistant judge may decide matters pertaining to state-funded legal aid.
[RT I, 22.12.2020, 34 – entry into force 01.01.2021]

(3) The granting of state-funded legal aid to a suspect or accused in criminal proceedings is decided by the court, Prosecutor's Office or investigative body who issues an order to that effect. Upon appointment of a criminal defence counsel in criminal proceedings in all cases and in misdemeanour proceedings where the participation of a defence counsel is required, state-funded legal aid is granted to the applicant without determining the manner provided for in § 8 of this Act, and the state-funded legal aid fee and state-funded legal aid costs is compensated for in accordance with the procedure provided for in the Code of Criminal Procedure.
[RT I, 14.03.2011, 3 – entry into force 24.03.2011]

(3¹) The provision of the injured party with state-funded legal aid in an event specified in subsection 2² of § 6 of this Act is decided by an order of the court or the Prosecutor's Office or by a disposition of the investigative body.
[RT I, 06.01.2016, 5 – entry into force 16.01.2016]

(4) Where necessary, the court, Prosecutor's Office or investigative body sets a term for the provision of state-funded legal aid.

(5) An order on granting state-funded legal aid specifies the manner of granting state-funded legal aid in accordance with § 8 of this Act and the compensation obligation of the recipient of state-funded legal aid in accordance with § 16. A copy of the regulation is sent to the Estonian Bar Association (hereinafter also *Bar Association*).
[RT I, 21.05.2014, 1 – entry into force 31.05.2014]

(5¹) The procedure for sending state-funded legal aid orders to the Bar Association via the e-file procedural information system (hereinafter *e-file system*) is established by a regulation of the minister responsible for the field.
[RT I, 21.05.2014, 1 – entry into force 31.05.2014]

(6) Annually by April 1, the investigative body and the Prosecutors' Office submit to the minister responsible for the field a report on granting state-funded legal aid in the previous year. The standard form for the reports is approved by a regulation of the minister responsible for the field.

(7) Where an application for state-funded legal aid was forwarded to a court or another agency by an agency of another Member State of the European Union that is competent to forward applications for legal aid, a transcript of the order made concerning the application for legal aid is also sent to such agency.
[RT I 2005, 39, 308 – entry into force 01.01.2006]

(8) An interim appeal against a court order granting or refusing to grant state-funded legal aid may be submitted in accordance with the procedure established in statutes regulating judicial proceedings. An order concerning the granting of state-funded legal aid, which has been made in a civil or administrative case, can also be appealed against by the Bar Association.
[RT I, 28.12.2016, 14 – entry into force 07.01.2017]

§ 16. Determining compensation obligation of recipient of state-funded legal aid

(1) Where state-funded legal aid is granted to a person with the obligation to partially or fully compensate for the state-funded legal aid fee and state-funded legal aid costs, the person's compensation obligation is determined as a proportion or, where possible, as a specific amount, and it is decided whether compensation will be paid in a lump sum or in instalments.

(2) The court determines the scope of the compensation obligation of a recipient of state-funded legal aid and the procedure for compensation on the basis of the circumstances specified in subsections 1–3 of § 14 or subsection 5 of § 13 of this Act, taking into account the nature of the case, the type of state-funded legal aid applied for and the estimated time of providing state-funded legal aid.

(3) Where state-funded legal aid is granted to a person with the obligation to compensate for the state-funded legal aid fee and state-funded legal aid costs in a lump sum, the court, where possible, also determines the due date of compensation.

(4) Where state-funded legal aid is granted to a person together with the obligation to compensate for the state-funded legal aid fee and state-funded legal aid costs in instalments, the court, where possible, also determines the size and due dates of the instalments.

(5) Where state-funded legal aid is granted with the obligation to fully or partially compensate for the state-funded legal aid fee and state-funded legal aid costs in a lump sum or in instalments, the court may require the recipient of state-funded legal aid to make an advance payment for the full or partial performance of their compensation obligation. Upon failure to make the advance payment, state-funded legal aid is not granted to the person.

§ 17. Continuity of state-funded legal aid

(1) A person who has received state-funded legal aid retains the right to receive state-funded legal aid where the case is transformed to another type of state-funded legal aid provided for in subsection 3 of § 4 of this Act and the attorney appointed earlier continues providing state-funded legal aid to the person, except in the case provided for in subsection 2 of this section. The court, the investigative body or the Prosecutor's Office who decided the granting of state-funded legal aid may, on the basis of the request of the attorney providing state-funded legal aid or on its own motion, at any time reassess, in accordance with the procedure provided for in this Act, whether the grounds of granting state-funded legal aid to the applicant which are provided for in this Act continue to exist and, where the grounds for granting state-funded legal aid have ceased to exist, terminate the granting of state-funded legal aid to the person.
[RT I, 21.06.2014, 11 – entry into force 01.07.2014]

(2) Where state-funded legal aid has been granted to a person in criminal proceedings and the criminal proceedings are terminated due to the absence of the elements of a criminal offence in the case and misdemeanour proceedings are commenced instead, the person must, in order to continue to receive state-funded legal aid, submit within ten days and in accordance with the procedure provided for in this Act an application for state-funded legal aid to be granted in accordance with subsection 3 of § 10 of this Act. Until the court reviews the person's application, the attorney appointed earlier continues providing state-funded legal aid to the person in the case.
[RT I, 21.06.2014, 11 – entry into force 01.07.2014]

(3) A person who has received state-funded legal aid in judicial proceedings as a party to the proceedings has the right to receive state-funded legal aid also in proceedings regarding an appeal against an order or judgment in the same case or in compulsory enforcement proceedings.

