

# REFUGEES ACT

Passed 18 February 1997

(RT<sup>1</sup> I 1997, 19, 306),

entered into force on 9 July 1997,

amended by the following Acts:

15.01.2003 entered into force 01.05.2003 - RT I 2003, 13, 65;

19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375;

08.05.2002 entered into force 01.01.2003 - RT I 2002, 42, 266;

17.01.2001 entered into force 16.02.2001 - RT I 2001, 16, 68;

15.02.1999 entered into force 01.01.2000 - RT I 1999, 25, 365;

08.02.1999 entered into force 01.09.1999 - RT I 1999, 18, 301.

## Chapter 1 General Provisions

### § 1. Area of regulation

(1) This Act regulates the legal status and bases for stay in Estonia for applicants for asylum and refugees, based on the United Nations Convention relating to the Status of Refugees and the Protocol relating to the Status of Refugees of 31 January 1967 (hereinafter the Convention).

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

(15.01.2003 entered into force 01.05.2003 - RT I 2003, 13, 65)

### § 2. Performance of acts

(1) Acts arising from this Act shall be performed by the Citizenship and Migration Board, the Border Guard Administration and the border guard regions as its local offices (hereinafter border guard authority), the police authorities, and the Ministry of Social Affairs and the agencies within its area of government thereof, unless otherwise provided by law or an international agreement.

(2) Acts performed on the basis of this Act shall not prevent the performance of other acts by competent agencies in criminal or administrative procedure, acts to ensure satisfaction of international applications for legal assistance, and acts to prevent offences.

(3) A person of at least 16 years of age may perform the acts provided by law independently, unless otherwise provided by this Act.

(15.01.2003 entered into force 01.05.2003 - RT I 2003, 13, 65)

### § 3. Applicant for asylum, application for asylum and asylum

(1) An applicant for asylum (hereinafter applicant) is an alien who, on the basis of Article 1 of the Convention, seeks protection from the Republic of Estonia in writing, orally or in any other comprehensible manner while staying in Estonia or arriving at the Estonian border.

(2) For the purposes of this Act, an application for a residence permit submitted in accordance with Article 1 of the Convention is deemed to be an application for asylum.

(3) For the purposes of this Act, grant of asylum means the issue of a residence permit to an alien who is deemed to be a refugee pursuant to the Convention.

(4) Unless otherwise provided by this Act, Chapters 1, 1<sup>1</sup>, 2 and 4–6 of this Act apply to an alien applying for a residence permit on the grounds that his or her return or deportation may

cause the consequences specified in Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms (RT II 2000, 11, 57) or Article 3 of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (RT II 1994, 14/15, 44), or the application of death penalty in his or her country of nationality or country of permanent residence.

(5) In performance of the obligation to review applications for asylum transferred from another country arising from an international agreement, the alien who submitted the application for asylum in the other country is deemed to be equal to an applicant for asylum within the meaning of this Act.

(15.01.2003 entered into force 01.05.2003 - RT I 2003, 13, 65)

#### **§ 4. Refugee**

For the purposes of this Act, a refugee is an alien who has been issued a residence permit on the grounds that the alien is deemed to be a refugee pursuant to the Convention.

(15.01.2003 entered into force 01.05.2003 - RT I 2003, 13, 65)

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

(1) The Citizenship and Migration Board may issue a temporary residence permit to an applicant who is deemed to be a refugee pursuant to the Convention.

(2) The Citizenship and Migration Board shall issue a temporary residence permit to an alien specified in subsection 3 (4) of this Act who is not deemed to be a refugee pursuant to the Convention but with respect to whom there are serious reasons for considering that his or her return or deportation may cause the consequences specified in Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms or Article 3 of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, or the application of death penalty in his or her country of nationality or country of permanent residence.

(15.01.2003 entered into force 01.05.2003 - RT I 2003, 13, 65)

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

(1) In accordance with the Convention, the Citizenship and Migration board shall refuse to issue a residence permit to an alien who does not comply with the definition of refugee set forth in Article 1 of the Convention, including

1) in the case where the persecution threatening the applicant is limited to a particular geographical area, and sufficient protection can be accorded to the applicant in another area of his or her country of nationality or country of permanent residence;

2) in the case of an alien with respect to whom the Convention does not apply.

(2) If a basis for refusal to issue a residence permit provided in subsection (1) of this section becomes evident but the applicant complies with the conditions for issue of a residence permit specified in subsection 5 (2) of this Act, issue of the residence permit shall not be refused.

(3) The Citizenship and Migration Board shall refuse to issue a residence permit to an alien who applies for a residence permit on the grounds provided in subsection 3 (4) of this Act

1) if the alien is unable to substantiate to the satisfaction of the Citizenship and Migration Board that his or her return or deportation may cause the consequences specified in Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms or Article 3 of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in his or her country of nationality or country of permanent residence;

2) if the possibility of the consequences specified in subsection 3 (4) of this Act occurring with respect to the alien is limited to a particular geographical area, and sufficient protection

can be accorded to the alien in another area of his or her country of nationality or country of permanent residence.

(4) If a basis for refusal to issue a residence permit provided in subsection (3) of this section becomes evident but the alien complies with the conditions for issue of a residence permit specified in subsection 5 (1) of this Act, issue of the residence permit shall not be refused.

(5) Issue of a residence permit is refused if the alien has committed a criminal offence in the first degree in Estonia, or otherwise poses a threat to national security, public safety or public order.

