

Consular Act

Passed 3 December 2003

(RT¹ I 2003, 78, 527),

enters into force 1 January 2004,

amended by the following Act:

25.02.2004 entered into force 14.05.2004 - RT I 2004, 14, 92.

Chapter 1

General Provisions

§ 1. Scope of application of Act

(1) This Act regulates protection of the interests and rights of the Estonian state, Estonian nationals and Estonian legal persons in foreign states, the functions of and management principles for consular posts, the status of consular officers and honorary consuls, their rights and obligations in providing consular services and consular assistance, and the principles for providing consular services and consular assistance to aliens and foreign nationals and for providing consular assistance to European Union nationals.

(2) For the purposes of this Act, an alien is a person who lives in Estonia on the basis of a residence permit and to whom an Estonian alien's passport has been issued on the basis of § 27 of the Identity Documents Act (RT I 1999, 25, 365; 2000, 25, 148; 26, 150; 40, 254; 86, 550; 2001, 16, 68; 31, 173; 56, 338; 2002, 61, 375; 63, 387; 90, 516; 2003, 13, 65; 15, 87).

(3) The provisions of the Administrative Procedure Act (RT I 2001, 58, 354; 2002, 53, 336; 61, 375; 2003, 20, 117) apply to administrative proceedings prescribed in this Act, taking account of the specifications provided for in this Act.

§ 2. Consular post

(1) A consular post is a structural unit of the Ministry of Foreign Affairs which exercises consular functions pursuant to Estonian legal acts, taking account of the legislation of the receiving state. A consular post headed by an honorary consul is not a structural unit of the Ministry of Foreign Affairs.

(2) Consular posts are consulates general, consulates or vice-consulates.

(3) Consular posts are opened and closed by the Ministry of Foreign Affairs.

(4) The Ministry of Foreign Affairs exercises consular functions to the extent prescribed by this Act.

(5) A diplomatic representation exercises consular functions to the extent determined by the Minister of Foreign Affairs.

§ 3. Insignia

A consular post shall use the national flag of the Republic of Estonia, a sign bearing the grand national coat of arms of Estonia to indicate the location of the consular post, and a seal with the small national coat of arms of Estonia.

§ 4. Consular functions

Consular functions are as follows:

- 1) to provide consular services and consular assistance;
- 2) to monitor political, economic, social and cultural life in the consular district and collect information concerning developments in the consular district;
- 3) to promote Estonian political, economic, social and cultural life and exchange appropriate information;
- 4) to establish and further relations with the authorities and persons in the consular district and the receiving state;
- 5) other functions arising from law.

§ 5. Co-ordination of activities of consular post

(1) A consular post shall co-ordinate its activities with the diplomatic representation of the Republic of Estonia in the receiving state.

(2) If there is no diplomatic representation of the Republic of Estonia in the receiving state, the consular post shall co-ordinate its activities with the Ministry of Foreign Affairs.

§ 6. Head of consular post

(1) The head of a consular post is the consul general, consul, vice-consul, honorary consul general, honorary consul or honorary vice-consul.

(2) Heads of consular posts are appointed and recalled by the Minister of Foreign Affairs.

§ 7. Letters patent of consul

(1) The letters patent of a consul are a consular commission issued by the Minister of Foreign Affairs to certify the appointment of the head of a consular post and the right of the head to provide consular services and consular assistance.

(2) Letters patent are issued to the head of a consular post after his or her appointment.

(3) The letters patent of a consul shall set out the name, category and class of the consul, the consular district and the seat of the consular post subordinate to the consul, and the term of validity of the letters patent.

(4) The format of the letters patent of a consul and the procedure for the issue of letters patent to a consul shall be established by a regulation of the Minister of Foreign Affairs.

§ 8. Authorisation

The Ministry of Foreign Affairs shall apply for an authorisation to be issued to the head of a consular post by the receiving state. After receipt of an authorisation in the form of a diplomatic note or any other document indicating the consent of the receiving state (*exequatur*), the consular post may exercise consular functions.

§ 9. Consular district

(1) A consular district is the territory or an administrative unit of the receiving state which is assigned to a consular post by the Minister of Foreign Affairs with the consent of the receiving state.

(2) The consular district of a diplomatic representation is the territory of the receiving state.

(3) With the consent of the Ministry of Foreign Affairs of the state concerned, a consular post may exercise consular functions outside its consular district.

(4) In a foreign state where there is no representation of the Republic of Estonia, a consular officer may provide consular services and consular assistance with the consent of the Ministry of Foreign Affairs of the foreign state.

(5) In the territory of a foreign state with which Estonia does not have diplomatic relations, a consular officer shall provide consular services and consular assistance on the order of the Minister of Foreign Affairs and with the consent of the foreign state. Such activities do not entail an obligation to establish diplomatic or consular relations.

§ 10. Registration of and reporting on consular services and consular assistance

(1) The acts performed by a consular officer or honorary consul in providing consular services or consular assistance shall be entered in the register of consular acts. The register of the consular acts of a consular officer shall be maintained in the form of a digital database. The procedure for the establishment and maintenance of the database shall be established by a regulation of the Minister of Foreign Affairs.

(2) Consular officers and honorary consuls shall submit monthly reports to the Ministry of Foreign Affairs on the acts performed by them in providing consular services and consular assistance.

(3) A list of the information to be set out in the reports and the format of and procedure for submission of the reports shall be established by a regulation of the Minister of Foreign Affairs.