(4) The court conducting proceedings or the court competent to hear an appeal against the activities of an enforcement officer conducting enforcement proceedings may, on its own motion, in all stages of proceedings reassess in accordance with the procedure provided for in this Act whether the grounds for granting state-funded legal aid to an applicant which have been provided for in this Act continue to exist and, where the grounds for granting state-funded legal aid cease to exist, terminate the granting of state-funded legal aid to the person. The court must verify the existence of the prerequisites for granting state-funded legal aid where legal aid is requested for representation in enforcement proceedings more than one year after the entry into force of the order or judgment made in the case.

(5) In the event of the reassessment provided for in subsections 1 and 4 of this section, the court has the right to demand, where necessary, that the recipient of state-funded legal aid submit a new notice concerning their financial situation and to request information concerning the financial situation or solvency of the recipient of state-funded legal aid and of their family members from the Tax and Customs Board, credit institutions and other persons or agencies.

(6) Where the granting of state-funded legal aid is terminated on the basis of subsections 1 and 4 of this section, the attorney who has provided state-funded legal aid is released from the obligation to provide state-funded legal aid and the court determines, on the basis of the application of the attorney, the amount of the state-funded legal aid fee for the attorney and the extent of compensation for state-funded legal aid costs. Simultaneously, the court determines the obligation of the recipient of state-funded legal aid to fully or partially compensate for the amount paid to the attorney in accordance with the procedure provided for in § 25 of this Act.

(7) A court or another competent agency may suspend payment of the instalments ordered by way of state-funded legal aid or alter the amount and the term for payment of the instalments in accordance with the procedure provided for in § 188 of the Code of Civil Procedure. Section 189 of the Code of Civil Procedure is followed upon termination of granting procedural assistance.

[RT I 2005, 39, 308 – entry into force 01.01.2006]

§ 18. Appointment of provider of state-funded legal aid

[RT I, 21.06.2014, 11 – entry into force 01.07.2014]

(1) At the request of the court, the Prosecutor's Office or the investigative body, the Bar Association promptly appoints an attorney to provide state-funded legal aid. The attorney appointed by the Bar Association must promptly assume the obligation to provide state-funded legal aid and organise their activities in such a manner that it would be possible for the attorney to participate in procedural operations on time.

[RT I, 21.06.2014, 11 – entry into force 01.07.2014]

(1¹) The procedure for submission of a request to the Bar Association by the court, the Prosecutor's Office or the investigative body via the e-file system is established by a regulation of the minister responsible for the field.

[RT I, 21.06.2014, 11 – entry into force 01.07.2014]

(2) The court, the Prosecutor's Office or the investigative body does not have the right to make an agreement with the attorney on the provision of state-funded legal aid or to appoint an attorney to provide state-funded legal aid.

[RT I, 21.06.2014, 11 – entry into force 01.07.2014]

(3) Upon provision of state-funded legal aid, the authorisation of an attorney to represent or protect a recipient of state-funded legal aid is certified by the confirmation of the attorney that the attorney has been appointed to provide state-funded legal aid. In case of doubt, confirmation concerning the appointment of the attorney may be requested from the Bar Association.

[RT I, 21.06.2014, 11 – entry into force 01.07.2014]

§ 18¹. Information system of state-funded legal aid

(1) The information system of state-funded legal aid is a database maintained for the purpose of organisation of the provision of state-funded legal aid, which forms a part of the state information system and the purpose of which is:

1) electronic administration of data for appointment of a provider of state-funded legal aid;

[RT I, 22.03.2013, 9 – entry into force 01.04.2013]

1¹) electronic administration of payment of fees and compensation of costs by way of state-funded legal aid;

[RT I, 22.03.2013, 9 – entry into force 01.04.2013]

2) enabling the electronic availability of the data of the members of the Bar Association;

3) ensuring easier availability of the state-funded legal aid service;

4) obtaining a statistical overview of provision of the state-funded legal aid service.

(2) The chief processor of the information system of state-funded legal aid is the Estonian Bar Association. The Board of the Estonian Bar Association establishes the statutes of the information system of state-funded legal aid.

[RT I, 14.03.2011, 3 – entry into force 24.03.2011]

§ 19. Refusal of attorney to provide state-funded legal aid

(1) Where an attorney has commenced providing legal services in accordance with the procedure for provision of state-funded legal aid, the attorney continues providing legal services until the final adjudication of the case, unless otherwise provided by a statute. Where the recipient of state-funded legal aid applies for the protection

of an interest that is in conflict with law or where the alleged claim of the recipient of state-funded legal aid is not based on law or where there is no procedural possibility to protect the rights and interests of the recipient of state-funded legal aid, the provision of state-funded legal aid is restricted to substantiation of the aforementioned circumstances in writing to the recipient of state-funded legal aid by the attorney.
[RT I 2009, 1, 1 – entry into force 01.01.2010]

(2) In the event of the occurrence of the circumstances specified in § 44 of the Bar Association Act and also where their interests or the interests of their spouse or close relative or a close relative of their spouse in the same case are in conflict with the interests of the recipient of state-funded legal aid, the attorney will not provide state-funded legal aid to the person and is required to refuse to provide legal services or immediately terminate the provision of the legal services already commenced.