(15.01.2003 entered into force 01.05.2003 - RT I 2003, 13, 65)

### **§ 7. Rights of applicants**

(1) Applicants shall be granted the rights and freedoms arising from the Constitution, laws and other legislation of the Republic of Estonia, from the Convention, and generally recognised norms of international law and international customs.

(2) An applicant has the right to:

- 1) receive information concerning his or her rights and duties related to the asylum proceedings in a language which he or she understands;
- 2) be in contact with the Office of the United Nations High Commissioner for Refugees;
- 3) have a representative during asylum proceedings, except upon provision of explanations or performance of other procedural acts which, arising from their nature, must be carried out personally.

(3) Applicants have the right of recourse to the courts if their rights and freedoms are violated.

(15.01.2003 entered into force 01.05.2003 - RT I 2003, 13, 65)

### **§ 7<sup>1</sup>. Duties of applicants**

(1) Applicants are required to observe the constitutional order of Estonia and to comply with the legislation of Estonia.

(2) An applicant is required to personally co-operate in every way in the clarification of the circumstances of the application for asylum, among other:

- 1) to submit a standard format application for asylum at the demand of a border guard official or an official of the Citizenship and Migration Board;
- 2) to provide government agencies performing acts with oral and written information and explanations;
- 3) to submit all information and documents and other evidence in his or her possession which are relevant to the proceedings relating to the application for asylum;
- 4) to enable the examination of his or her personal effects and his or her person, the performance of acts related to expertise assessment and the admission for deposit of documents and personal effects;
- 5) to co-operate in the obtainment of the documents in evidence of the circumstances presented in the application for asylum;
- 6) to enable the performance of a medical examination;
- 7) to enable the performance of fingerprinting;
- 8) to co-operate in the collection of information needed for identification of his or her person, and for verification purposes;
- 9) to comply with the surveillance measures provided for in this Act;
- 10) to appear at the Citizenship and Migration Board for performance of procedural acts.

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

(4) An alien's duty to co-operate does not terminate upon his or her withdrawal of the application for asylum.

(5) Applicants are prohibited from contracting employment or engaging in enterprise in Estonia during asylum proceedings. An applicant who violates the prohibition of contracting employment or engaging in enterprise shall be held liable pursuant to the provisions of the Aliens Act (RT I 1993, 44, 637; 1999, 50, 548; 54, 582; 71, 686; 88, 808; 101, 900; 2000, 25, 148; 33, 197; 40, 254; 2001, 16, 68; RT III 2001, 7, 75; RT I 2001, 58, 352; 2002, 56, 351; 63, 387; 90, 521; 102, 599; 2003, 4, 20).

(15.01.2003 entered into force 01.05.2003 - RT I 2003, 13, 65)

## **§ 7<sup>2</sup>. Protection of information in asylum proceedings**

(1) Asylum proceedings shall not be public.

(2) The government agencies specified in subsection 2 (1) of this Act, the initial reception centre, the reception centre, translators and interpreters and other relevant persons shall maintain the confidentiality of information related to applicants and adhere to the requirements for the protection of personal data in the processing of the applicants' personal data.

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

(4) Information collected with respect to an applicant may be forwarded to a foreign state in order to ensure the performance of duties arising from the Convention or an international agreement, whereas it shall be ensured that such information is not passed on to the country of nationality or country of permanent residence of the applicant where the applicant is threatened by persecution or the arrival of the consequences specified in subsection 3 (4) of this Act.

(15.01.2003 entered into force 01.05.2003 - RT I 2003, 13, 65)

## **Chapter 1<sup>1</sup>**

**(15.01.2003 entered into force 01.05.2003 - RT I 2003, 13, 65)**

### **Asylum Proceedings**

**(15.01.2003 entered into force 01.05.2003 - RT I 2003, 13, 65)**

## **§ 8. Submission of application for asylum**

(1) An application for asylum shall be submitted to the Citizenship and Migration Board immediately after entering Estonia.

(2) An alien who has no legal bases for crossing the state border and entry in Estonia shall submit the application for asylum immediately before entry in Estonia to the border guard authority.

(3) An application for asylum shall be submitted in person.

(4) Immediately after submission of an application for asylum, the applicant is required to submit the following:

1) identification documents and proof of nationality and other documents to facilitate identification and verification of nationality;

2) visas and residence permits;

3) documents concerning the crossing of borders;

4) documents in evidence of the circumstances of arrival to Estonia and stay in other countries after departure from the applicant's country of nationality or country of permanent residence (documents in evidence of travel, transportation, accommodation and other received services);

5) documents and other evidence to demonstrate that application for asylum is justified.

(5) An applicant is required to submit a standard format application for asylum at the demand of the Citizenship and Migration Board or the border guard authority.

(15.01.2003 entered into force 01.05.2003 - RT I 2003, 13, 65)

### **§ 8<sup>1</sup>. Acts upon submission of application for asylum at border**

(1) If an application for asylum is submitted to the border guard authority, the border guard authority shall immediately perform the following acts:

- 1) examination of the person and his or her personal effects;
- 2) admission for deposit of personal effects and documents;
- 3) identification;
- 4) receipt of standard format application for asylum;
- 5) collection of explanations concerning arrival to Estonia and the circumstances which constitute the basis for application for asylum;
- 6) fingerprinting and photographing;
- 7) medical examination, if necessary.