§ 11. State fees and service charges

(1) State fees are charged for consular services in accordance with the State Fees Act (RT I 1997, 80, 1344; 2001, 55, 331; 53, 310; 56, 332; 64, 367; 65, 377; 85, 512; 88, 531; 91, 543; 93, 565; 2002, 1, 1; 18, 97; 23, 131; 24, 135; 27, 151 and 153; 30, 178; 35, 214; 44, 281; 47, 297; 51, 316; 57, 358; 58, 361; 61, 375; 62, 377; 90, 519; 102, 599; 105, 610; 2003, 4, 20; 13, 68; 15, 84 and 85; 20, 118; 21, 128; 23, 146; 25, 153 and 154; 26, 156 and 160; 30, correction notice; 51, 352; 66, 449; 68, 461; 71, 471).

(2) Honorary consuls shall not charge state fees for consular services. Honorary consuls may charge a fee for acts performed in the scope of consular services within the limits of the state fee rates established by the State Fees Act.

(3) The costs involved in the cremation and burial of the remains of a person, medical treatment or repatriation costs, transportation costs, costs for legal assistance and judicial proceedings, costs of translation and other costs shall be covered by the recipient of the consular services or assistance.

§ 12. Archives of consular posts

Records created or received in the course of the activities of a consular post shall be preserved pursuant to the Archives Act (RT I 1998, 36/37, 552; 1999, 16, 271; 2000, 92, 597; 2001, 88, 531; 93, 565; 2002, 53, 336; 61, 375; 63, 387; 82, 480).

§ 13. Supervisory control

The Minister of Foreign Affairs shall exercise supervisory control over administrative acts issued in providing consular services, the lawfulness of consular acts, and administration and accounting at consular posts.

Chapter 2

Consular Officer

§ 14. Consular officer

(1) A consular officer is a person in the foreign service to whom a diplomatic rank or diplomatic service rank has been granted and who has acquired the qualification or special qualification of consular officer.

(2) Consular officers are appointed to office pursuant to the Foreign Service Act (RT I 1995, 15, 172; 50, 764; 1996, 49, 953; 2001, 43, 240; 2002, 82, 481).

(3) The qualification or special qualification of consular officer is the set of knowledge, skills, experience, values and attitudes which are necessary to provide consular services and consular assistance.

§ 15. Professional requirements for consular officers

(1) The professional requirements for consular officers shall be established by a regulation of the Minister of Foreign Affairs.

(2) The requirements for the special qualification of consular officer relating to the performance of the acts provided for in subsection 25 (2) of this Act shall be established by a regulation of the Minister of Foreign Affairs in co-ordination with the Minister of Justice.

(3) The conditions and procedure for granting the qualification or special qualification of consular officer and the format of the professional or special qualifications certificate shall be established by a regulation of the Minister of Foreign Affairs.

Chapter 3

Honorary Consul

§ 16. Honorary consul

(1) An honorary consul is a person who provides consular services and consular assistance within the competence determined by the Minister of Foreign Affairs and who is appointed by the Minister of Foreign Affairs for a specified or unspecified term. The Minister of Foreign Affairs shall determine the competence of each honorary consul by a directive.

(2) For the purposes of this Act, honorary consuls general and honorary vice-consuls are also regarded as honorary consuls.

(3) An honorary consul may be a foreign national.

(4) Honorary consuls are not in the foreign service.

(5) Honorary consuls may not perform the duties of an honorary consul of another state without the consent of the Minister of Foreign Affairs.

(6) At the request of the Minister of Foreign Affairs, an honorary consul is required, at his or her own expense, to enable matters to be administered in Estonian.

(7) Upon appointment to office, an honorary consul shall make the following written oath of office: *“Töotan kohusetundlikult ja Eesti seadusi järgides täpselt täita*

ülesandeid, milleks mulle usaldatud amet mind kohustab.” [I swear to perform, in accordance with Estonian legislation and in a conscientious and accurate manner, the functions required of me by the office with which I have been entrusted.]

(8) Honorary consuls shall not receive remuneration from the Estonian state for performing their functions.

(9) The procedure for the appointment of honorary consuls shall be established by a regulation of the Minister of Foreign Affairs.

§ 17. Requirements for candidates for office of honorary consul

(1) Persons of good reputation who are well-known social, economic or cultural figures or well-known in any other area of activity in the receiving state and who are able to provide consular services and consular assistance and direct a consular post may be candidates for the office of honorary consul (hereinafter candidates).

(2) For the purposes of this Act, candidates for the office of honorary consul general or honorary vice-consul are also regarded as candidates.

(3) Candidates shall not be in state public service, with the exception of academic work at an educational or research institution.

§ 18. Functions of honorary consul

(1) An honorary consul shall head a consular post which has independent administration and accounting.

(2) An honorary consul shall bear the expenses of the consular post.

(3) An honorary consul shall establish the organisation of work at the consular post headed by him or her.

§ 19. Obligations of Ministry of Foreign Affairs

(1) The Ministry of Foreign Affairs shall organise for the insignia of a consular post to be sent to an honorary consul and for the consular archives to be transferred to the person designated by the Ministry of Foreign Affairs and shall, if necessary, bear the expenses relating to diplomatic mail.

(2) The Ministry of Foreign Affairs may place at the disposal of an honorary consul assets necessary for the activities of the consular post headed by him or her.

§ 20. Absence of honorary consul

(1) If an honorary consul leaves the consular district or is temporarily unable to perform his or her functions for any other reason, he or she shall immediately give notice thereof to the official designated by the Minister of Foreign Affairs.