(3) With the consent of the Board of the Bar Association or where the attorney is released from the professional confidentiality obligation in accordance with the procedure provided for in subsection 5 of § 45 of the Bar Association Act, an attorney may terminate the provision of state-funded legal aid on the grounds provided for in subsection 5 of § 44 of the Bar Association Act. Where the recipient of state-funded legal aid is not at fault for termination of the provision of state-funded legal aid or where the participation of an attorney in the proceedings is required by a statute, the Board of the Bar Association, without delay, appoints a new attorney to provide state-funded legal aid.
[RT I 2009, 1, 1 – entry into force 01.01.2010]

(4) Where an attorney terminates the provision of legal services on the basis of subsection 2 of this section and the attorney was aware or should have been aware of the circumstances precluding the provision of legal services at the time of commencing the provision of legal services, the attorney will not receive a fee for provision of state-funded legal aid.

(5) Where an attorney terminates the provision of legal services on the basis of subsection 3 of this section, the attorney is paid a fee for the work performed in the provision of state-funded legal aid. The said fee is included in the compensation obligation of the recipient of state-funded legal aid. A recipient of state-funded legal aid is not released from compensating for the state-funded legal aid fee and state-funded legal aid costs relating to the provision of legal services terminated on the basis of subsection 3 of this section.

§ 20. Change of provider of state-funded legal aid

(1) By agreement between an attorney providing state-funded legal aid and the recipient of state-funded legal aid, legal services in the same case may be provided to the person by another attorney who grants their consent for the transfer of the obligation to provide state-funded legal aid to such person. The new provider of state-funded legal aid is appointed on the basis of an order of the court, the Prosecutor's Office or a disposition of the investigative body in accordance with the procedure provided for in § 18 of this Act. In such an event, the court, the Prosecutor's Office or the investigative body decides the amount of the state-funded legal aid fee and state-funded legal aid costs that are compensated to the former provider of state-funded legal aid.
[RT I, 21.06.2014, 11 – entry into force 01.07.2014]

(2) Where, under this Act, a provider of state-funded legal aid is unable to continue to provide legal services to a recipient of state-funded legal aid, the provider of state-funded legal aid submits an application for the appointment of a new provider of state-funded legal aid to the court, the Prosecutor's Office or the investigative body. The new provider of state-funded legal aid is appointed in accordance with the procedure provided for in § 18 of this Act.
[RT I, 21.06.2014, 11 – entry into force 01.07.2014]

(3) Upon exclusion of an attorney providing state-funded legal aid from the Bar Association or their disbarment or upon suspension of the professional activities or long-term incapacity for work or the death of an attorney, and in other events provided by a statute, the Bar Association appoints a new provider of state-funded legal aid at the request of the former provider of state-funded legal aid or the recipient of state-funded legal aid or on the basis of an order of the court, the Prosecutor's Office or the investigative body or on its own motion in accordance with the procedure provided for in § 18 of this Act.
[RT I, 21.06.2014, 11 – entry into force 01.07.2014]

(3¹) The court, at the request of the recipient of legal aid or on its own motion, removes an attorney from the provision of state-funded legal aid by an order where the attorney has demonstrated incompetence or negligence. The court may request the submission of clarifications from the recipient of state-funded legal aid and the attorney beforehand. The court forwards the order concerning the removal of the attorney from the provision of state-funded legal aid to the Bar Association for the commencement of proceedings of its court of honour and, where necessary, for the appointment of a new provider of state-funded legal aid.
[RT I, 21.06.2014, 11 – entry into force 01.07.2014]

(4) Where the provider of state-funded legal aid is changed, the new provider of state-funded legal aid continues providing the person with legal services from where the former provider of state-funded legal aid finished. The state-funded legal aid fee is paid to the former provider of state-funded legal aid according to the work performed and the state-funded legal aid costs borne thereby is compensated for.

Chapter 4

PAYMENT OF STATE-FUNDED LEGAL AID FEE TO ATTORNEY AND COMPENSATION FOR STATE-FUNDED LEGAL AID COSTS

§ 21. State-funded legal aid fee and state-funded legal aid costs

(1) The state-funded legal aid fee is a fee paid to an attorney for provision of state-funded legal aid.

(2) State-funded legal aid costs are the necessary costs incurred by an attorney or the management of a law office upon provision of state-funded legal aid by the attorney.

(3) The bases for calculation of fees payable for provision of state-funded legal aid, the procedure for payment and rates of the fees, and the extent of and procedure for compensation for costs relating to provision of state-funded legal aid (hereinafter *procedure for fees and costs*) are established by the minister responsible for the field, taking into account the amount of funds allocated for such purpose from the state budget, an estimate of the volume of state-funded legal aid and having heard the opinion of the board of the Bar Association beforehand. During the budgetary year, the minister responsible for the field may alter the bases for the calculation of the fees payable for the provision of state-funded legal aid, the procedure for payment, the rates of fees and the extent of and procedure for compensation for costs.