(2) An applicant shall be examined by a person of the same sex.

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

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

(5) The border guard authority shall immediately inform the Citizenship and Migration Board of the submission of an application for asylum and where necessary, involve a competent official of the Citizenship and Migration Board in the performance of the acts specified in subsection (1) of this section.

(6) If a basis for refusal to deny an application for asylum provided in clause 8<sup>4</sup> (1) 2)–4) of this Act becomes evident, the alien shall be refused entry with the approval of the Citizenship and Migration Board, and he or she shall be immediately sent back from the border.

(7) After performance of the acts specified in subsection (1) of this section, the border guard authority shall send the applicant to the initial reception centre and shall forward the application for asylum together with the deposited personal effects and documents to the Citizenship and Migration Board for the conduct of proceedings.

(15.01.2003 entered into force 01.05.2003 - RT I 2003, 13, 65)

### **§ 8<sup>2</sup>. Acts upon submission of application for asylum during stay in Estonia**

(1) An alien who wishes to apply for asylum during his or her stay in Estonia shall submit a corresponding application to the Citizenship and Migration Board.

(2) After submission of an application for asylum, the applicant shall be sent to the initial reception centre.

(3) The Citizenship and Migration Board shall perform the acts specified in subsection 8<sup>1</sup> (1) of this Act and where necessary, involve other government agencies in the performance thereof.

(4) After performance of the acts specified in subsection 8<sup>1</sup> (1) of this Act, the Citizenship and Migration Board shall send the applicant to the reception centre.

(15.01.2003 entered into force 01.05.2003 - RT I 2003, 13, 65)

### **§ 8<sup>3</sup>. Specifications of application proceedings involving applicants with restricted active legal capacity and unaccompanied minors**

(1) The provisions of subsection 2 (3) of this Act do not apply if an applicant is an adult to whom a guardian has been appointed.

(2) For the purposes of this Act, an applicant who is an unaccompanied minor means a person of less than 18 years of age who has arrived in Estonia or stays in Estonia without a parent or guardian.

(3) In asylum proceedings, an applicant who is an unaccompanied person with restricted active legal capacity or an unaccompanied minor shall be represented by the head of the reception centre or a person authorised by the head, unless otherwise provided by this Act.

(4) If the parent or guardian of an applicant who is a person with restricted active legal capacity is staying in Estonia, he or she shall represent the applicant in asylum proceedings, unless this is contrary to the applicant's rights and interests.

(5) Where necessary, a person with corresponding professional expertise shall be involved in the performance of procedural acts involving minors.

(6) In asylum proceedings involving an unaccompanied minor, the rights and interests of the minor shall be taken into consideration above all.

(7) An alien's active legal capacity or the absence thereof pursuant to the law of his or her country of origin shall not be considered in the asylum proceedings if the definition of active legal capacity provided by the law of the alien's country of origin differs from the corresponding definition provided by Estonian law.

(15.01.2003 entered into force 01.05.2003 - RT I 2003, 13, 65)

### **§ 8<sup>4</sup>. Bases for rejection of applications for asylum**

(1) Asylum proceedings are terminated by a decision to reject the application for asylum if:

1) another country party to the Convention is responsible for review of the application for asylum according to an international agreement or legislation of an international organisation;

2) the applicant has arrived to Estonia through a country which can be considered as a safe country;

3) asylum, or other protection on the basis of Article (1) of the Convention or protection from the consequences specified in subsection 3 (4) of this Act has been accorded to the applicant in another country, and such protection is still accessible to the applicant;

4) there is reason to consider the applicant's country of nationality or country of permanent residence as a safe country of origin;

5) the applicant has been refused issue of a residence permit on the basis of this Act and the applicant has not produced any new essential evidence of which the applicant was unaware during asylum proceedings;

6) the applicant has submitted the application for asylum under a false name or has destroyed, damaged or failed to present a document or other evidence of essential importance to the processing of his or her application for asylum, or has presented, without good reason, falsified documents or other false evidence;

7) the applicant has knowingly provided incorrect information or explanations upon the processing of his or her application for asylum, or has knowingly failed to provide information or explanations of essential importance to the processing of his or her application for asylum;

8) the applicant has submitted the application for asylum in order to avoid the enforcement of return, expulsion or extradition procedure, provided that earlier application for asylum had been possible;

9) the applicant has knowingly ignored the duties provided in this Act or fails to comply with surveillance measures;

- 10) the alien's actual objective is to settle in Estonia for other reasons, including to contract employment or improve his or her living conditions;
  - 11) the applicant is unable to provide credible evidence proving that his or her fear of persecution is well-founded;
  - 12) the applicant's explanations are inconsistent, conflicting, improbable or lacking in circumstantial or personal details;
  - 13) a basis for refusal to review an application provided in the Administrative Procedure Act has become evident;
  - 14) the applicant holds a permit for residence in Estonia.
- (2) If a basis specified in clauses (1) 1–4), 13) or 14) of this section becomes evident, the contents of the application for asylum shall not be reviewed.
- (3) If a basis specified in clauses (1) 3–12) or 14) of this section becomes evident, the application for asylum shall be deemed to be clearly unfounded.
- (15.01.2003 entered into force 01.05.2003 - RT I 2003, 13, 65)