(2) Consular services and consular assistance are not provided during the absence of the honorary consul.

§ 21. Termination of authority of honorary consul

(1) The authority of an honorary consul terminates upon:

- 1) revocation of the letters patent of the honorary consul;
- 2) revocation of the authorisation;
- 3) expiry of the term of validity of the letters patent of the honorary consul;
- 4) expiry of the term of validity of the authorisation;
- 5) his or her death.

(2) The Minister of Foreign Affairs shall revoke the letters patent of an honorary consul:

- 1) on the basis of a corresponding application from the honorary consul;
- 2) at the request of the receiving state of the consular post;
- 3) if the honorary consul is no longer trustworthy;
- 4) if, in the opinion of the Minister of Foreign Affairs, the honorary consul is unable to perform the functions assigned to him or her;
- 5) if a judgment of conviction in a criminal matter has entered into force with regard to the honorary consul;
- 6) if the name or class of the honorary consul or the district or seat of the consular post changes.

(3) The Ministry of Foreign Affairs shall notify an honorary consul and the receiving state of the consular post of the termination of the authority of the honorary consul or the revocation of his or her letters patent.

(4) The procedure for recalling honorary consuls shall be established by a regulation of the Minister of Foreign Affairs.

§ 22. Obligations of honorary consul upon termination of his or her authority

Upon termination of the authority of an honorary consul, he or she shall transfer the administration of the consular post, including the accounting, consular archives, insignia and the assets placed at the disposal of the consular post, to the person designated by the Ministry of Foreign Affairs. A report shall be prepared concerning the transfer.

Chapter 4

Provision of Consular Services by Consular Officer and Honorary Consul

§ 23. Consular services

(1) Consular services are public services provided by consular officers and honorary consuls in order to protect the interests and rights of the Estonian state, Estonian nationals and Estonian legal persons.

(2) Consular services may be provided to aliens and foreign nationals in the cases prescribed by law.

§ 24. Issue of certificate

(1) At the request of an Estonian national, an Estonian legal person, an institution of the consular district or a court, a consular officer shall issue a certificate concerning circumstances known to him or her.

(2) At the request of an Estonian national or an Estonian legal person, an honorary consul may issue a certificate concerning circumstances known to him or her if there is a justified need for the certificate and shall co-ordinate the issue of the certificate with a representation of the Republic of Estonia or the Ministry of Foreign Affairs. The honorary consul shall be personally liable for the correctness of the certificate.

§ 25. Act of attestation

(1) A consular officer may perform an act of attestation if there is a justified need for the act to be performed outside Estonia and if the act is directly related to an Estonian national, an Estonian legal person, or property situated in Estonia.

(2) A consular officer with special qualifications is competent to perform the acts specified in clauses 29 (1) 1), 2) and 4) and §§ 31 and 32 of the Notaries Act (RT I 2000, 104, 684; 2001, 93, 565; 2002, 57, 357; 61, 375; 64, 390; 2003, 18, 100), except the attestation of voting or ballot results or results of the drawing of lots.

(3) A consular officer without special qualifications is competent to authenticate signatures, copies, and translations of documents or signatures of translators.

(4) The acts specified in subsections (2) and (3) of this section shall be performed in accordance with the Notarisation Act (RT I 2001, 93, 564; 2002, 53, 336; 2003, 18, 100), taking into account the following specifications:

1) subsection 2 (2) of the Notarisation Act does not apply;

2) certificates concerning data entered in registers are issued and printouts from registers shall be authenticated only if the consular post is connected to the corresponding register through a computer network;

3) a consular officer shall attest a testamentary disposition if the bequeather is an Estonian national;

4) the act specified in § 32 of the Notaries Act shall be performed if the person who is to take the oath is an Estonian national.

(5) The obligation of professional secrecy applies to consular officers in accordance with § 3 of the Notaries Act.

(6) The acts specified in subsections (2) and (3) of this section and the authentication of a copy of a deposited notarial deed by the Ministry of Foreign Affairs have the same effect as notarial acts.

§ 26. Act of attestation performed with consent of Ministry of Foreign Affairs

(1) Consular officers without special qualifications may perform acts of attestation only with the consent of the Ministry of Foreign Affairs.

(2) The procedure for performing acts of attestation with the consent of the Ministry of Foreign Affairs shall be established by a regulation of the Minister of Foreign Affairs.

§ 27. Official authentication

At the request of a person, a consular officer may officially authenticate a signature, copy, printout or extract pursuant to the Administrative Procedure Act.

§ 28. Legalisation of public document

(1) Legalisation is a formality by which a consular officer authenticates the signature and, if necessary, the seal or stamp on a public document.

(2) A consular officer legalises public documents issued in foreign states which are used in Estonia and public documents issued in Estonia which are used in a foreign state.

(3) A consular officer shall legalise a public document if the consular post has a specimen signature of the signatory and the signatory has acted within the limits of his or her competence.

(4) A consular officer shall refuse to legalise a public document if:

1) the original document issued in a foreign state has not been legalised in accordance with customary international law;

2) the content of the document is untrue;

3) according to an international agreement, the public document is valid without any further attestation;

- 4) circumstances exist which imply that unauthorised changes have been made to the original content of the public document;
 - 5) the public document is spoiled;
 - 6) the public document was issued for a specified term and is no longer valid;
 - 7) there is reason to believe that the person who authenticated the public document was not competent to do so;
 - 8) the public document has been legalised for use in another state;
 - 9) the public document has been legalised by another Estonian consular officer.
- (5) The procedure for legalising public documents and the format of the corresponding applications shall be established by a regulation of the Minister of Foreign Affairs.

