THE EPPO/OLAF VIII

Compendium of National Procedures

Desktop Codes on the Procedural Law of the
Member States with Annotations by National Experts

Pierre Hauck and Jan-Martin Schneider

Estonia

λογος

The EPPO/OLAF Compendium of National Procedures

Volume VIII – Estonia

The EPPO/OLAF Compendium of National Procedures

Desktop Codes on the Procedural Law of the Member States
with Annotations by National Experts,
Volumes I (Austria) – XXVII (Sweden)

Volume VIII – Estonia

Prof. Dr. Pierre Hauck LL.M. (Sussex)
University of Giessen

Dr. Jan-Martin Schneider
University of Giessen

Assisted by

Nur Sena Karakocaoğlu,
Sophie Meyer
and Alastair Alexander Laird

This volume has been reviewed and updated for accuracy of content with the kind assistance of Prof. Dr. Jaan Ginter. Nevertheless, the authors take full responsibility for the content.

Pierre Hauck
Jan-Martin Schneider

The EPPO/OLAF Compendium of National Procedures: Estonia

Logos Verlag Berlin

Bibliographic information published by the Deutsche Nationalbibliothek

The Deutsche Nationalbibliothek lists this publication in the Deutsche Nationalbibliografie; detailed bibliographic data is available on the Internet at http://dnb.d-nb.de.

This work is licensed under the Creative Commons Attribution 4.0 license CC BY (https://creativecommons.org/licenses/by/4.0/). Creative Commons license terms for re-use do not apply to any content (such as graphs, figures, photos, excerpts, etc.) not original to the Open Access publication and further permission may be required from the rights holder. The obligation to research and clear permission lies solely with the party re-using the material.

Cover image by Tom Fisk, pexels.com

Logos Verlag Berlin GmbH 2026
ISBN 978-3-8325-6018-8

Logos Verlag Berlin GmbH
Georg-Knorr-Str. 4, Geb. 10,
12681 Berlin
Tel.: +49 (0)30 / 42 85 10 90
Fax: +49 (0)30 / 42 85 10 92
https://www.logos-verlag.de

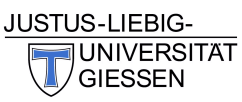
Funded by the European Union

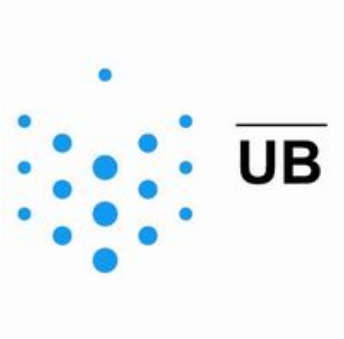
The research underlying this publication was funded by the European Union's HERCULE III programme (grant agreement No. 101015173).

The content of this publication represents the views of the authors only and is their sole responsibility. The European Commission does not accept any responsibility for use that may be made of the information it contains.

Dr Pierre Hauck LLM (Sussex) is Professor of Criminal Law at the Justus Liebig University of Giessen, Dr Jan-Martin Schneider, Nur Sena Karakocaoğlu and Alastair Alexander Laird are research assistants there.

This publication was supported by the Open Access Publication Fund of the Justus Liebig University of Giessen.





The EPPO/OLAF Compendium of National Procedures

Volumes

I: Austria

II: Belgium

III: Bulgaria

IV: Croatia

V: Cyprus

VI: Czech Republic

VII: Denmark

VIII: Estonia

IX: Finland

X: France

XI: Germany

XII: Greece

XIII: Hungary

XIV: Ireland

XV: Italy

XVI: Latvia

XVII: Lithuania

XVIII: Luxembourg

XIX: Malta

XX: Netherlands

XXI: Poland

XXII: Portugal

XXIII: Romania

XXIV: Slovakia

XXV: Slovenia

XXVI: Spain

XXVII: Sweden

With national expert contributions by

Trainee Attorney Dr Thomas Flörl Mag iur rer oec Mag iur (Austria)
Prof Dr Frank Verbruggen & Pieter van Rooij (Belgium)
Prof Dr Dobrinka Chankova (Bulgaria)
Prof Dr Lucija Sokanović (Croatia)
Attorney at law Dr Marilena Katsogiannou LLM LLM (Cyprus)
Prof JUDr Jiří Jelínek CSc. & Tereza Ottová (Czech Republic)
Prof Dr Jaan Ginter (Estonia)
Prof Dr Raimo Lahti (Finland)
Maître de conférences Dr Hélène Christodoulou (France)
European Delegated Prosecutor Dr Anna-Elisabeth Krause-Ablaß (Germany)
Ombudsman Dr Eftichis Fitrakis (Greece)
Prof Dr Krisztina Karsai (Hungary)
Noelle Kenny & Claire O'Regan (Ireland)
Prof Dr Rosanna Belfiore & Dr Luca Pressacco (Italy)
Prof Dr Kristīne Strada-Rozenberga (Latvia)
Anonymous* (Lithuania)
Avocate Sandra Birtel (Luxembourg)
Advocate Dr Veronica-Anne Spiteri LLD (Malta)
Associate Prof Sjarai Lestrade (Netherlands)
Dr Dominika Czerniak (Poland)
Prof Dr Sandra Oliveira e Silva (Portugal)
Attorney Adrian Şandru & Mag Alexandra Aldea LLM (Romania)
doc JUDr et PhDr mult Libor Klimek PhD Dr h c (Slovakia)
Assoc Prof Dr Benjamin Flander (Slovenia)
Prof Dr Christoffer Wong (Sweden)

* The Lithuanian chapter was also revised by a national expert. However, due to his or her prominent professional position, this person does not wish to be named so as not to give the impression that the chapter reflects the official position of the Lithuanian state authorities. Nevertheless, we thank this person very much for this valuable contribution.

Preface and Acknowledgements

Every year, millions of euros of taxpayers' money are lost to fraud against the European Union budget. The fight against fraud has therefore been a key element in protecting the Union's financial interests for decades, and it still is. Since then, many different political and legal approaches have been taken to create a secure situation.

In essence, this financial protection by way of fighting crime is nowadays not only provided by the national judiciary, but also to a significant extent by the EU's own investigative bodies of the European Public Prosecutor's Office (EPPO) and the European Anti-Fraud Office (OLAF).

These two authorities work based on their own EU regulations, each of which has in common to refer to the national legal situation regarding the conduct of investigations. This concerns the law of the EPPO as a whole, insofar as the EPPO Regulation in Art. 30 para 1 and para 4 refers to nationally to be created (para 1) or nationally existing powers (para 4). This also applies to OLAF's right to carry out so-called external investigations, which are so important, in the event that an Economic Operator refuses to participate in the investigation, so that in this case it is not Union law but national law that forms the basis for the investigation (cf. Art. 3 para 6 OLAF Regulation).

However, these references to national law are not enough; the problems of applying the law are only just beginning: Knowledge of national rules is usually reserved for those familiar with the national legal system, and at the level of the EU authorities these are very few. EU authorities, including the investigative authorities in question here, are rather characterized by the fact that they are made up of many employees from the most diverse Member States. It is true that for both authorities, certain mechanisms (namely the EDPs as part of the EPPO and AFCOS for OLAF) have been put in place to ensure that national legal competence is conveyed. But by and large, the respective national investigative procedure law remains a closed book in terms of criminal procedure or administrative law, not to mention the language barrier that threatens to become insurmountable for most people within the EU when seeking access to the law of other countries.