#### **§ 8<sup>5</sup>. Safe country**

- (1) For the purposes of this Act, a safe country is a country which observes the requirements provided by Articles 32 and 33 of the Convention, Article 3 of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms. A safe country shall also mean any other country where an applicant would be accorded protection against persecution, or expulsion to his or her country of origin or to another country where the applicant would not be accorded such protection.
- (2) The Citizenship and Migration Board shall determine whether or not a country is safe.
- (3) An alien shall be expelled from Estonia to a safe country on the basis of the decision to reject his or her application for asylum made on the basis of clause 8<sup>4</sup>(1) 2) of this Act.
- (15.01.2003 entered into force 01.05.2003 - RT I 2003, 13, 65)

#### **§ 8<sup>6</sup>. Safe country of origin**

- (1) For the purposes of this Act, a safe country of origin shall mean a country where, as a general rule, no serious threat of being persecuted exists. Upon determining the safety of a country of origin, it shall be taken into account whether or not such country has acceded to the main international agreements related to human rights and if, as a general rule, it adheres to the provisions thereof.
- (2) The Citizenship and Migration Board shall determine whether or not a country of origin is safe.
- (15.01.2003 entered into force 01.05.2003 - RT I 2003, 13, 65)

#### **§ 8<sup>7</sup>. Decision to reject application for asylum**

- (1) The decision to reject an application for asylum shall be prepared in writing.
- (2) A precept to immediately leave Estonia shall be issued to an alien by the decision to reject the application for asylum.
- (3) The decision to reject an application for asylum shall be communicated to an alien without delay.
- (4) If an application for asylum is rejected on the basis specified in clauses 8<sup>4</sup> (1) 1) or 2) of this Act, it shall be indicated in the decision that the content of the application has not been reviewed.
- (15.01.2003 entered into force 01.05.2003 - RT I 2003, 13, 65)

### **§ 8<sup>8</sup>. Compliance with precept**

(1) A precept to leave Estonia issued to an alien by the decision to reject the application for asylum on a basis specified in clauses 8<sup>4</sup> (1) 2)–4) of this Act is subject to immediate execution, and the alien is expelled from Estonia pursuant to the procedure provided by the Obligation to Leave and Prohibition on Entry Act (RT I 1998, 98/99, 1575; 2001, 68, 407; 2002, 53, 336; 61, 375; 102, 599; 2003, 4, 21; 13, 56) without prior permission of an administrative court.

(2) A precept to leave Estonia issued to an alien whose asylum proceedings are terminated on a basis to reject the application for asylum set forth in clauses 8<sup>4</sup> (1) 5)–13) of this Act is subject to compulsory execution by expelling the alien from Estonia with the permission of an administrative court pursuant to the procedure provided by the Obligation to Leave and Prohibition on Entry Act.

(3) Contestation of rejection of an application for asylum, expulsion of an alien or permission of an administrative court shall not postpone expulsion. Rejection of an application for asylum and expulsion of an alien shall not be contested by way of challenge procedure.

(15.01.2003 entered into force 01.05.2003 - RT I 2003, 13, 65)

### **§ 8<sup>9</sup>. Transfer of applicant on basis of international agreement**

(1) The performance of acts arising from international agreements or legislation of international organisations determining the countries responsible for reviewing applications for asylum shall be organised by the Citizenship and Immigration Board, unless otherwise provided by an international agreement.

(2) Based on the decision to reject an application for asylum specified in clause 8<sup>4</sup> (1) 1) of this Act, an alien shall be expelled from Estonia without prior issue of a precept to leave Estonia and without prior permission by an administrative court, and shall be sent to another country party to the Convention responsible, pursuant to an international agreement or legislation of an international organisation, for reviewing the application for asylum.

(3) The acts related to expulsion specified in subsection (2) of this section shall be performed pursuant to the procedure provided by the Obligation to Leave and Prohibition on Entry Act, unless otherwise provided by an international agreement.

(15.01.2003 entered into force 01.05.2003 - RT I 2003, 13, 65)

### **§ 8<sup>10</sup>. Withdrawal of application for asylum**

The provisions of the Obligation to Leave and Prohibition on Entry Act apply to an alien who withdraws his or her application for asylum.

(15.01.2003 entered into force 01.05.2003 - RT I 2003, 13, 65)

### **§ 8<sup>11</sup>. Review of application for asylum**

(1) The Citizenship and Migration Board shall verify the correctness of provided evidence and information, assess the credibility of the statements made by the applicant, check the applicant's compliance with the conditions provided in § 5 of this Act and perform the procedural acts necessary for such purpose in the process of reviewing an application for asylum.

(2) In the process of reviewing an application for asylum, the applicant is provided with an opportunity to present, orally and in person, facts and explanations concerning circumstances which may have essential importance in the review of his or her application for asylum, including the circumstances which may prevent the applicant's expulsion from the country. Failure by the applicant to appear for provision of explanations, failure to provide facts or explanations or waiver of the right to provide facts or explanations does not prevent the termination of asylum proceedings.



(3) An applicant need not be granted the right specified in subsection (2) of this section if the asylum proceedings are terminated on a basis specified in clauses 8<sup>4</sup> (1) 1–4) or 14) of this Act.

(4) In the process of reviewing an application for asylum submitted on the grounds provided in subsection 5 (1) of this Act, the Citizenship and Migration Board shall verify the existence of the circumstance specified in subsection 5 (2) thereto which constitutes the basis for issue of a residence permit specified. In the process of reviewing an application for a residence permit submitted on the grounds provided in subsection 5 (2), the Citizenship and Migration Board shall verify the existence of the circumstance specified in subsection 5 (1) thereto which constitutes the basis for issue of a residence permit specified.