[RT I, 22.06.2016, 21 – entry into force 01.08.2016]

(3¹) [Repealed – RT I, 22.06.2016, 21 – entry into force 01.08.2016]

(3²) Where the state budget has not been passed by the beginning of the budgetary year, the Ministry of Justice allocates one twelfth of the relevant costs in the budget for the previous year to the Bar Association for covering state-funded legal aid fees and state-funded legal aid costs each month until the state budget is passed.

[RT I 2009, 1, 1 – entry into force 01.01.2010]

(3³) The procedure for submission of documents via the e-file for the purpose of identification of the fees and costs to be compensated by way state-funded legal aid is established by a regulation of the minister responsible for the field.

[RT I, 22.03.2013, 9 – entry into force 01.01.2014]

(4) The requirement to maintain the confidentiality of persons who request an attorney to provide legal services and of the amount of the fee paid for legal services, as provided for in subsection 1 of § 45 of the Bar Association Act, does not apply to the provision of state-funded legal aid.

§ 22. Determination of amount of state-funded legal aid fee and extent of compensation for state-funded legal aid costs

(1) In order to determine the amount of the state-funded legal aid fee and the extent of compensation for the state-funded legal aid costs, the attorney submits to the court, Prosecutor's Office or investigative body who decided on granting state-funded legal aid an application that sets out:

1) the fee payable and the necessary costs incurred subject to compensation on the basis of the procedure for fees and costs specified in subsection 3 of § 21 of this Act together with the calculations, taking into account the provisions of subsection 5 of this section;

2) the justified operations carried out in the course of provision of state-funded legal aid, the justified time spent on carrying out these operations, the date of carrying out each operation and the time of commencement and completion of an operation where the state-funded legal aid fee is calculated as an hourly fee;

3) the justified operations carried out in the course of provision of state-funded legal aid and the date of carrying out each operation where the state-funded legal aid fee is calculated as a flat fee;

4) the grounds for the time spent, the operations carried out and the necessity and justification of the costs incurred.

[RT I 2009, 1, 1 – entry into force 01.01.2010]

(2) The documents certifying the costs incurred by the attorney or the management of the law office are annexed to the application where the court, investigative body or the Prosecutor's Office cannot verify the incurred costs by electronic means. The minister responsible for the field may establish coefficients applicable upon calculation of the fee, which fully or partially cover the costs of state-funded legal aid.

[RT I, 22.06.2016, 21 – entry into force 01.08.2016]

(3) An attorney submits an application provided for in subsection 1 of this section in court proceedings at every court instance and in pre-trial proceedings in a criminal case and in out-of-court proceedings in a misdemeanour

case within three months after making a state-funded legal aid operation but not later than at the end of the respective proceedings. In the event of provision of other state-funded legal aid, an application is submitted within three months after the termination of provision of the legal aid.

[RT I, 22.12.2020, 34 – entry into force 01.01.2021]

(4) The form of the application provided for in subsection 1 of this section is established by the Board of the Bar Association. An attorney submits the application specified in subsection 1 of this section by electronic means, except in the events and in accordance with the procedure established by the minister responsible for the field. The minister responsible for the field may establish specific requirements and a procedure for the applications and the submission thereof by electronic means.

[RT I, 14.03.2011, 3 – entry into force 24.03.2011]

(5) The use of the application form and compliance with the procedure for the submission thereof is mandatory for attorneys. An application is not reviewed where a non-standard application is submitted for determining the amount of the state-funded legal aid fee and the extent of compensation for the state-funded legal aid costs, the application does not set out all the information required in accordance with subsection 1 of this section or the application is not submitted in accordance with the procedure in force.

[RT I 2009, 1, 1 – entry into force 01.01.2010]

(6) The amount of the state-funded legal aid fee and the extent of compensation for the state-funded legal aid costs are determined on the basis of the procedure for fees and costs specified in subsection 3 of § 21 of this Act which was in force at the time of carrying out the operation that served as the basis for payment of the corresponding fee or compensation for the costs.

[RT I, 22.06.2016, 21 – entry into force 01.08.2016]

(7) The court, the investigative body or the Prosecutor's Office that decided the granting of state-funded legal aid verifies whether the application submitted by an attorney is correct and justified and determines on the basis of the attorney's application the justified time spent on provision of the state-funded legal aid, the justified operations carried out for the purpose of provision of the state-funded legal aid and the justified fee payable to the attorney for provision of the state-funded legal aid and the necessary costs incurred upon provision of the state-funded legal aid to be compensated. The aforementioned is determined on the basis of the attorney's application in court proceedings at every court instance and in pre-trial proceedings in a criminal case and in out-of-court proceedings in a misdemeanour case within three months after the submission of the application but not later than at the end of the respective proceedings. In the event of provision of other state-funded legal aid, the amount of the fee for the state-funded legal aid and the extent of compensation of costs is determined within three months after the submission of the application.

[RT I, 22.12.2020, 34 – entry into force 01.01.2021]

§ 23. Procedure for determination of state-funded legal aid fee and state-funded legal aid costs

(1) Where state-funded legal aid is granted in the course of court proceedings, the court hearing the case determines the state-funded legal aid fee and the state-funded legal aid costs in a judgment or order made in the case or leaves these for determination in accordance with the procedure for the determination of case costs provided for in the Code of Civil Procedure.

[RT I, 22.12.2020, 34 – entry into force 01.01.2021]

(2) Outside court proceedings, the district court or the administrative court determines the state-funded legal aid fee and the state-funded legal aid costs in an action by petition or in accordance with the procedure provided for in the Code of Administrative Court Procedure.