This publication series aims to remedy these shortcomings. It presents the law of criminal procedure and administrative investigation for all 27 Member States in English and in the language of the Member State. It thus provides easy access to the procedural rules of a foreign legal system, which are so important for EU investigative work. However, this presentation does not stop there, but explains these national rules, which are printed in bilingual form, with the help from a competent source, namely from national experts. In this way, an explanatory work has been created that clearly ensures access to and understanding of foreign areas of law in the field of criminal procedural and administrative fraud investigations.

The editors would like to thank the European Commission for generously supporting the research underlying this work with funds from the EU's Hercule III programme, and they would like to thank the Justus Liebig University of Giessen for generously supporting the open access publication of this work with funds from its Open Access Publication Fund.

Our sincere thanks go to our team at the University of Giessen, in particular Nur Sena Karakocaoglu and Alastair Laird, who have borne the main burden. Felina Frkic Wegener, Aleksandra Joachimiak, Maike Kappes, Ahmet Can Bas and Sophie Meyer have greatly supported the project with a variety of research and formatting work. Corinna Haas, Christian Studenroth and Vanessa Runge have accompanied the project from the beginning and have always backed us up with their sure eye for work-relevant aspects and processes, thus continuously supporting this ambitious project from start to finish.

The project was also successful because the third-party funding administration of the Justus Liebig University in the shape of Dr Christian Maarten Veldman, Anja Daßler and Jochen Stein took a lot of work off our shoulders.

Last but not least, our thanks go to the wonderful supervision and support of the publisher Volkhard Buchholtz and the production coordinator Katharina Kruse from Logos Verlag in Berlin for everything it takes to bring a book to life.

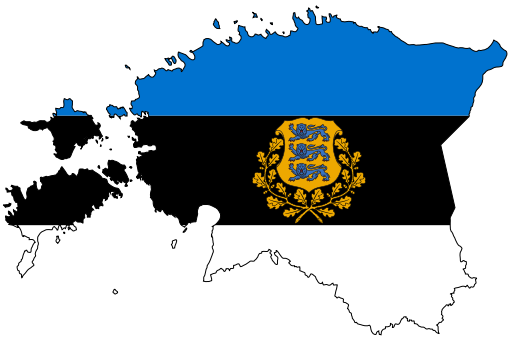
Fair comments and suggestions for improving the work are always welcome at eppo.olaf@web.de.

Giessen/Germany, in November 2024

Pierre Hauck & Jan-Martin Schneider

Suggested citation:

The suggested citation for the entire work is always „Hauck/Schneider, EPPO/OLAF CNP, Vol. [I-XXVII] [Member State], p, margin number“, but for the introductory chapters contributed by national experts with individual author references in the title it is „[Name of the national expert], in: Hauck/Schneider, EPPO/OLAF CNP, Vol. [I-XXVII] [Member State], p, margin number”.



Executive Summary:
This chapter is structured in three parts. Part A provides a consolidated overview of relevant legal materials, including case law, statutory sources, and institutional frameworks. These references serve as the foundation for the subsequent sections. Part B presents a comprehensive compendium of Estonian statutory provisions applicable to investigations conducted under the European Public Prosecutor's Office (EPPO) Regulation. It contextualises the Regulation's references to national law, outlining how criminal investigations are initiated and conducted in Estonia. The content is organised in correspondence with the investigation-related articles of the EPPO Regulation, thereby facilitating practical navigation for practitioners. Part C is dedicated to investigations carried out by the European Anti-Fraud Office (OLAF) in Estonia. It highlights the modalities of fact-finding missions undertaken in cooperation with national authorities, within the framework of external investigations. To ensure accessibility and precision, the main body of the text is presented in English, while the footnotes reproduce the original Estonian legal provisions.

General structure and concept: Prof. Dr. *Pierre Hauck* LL.M. (Sussex)
National experts: Professor *Jaan Ginter*, Professor at University of Tartu. Author of an Introduction to the EPPO legal frameworks in Estonia: Professor *Jaan Ginter*, Professor at University of Tartu.
Part B severally (EPPO Analysis): Prof. Dr. *Pierre Hauck* LL.M. (Sussex) / *Jan-Martin Schneider* (Dipl.-Jur. MR; R.A., University of Gießen) / *Alastair Laird* (R.A., University of Gießen) / *Nur Sena Karakocaoğlu* (Dipl.-Jur. FFM.; R.A., University of Gießen) organisations via questionnaires (AFCOS, OAFCN members and Experts.
Part C (OLAF Analysis): Prof. Dr. *Pierre Hauck* LL.M. (Sussex) / *Jan-Martin Schneider* (Dipl.-Jur. MR; R.A., University of Gießen) / *Alastair Laird* (R.A., University of Gießen) / *Nur Sena Karakocaoğlu* (Dipl.-Jur. FFM.; R.A., University of Gießen. National experts for Part C: We are thankful for the input from the AFCOS Estonia, *Helen Lensment* and Team of the Tax and Customs Authority, which helped via Questionnaires.

Table of Contents

Abbreviations 23
Figures & Sources and National Sections & Synopsis & Tables 25
Explanation of Symbols & Highlighting 27
Copyright Statements & Free Licences 27

A. General Collection of Material for Part B and Part C 29
I. Collection of Cases for OLAF and EPPO Concerning PIF Investigations 29
1. Material Scope and Investigation Measures from National Case Law 29
2. OLAF Regulation 34
II. Institutions 35
1. The EPPO in Estonia 35
2. Organisation of the Criminal Justice System in Estonia 36
3. Estonian Judiciary 37
III. Sources of Law 38
1. National Laws 38
2. Estonian Act for the Execution of the European Public Prosecutor's Office – Law 38

B. EPPO Regulation 55
I. Start of Criminal Investigations According to the EPPO Regulation Based on National Law 55
II. Introduction and a Few Remarks to the Estonian EPPO Legal Scenery: EPPO Experience in Estonia 56
1. Foreword to the Estonian judicial system related to the EPPO 56
2. Introductory Remarks on the Protection of the EU's Financial Interests by Means of Criminal Law in Estonia 57
3. Introductory Remarks on the Procedural Protection of the EU's Financial Interests by Means of Criminal Procedural Law in Estonia 57
a) The EPPO Adoption Act of Estonia: Kriminaalmenetluse seadustiku ja kohtuekspertiisiseaduse muutmise seadus (arestimis- ja kon-fiskeerimisotsuste vastastikuse tun-nustamise määruse ning Euroopa Prokuratuuri määruse rakendamine) Vastu võetud 17.12.2020 57
b) The EPPO's Role Explained with Two Recent Cases Involving Estonia .. 58
4. Concluding Remarks and Use of the Compendium Chapter on Estonia 60
III. Rules on Investigations by the EPPO 61
1. Article 26 Initiation of investigations and allocation of competences 61
a) Introduction and Short Overview 63