(15.01.2003 entered into force 01.05.2003 - RT I 2003, 13, 65)

### **§ 8<sup>12</sup>. Surveillance measures**

(1) For the effective and efficient, simple and rapid conduct of asylum proceedings, the Citizenship and Migration Board has the right to apply the following surveillance measures with respect to applicants:

- 1) residing in a determined place of residence;
- 2) appearing for registration at the Citizenship and Migration Board at prescribed intervals;
- 3) notifying the Citizenship and Migration Board of changes of residence of the alien and of his or her absence from the place of residence for a period longer than three days;
- 4) notifying the Citizenship and Migration Board of changes in the alien's marital status.

(2) Officials of the Citizenship and Migration Board and police officers have the right to verify the compliance of applicants with the surveillance measures at any time.

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

(15.01.2003 entered into force 01.05.2003 - RT I 2003, 13, 65)

### **§ 8<sup>13</sup>. Decision to issue residence permit and decision to refuse issue of residence permit**

(1) After review of an application for asylum, the Citizenship and Migration Board shall adopt a reasoned written decision to issue a residence permit to the applicant or to refuse the issue of a residence permit.

(2) If issue of a residence permit is refused, the alien shall be issued, by the same decision, a precept to leave Estonia.

(3) The decision to refuse issue of a residence permit and a precept to leave Estonia issued thereby may be contested with an administrative court within ten days after the date of adoption of the decision. The precept is not subject to compulsory execution before entry into force of the corresponding judicial decision. Decisions and precepts shall not be contested by way of challenge procedure.

(15.01.2003 entered into force 01.05.2003 - RT I 2003, 13, 65)

### **§ 8<sup>14</sup>. Compulsory execution of decision on refusal to issue residence permit**

(1) A precept to leave Estonia issued by the decision to refuse to issue a residence permit is subject to compulsory execution pursuant to the procedure provided by the Obligation to Leave and Prohibition on Entry Act fifteen days after the date on which the decision was made.

(2) If there is good reason to believe that an alien will not voluntarily comply with the precept to leave Estonia issued by the decision to refuse issue of a residence permit, he or she shall be placed, with the permission of an administrative court, in the expulsion centre until he or she is expelled.

(15.01.2003 entered into force 01.05.2003 - RT I 2003, 13, 65)

### **§ 8<sup>15</sup>. Language of asylum proceedings**

(1) Asylum proceedings shall be conducted in Estonian. With the consent of the official performing a procedural act, the act may be performed in another language in which the applicant is able to express himself or herself orally in an understandable manner.

(2) If an applicant is not sufficiently proficient in Estonian, a translator or interpreter shall be asked to be present at the procedural acts performed with the personal participation of the applicant, and the translator or interpreter shall translate the circumstances relevant to the procedure into a language in which the applicant is able to express himself or herself orally in an understandable manner. A translator or interpreter need not be involved if the procedural act is conducted in a language in which the applicant is able to express himself or herself orally in an understandable manner.

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

(4) Where necessary, the evidence provided by an applicant shall be translated into Estonian. The evidence provided by an applicant are not translated into Estonian if it has no direct relevance to the asylum proceedings.

(5) The decision to issue a residence permit or to refuse issue of a residence permit shall be translated to the applicant in whole unless the applicant has a representative.

(15.01.2003 entered into force 01.05.2003 - RT I 2003, 13, 65)

### **§ 8<sup>16</sup>. Delivery of documents**

(1) A decision, summons, notice or other document is deemed to be delivered to an applicant staying at the initial reception centre or reception centre as of the date on which such document is sent to the initial reception centre or reception centre.

(2) If an applicant resides outside the reception centre, a decision, summons, notice or other document is deemed to be delivered to an applicant as of the date on which such document is forwarded to the applicant at the address of the applicant's residence indicated by him or her, or forwarded to the representative of the applicant.

(3) The initial reception centre or reception centre shall immediately deliver the decision, summons, notice or other document to the applicant against a signature.

(15.01.2003 entered into force 01.05.2003 - RT I 2003, 13, 65)

## **Chapter 2**

### **Reception of Applicant**

**(15.01.2003 entered into force 01.05.2003 - RT I 2003, 13, 65)**

### **§ 9. Stay of applicant at initial reception centre**

(1) An applicant who has submitted an application during his or her stay in the country is required to stay in the initial reception centre but not for longer than forty-eight hours.

(2) With the permission of an administrative court judge, an applicant may be required to stay at the initial reception centre after the expiry of the term specified in subsection (1) of this section in the following cases:

1) the identity of the applicant has not been not ascertained, including in the case where the applicant does not co-operate in the identification or hinders identification;

2) for the performance of the acts specified in subsection 8<sup>1</sup> (1) of this Act;

3) for establishing circumstances relevant to the asylum proceedings if the applicant does not co-operate in establishment of the circumstances or hinders the establishment thereof;

- 4) there is good reason to believe that the applicant has committed a serious criminal offence in a foreign state;
- 5) the applicant has repeatedly or seriously violated the internal procedure rules of the reception centre;
- 6) the applicant fails to comply with the surveillance measures applied with respect to him or her, or the applicant fails to perform other duties provided by this Act;
- 7) the applicant's stay in the initial reception centre is necessary in the interests of the protection of national security and public order.