§ 29. Sending remains of person to Estonia

- (1) A consular officer or honorary consul shall verify the lawfulness of sending the remains of a person to Estonia and shall seal the urn or coffin.
- (2) A consular officer or honorary consul shall submit a certificate confirming the sealing of the urn or coffin to the person accompanying the urn or coffin.
- (3) The conditions and procedure for sealing urns and coffins and the format of the certificate shall be established by a regulation of the Minister of Foreign Affairs.

§ 30. Issue of visa

- (1) A consular officer shall process visa applications and issue visas pursuant to the conditions and procedure established by legislation.
- (2) The Administrative Procedure Act does not apply to proceedings concerning applications for or the issue of visas.
- (3) A consular officer shall be liable for the lawfulness of the issue of a visa and his or her decision to issue or to refuse to issue a visa cannot be contested pursuant to administrative procedure or administrative court procedure.

§ 31. Vital statistics registration

- (1) At the request of an Estonian national, a consular officer may register a birth or death pursuant to the Family Law Act (RT I 1994, 75, 1326; 1996, 40, 773; 49, 953; 1997, 28, 422; 35, 538; 2000, 50, 317; 2001, 16, 69; RT III 2001, 15, 154; RT I 2001, 53, 307; 2002, 53, 336) if there is a justified need therefor and provided the birth or death has not been registered in the receiving state.

(2) At the request of an Estonian national, a consular officer may, with the specific consent of the Ministry of Foreign Affairs, register a marriage pursuant to the Family Law Act if there is a justified need therefor and provided such registration is permitted in the receiving state.

(3) A consular officer shall, at the request of a person, amend, correct, revoke or restore a vital statistics registration prepared in a representation of the Republic of Estonia and shall keep registration registers and issue certificates and copies of vital statistics registrations pursuant to the procedure provided by the Family Law Act and legislation issued on the basis thereof.

(25.02.2004 entered into force 14.05.2004 - RT I 2004, 14, 92)

(4) The format of applications for the preparation, amendment or correction of a vital statistics registration, for the restoration or cancellation of a vital statistics registration and for a duplicate vital statistics certificate shall be established by a regulation of the Minister of Foreign Affairs in co-ordination with the Minister of Internal Affairs.

§ 32. Ensuring exercise of right to vote

A consular officer or honorary consul shall organise elections in his or her consular district pursuant to the Riigikogu² Election Act (RT I 2002, 57, 355; 2003, 26, 156).

§ 33. Holding of referendum

In the event of a referendum being held, a consular officer or honorary consul shall organise voting in his or her consular district pursuant to the Referendum Act (RT I 2002, 30, 176; 57, 355; 90, 517).

§ 34. Registration of Estonian national

(1) At the request of an Estonian national staying in a consular district, the consular officer or honorary consul shall register the person at the consular post. The procedure for registering Estonian nationals at consular posts and the format of registration applications shall be established by a regulation of the Minister of Foreign Affairs.

(2) At the request of an Estonian national permanently residing in a foreign state, a consular officer or honorary consul shall forward the data on the national's residence to the Estonian population register pursuant to the Population Register Act (RT I 2000, 50, 317; 2001, 31, 173; 2002, 41, 254; 53, 336; 57, 355; 61, 375; 102, 599; 2003, 4, 22).

(3) The procedure for forwarding data on the residence of an Estonian national permanently residing in a foreign state to the Estonian population register shall be established by a regulation of the Minister of Foreign Affairs in co-ordination with the Minister of Internal Affairs.

§ 35. Release from citizenship

(1) A consular officer shall register an application, and the other required documents, from an Estonian national residing in a foreign state for his or her release from Estonian citizenship and shall forward the application and the documents to the Citizenship and Migration Board. The consular officer shall provide the person with a certificate concerning the registration and forwarding of the documents pursuant to the Citizenship Act (RT I 1995, 12, 122; 83, 1442; 1998, 111, 1827; 2000, 51, 323; 2001, 93, 565; 2002, 53, 336; 62, 376; 90, 518; 2003, 18, 101).

(2) A consular officer shall issue the documents prescribed by law to a person applying for release from citizenship, reclaim the documents proving Estonian citizenship and forward them to the Citizenship and Migration Board.

§ 36. Acts with regard to Estonian ship

(1) A consular officer shall register messages transmitted by the captain of a ship flying the national flag of the Republic of Estonia concerning the ship and the crew while in port in the consular district.

(2) A consular officer shall issue a provisional certificate of nationality to an Estonian ship and extend the term of validity of ship's papers pursuant to the Law of Ship Flag and Registers of Ships Act (RT I 1998, 23, 321; 59, 941; 1999, 10, 149; 2000, 55, 365; 2001, 56, 336; 93, 565; 2002, 61, 375; 63, 387; 2003, 13, 66).

(3) A consular officer shall exercise state supervision over ships flying the national flag of the Republic of Estonia abroad pursuant to the Maritime Safety Act (RT I 2002, 1, 1; 61, 375; 63, 387).

§ 37. Application for diplomatic clearance or flight permit

(1) A consular officer shall submit an application to the competent authority of the receiving state to obtain diplomatic clearance in accordance with the legislation of the receiving state for a ship performing state functions for the Republic of Estonia to enter into, stay in or depart from the territorial waters or a port of the receiving state.