b) Powers of the Estonian EDPs (Euroopa Delaatprokurör) by Virtue of articles 13, 17, and 26 EPPO Regulation 66
c) The Assessment Cycle (Verification) for Opening an Investigation Due to Indications of a Criminal PIF Offence 69
aa. Transfer of Information to Determine Competence 70
bb. EPPO Crime Report, Verifications (Article 24 Para 6) and Relevant Sources of Indications for a Criminal Offence Within EPPO's Competence 72
cc. Tax and Customs Board (Area of VAT Frauds and Customs Duties Fraud) 73
d) Competence and Reasonable Grounds for a Criminal Offence Within EPPO's Competence 74
aa. Determination of the Competent European Public Prosecutor 77
(1) The Union: Articles 24–25 EPPO Regulation 77
(a) The PIF Offences in Estonia 78
(b) Examples & Judgements for Reasonable Grounds for PIF Offences in Estonian Criminal Law – Overview 78
(c) Excerpts and Information from Selected Judgements Decided by Estonian Courts in the PIF Crimes Area 79
(2) Jurisdiction of an Exercise of Competence by the European Delegated Prosecutor in Estonia 80
bb. Competence of the EPPO, article 26 para 4 EPPO Regulation 80
e) Actions "If Decision to Open a Case" 80
f) Justiciability and Appeals 81
g) Fraud-Related Peculiarities 86
aa. In National Case-Law 86
bb. In the Case-Law of the ECJ and ECtHR 86
2. Article 27 Right of evocation 87
a) Provisions with a Precluding Effect for the Right of Evocation of the EPPO, Para 2 89
aa. Statute of Limitations (Süüteo Aegumine) 92
bb. Amnesty 94
cc. Abatement of Action (Dispense with Prosecution) 94
dd. Opposing Legal Validity 94
ee. Abatement of Action (Dispense with Prosecution) 94
b) Urgent Measures of National Authorities for Securing an Investigation and Prosecution 95
c) Competent National Authorities in Paras 3 to 7 of article 27 95
d) Provisions Regarding the Finalisation of the National Investigation, Para 7 96
3. Article 28 Conducting the investigation 98

a) The Handling EDP Carrying Out the Investigative Measures, Para 1 100
b) Instructions and Assignment of Investigative Measures for "Those National Authorities" 100
aa. Ensuring Compliance with National Law 104
(1) Via the General Investigation Provisions 104
(2) Via National Administrative Decrees/Regulations under Criminal Procedural Law 116
(a) Estonia 116
(b) Specific Decrees, Non-Formal Laws, Execution of the CPC 117
bb. Urgent Measures in Accordance with National Law Necessary to Ensure Effective Investigations 118
c) Provisions in Relation to the Gathering of Evidence 124
4. Article 29 and Privileges for articles 34, 41 of the Regulation 130
a) National Privilege and Immunity Provisions, Para 1 131
b) Provisions on Lifting a Legal (Professional) Privilege 136
aa. Spousal Privilege 137
bb. Privilege Against Self-Incrimination 139
(1) Enshrinement in Estonian Law 139
(2) Jurisprudence 145
cc. Immunity Provisions: Parliamentary Privilege or Immunity 145
(1) National Legislation 145
(2) Provisions on the Lifting of Immunities? 150
c) Immunities and Privileges Under Union Law, Para 2 151
IV. Criminal Investigation Measures According to the EPPO Regulation Based on National Law 152
1. Article 30 Investigation measures and other measures 152
a) Member States Shall Ensure that the European Delegated Prosecutors Are Entitled to Order or Request 154
aa. Adaption Law of the Member State 154
bb. Important Provision in the CPC for the Application of article 30 EPPO Regulation 155
b) Investigation Measures 155
aa. Para 1(a) Search measures 155
(1) Legislative statutes for search measures 156
(a) Search Any Premises or Land 159
(b) Search Any Means of Transport 159
(c) Search Any Private Home 159
(d) Search Any Clothes and Any Other Personal Property 159
(e) Search Any Computer System 160

(2) Conservatory Measures Necessary to Preserve Integrity, Avoid Loss, or Prevent Contamination of Evidence 160
bb. Para 1(b) 162
cc. Para 1(c) 164
(1) Obtaining Production of Stored Computer Data, Encrypted or Decrypted 164
(a) General Provisions in the CPC 164
(b) Special Provisions in the CPC Tax Code, Digital Evidence Act .. 165
(2) Obtaining Banking Account Data and Traffic Data 165
(3) Exception of Data Specifically Retained in Accordance with National Law (Pursuant to the Second Sentence of article 15(1) of Directive 2002/58/EC of the European Parliament and of the Council)..... 165
dd. Para 1(d) 166
(1) Freezing Instrumentalities or Proceeds of Crime, Including Assets. 166
(2) Subject to Confiscation Status by the Trial Court 166
ee. Para 1(e) Interception of Electronic Communications to and from the Suspect or Accused Person 167
(1) Provisions in the CPC and Other National Laws..... 167
(2) Summary to e)..... 171
ff. Para 1(f) Track & Trace 172
c) Para 2: Specific Restrictions in National Law That Apply Regarding Certain Categories of Persons or Professionals with an LLP Obligation, article 29 177
d) Para 3: Conditions/Thresholds for Investigation Measures 177
aa. Conditions and Limitations for Investigation Measures of Para 1(c), (e) and (f) 178
bb. Serious Offences Limitation for Offences of Para 1(e) and (f) 179
cc. Notifications According to the Last Sentence of Para 3 179
e) Para 4: Any Other Measure(s) in the EDP's Member State..... 179
f) Para 5: National Procedures and Modalities for Taking Investigative Measures 180
2. Article 31 Cross-border investigations 205
3. Article 32 Enforcement of assigned measures..... 208
4. Article 33 Pre-trial arrest and cross-border surrender..... 209
a) General Relation to National Law: Applicable Codes 209
b) Para 1: Provisions for Arrest and Pre-Trial Detention 210
aa. Arrest..... 210
bb. Pre-Trial Detention 213
cc. Para 2: Cross-Border Surrender 223
c) Fraud-Related Peculiarities 239

d) Relevant Examples and Precedents (from Mutual Legal Assistance) 243
5. Information for Defence Lawyers (Inspecting the Case File/Juhtumi Toimiku Vaatamine)..... 244

C. OLAF-Regulation 251
I. General Introduction: Investigation Powers and National Law Related to OLAF in Estonia (Articles 3–8 OLAF Regulation) 251
1. General Remarks 251
a) OLAF's Task and Role..... 252
b) OLAF's Work Specifications, Soft Law, Guidelines..... 252
c) OLAF Within the EU's Anti-Fraud Architecture 253
d) OLAF's Changing Role: Current Debates Since 2020 253
e) The Relevance of the OALF Report 254
f) Structure of Part C 254
2. Article 1 Objectives and Tasks 254
3. Article 2 Definitions..... 256
4. Article 3 External Investigations..... 257
a) On-the-Spot Checks and Inspections – Renouncing the Applicable National Law – Paras 2, 4..... 260
b) Assistance Needed, Competent Authorities, and Access to Information in the Member States, Para 5 260
c) Resistance by the Economic Operator vs. Law Enforcement and Effective Investigations, Para 6 or the New Model and the Relevance of Resistance or Conformity of the Economic Operator 261
d) The Basic Principle of Conformity to Regulations 2185/96 and 883/2013 261
aa. Submission: Compliance with Union Law 261
bb. Resistance: Assistance in Conformity with National Procedural Rules Applicable 261
e) Competent Authorities 261
f) National Law and "Checks and Inspections" of OLAF 269
aa. Administrative Procedure in General..... 269
bb. Special Administrative Powers and Provisions in Certain Areas of Revenue and Expenditure 272
(1) Administrative Provisions..... 273
(a) Administrative Provisions in the Area of Customs Duties and Value Added Tax (VAT) = Revenue 273
(aa) Area of Customs Duties 273
(bb) Area of VAT Irregularities, Fraud etc..... 274
(b) Principle of Investigation (General Tax Code) 277