(3) The Citizenship and Migration Board shall submit a petition to an administrative court in order to obtain the permission specified in subsection (2) of this section.

(4) An applicant who is required to stay at the initial reception centre is permitted to leave the centre with the written permission of the Citizenship and Migration Board, or in order to receive emergency medical care.

(15.01.2003 entered into force 01.05.2003 - RT I 2003, 13, 65)

### **§ 9<sup>1</sup>. Stay of applicant at reception centre**

An applicant who has submitted the application for asylum during his or her stay at the reception centre or in a prison, or in the course of execution of the expulsion procedure shall not be placed in the initial reception centre but shall remain at the reception centre or in a prison until the termination of the asylum proceedings.

(15.01.2003 entered into force 01.05.2003 - RT I 2003, 13, 65)

### **§ 9<sup>2</sup>. Stay of applicant at reception centre**

(1) An applicant is required to stay at the reception centre during the asylum proceedings.

(2) With the written permission of the Citizenship and Migration Board, an applicant may reside outside the reception centre if:

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

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

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

(5) Applicants who reside at the reception centre during the asylum proceedings are required to stay at the reception centre during night-time. The period of time from 22.00 to 6.00 is considered night-time.

(6) The reception centre may permit an applicant to stay away from the reception centre during night-time in the following cases:

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

(7) An applicant who resides outside the reception centre during the asylum proceedings is required to inform the Citizenship and Migration Board of the address of his or her residence and any changes thereto.

(15.01.2003 entered into force 01.05.2003 - RT I 2003, 13, 65)

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

(1) The initial reception centre is a state agency administered by the Ministry of Social Affairs, the duty of which is to organise the provision of necessary services to aliens during asylum proceedings.

(15.01.2003 entered into force 01.05.2003 - RT I 2003, 13, 65)

(2) The reception centre is a state agency administered by the Ministry of Social Affairs, the duty of which is to organise the provision of necessary services to aliens during asylum proceedings.

(15.01.2003 entered into force 01.05.2003 - RT I 2003, 13, 65)

(3) The internal procedure rules of the initial reception centre and the reception centre shall be approved by the head of the agency.

(4) The initial reception centre shall, as necessary, arrange for the following assistance to aliens:

- 1) temporary accommodation;
- 2) food, essential clothing and other necessities and toiletries;
- 3) emergency care and medical examinations;
- 4) essential translation services;
- 5) information regarding their rights and duties;
- 6) other essential services.

(5) The reception centre shall, as necessary, arrange for the following assistance to applicants:

- 1) accommodation during asylum proceedings;

(15.01.2003 entered into force 01.05.2003 - RT I 2003, 13, 65)

2) supply of foodstuffs or provision of food, supply of essential clothing, other necessities and toiletries, and supply of money for urgent small expenses within the limits set out in subsection 10<sup>2</sup> (5) of this Act to aliens residing in the reception centre and to aliens residing outside the reception centre on the basis of clause 9<sup>2</sup> (2) 3) thereto;

(15.01.2003 entered into force 01.05.2003 - RT I 2003, 13, 65)

- 3) emergency care and medical examinations;
- 4) essential translation services and Estonian language instruction;
- 5) information regarding their rights and duties;
- 6) provision of other essential services.

(08.05.2002 entered into force 01.01.2003 - RT I 2002, 42, 266)

(6) (Repealed - 15.01.2003 entered into force 01.05.2003 - RT I 2003, 13, 65)

## **§ 10<sup>1</sup>. Conditions for stay in Estonia for applicants who are unaccompanied minors**

(1) An applicant who is an unaccompanied minor shall be placed in the reception centre or a social welfare institution for the time of the asylum proceedings, and welfare services appropriate to the age of the applicant shall be guaranteed to him or her.

(2) If the Citizenship and Migration Board has reasoned doubts as to the correctness of the information provided by the applicant in respect of his or her age, the applicant's age shall be established by medical examination. In such case the applicant may be placed in the initial reception centre for the time of the examination.

(15.01.2003 entered into force 01.05.2003 - RT I 2003, 13, 65)

## **§ 10<sup>2</sup>. Monetary benefit and rates thereof**

(1) The services offered by the reception centre specified in clause 10 (5) 2) of Act, except the supply of essential clothing and other necessities, may be substituted by a monetary benefit at the rates specified in subsections (3) and (4) of this section at the request of an applicant.

(2) Applicants who reside outside the reception centre on the basis of clauses 9<sup>2</sup> (2) 1) and 2) of this Act shall not be paid the monetary benefit or provided with the services offered by the reception centre on the basis of clauses 10 (5) 1) and 2) thereto.

(15.01.2003 entered into force 01.05.2003 - RT I 2003, 13, 65)

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

(4) The amount of benefit paid to the second and each subsequent member of a family is 80 per cent of the amount of benefit paid to the first member of the family. Only those family members who are applicants are entitled to receive a benefit.

(5) An applicant residing at the reception centre shall be paid a monetary benefit for urgent small expenses in the amount of 10 per cent of the rate specified in subsection (3) of this section.

(08.05.2002 entered into force 01.01.2003 - RT I 2002, 42, 266)

§ 11. (Repealed - 15.01.2003 entered into force 01.05.2003 - RT I 2003, 13, 65)

§ 12. (Repealed - 15.01.2003 entered into force 01.05.2003 - RT I 2003, 13, 65)

§ 12<sup>1</sup>. (Repealed - 15.01.2003 entered into force 01.05.2003 - RT I 2003, 13, 65)

### **Chapter 3** **Reception and Social Rights of Refugees**

#### **§ 13. Organising reception**

(1) An alien who is granted asylum may stay at the reception centre until he or she settles in the territory of a local government.