[RT I, 22.12.2020, 34 – entry into force 01.01.2021]

(3) The investigative body or the Prosecutor's Office determines the state-funded legal aid fee and state-funded legal aid costs in accordance with the procedure provided for in the Code of Criminal Procedure.

(4) In accordance with Acts regulating judicial proceedings, the Bar Association has the right to appeal against a court decision made in an administrative or civil case regarding determining the amount of state-funded legal aid and the extent of compensation of state-funded legal aid costs.

[RT I, 28.12.2016, 14 – entry into force 07.01.2017]

§ 24. Payment of state-funded legal aid fee and state-funded legal aid costs

(1) The Bar Association organises payment of the state-funded legal aid fee and state-funded legal aid costs to an attorney who has provided state-funded legal aid on the basis of a decision or an order of an investigative body or the Prosecutor's Office. In the event of doubt, the Board of the Bar Association is required to verify whether the state-funded legal aid fee and state-funded legal aid costs are justified. In order to assess whether the state-funded legal aid fee and state-funded legal aid costs are justified, the Bar Association has the right to demand clarifications from the attorney, the recipient of state-funded legal aid, the court, the investigative body, the Prosecutor's Office, and to examine the records of the case. The decision of the court or the order of the investigative body or the Prosecutor's Office does not discharge the attorney from liability for the submission of false or clearly unjustified information in an application for determining the amount of the state-funded legal aid fee and the extent of compensation for the state-funded legal aid costs.

[RT I 2009, 1, 1 – entry into force 01.01.2010]

(2) An attorney cannot request remuneration for the provision of state-funded legal aid from the person to whom the attorney provided legal services in the given case.

Chapter 5

COMPENSATION FOR STATE-FUNDED LEGAL AID FEE AND STATE-FUNDED LEGAL AID COSTS

§ 25. Compensation for state-funded legal aid fee and state-funded legal aid costs

(1) After termination of the provision of a person with legal services the court, in accordance with the procedure provided for in § 23 of this Act, determines the obligation of the recipient of state-funded legal aid to fully or partially compensate the state for the fee and costs paid to the attorney to the justified and necessary extent thereof.

[RT I 2009, 1, 1 – entry into force 01.01.2010]

(2) Upon deciding on the granting of state-funded legal aid, the court determines the exact scope of the compensation obligation of the recipient of state-funded legal aid and establishes a detailed procedure for compensation, taking into account the scope of the compensation obligation determined in accordance with § 16 of this Act and the procedure for compensation and the advance payment required of the recipient.

(3) In the event of significant changes in the financial situation or solvency of a recipient of state-funded legal aid, the court may, at the request of the recipient of state-funded legal aid or the Ministry of Finance or a governmental authority within its area of government, amend the scope of the compensation obligation of the recipient of state-funded legal aid or the procedure for compensation determined before provision of legal services, taking into account the circumstances specified in subsections 1–3 of § 14 or subsection 5 of § 13 of this Act.

(4) A person who has received state-funded legal aid in criminal and misdemeanour proceedings compensates for the state-funded legal aid fee and state-funded legal aid costs in accordance with the procedure provided for in the Code of Criminal Procedure.

§ 26. Collection of state-funded legal aid fee and state-funded legal aid costs

(1) A judgment or order ordering a person to pay the state-funded legal aid fee and state-funded legal aid costs is sent by the court to the authority designated by a directive of the minister responsible for the field.

[RT I, 28.12.2011, 1 – entry into force 01.01.2012]

(2) A person who has received state-funded legal aid and is required to compensate for the state-funded legal aid fee and state-funded legal aid costs under this Act or a person who has been ordered by a court to pay the legal aid costs because the party in whose favour a judgment was made received state-funded legal aid must comply with the judgment or order within the term provided for therein. Where the judgment or order does not set out a term for compliance therewith, the judgment or order must be complied with within 15 days as of the entry into force thereof.

(3) The authority designated by a directive of the minister responsible for the field may forward the judgment or order specified in subsection 1 of this section for enforcement where the obligated person has failed to comply with the judgment or order within the term provided for therein or, where no term has been specified, within 15 days after the entry into force of the judgment or order.

[RT I, 28.12.2011, 1 – entry into force 01.01.2012]

§ 27. Release from obligation to compensate for state-funded legal aid fee and state-funded legal aid costs

(1) A recipient of state-funded legal aid does not need to compensate for the state-funded legal aid fee or state-funded legal aid costs and an advance payment paid for the performance of the compensation obligation is refunded to the recipient as follows where:

1) in the adjudication of a civil case, the opposing party is ordered to pay the case costs in full or in part – to the extent the case costs are borne by the opposing party;

1¹) a representative was appointed to the person in a non-contentious civil action by petition without the person's request;

[RT I, 28.12.2016, 14 – entry into force 07.01.2017]

2) the administrative court grants the person's appeal in full or in part – to the extent the appeal is granted;

3) the administrative court terminates proceedings in the case in connection with the approval of a compromise;

[RT I, 23.02.2011, 3 – entry into force 01.01.2012]

4) the administrative authority grants the person's intra-authority appeal in full or in part – to the extent the intra-authority appeal is granted.