(c) External Audit (General Tax Code) 277
(d) Tax and Customs Investigation (Customs Code) 277
(e) Fiscal and Customs Supervision 278
(f) Administrative Provisions in the Area of Structural Funds and Internal Policies = Expenditure 280
(aa) Structural Funds 280
(bb) Internal Policies 284
(2) Administrative Provisions in the Area of the Common Organisation of the Markets = Expenditure 284
(3) Administrative Provisions in the Area of Direct Expenditure 287
(4) Investigative Powers 288
(a) Investigative Powers in the Area of Customs Duties and VAT (General Tax Code, Customs Code) 288
(b) Investigative Powers in the Area of Structural Funds and Internal Policies 293
(c) Investigative Powers in the Area of Common Market Organisations 296
(d) Powers in the Area of Direct Expenditure 318
(5) Protection of Information 331
(a) Tax Secrecy (General Tax Code) 331
(b) Administrative Secrecy (Administrative Laws) 332
(c) Data Secrecy (Credit Institutions Act – Financial Investigations) 333
(d) Official Secrecy (Customs Code, General Tax Code) 339
(6) Investigation Reports (Customs Code, General Tax Code) 340
(7) Support to the Inspectors (Customs Code, General Tax Code) 342
(8) Preservation of Evidence (Administrative Proceedings) 342
g) A Closer Look at Single Measures 343
aa. Interviewing/Questioning of "Persons Concerned" (in Relation to Suspects/Defendants) 343
bb. Taking of Statements from Economic Operators 346
cc. Interviewing/Questioning of Witnesses 347
h) Inspections 347
i) Searches 349
aa. Estonia, article 551 et seq. and 59 et seq. Tax Code 355
(1) The System of the Search Measure in Estonia's Tax Control 355
(2) Seizure of Weapons and Instruments, Customs Code/Law Enforcement Act 356
bb. General Remarks 358
cc. Formal Requirements 358
dd. Substantive Requirements 359

j) Seizure of Other Evidence, article 65 Tax Act ... 360
aa. General Remarks ... 361
bb. Formal Requirements ... 361
cc. Substantive Requirements ... 361
k) Acquisition of Digital Evidence ... 362
l) Investigative Missions in Third Countries ... 363
m) National Procedural Rules for "Checks and Inspections" by the Assisting National Authority ... 363
2. Article 4 Internal Investigations ... 364
a) References to National Law, Para 8 ... 364
b) Competent Authorities ... 368
3. Article 5 Opening of Investigations ... 368
a) Competent Authorities ... 368
b) National Rules ... 368
4. Article 7 Investigations Procedure ... 383
a) References to National Law ... 384
b) References to National Authorities ... 389
5. Article 8 Duty to Inform the Office ... 390
II. Procedural Rules of the OLAF Regulation and the References to National Law ... 391
1. Article 9 Procedural Guarantees ... 391
a) Article 9 Para 3 – Remit of a National Judicial Authority ... 393
b) Article 9 Para 4 – National Judicial Authorities ... 394
2. Article 10 Confidentiality and Data Protection ... 395
a) National Rules Applicable to Judicial Proceedings in the Member State 395
b) Specifications ... 398
3. Article 11 Investigation Report and Action to Be Taken Following Investigations ... 400
a) References to National Law ... 401
b) National Authorities, Para 3 ... 403
4. Article 12 Exchange of Information Between the Office and the Competent Authorities of the Member States ... 404
a) Article 12 Para 1 OLAF Regulation ... 404
b) Article 12 Para 2 OLAF Regulation (Judicial Authorities of the Member State Concerned) ... 405
c) Article 12 Para 3 OLAF Regulation (Information to the Office by Competent Authorities of the Member State Concerned) ... 406
d) Article 12 Para 4 OLAF Regulation (Providing Evidence in Court Proceedings Before National Courts and Tribunals in Conformity with National Law) ... 406

5. Article 12a Anti-Fraud Coordination Services 417
[Article 12b–12d] 418
6. Article 12e The Office's Support to the EPPO 419
[Article 12f–g] 419
7. Article 13 Cooperation of the Office with Eurojust and Europol 420
[Article 14–16] 421
8. Article 17 Director-General 422
a) National Law Applicable to Judicial Proceedings 423
b) Internal Advisory and Control Procedure: Legality Check Involving National Law 425
[Article 18–21] 426
Bibliography 427
Important Websites 437
Index 439

Abbreviations

EMTA	*Maksu- ja Tolliamet* /Estonian Tax and Customs Board
ECHA	European Chemicals Agency
ECHR/ECtHR	European Court of Human Rights
ECJ	European Court of Justice
ECJ	European Court of Justice (now CJEU)
ECJN	European Judicial Network against Cybercrime
ECON	European Parliament's Committee on Economic and Monetary Affairs
ECP	European Chief Prosecutor
EDF	European Development Fund
EDMS	Electronic Document Management System
EDO	European Data Officer
eDP	ePrivacy Directive
EDP	European Delegated Prosecutor
EEAS	European External Action Service
EEC	European Economic Community
EIO	European Investigation Order
EJN	European Judicial Network
EP	European Prosecutor
EPPO	European Public Prosecutor's Office
EUACR	EU Anti-Corruption Report

EUCFR	Charter of Fundamental Rights of the European Union
EuCLR	European Criminal Law Review
EUROJUST	European Union Agency for Criminal Justice Cooperation
EUROPOL	European Police Office
EPBGB	Estonian Police and Border Guard Board/*Eesti Politsei- ja Piirivalveametin*
HMS	Estonian Administrative Procedure Act/*Haldusmenetluse seadus*
KrMS	Estonian Code of Criminal Procedure

Figures & Sources and National Sections & Synopsis & Tables

Figures

Figure 1: The EPPO regional offices in Estonia 35

Figure 2: Visualization of the judicial and administrative order in Estonia 37

Figure 3: Article 24 para 1 and 2 EPPO Regulation (Scheme) 70

Figure 4: National (indirect way of) Obtaining information for the EPPO competence and the exercise of jurisdiction 72

Figure 5: Supranational (direct way of) Obtaining information for the EPPO competence and the exercise of jurisdiction 73

Figure 6: Obtaining information for exercise of competence from EU IBOAs 73

Figure 7: The offences in national law by virtue of the Estonian PIF offences Acquis (examples) 79

Figure 8: Right of evocation/time limits/refrain taking decisions that have a precluding effect – Overview for Estonia 89