(2) The Ministry of Social Affairs shall organise the settlement of refugees into the territories of local governments in agreement with the local governments, taking into account the refugees' state of health, the location of the residence of their relatives by blood or marriage, and considering the housing and employment opportunities for the refugees as well as the proportional allocation of refugees among the local governments. An alien may participate in the selection of the local government most suited to him or her.

(3) The Ministry of Social Affairs shall organise the settlement of an alien into the territory of a local government within four months after the date on which the applicant was granted asylum. If the Ministry of Social Affairs fails to come to an agreement with the local governments within the term indicated above, the services specified in subsection (4) of this section shall be thereafter provided to the refugee by the Ministry of Social Affairs.

(4) The reception of refugees shall be organised by the local government, which shall assist refugees in:

- 1) finding housing;
- 2) obtaining social and health services;
- 3) arranging for translation and Estonian language instruction;
- 4) obtaining information concerning their rights and duties;
- 5) resolving other issues.

(5) Expenditures relating to the settlement of refugees into the territories of local governments shall be covered from the state budget under the conditions and pursuant to the procedure established by the Government of the Republic.

(6) A refugee who does not wish to settle in the territory of a local government which has agreed to receive him or her shall himself or herself find a place of residence and bear the

costs related thereto. The reception centre shall provide accommodation to the alien for a period of up to two months after the date on which the alien declines the proposed housing arrangements.

(08.05.2002 entered into force 01.01.2003 - RT I 2002, 42, 266)

#### **§ 14. Social rights of refugees**

(1) During his or her stay in Estonia, a refugee has the right to receive state allowances, family benefits, employment services and state unemployment benefits, social benefits and other assistance on the same grounds as a permanent resident of Estonia as provided for by law and pursuant to the conditions and procedures established by the Government of the Republic.

(08.05.2002 entered into force 01.01.2003 - RT I 2002, 42, 266)

(2) A local government may pay a one-time subsistence benefit to a refugee whose financial status does not allow him or her to support himself or herself.

(3) A refugee who returns to his or her country of nationality or country of permanent residence, or resettles to another country may be paid a one-time benefit from the state budget in an amount which partially or totally covers his or her travel expenses, pursuant to the conditions and procedures established by the Government of the Republic.

(15.01.2003 entered into force 01.05.2003 - RT I 2003, 13, 65)

(4) Natural persons or legal persons may participate in receiving and supporting refugees by providing economic or other assistance. Provision of assistance shall be organised by local governments and in the cases provided in subsection 13 (3) of this Act, by the Ministry of Social Affairs.

(08.05.2002 entered into force 01.01.2003 - RT I 2002, 42, 266)

(5) If an alien has been granted refugee status and on such basis, a residence permit has been issued to him or her, then the family members of such refugee have the rights provided for in this section.

(15.01.2003 entered into force 01.05.2003 - RT I 2003, 13, 65)

### **Chapter 4**

#### **Issue, Extension and Revocation of Residence Permits**

**(15.01.2003 entered into force 01.05.2003 - RT I 2003, 13, 65)**

#### **§ 15. Period of validity of residence permits**

A residence permit specified in subsection 5 (1) or (2) of this Act shall be issued with a period of validity of up to two years.

(15.01.2003 entered into force 01.05.2003 - RT I 2003, 13, 65)

#### **§ 16. Issue of residence permits to family members of refugees**

(1) A minor child of an alien specified in subsection 5 (1) 2) of this Act who has been issued a residence permit may be issued, at the request of the legal representative of the child, a residence permit on the same basis and with the same period of validity as the residence permit of his or her parent.

(2) The spouse of an alien specified in subsection 5 (1) 2) of this Act who has been issued a residence permit may be issued a residence permit on the same basis and with the same period of validity as the residence permit of the alien, provided that the spouse holds the same citizenship as the alien and that marriage was contracted before application for the residence permit.

(3) The Aliens Act does not apply upon issue of a residence permit to a minor child or spouse (hereinafter family member) specified in subsection (1) or (2) of this section.

(4) A family member shall be refused issue or extension of a residence permit, or a residence permit shall be revoked if he or she poses a threat to national security, public safety or public order.

(5) A family member shall be refused extension of a residence permit, or a residence permit shall be revoked if circumstances become evident which would have precluded the issue thereof.

(6) The following additional conditions apply to residence permits issued to family members:

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

2) the extension of his or her temporary residence permit shall be refused if the temporary residence permit of the alien is not extended;

3) the temporary residence permit issued to him or her shall be revoked at the same time with the revocation of the alien's residence permit;

4) the temporary residence permit issued to him or her shall be revoked if the circumstance which constituted the basis for issue thereof ceases to exist.

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

(8) Subsection (6) of this section does not apply to an alien who has been issued a residence permit as a minor child, after he or she becomes an adult.

(15.01.2003 entered into force 01.05.2003 - RT I 2003, 13, 65)

#### **§ 17. Extension of temporary residence permit**

The Citizenship and Migration Board may extend a residence permit if the circumstances due to which the residence permit was issued have not ceased to exist and no circumstance exists which constitutes the basis for revocation thereof. Residence permits shall be extended pursuant to the procedure established by the Government of the Republic.