(2) A consular officer shall submit an application to the competent authority of the receiving state to obtain a permit in accordance with the legislation of the receiving state for an aircraft performing state functions for the Republic of Estonia to enter into the air space, land in the territory, depart from the air space or pass in transit over the territory of the receiving state.

(3) A consular officer shall accept applications for flight permits for foreign aircraft and forward them to the competent authority in Estonia pursuant to the Aviation Act (RT I 1999, 26, 376; 2001, 87, 525; 2002, 47, 297; 61, 375; 63, 387; 2003, 23, 138 and 143) and the International Military Co-operation Act (RT I 2003, 23, 138). The consular officer shall forward responses to the relevant foreign authority.

(4) A consular officer shall accept applications for diplomatic clearance for foreign ships and forward them to the competent authority in Estonia pursuant to the State Borders Act (RT I 1994, 54, 902; 1997, 77, 1315; 1999, 25, 365; 2000, 86, 550; 2001,

23, 126; 2002, 58, 363; 63, 387; 90, 516; 102, 599; 2003, 23, 138; 26, 156; 51, 350).
The consular officer shall forward responses to the relevant foreign authority.

§ 38. Provision of translation services

(1) At the request of a person, a consular officer or honorary consul may translate a public document issued in a foreign state or in Estonia on the condition that he or she is sufficiently proficient in both of the languages concerned.

(2) A consular officer shall be liable for the correctness of a translation pursuant to the State Liability Act (RT I 2001, 47, 260; 2002, 62, 377; 2003, 15, 86).

(3) An honorary consul shall be personally liable for the correctness of a translation.

§ 39. Ordering of document

(1) A public document shall be ordered from a foreign authority or an Estonian administrative authority at the request of a person.

(2) The format of applications to order a document shall be established by a regulation of the Minister of Foreign Affairs unless a different format is prescribed by an international agreement.

§ 40. Forwarding of document

(1) At the request of a person or authority, a consular officer or honorary consul shall forward a document to an Estonian or foreign authority or person unless a different procedure is prescribed by an international agreement.

(2) The forwarding of a document at the request of an authority is exempt from state fees.

(3) The format of applications for a document to be forwarded shall be established by a regulation of the Minister of Foreign Affairs.

§ 41. Forwarding of application for Estonian passport and issue of passport

(1) A consular officer shall forward an application for an Estonian passport to the Citizenship and Migration Board for processing.

(2) A consular officer or honorary consul shall issue an Estonian passport to an Estonian national in a foreign state after having identified the national.

§ 42. Issue of alien's passport

An alien's passport shall be issued to an alien staying in a foreign state by a consular officer or honorary consul after he or she has identified the alien.

§ 43. Issue of document by way of professional assistance

A consular officer or honorary consul has the right to issue other identity documents issued on the basis of the Identity Documents Act and perform necessary acts by way of professional assistance.

§ 44. Forwarding of application for residence and work permit

(1) A consular officer shall forward an application from a foreign national or a stateless person for a residence and work permit to the Citizenship and Migration Board after having identified the national or person.

(2) A consular officer shall enter the data of the residence permit of a person in the person's valid travel document.

§ 45. Registration of person eligible to be drafted

A consular officer shall register persons staying in the consular district who are eligible to be drafted for service in the Estonian Defence Forces and shall send a list of the persons to the Ministry of Defence pursuant to the Defence Forces Service Act (RT I 2000, 28, 167; 2003, 31, 195).

Chapter 5

Provision of Consular Assistance

§ 46. Consular Assistance

(1) A consular officer or honorary consul shall provide consultation and assistance to persons in distress in the consular district in order for them to contact their families or other persons close to them or return to Estonia or in order for their rights to be protected or hospitalisation or other issues to be arranged for them.

(2) For the purposes of this Act, a person in distress is a person who finds himself or herself in a temporary emergency situation as a result of an accident, an illness, falling victim to a crime or other circumstances and who is unable to resolve the situation by himself or herself.

(3) If a person has been unlawfully deprived of his or her liberty, the consular post shall notify the competent authorities of the consular district and Estonia thereof, organise communication between the person in distress and his or her family, other persons close to him or her and the authorities of the consular district, and monitor the settlement of the issue by the authorities of the consular district.

§ 47. Provision of consular assistance pursuant to international agreement

In a foreign state where Estonia does not have a representation, the representation of a third state may provide consular assistance to Estonian nationals on the basis of an international agreement and with the consent of the receiving state. A representation

of Estonia may provide consular assistance to nationals of a third state on the basis of an international agreement and with the consent of the receiving state.

§ 48. Issue of certificate of return

A consular officer or honorary consul shall issue a certificate of return to an Estonian national pursuant to the Identity Documents Act.

§ 49. Issue of permit of return

A consular officer or honorary consul shall issue a permit of return pursuant to the Identity Documents Act to an alien residing in Estonia on the basis of a residence permit.

§ 50. Protection of interests

During the absence of the legal representative of an Estonian national with restricted active legal capacity who is staying in a consular district, the consular officer or honorary consul shall protect the rights and legal interests of the person without authorisation.

§ 51. Assistance in event of accident or illness

(1) A consular officer or honorary consul shall give immediate notification regarding any case of serious injury to or illness of an Estonian national to the Ministry of Foreign Affairs, which shall notify the person's family or other persons close to him or her.

(2) If an injured or sick person has to be brought to Estonia due to his or her condition, the consular officer shall provide consultation and assistance to the person's family or other persons close to him or her in organising the person's travel to Estonia.