Figure 9: Assignment of "those national authorities" in Estonia, article 28 EPPO Regulation 101

Figure 10: Information on authorities around VAT fraud and non-VAT related revenue fraud in Estonia – article 3 OLAF Regulation 262

Figure 11: The Estonian Tax and Customs Board in an Organigram 264

Sources & national articles

Sources & national articles 1: Article 26 EPPO Regulation 63

Sources & national articles 2: Article 3 OLAF Regulation – Overview for Estonia . 384

Synopsis

Synopsis 1: Estonian EPPO Adoption Act: Orginal vs. Unofficial Translation 39

Synopsis 2: Special investigation letter for investigators by the Tax and Customs Board in Estonia 265

Tables

Table 1: EPPO-Regulation related Jurisprudence and Ongoing Investigations 29

Table 2: OLAF-Regulation related Jurisprudence 34

Table 3: National authorities involved in PIF investigations 36

Table 4: Structural funds and national administrative authorities – Cohesion policy acc. to the CFR Regulation in Estonia (2021–2027) 282

Table 5: Funding areas in certain policy areas 284

Explanation of Legend, Symbols & Highlighting

Text passages highlighted in grey show Union law.

Text passages marked with boxes show relevant national law.

Plain Tables display either a synopsis of a foreign law text and the English translation or a summary of institutions and relevant case law.

Tables with symbols in the first row contain case studies (EPPO & OLAF cases) or relevant jurisprudence.

Margin numbers (1, 2, 3…) in the General Margin enable citation.

Copyright Statements & Free Licences

Pictures/Figures/Symbols Used:

= Expert Introduction

= Customs legislation/Customs cases

= Examples

= Nota bene/General note

Important/Access to files

= Tax police/tax related matters

= Excerpt

= Arrest, pre-trial detention (e.g. Art. 33)

= Case-law

= (Important) National articles

= (criminal) police); relevant for investigators

= Funds area (e.g. maritime)

= procurement area

= judicial authorisation required (e.g. Art. 30)

= urgent measures (e.g. Art. 27, 28)

Π = Plaintiff (Pi)

Δ = (Delta) Defendant

= Case Studies (Overviews)

= Expert comment

All vector graphics stem from *openclipArt.org* and are, if used licenced under *CC0 1.0 Universal (CC0 1.0) Public Domain Dedication* aka "Creative Commons Zero 1.0 Public Domain License". They are a freely licensed work, as explained in the Definition of Free Cultural Works. Credit goes to librarians of @openclipArt.org. Romania: https://openclipart.org/detail/263415/estonia-map-flag. They are a freely licensed work, as explained in the Definition of Free Cultural Works. Credit goes to Gordon Dylan Johnson/librarian @openclipart.org for the Flags.

Expert Icon 6. Flaticon Free License (With Attribution). ahref="https://www.flaticon.com /free-icons/student"title=„student icons" Student icons created by Freepik - Flaticon; Checkmarks/ticks on circles. Credit goes to Andrea S/librarian @openclipart.org. 2008.

Money bag by security man/librarian https://openclipart.org/detail/245511/money-bag. Arrest Icon by j4p4n/librarian https://openclipart.org/detail/280072/arrest-icon. Academic cap by pnx -/librarian. https://openclipart.org/detail/202668/academic-cap. Books - Lineart - No Shading. by amcolley. https://openclipart.org/detail/274110/books-lineart-no-shading; *Scales of justice* by laobc. https://openclipart.org/detail/62989/scales-of-justice; *Fountain pen over paper sheet* by ousia. https://openclipart.org/detail/184618/fountain-pen-over-paper-sheet.; Pencil icon by Anonymous. https://openclipart.org/detail/24821/pencil-icon Dog by dear_theophilus. https://openclipart.org/detail/122197/dog Dog Leashed Silhouette by GangandInfographie. https://openclipart.org/detail/276050/dog-leashed-silhouette Telephone by Anonymous. https://openclipart.org/download/24943/Anonymous-aiga-telephone.svg; Port by Shinnoske. https://openclipart.org/detail/218695/port; Water transportation by jean_victor_balin. https://openclipart.org/detail/25368/aiga-water-transportation; Airplane silhouette by rones. https://openclipart.org/detail/219836/airplane-silhouette; Idee/idea by lmproulx. https://openclipart.org/detail/125719/idee-idea; Town-hall-15 by PublicDomainSymbols. https://openclipart.org/detail/260851/townhall15; Open book by ShannonW. https://openclipart.org/detail/296507/open-book; Police Car by j4p4n. https://openclipart.org/detail/298872/police-car; Thinking by j4p4n https://openclipart.org/detail/308838/thinking; Graduate by j4p4n https://openclipart.org/detail/308889/graduate; Train Pictogram by libberry. https://openclipart.org/detail/173654/train-pictogram; Search Ideogram by libberry. https://openclipart.org/detail/188650/search-ideogram; Sketched police car by Firkin. https://openclipart.org/detail/303507/sketched-police-car. All Eur-lex material used in this work is © European Union. and/or Official Gazette 4.0 OpenGovernmentLicence.

Only European Union legislation published in paper editions of the Official Journal of the European Union prior to 1 July 2013 and its electronic versions published after 1 July 2013 have legal value. Further information from the Official Gazette is used under Open Licence. Data from GeoNames and all other source is used on the basis of a CC BY 4.0 licence and Open Government Licence or academic work. National transposition measures communicated by the Member States concerning: Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law OJ L 198, 28/07/2017, p 29–41 (BG, ES, CS, DA, DE, ET, EL, EN, FR, GA, HR, IT, LV, LT, HU, MT, NL, PL, PT, RO, SK, SL, FI, SV). The member states bear sole responsibility for all information on this site provided by them on the transposition of EU law into national law. This does not, however, prejudice the results of the verification by the Commission of the completeness and correctness of the transposition of EU law into national law as formally notified to it by the member states. The collection National transposition measures is updated weekly. https://eur-lex.europa.eu/legal-content/EN/NIM/?uri=CELEX:32017L1371. Art. 15 TFEU and Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents. All other source is used on the basis of a CC BY 4.0 licence and Open Government Licence or academic work. Errata: In Volumes III, V, X, XXII, XXV the word 'Trainee' was missing prior to Attorney at Law for Austria.