(2) A person who has received state-funded legal aid in criminal or misdemeanour proceedings is released from the obligation to compensate for the state-funded legal aid fee and state-funded legal aid costs on the grounds and in accordance with the procedure provided for in Chapter 7 of the Code of Criminal Procedure or § 23 and subsection 1 of § 38 of the Code of Misdemeanour Procedure.

(3) A recipient of state-funded legal aid is not released from the obligation to compensate for the state-funded legal aid fee and state-funded legal aid costs on the conditions provided for in subsection 1 of this section to the extent in which the fee paid to the attorney and the necessary costs compensated to the attorney were caused by the failure of the recipient of state-funded legal aid to appear, without a legal impediment, when summoned by the court or administrative authority or failure of the recipient of state-funded legal aid to comply with a demand of the court or administrative authority where appearing or compliance with the demand is mandatory in accordance with law.

§ 28. Compensation obligation upon improvement of financial situation

(1) Where a recipient of state-funded legal aid was fully or partially released from compensation for the state-funded legal aid fee and state-funded legal aid costs, except on the grounds provided for in subsection 1 or 2 of § 27 of this Act, and the recipient's financial situation or solvency improves significantly within five years after terminating the provision of state-funded legal aid, the court that decided the granting of state-funded legal aid, on the basis of an application of the Ministry of Finance or an authority within the area of government of the Ministry of Finance designated by the minister responsible for the field, demands that the person compensate for the state-funded legal aid fee and state-funded legal aid costs in a lump sum or in instalments.

(2) Compensation for the state-funded legal aid fee and state-funded legal aid costs is not required where the estimated costs of collection exceed or are equal to the collectable amount or more than three years have passed since the claim for the compensation of the state-funded legal aid fee and state-funded legal aid costs fell due.

(3) The Ministry of Finance or an authority within the area of government of the Ministry of Finance designated by the minister responsible for the field has the right to request supplementary evidence or information from persons that received state-funded legal aid and credit institutions concerning the improvement of their financial situation or solvency within five years after terminating the provision of state-funded legal aid. An inquiry must be replied to within a reasonable term determined by the Ministry of Finance or an authority within the area of government of the Ministry of Finance designated by the minister responsible for the field.

§ 29. Compensation obligation upon submission of false information

(1) On the basis of an application of the Ministry of Finance or an authority within the area of government of the Ministry of Finance designated by the minister responsible for the field, the court that decided on the granting of state-funded legal aid orders payment of the state-funded legal aid fee and state-funded legal aid costs to the full extent by a person who has knowingly submitted false information upon application for state-funded legal aid and who, upon submission of correct information, would not have been fully or partially released from the obligation to compensate for the state-funded legal aid fee and state-funded legal aid costs.

(2) Besides the state-funded legal aid fee and state-funded legal aid costs, the court orders that a person who submitted false information pay interest at the rate of six per cent per year on the amount of the overdue state-funded legal aid fee and state-funded legal aid costs calculated as of the payment of the fee and compensation for the costs to the provider of state-funded legal aid.

Chapter 6 FINANCING OF AND ADMINISTRATIVE SUPERVISION OVER STATE-FUNDED LEGAL AID

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

§ 30. Principles of financing state-funded legal aid

(1) Provision of state-funded legal aid is financed from funds allocated for it from the state budget.

(2) The state ensures that sufficient funds are allocated for provision of state-funded legal aid.

(3) The Bar Association ensures that funds earmarked for provision of state-funded legal aid are kept separately from the other assets of the Bar Association.

§ 31. Supporting accessibility of legal advice

[RT I, 28.12.2016, 14 – entry into force 07.01.2017]

(1) In order to improve access to legal advice in general, the state supports, within the limits of the funds allocated in the state budget, the winner of the competition specified in subsection 2 of this section in order to ensure the provision of the persons in need of aid with high-quality legal aid.

(2) The Ministry of Justice organises a public competition for distributing the aid. A contract is awarded to the winner of the competition for up to five years. There can be one winner or multiple winners.

(3) The minister responsible for the field, by a regulation, establishes:

- 1) the target group and fields of law of legal advice;
- 2) the conditions of and procedure for the competition of distribution of aid for legal advice;
- 3) requirements for applications and applicants;
- 4) requirements for legal aid to be supported and for the organisation of granting such aid;
- 5) the self-financing portion of a person who needs legal aid supported from the state budget;
- 6) requirements for reports to be submitted by the recipient of the aid.

(4) The Ministry of Justice exercises supervision over compliance with the requirements established on the basis of subsection 3 of this section and the contract concluded with the recipient of aid. Where the recipient of aid fails to perform their duties, the Ministry of Justice may make a precept to them and impose on them a penalty payment of up to 10,000 euros in accordance with the procedure established in the Substitutive Enforcement and Penalty Payment Act for the purpose of ensuring that the precept is complied with. The Ministry of Justice may recover aid used for a purpose other than the intended purpose back to the state budget. [RT I, 28.12.2016, 14 – entry into force 07.01.2017]

§ 32. Reporting and administrative supervision over activities of Bar Association

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

(1) Not later than by April 1 the Bar Association submits to the Ministry of Justice an annual overview of provision of state-funded legal aid in the previous year and payment of state-funded legal aid fees and state-funded legal aid costs to attorneys.