§ 52. Assistance in event of death

A consular officer or honorary consul shall give immediate notification of the death of an Estonian national to the Ministry of Foreign Affairs, which shall notify the person's family or other persons close to him or her.

§ 53. Assistance to victim of crime

A consular officer or honorary consul shall assist an Estonian national who has fallen victim to a crime in finding medical and legal assistance. If necessary, the consular officer shall organise communication between the national and the law enforcement authorities of the receiving state.

§ 54. Provision of assistance in event of natural disaster, catastrophe, act of terrorism, war or armed conflict

(1) In the event of a natural disaster, catastrophe, act of terrorism, war or armed conflict which poses a threat to the life or safety of an Estonian national in the territory of a foreign state, the consular officer or honorary consul shall attempt to maintain continual contact with the person in distress.

(2) If necessary, the Ministry of Foreign Affairs shall make a proposal to the Government of the Republic to arrange for the person's return to Estonia or his or her evacuation from the crisis area.

§ 55. Provision of financial assistance

(1) A consular officer or honorary consul shall organise the provision of assistance on the basis of a written application from a person in distress on the condition that the person provides sufficient security.

(2) If a person in distress fails to provide security, the consular officer may provide financial assistance on the basis of a reasoned application from the person.

(3) Financial assistance provided by way of consular assistance to a person in distress shall be refunded to the state within ninety days as of the date of receipt of the assistance unless otherwise prescribed by this Act.

(4) If a person who has received financial assistance on the basis of subsection (2) of this Act fails to refund the money within the term prescribed, the Minister of Foreign Affairs shall issue a precept ordering the person to refund the money. The relevant precept of the Minister of Foreign Affairs is subject to compulsory execution pursuant to the Code of Enforcement Procedure (RT I 1993, 49, 693; 2002, 83, 489; 110, 654; 2003, 13, 64; 20, 116; 23, 142 and 146; 26, 156).

(5) On the basis of a reasoned application, the Minister of Foreign Affairs may release a person from the obligation to refund money which has been granted to the person by way of assistance or reduce the sum to be refunded:

1) if the recipient proves his or her insolvency;

2) on the basis of a corresponding request from an Estonian state or local government authority.

(6) The procedure for providing or refunding financial assistance and the format of the corresponding applications shall be established by a regulation of the Minister of Foreign Affairs.

(7) The decision by a consular officer or honorary consul to provide or to refuse to provide financial assistance or the decision by the Minister of Foreign Affairs to release a person from the refunding obligation or to reduce the sum to be refunded cannot be contested pursuant to challenge procedure.

§ 56. Refusal to provide financial assistance

A consular officer may refuse to provide financial assistance if:

- 1) the applicant has knowingly submitted false or distorted information or has knowingly concealed information;
- 2) the applicant has previously received financial assistance without just cause;
- 3) the applicant has failed to use previous financial assistance for its intended purpose;
- 4) the applicant has failed to refund previous financial assistance pursuant to the procedure established by the Minister of Foreign Affairs and a decision to release the person from the obligation to refund the financial assistance has not been made.

§ 57. Protection of rights of Estonian national who has been detained or is serving sentence

(1) If an Estonian national is detained or is serving a sentence in a consular district, the consular officer or honorary consul shall meet him or her upon a reasoned request from the national or his or her authorised representative, family or other persons close to him or her.

(2) An Estonian national who has been detained or is serving a sentence shall be represented by the consular officer or honorary consul in the authorities of the consular district at the request of the national and in justified cases.

§ 58. Provision of consular assistance to European Union national

(1) A representation of the Republic of Estonia shall protect the interests of a European Union national with the consent of the receiving state if the Member State of the European Union of which the person is a citizen does not have a representation in the receiving state.

(2) At the request of a Member State of the European Union, consular assistance shall be provided if a national of the Member State is in distress, detained or serving a sentence, if he or she dies or if any other unforeseeable or extraordinary circumstances arise.

(3) Financial assistance shall be provided to nationals of a Member State of the European Union who have addressed a representation of the Republic of Estonia only with the permission of the competent authority of the Member State.

(4) The refunding obligation shall be recorded in a document forwarded by the Ministry of Foreign Affairs to the competent authority of the relevant Member State of the European Union.

§ 59. Assisting alien residing in Estonia

Consular assistance shall be provided to aliens residing in Estonia in accordance with the international custom.

Chapter 6

Duties of Ministry of Foreign Affairs in Exercising Consular Functions

§ 60. Duties of Ministry of Foreign Affairs

The Ministry of Foreign Affairs shall:

- 1) take measures to protect the interests and rights of Estonian nationals and Estonian legal persons in foreign states;
- 2) issue certificates;
- 3) legalise documents;
- 4) issue certificates of return and permits of return;
- 5) order documents;
- 6) forward documents;
- 7) arrange for the remains of a person to be sent to Estonia;
- 8) issue diplomatic and service visas to diplomats, servants and administrative personnel of representations of foreign states or international organisations in Estonia and to their family members;
- 9) act as an intermediary with regard to diplomatic clearance and flight permits.