A. General Collection of Material for Part B and Part C

Firstly, a collection in the form of an overview precedes the Compendium chapter on Estonia because it can help to identify the most important laws for the work of the any EDP or Seconded National Experts on OLAF and it is important for lawyers, economic operators and interested readers from other legal jurisdictions of the EPPO and OLAF territory in a structured form. The overviews should facilitate the navigation. **1**

I. Collection of Cases for OLAF and EPPO Concerning PIF Investigations

1. Material Scope and Investigation Measures from National Case Law

Recent cases i.e. mostly investigations at their very beginning or already dismissed ones conducted by the regional office of the EPPO in Estonia were statistically listed in the EPPO Annual Report 2021.[1] National cases cited help to identify essential rights of the suspect, which includes the presumption of innocence, right to be informed of charges, to legal assistance, to interpretation and translation, to access case materials, to challenge evidence and decisions or to a public and fair trial within a reasonable time (→ B. IV. 5). **2**

Table 1: EPPO-Regulation related Jurisprudence and Ongoing Investigations

Articles referred to	Judgement, ECLI etc.	Content
VAT revenue fraud (Articles: not specified in release)[2]	EPPO, Investigation "Admiral 2.0" ongoing.	Large carousel scheme on electronics; multi-state action; 300 searches; 32 detainees incl. in Estonia; asset freezes/seizures. Estonian partners named: Tax and Customs Board (MTA), Financial Intelligence Unit (FIU).
Subsidy fraud for-	EPPO, WOW Experience/Padel Centre (Saaremaa) charges filed.	5 individuals & 3 companies charged; court mortgage EUR 1,6 million; as-

[1] See https://www.eppo.europa.eu/sites/default/files/2022-03/CH2.7_EPPO-Annual-Report-2021-EE.pdf. If not otherwise indicated all articles relate to the EPPO Regulation.

[2] Be aware that EPPO press releases for these Estonian cases generally do not, like in other cases publish national case numbers or cite specific Penal Code provisions; those become available in indictments or judgments. This practice could be made better at EU stage in the next EPPO Regulation Update as practitioners could then easily follow cases. Even if in some EU Member states only appeal cases or cases from the court of Cassation or the Highest Criminal Courts have a special value, there is another interest of the general European public. Taxpayers in all Member States have an interest to follow cases even if they are not binding, inventing a new criminal tax scheme or analysing a special offence or clarifying the wording of the Regulation. One website, which already tries to establish an EPPO Case Database is steppolaw.eu.

gery (Articles: not specified in release)		sets seized ca. EUR 380,000. Allegations: subsidy fraud, attempted subsidy fraud, forgery involving EU-funded projects.[3]
EU-expenditure fraud (Articles: not specified in release)	EPPO, Põltsamaa street-lighting project investigation ongoing.	EPPO Tallinn led searches at several locations into suspected fraud in an EU Cohesion Fund-co-financed lighting renovation; case ongoing (authorities not).
Art. 26	Supreme Court of Estonia Criminal Chamber, Case No: 1-15-9051, Date of judgment: 6 October 2017[4].	S. 389[1] Estonian Penal Code, pre-trial proceedings, appeal, Tallinn District Court, acquittal, annulment of that decision, providing false information in the April 2011 income and social tax declaration, compensation for the costs of the criminal proceedings.
Art. 30	ECJ, Case C-746/18, H. K., v Prokuratuur, ECLI:EU:C:2021:152.	Estonian citizen, Pre-trial ruling, Directive 2002/58/EC – Providers of electronic communications services – Confidentiality of communications, electronic communications, surveillance.
Art. 31, 32	CJ, G. K., B.O.D. GmbH, S.L., joined party Parquet européen, Judgment of 21 December 2023, C-281/22, ECLI:EU:C:2023:1018.	The judgment delineates the procedural framework for cross-border investigative measures requiring judicial authorization in the assisting Member State. The Court held that the scope of judicial review in the assisting state is confined to enforcement-related aspects, thereby excluding an examination of the measure's substantive justification. This allocation of responsibilities aims to prevent duplicative judicial assessments, vesting primary scrutiny in the Member State of the handling European

[3] See https://www.eppo.europa.eu/en/media/news/estonia-investigation-wow-experience-centre-leads-to-eight-indictments-eu16-million?. Accessed 30 June 2025.
[4] See https://www.riigiteataja.ee/kohtulahendid/fail.html?fid=307362773. Accessed 30 June 2025.

		Delegated Prosecutor (EDP). Furthermore, where investigative measures entail serious interferences with fundamental rights protected under the Charter of Fundamental Rights of the European Union, such measures must be subject to prior judicial review in the handling EDP's jurisdiction.
Art. 33	Riigikohus Kriminaalkolleegium Kohtumäärus Kohtuasja number 1-20-8068 Määruse kuupäev 11. oktoober 2021.[5]	Request for electronic surveillance instead of arrest for suspected tax offence (concealment of taxes, s. 389[1] Estonian Penal Code.
Art. 30, 37	Criminal Chamber of the Supreme Court, 1-23-5754/22, 10.4.2025.	The principle of the exchange of evidence in appeal proceedings becomes particularly important when a decision has to be made on changing the assessment of evidence, which may result in the annulment of the acquittal of the lower court and the conviction of the accused. The court panel that decides on the guilt or innocence of the accused must generally examine the victim, the accused and the witnesses in person and assess their credibility. Such an assessment of credibility is usually not possible simply by reading the person's statements from the record.
Art. 30, 33, 27	Supreme Court, 3-1-1-21-06, 05.05.2006.	The scope of protection of the fundamental right of ne bis in idem (prohibition of being tried and punished twice) provided for in § 23(3) of the Constitution covers not only criminal offences, but also administrative offences (misdemeanours) and in certain cases also disciplinary offences (see RKKKo No. 3-1-3-6-03).

[5] See https://www.riigiteataja.ee/kohtulahendid/fail.html?id=300323194. Accessed 30 June 2025.

Art. 5 para 3, 26–37	Supreme Court, 3-1-1-68-06, 25.10.2006.	Supreme Court rulings have legal value in criminal and criminal procedural matters as a source of law.
Art. 28, 30, 36–37	Criminal Chamber of the Supreme Court, Case No. 1-21-5633/135, 16.06.2023.	Parties' right to access evidence and the arguments.
Art. 36, 42	Supreme Court, 3-1-1-45-04, 17.05.2004.	Right to appeal decisions.
Art. 41 EPPO, 47–48 CFR	Supreme Court, 3-1-1-20-07, 11.06.2007.	Right to a fair trial.
Recital 38, Art. 41–42	Criminal Chamber of the Supreme Court, 22-3897/47, 18.12.2024.	Right to defence that the indictment of the EPPO needs to clarify each circumstance.
Art. 5, 41; 7–8, 47, 48 CFR, Recital 38	Criminal Chamber of the Supreme Court, 1-24-4770/14, 22.05.2025.	Secret wiretapping of a person after informing him of his status as a suspect may infringe the right of defense.
Art. 5, 37, 41 and 47–48 CFR	Criminal Chamber of the Supreme Court, 1-21-5115/53, 09.12.2024.	Inadmissibility of evidence may also lead to the inadmissibility of other evidence collected using the information obtained from it.
Art. 5, 36, 37, 41–42	Criminal Chamber of the Supreme Court, 1-21-7384/240, 16.01.2025.	Presumption of legality for evidence gathered abroad, especially where mutual trust or treaty-based cooperation exists. This presumption can only be rebutted if it is clearly established that the evidence was obtained unlawfully under the foreign law (e.g. based on a foreign court's finding).
Art. 33	Criminal Chamber of the Supreme Court, 1-22-5272/12, 09.06.2023	Requisites and conditions for pre-trial detention.
ECtHR		
Art. 28	Case of *Liblik and others Estonia* (Applications nos. 173/15 and 5 others)[6]	Covert surveillance methods/infringements of personal data

[6] See https://hudoc.echr.coe.int/FRE#{%22itemid%22:[%22001-193251%22]}. Accessed 30 June 2025.