(2) The specific conditions for the use of funds allocated for the provision of state-funded legal aid may be established by a regulation of the minister responsible for the field.

(3) Not later than by April 1 the Ministry of Finance or an authority within the area of government of the Ministry of Finance designated by the minister responsible for the field submits to the Ministry of Justice an annual overview of the collection of state-funded legal aid fees and state-funded legal aid costs from persons with the compensation obligation. The procedure for the submission of overviews is established by a regulation of the minister responsible for the field.

(4) Upon exercising supervision over the proper performance of functions arising from this Act by the Bar Association, the Ministry of Justice has the right to:

- 1) receive documents from the Bar Association concerning the use of funds allocated for provision of state-funded legal aid and payment of state-funded legal aid fees and state-funded legal aid costs;
- 2) carry out inspection of the economic activities of the Bar Association in order to verify the expediency and purposefulness of the use of the funds allocated for provision of state-funded legal aid;

[RT I 2009, 1, 1 – entry into force 01.01.2010]

3) receive other information from the Bar Association necessary for exercising supervision over the legality and efficiency of the use of funds allocated for provision of state-funded legal aid.

Chapter 7 INTERNATIONAL LEGAL AID

§ 33. Granting state-funded legal aid in connection with proceedings regarding civil case in court of Member State of European Union and other body resolving disputes

(1) An Estonian citizen or a person residing in Estonia on the basis of a residence permit who complies with the requirements of subsection 1 of § 6 of this Act may receive the state-funded legal aid provided for in clauses 4 and 7–9 of subsection 3 of § 4 in connection with proceedings regarding their civil case in a court of a Member State of the European Union or in another body resolving disputes until legal aid is asked from a competent body of the corresponding Member State of the European Union.

(2) Where state-funded legal aid is granted in a dispute specified in subsection 1 of this section, this Act applies, taking into account the specifications provided for in this Chapter.

(3) An application for the receipt of state-funded legal aid on the basis of subsection 1 of this section is submitted to Harju District Court.

(4) An application and the documents annexed thereto may be submitted in Estonian or in English.
[RT I 2009, 1, 1 – entry into force 01.01.2010]

§ 34. Translation assistance in connection with civil proceedings in court of member state of European Union and another body resolving disputes

(1) In addition to the state-funded legal aid provided for in § 33 of this Act, an Estonian citizen or a person residing in Estonia on the basis of a residence permit who complies with the requirements of subsection 1 of § 6 of this Act may receive translation assistance upon application for legal aid in disputes specified in subsection 1 of § 33 of this Act in a Member State of the European Union where the competence of a court or another body resolving disputes includes the adjudication of their civil case.

(2) The translation assistance specified in subsection 1 of this section means the translation of an application for legal aid submitted to a body processing applications for legal aid in a Member State of the European Union and the necessary documents justifying the application and annexed thereto into a foreign language in which the relevant bodies of the corresponding Member State process the applications for legal aid.

§ 35. Forwarding of applications for legal aid

[RT I, 2005, 39, 308 – entry into force 01.01.2006]

(1) In order to receive state-funded legal aid in connection with civil proceedings in a court of a Member State of the European Union or another body resolving disputes, an application may be submitted to a competent body of the European Union or via Harju District Court. The provisions of § 193 of the Code of Civil Procedure apply to the forwarding of applications for state-funded legal aid via Harju District Court.

(2) [Repealed – RT I 2005, 39, 308 – entry into force 01.01.2006]

(3) [Repealed – RT I 2005, 39, 308 – entry into force 01.01.2006]

(4) [Repealed – RT I 2005, 39, 308 – entry into force 01.01.2006]

(5) [Repealed – RT I 2005, 39, 308 – entry into force 01.01.2006]

(6) [Repealed – RT I 2005, 39, 308 – entry into force 01.01.2006]

§ 36. State-funded legal aid in enforcement proceedings regarding official document of foreign state

(1) A person specified in subsection 1 of § 6 of this Act may receive state-funded legal aid specified in clause 7 of subsection 3 of § 4 of this Act in accordance with the procedure provided for in this Act in connection with enforcement in Estonia of an official document of a foreign state, which is recognised in Estonia.

(2) An application for the receipt of state-funded legal aid on the basis of subsection 1 of this section is submitted in accordance with subsection 3 of § 10 of this Act.

(3) An application and the documents annexed thereto may be submitted in Estonian or English.

§ 37. Granting state-funded legal aid for appealing to European Court of Human Rights

(1) An Estonian citizen or a person residing in Estonia on the basis of a residence permit who complies with the requirements of subsection 1 of § 6 of this Act may, in accordance with the procedure provided for in this Act, receive state-funded legal aid for filing an appeal with the European Court of Human Rights until the possibility to apply for legal aid from the European Court of Human Rights arises where the alleged violation of the Convention for the Protection of Human Rights and Fundamental Freedoms which serves as the basis for the appeal or the Additional Protocols belonging thereto and binding on Estonia has been committed by the Estonian state.

(2) An application for the receipt of state-funded legal aid on the basis of subsection 1 of this section is submitted in accordance with subsection 3 § 10 of this Act.