Chapter 7

Implementing Provisions

§ 61. Amendment of Family Law Act

The Family Law Act (RT I 1994, 75, 1326; 1996, 40, 773; 49, 953; 1997, 28, 422; 35, 538; 2000, 50, 317; 2001, 16, 69; RT III 2001, 15, 154; RT I 2001, 53, 307; 2002, 53, 336) is amended as follows:

- 1) the words “and representations of the Republic of Estonia” are omitted from subsection 108 (3);
- 2) subsection (3¹) is added to § 108 worded as follows:

“(3¹) A consular officer may register births, deaths and marriages in accordance with the legislation of the receiving state if there is a justified need for the registration to be made.”;

3) subsection 109 (1¹) is amended and worded as follows:

“(1¹) A document prepared in a foreign state which is the basis for a vital statistics registration entry shall be legalised by a certificate (*apostille*) specified in the first paragraph of Article 3 of the Convention Abolishing the Requirement of Legalisation for Foreign Public Documents (RT II 2000, 27, 165; RT I 2002, 90, 521), unless otherwise provided by an international agreement.”

§ 62. Amendment of Act on Accession to the Convention Abolishing the Requirement of Legalisation for Foreign Public Documents

Section 3 is added to the Act on Accession to the Convention Abolishing the Requirement of Legalisation for Foreign Public Documents (RT II 2000, 27, 165; RT I 2002, 90, 521) worded as follows:

“§ 3. The issue of a certificate (*apostille*) specified in the first paragraph of Article 3 of the Convention shall be refused if:

- 1) according to an international agreement, the document is valid without any further attestation;
- 2) circumstances exist which imply that unauthorised changes have been made to the original content of the document;
- 3) the document is spoiled;
- 4) the administrative body is not competent to issue or authenticate the document;
- 5) the period of validity of the document has expired.”

§ 63. Amendment of Administrative Procedure Act

Section 24¹ is added to the Administrative Procedure Act (RT I 2001, 58, 354; 2002, 53, 336; 61, 375; 2003, 20, 117) worded as follows:

“§ 24¹. Authentication by certificate (*apostille*)

(1) At the request of a person, a competent administrative body shall issue a certificate to authenticate the signature, seal or stamp on a public document issued in Estonia and to confirm the competence of the signatory. The certificate must meet the requirements provided for in the Convention Abolishing the Requirement of Legalisation for Foreign Public Documents (RT II 2000, 27, 165; RT I 2002, 90, 521).

(2) The issue of a certificate shall be refused if:

- 1) according to an international agreement, the document is valid without any further attestation;
- 2) circumstances exist which imply that unauthorised changes have been made to the original content of the document;

- 3) the document is spoiled;
- 4) the administrative body is not competent to issue or authenticate the document;
- 5) the period of validity of the document has expired.”

§ 64. Amendment of Notaries Act

Clause 53 1) of the Notaries Act (RT I 2000, 104, 684; 2001, 93, 565; 2002, 57, 357; 61, 375; 64, 390; 2003, 18, 100) is amended and worded as follows:

“1) consular officers under the conditions provided for in the Consular Act;”.

§ 65. Amendment of State Fees Act

The State Fees Act (RT I 1997, 80, 1344; 2001, 55, 331; 53, 310; 56, 332; 64, 367; 65, 377; 85, 512; 88, 531; 91, 543; 93, 565; 2002, 1, 1; 18, 97; 23, 131; 24, 135; 27, 151 and 153; 30, 178; 35, 214; 44, 281; 47, 297; 51, 316; 57, 358; 58, 361; 61, 375; 62, 377; 90, 519; 102, 599; 105, 610; 2003, 4, 20; 13, 68; 15, 84 and 85; 20, 118; 21, 128; 23, 146; 25, 153 and 154; 26, 156 and 160; 30, correction notice; 51, 352; 66, 449; 68, 461; 71, 471) is amended as follows:

1) clause 3 (2) 21) is amended and worded as follows:

“21) consular services”;

2) subsection 8 (1) is amended and worded as follows:

“(1) State fees for services provided in a representation shall be paid in the currency of the receiving state.”;

3) subsection (1¹) is added to § 8 worded as follows:

“(1¹) Depending on the political and economic situation in the receiving state, the Minister of Foreign Affairs may, as an exception granted by a directive issued on the proposal of the head of the representation, permit payment of the state fee for a service provided at the representation in euro on the basis of the exchange rate of the Estonian kroon quoted by Eesti Pank³ on the date concerned. The Minister of Foreign Affairs shall give prior notification of his or her decision to the Minister of Finance.”;

4) subsections 9 (1) and (1¹) are amended and worded as follows:

“(1) The rates of state fees payable in foreign currency for services provided at representations of Estonia shall be calculated according to the exchange rate of Eesti Pank on the second working day of the month in which the services are provided. State fees for services provided on the first working day of a month shall be paid according to the rate calculated in the previous month.

(1¹) The Government of the Republic shall establish the procedure for calculation of the rates of state fees payable in foreign currency for services provided at representations of Estonia.”;

5) section 29⁶ is added to the Act worded as follows:

“§ 29⁶. Exemption from payment of state fees for provision of consular services

An authority is not required to pay a state fee for forwarding a document at the request of another authority on the basis of § 40 of the Consular Act.”;

6) subsections 70 (3) and (4) are repealed;

7) subsection 72 (2) is repealed;

8) subsection 73 (2) is repealed;

9) the title of Division 14 of Chapter 7 is amended and worded as follows:

“Division 14

Consular Services”;

10) sections 148–164 are amended and worded as follows:

“§ 148. Issue of certificates

A state fee of 200 kroons shall be paid for the issue of a certificate concerning circumstances known to a consular officer.

§ 149. Acts of attestation

(1) A state fee of 600 kroons shall be paid for notarial certification.