Art. 29, 34, 41	*Särgava v. Estonia* (Appl. no 698/19)	Seizure of a lawyer's laptop, Art. 8 of the Convention
In tax proceedings[7]	*Murray v. the United Kingdom* - 14310/88 Judgment 28.10.1994 [GC]	Right to remain silent, Art. 5, 6, 8 of the Convention
Art. 41, 42	*Case Of Saunders v. United Kingdom* (Appl. no 19187/ 91)	Right to remain silent, Art. 5, 6, 8 of the Convention
Art. 41, 42	*Case of Weh v. Austria* (Appl. no 38544/97)	Right to remain silent, Right not to incriminate oneself, Art. 5, 6, 8 of the Convention
Art. 30, 33, 41, 42	*Dorozhko And Pozharskiy v. Estonia*, Appl. nos 14659/04 and 16855/04)	Disqualification of a judge in pre-trial detention proceedings
Art. 33, 42´.	*Pilhak v Estonia* Appl. no (73270/01)	Complaint. Excessive length of pre-trial detention under article 5 § 3 ECHR. Prolonged pre-trial detention requires individualised reasons beyond initial suspicion and must be matched by diligent case management.

In general it is important, as shown in the case law table above, to follow if working as an EDP or seconded legal expert the case-law on EPPO and OLAF as well as national decisions on PIF offences and ECtHR case law on investigative measures because Estonia is part of this **triangle of jurisprudence sources**, which has been expressed by experts in the past: "EU law affects national principles of criminal law on many levels. Estonian criminal law is shaped by the regulatory triangle wherein the ECtHR, CJEU, and Member State courts interact: While many aspects of the relationship between EU law and national constitutions remain debatable, the impact of European Union law on national criminal law has increased remarkably since Lisbon: the Charter, which articulates principles of criminal law, is now legally binding in the EU, and the CJEU's jurisdiction has expanded to the former third-pillar area."[8] **3**

[7] Kanger 2012.
[8] Rosin 2021, p. 174 (182).

2. OLAF Regulation

Table 2: OLAF-Regulation related Jurisprudence

Relates to Art.	Judgement, ECLI, etc.	Content
Art. 3, 11	ECJ, Case T-48/16 *Sigma Orionis v the Commission*	French company, Request of documents, Inadmissibility in national criminal proceedings, Art. 47 Charter of Fundamental Rights.
Art. 4	ECJ, Case T-768/17, *Comprojecto-Projectos e Construções, Lda v ECB*, ECLI:EU:T:2019:104.	Portuguese company, article 3 of Decision 2016/456, the President and the Director General of the ECB Secretariat, defeated allegations to ECB for not informing OLAF to open investigations, no sufficient grounds.
Art. 9, 10	ECJ, Case T-110/15*, International Management Group v the Commission*,ECLI:EU:T:2016:322.	Belgian company, Art. 47 Charter of Fundamental Rights, Access to OLAF Documents by virtue of Art. 9 para 4 OLAF Regulation, Regulation (EC) No 1049/2000.
Art. 9	ECJ, Case C-351/20 P, *Liviu Dragnea (Estonia) v the Commission*, ECLI:EU:C:2022:8.	Estonian citizen. EU official, Art. 47 Charter of Fundamental Rights, Access to OLAF Documents by virtue of Art. 9 para 4 OLAF Regulation Regulation (EC) No 1049/2001.
Art. 9	ECJ, Case T-517/19, *Andrea Homoki v the Commission*, EC LI:EU:T:2021:529.	Hungarian citizen, OLAF defeated, Access to OLAF Documents by virtue of Art. 9 para 4 OLAF Regulation Regulation (EC) No 1049/200, ratio legis, confidentiality to documents in OLAF's investigation files.
Art. 11	ECJ, Case T-193/04 Hans-Martin Tillack, ECLI:EU:T:2006:292.	The "Tillack case" concerned OLAF's probe into leaked confidential information. Reports are important.

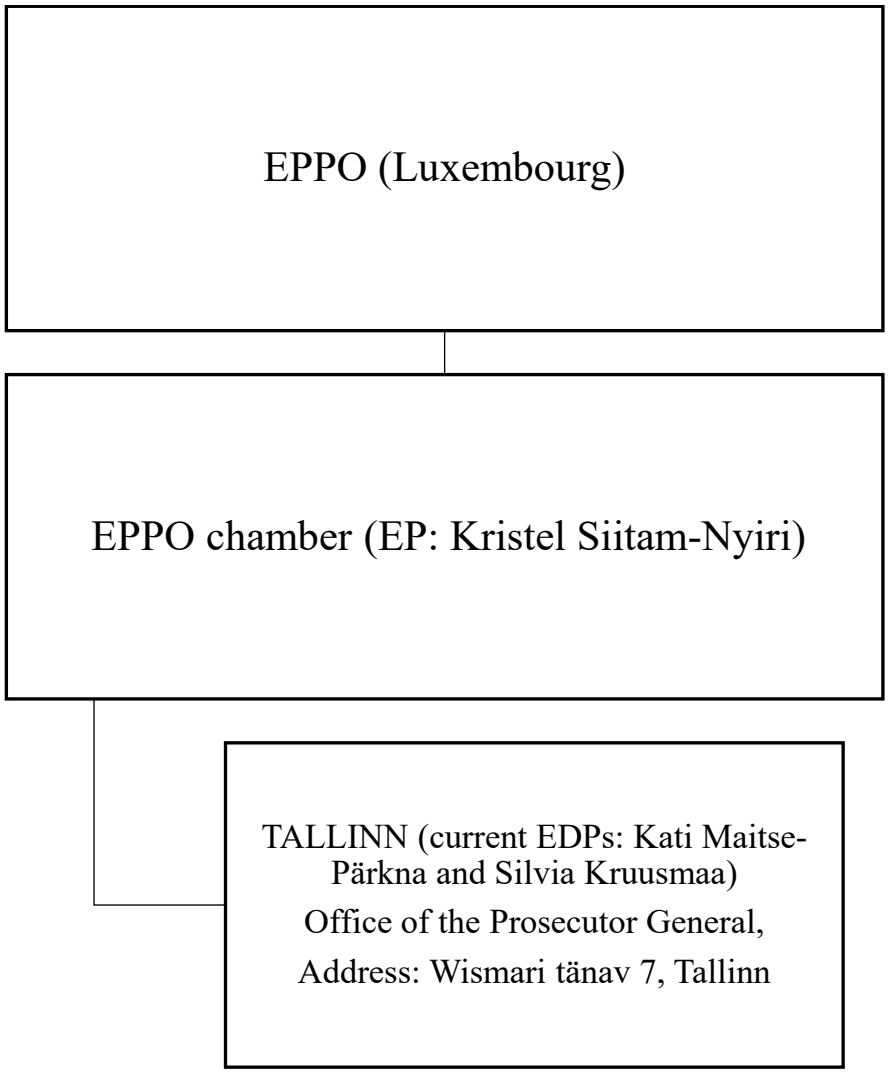
Source: The authors.

4 Nota bene → For **more jurisprudence on EPPO and OLAF** and for the interpretation of the EPPO and OLAF Regulations see within the other **volumes of the series** "The EPPO/OLAF Compendium of National Procedures Desktop Codes on the Procedural Law of the Member States with Annotations by National Experts."