(15.01.2003 entered into force 01.05.2003 - RT I 2003, 13, 65)

#### **§ 18. Revocation of residence permits**

(1) The Citizenship and Migration Board shall revoke a residence permit issued to an alien, if:

1) the alien has voluntarily re-availed himself or herself of the protection of the country of his or her nationality;

2) having lost his or her nationality, the alien has voluntarily reacquired it;

3) the alien has acquired a new nationality except that of Estonia;

4) the alien has re-established himself in the country of his or her nationality or permanent residence;

5) the alien no longer requires the protection of the Estonian state, since the circumstances which resulted in the issue of a residence permit have ceased to exist;

6) the alien voluntarily settles in another country permanently;

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

8) circumstances which constitute a basis for denial of application for asylum become known in respect of the alien;

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

(2) If a residence permit issued to an alien on the basis of subsection 5 (1) of this Act is revoked on the grounds that the basis for issue thereof has ceased to exist, the alien may be issued a residence permit specified in subsection 5 (2) thereto based on his or her application

for a residence permit provided that no circumstance exists which constitutes the basis for refusal to issue such residence permit.

(15.01.2003 entered into force 01.05.2003 - RT I 2003, 13, 65)

#### **§ 19. Issue of permanent residence permit**

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

(15.01.2003 entered into force 01.05.2003 - RT I 2003, 13, 65)

#### **§ 20. Issue of work permit**

An alien who has been issued a residence permit may contract employment in Estonia on the conditions set forth in the Aliens Act.

(15.01.2003 entered into force 01.05.2003 - RT I 2003, 13, 65)

#### **§ 21. Format of application for residence permit and information provided therein**

The format of applications specified in subsections 5 (1) and (2) of this Act and a list of information provided therein shall be established by a regulation of the Minister of Internal Affairs.

(15.01.2003 entered into force 01.05.2003 - RT I 2003, 13, 65)

### **Chapter 5**

**(15.01.2003 entered into force 01.05.2003 - RT I 2003, 13, 65)**

**Applicants' Certificates and Travel Documents for Refugees**

**(15.01.2003 entered into force 01.05.2003 - RT I 2003, 13, 65)**

#### **§ 22. Applicants' certificates**

(1) After an applicant for asylum is sent to the reception centre, the Citizenship and Migration Board shall issue an applicant's certificate to the applicant which certifies that the alien is applying for asylum in Estonia. An applicant who is staying outside the reception centre is required to present his or her certificate at the request of the police for verification thereof and identification of his or her person.

(2) The Citizenship and Migration Board shall revoke an applicant's certificate in the following cases:

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

(3) If possible, the Citizenship and Migration Board shall confiscate an applicant's certificate which has been revoked from the alien.

(4) The format of the certificate and a list of information entered therein shall be established by a regulation of the Minister of Internal Affairs.

(15.01.2003 entered into force 01.05.2003 - RT I 2003, 13, 65)

#### **§ 22<sup>1</sup>. Travel documents for refugees**

Travel documents for refugees shall be issued to refugees on the conditions provided for 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).

(15.01.2003 entered into force 01.05.2003 - RT I 2003, 13, 65)



## **Chapter 6**

### **Final Provisions**

#### **§ 23. Co-operation with international organisations**

(1) In resolving problems relating to refugees, the Republic of Estonia shall co-operate with the Office of the United Nations High Commissioner for Refugees and facilitate supervision of the application of the Convention.

(15.01.2003 entered into force 01.05.2003 - RT I 2003, 13, 65)

(2) The Republic of Estonia shall ensure performance of the duties set out in the Convention and provide the Office of the High Commissioner with information and statistical data concerning:

(15.01.2003 entered into force 01.05.2003 - RT I 2003, 13, 65)

1) the condition of refugees;

2) the implementation of the Convention;

(15.01.2003 entered into force 01.05.2003 - RT I 2003, 13, 65)

3) legislation which is, or may hereafter be, in force relating to refugees.

#### **§ 23<sup>1</sup>. Register of applicants for asylum and refugees**

The state register of refugees shall be maintained concerning persons who have submitted an application for asylum and refugees.

(08.02.99 entered into force 01.09.99 - RT I 1999, 18, 301)

#### **§ 24. Use of alien's passport**

Until the travel document provided for in Article 28 of the Convention is issued in Estonia, an alien's passport into which an entry "Convention of July 28, 1951" has been made in Estonian and English and which is valid for up to two years may be issued to an alien specified in subsection 18 (1) of this Act. Alien's passports shall be issued in accordance with the Aliens Act.

#### **§ 25. Amendments to Aliens Act**

The word "refugees" [*p?genike*] in subsection 3 (2) of the Aliens Act (RT I 1993, 44, 637; RT I 1999, 50, 548; 54, 582; 71, 686; 88, 808; 101, 900; 2000, 25, 148; 33, 197; 40, 254; 2001, 16, 68; RT III 2001, 7, 75; RT I 2001, 58, 352; 68, 407; 2002, 56, 351; 63, 387; 90, 521; 102, 599; 2003, 4, 20) shall be replaced by the word "refugees" [*pagulaste*].

#### **§ 26. Entry into force of Act**

This Act enters into force simultaneously with the Convention.

<sup>1</sup> RT = *Riigi Teataja* = *State Gazette*