(2) A state fee of 300 kroons shall be paid for notarial authentication.

(3) A state fee of 1200 kroons shall be paid for the performance of an act of attestation with the consent of the Ministry of Foreign Affairs.

§ 150. Authentication of translations

A state fee of 180 kroons per page shall be paid for the authentication of a translation of a document.

§ 151. Performance of acts of attestation outside premises of representations

A state fee is charged at a double rate for performance of an act of attestation outside the premises of a representation.

§ 152. Attestation of wills

A state fee of 600 kroons shall be paid for the attestation of a will.

§ 153. Issue of right of succession certificates

(1) Upon the issue of a right of succession certificate, a state fee of 3 per cent of the value of the estate shall be paid by:

- 1) the bequeather's descendants, spouse, parents and grandparents;
- 2) the testate successors;
- 3) the successors on the basis of the succession contract.

(2) The brothers and sisters of a bequeather shall pay a state fee of 5 per cent of the value of the estate for the issue of a right of succession certificate unless they are testate successors or successors on the basis of the succession contract.

(3) Successors who are not specified in subsections (1) or (2) of this section shall pay a state fee of 20 per cent of the value of the estate for the issue of a right of succession certificate.

§ 154. Petitions for filing sea protests

A state fee of 1600 kroons shall be paid for a petition to file a sea protest.

§ 155. Other acts of attestation

A state fee of 210 kroons shall be paid for the performance of any other act of attestation.

§ 156. Legalisation of documents

(1) A state fee of 120 kroons shall be paid for the legalisation of a document by the Ministry of Foreign Affairs.

(2) A state fee of 200 kroons shall be paid for the legalisation of a document at a representation.

§ 157. Announcement of submission of actions, claims and documents

A natural or legal person shall pay a state fee of 210 kroons for announcement through a representation of the submission of an action, claim or document by the person.

§ 158. Issue of certificates concerning sealing of coffin or urn containing remains of person

A state fee of 200 kroons shall be paid for the issue of a certificate concerning the sealing of a coffin or urn containing the remains of a person.

§ 159. Issue of certificate confirming that person does not hold Estonian citizenship

A state fee of 520 kroons shall be paid for the issue of a certificate confirming that a person does not hold Estonian citizenship.

§ 160. Issue of provisional certificates of nationality

A state fee of 1300 kroons shall be paid for the issue of a provisional certificate of nationality.

§ 161. Provision of translation services

A state fee of 250 kroons per page shall be paid for the provision of translation services.

§ 162. Forwarding of documents

A state fee of 200 kroons shall be paid for forwarding a document through a representation.

§ 163. Ordering of documents

A state fee of 200 kroons shall be paid for ordering a document through a representation.

§ 164. Right to exempt from payment of state fee or reduce state fee rates

(1) Taking into account the financial situation of a person, the head of a representation of Estonia has the right to reduce the rate of the state fee to be paid by the person or to exempt the person from payment of the state fee for services specified in §§ 148, 156, 158, 162 or 163 following a reasoned request from an Estonian state or local government authority or a foreign state authority or on the basis of a diplomatic note.

(2) A request specified in subsection (1) of this section shall be submitted in writing. The request shall set out:

1) the given name, surname and personal identification code or, in the absence of a personal identification code, date and place of birth, and the address, place of employment or service, amount and sources of monthly income and number of the dependants of the person for whom exemption from payment of a state fee or reduction of the rate of a state fee is requested;

2) the act for which payment of the state fee at a reduced rate or exemption from payment is requested;

3) the reasons for the request.

(3) Documents in proof of the reasons for the request shall be annexed to the application.”;

- 11) section 165 is repealed;
- 12) subsections 172 (2) and 173 (2) are repealed;
- 13) subsection 182 (2) is repealed;
- 14) in subsection 182 (3), the words “in subsections (1) and (2)” are replaced by the words “in subsection (1)”;
- 15) section 193 is repealed;
- 16) section 194 is repealed;
- 17) in § 194³, the number “25” is replaced by the number “120”.

§ 66. Amendment of Identity Documents Act

The Identity Documents Act (RT I 1999, 25, 365; 2000, 25, 148; 26, 150; 40, 254; 86, 550; 2001, 16, 68; 31, 173; 56, 338; 2002, 61, 375; 63, 387; 90, 516; 2003, 13, 65; 15, 87) is amended as follows:

1) the text of § 35 is considered subsection (1) and the section is amended by adding subsection (2) worded as follows:

“(2) A certificate of return shall be issued on the basis of a birth certificate to a child of less than one year of age who was born to a citizen of Estonia in a foreign state.”;

2) the text of § 36¹ is considered subsection (1), and the section is amended by adding subsection (2) worded as follows:

“(2) A permit of return may be issued on the basis of a birth certificate to a child of less than one year of age who was born in a foreign state to an alien residing in the Republic of Estonia on the basis of a residence permit.”

§ 67. Repeal of Consular Act

The Consular Act (RT I 1998, 113/114, 1874; 2001, 23, 126; 93, 565; 2002, 53, 336; 61, 375; 2003, 4, 20 and 22) is repealed.

§ 68. Entry into force of Act

(1) This Act enters into force on 1 January 2004.

(2) Section 58 of this Act enters into force by a separate Act upon the accession of the Republic of Estonia to the European Union.

¹ RT = *Riigi Teataja* = *the State Gazette*

² Riigikogu = the parliament of Estonia

³ Eesti Pank = the Bank of Estonia