(3) A district court refuses to grant state-funded legal aid in accordance with subsection 1 of this section where the court finds that the filed appeal would not be admissible under Article 35 of the Convention for the Protection of Human Rights and Fundamental Freedoms.
[RT I 2005, 39, 308 – entry into force 01.01.2006]

§ 37¹. Granting of state-funded legal aid based on Council Regulation (EC) No 4/2009 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations

(1) Upon granting state-funded legal aid in proceedings carried out on the basis of Council Regulation (EC) No 4/2009 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations the provisions of this Act regulating the granting of state-funded legal aid apply only insofar as the Regulation does not provide otherwise.

(2) The functions of the central authority provided for in the regulation specified in subsection 1 of this section are performed by the Ministry of Justice.

(3) Where on the basis of the regulation specified in subsection 1 of this section translation assistance needs to be granted to an entitled person, the court appoints, above all, a sworn translator to provide translation assistance. The provisions of this Act applicable to attorneys apply to translators, taking into account the specifics of translation assistance.

[RT I, 14.03.2011, 2 – entry into force 18.06.2011]

§ 37². Granting of state-funded legal aid based on the Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance

(1) Upon granting state-funded legal aid in proceedings carried out on the basis of the Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance (OJ L 192, 22.07.2011, pp 51–70), the provisions of this Act regarding the granting of state-funded legal aid apply only insofar as the Convention does not provide otherwise.

(2) The functions of the central authority provided for in the regulation specified in subsection 1 of this section are performed by the Ministry of Justice.

[RT I, 31.12.2014, 1 – entry into force 10.01.2015]

Chapter 8 IMPLEMENTATION OF ACT

§ 38. Application of Act to undertakings whose area of activity includes provision of legal services

(1) A person who complies with the requirements of subsection 1 of § 23 of the Bar Association Act, regarding whom the circumstances specified in clauses 1–3 and 5–7 of subsection 1 of § 27 of the Bar Association Act do not exist and who, after completion of a nationally recognised curriculum of academic legal studies and immediately prior to joining the Bar Association, has provided, for at least three consecutive years, legal services as a self-employed person registered in the commercial register or through a company whose areas of activity include provision of legal services and in which the person is a shareholder, is admitted to the Bar Association as a senior assistant attorney-at-law, where the person has passed the examination of a senior assistant attorney-at-law. An application for admission to the Bar Association on the basis of this section is submitted to the Board of the Bar Association not later than by 1 September 2005.

(2) A person admitted to the Bar Association in accordance with this section may provide legal services and act as the management of a law office on the same grounds as an attorney-at-law.

(3) A person specified in subsection 1 of this section who has passed the senior assistant attorney-at-law examination loses the right to provide legal services and act as the management of a law office where the person does not pass the attorney-at-law examination within two years as of joining the Bar Association. The attorney-at-law examination cannot be taken before one year has passed after admitting the person as a member of the Bar Association as a senior assistant attorney-at-law.

(4) A person who has become a member of the Bar Association in accordance with subsection 1 of this section, not later than within two months after becoming a member of the Bar Association, submits to the registrar of the commercial register an application for the transformation of the company through which the person provides legal services into a company of attorneys. The provisions of subsection 1 of § 54 of the Bar Association Act apply to the company being transformed as of 1 January 2007. A senior assistant attorney-at-law who has become a member of the Bar Association in accordance with subsection 1 of this section is deemed to be equal to attorney-at-law within the meaning of § 54 of the Bar Association Act.

(5) A person who applies for admission to the Bar Association in accordance with subsection 1 of this section must, within six months after becoming a member of the Bar Association, bring their activities into compliance with § 82¹ of the Bar Association Act.

(6) The provisions of § 48 of the Bar Association Act concerning the professional liability insurance of attorneys apply to a person who acts as the management of a law office and has become a member of the Bar Association in accordance with this section as of 1 January 2006.

(7) State fees are not charged for entry in the commercial register of the amendments made on the basis of this section.

§ 38¹. Specifications of application of fees and costs procedure

Where the amount of the state-funded legal aid fee or the extent of compensation of the state-funded legal aid costs has not been established regarding payment of the fee payable for state-funded legal aid provided or payment of compensation for state-funded legal aid costs incurred before 1 August 2016, the establishment thereof is subject to the procedure for fees and costs established on the basis of the wording of subsection 3 of § 21 of this Act that entered into force on 1 August 2016.
[RT I, 22.06.2016, 21 – entry into force 01.08.2016]

§ 38². Application of Act to contracts supporting access to legal advice

Subsection 4 of § 31 of this Act does not apply to contracts supporting access to legal advice, which have been awarded before the entry into force of the provision.
[RT I, 28.12.2016, 14 – entry into force 07.01.2017]

§ 38³. Renewal of contracts supporting access to legal advice

The minister responsible for the field may renew contracts supporting access to legal advice, which are in force at the time of entry into force of this section, until a contract has been awarded to the winner of a new competition.
[RT I, 28.12.2016, 14 – entry into force 07.01.2017]

§ 39.–§ 48.[Omitted from this text.]

§ 49. Entry into force of Act

(1) This Act enters into force on 1 March 2005.

(2) Sections 33–35 of this Act enter into force on 30 November 2004, except in the part where state-funded legal aid is applied for outside court proceedings. This Act applies to applications for state-funded legal aid outside court proceedings in international disputes as of 30 May 2006.

¹Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA (OJ L 88, 31.03.2017, pp 6–21). [RT I, 04.01.2019, 12 – entry into force 14.01.2019]