II. Institutions

1. The EPPO in Estonia

Figure 1: The EPPO regional offices in Estonia **5**



Source: EPPO Website. https://yandex.com/maps/org/eppo_regional_office_in_estonia/174453041015/?ll=24.736791%2C59.432790&z=16. https://ejtn.eu/office/estonia-office-of-the-prosecutor-general/. Accessed 31 October 2025.

2. Organisation of the Criminal Justice System in Estonia

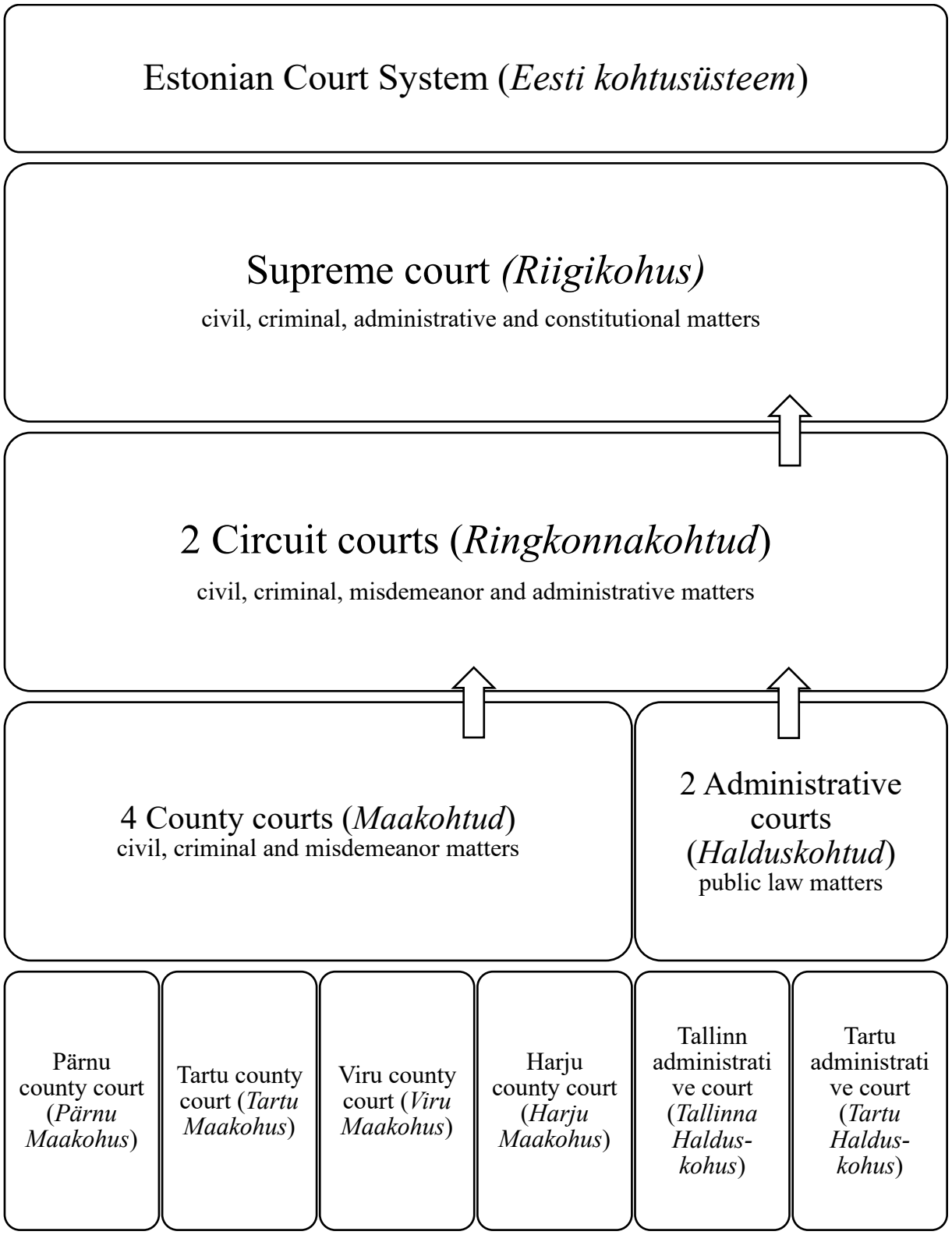
6 *Table 3: National authorities involved in PIF investigations*

Investigating authorities	**Relevant ministries**	**Other administrative authorities**	**Court system**
Prosecutor's Office (*Prokuratuur*) Investigative bodies: Police and Border Guard Border, Internal Security Service, Tax and Customs Board (*Maksu- ja Tolliamet*), →Investigation Department (*Uurimisosakond*) Competition Authority, Military Police, Environment Inspectorate, Department of Prisons of the Ministry of Justice, Prisons, which perform the functions of an investigative authority directly or through an institution administered by them or through a local office	Ministry of Justice (Prosecutor's Office, courts, prisons, patent office, Estonian Competition Authority, Data Protection Inspectorate, Estonian Forensic Institute) Ministry of Finance Exercising state supervision and administrative supervision in public interests over compliance with Public Procurement Act Ministry of Rural Affairs Exercising state and administrative supervision over compliance with the requirements provided for in e.g. Fisheries Markets Organization Act)	National Audit Office (*Riigikontroll*) Estonian Tax and Customs Board Consumer Protection Board Maritime Administration Health Board Labour Inspectorate Agriculture and Food Board Agricultural Registers and Information Board (ARIB)	1st instance: District courts (*Maakohtud*) and Administrative courts (*Halduskohtud*) 2nd instance: Circuit courts (*Ringkonnakohtud*) 3rd instance: Supreme Court (*Riigikohus*) *[See below]*

Source: Own Research.

3. Estonian Judiciary

Figure 2: Visualization of the judicial and administrative order in Estonia **7**



Source: Estonian Court Website.

III. Sources of Law

8 The following pages present a list of the applicable sources of law

1. National Laws

9 ***EPPO Investigation-Related Bills, Codes, Laws and Administrative Documents in Estonia:***

- Penal Code/*Karistusseadustik*
- Code of Criminal Procedure/*Kriminaalmenetluse seadustik*
- Courts Act/*Kohtute seadus*

10 ***Most Relevant National Laws in EPPO and OLAF Investigations in Estonia***

- The Constitution of the Republic of Estonia/*Eesti Vabariigi põhiseadus*
- The Estonian State Budget Act/*Riigieelarve seadus*
- Code of Misdemeanour Procedure/*Väärteomenetluse seadustik*
- Tax Administration Act also known as Taxation Act/*Maksukorralduse seadus*
- Prosecutor's Office Act/*Prokuratuuriseadus*
- Customs Act/*Tolliseadus*
- Bar Association Act/*Advokatuuriseadus*
- Code of Criminal Procedure Implementation Act/Kriminaalmenetluse seadustiku *rakendamise seadus*
- Money Laundering and Terrorist Financing Prevention Act/ *Rahapesu ja terrorismi rahastamise tõkestamise seadus*
- Security Act/*Turvaseadus*
- Police and Border Guard Act/ Politsei ja piirivalve seadus

2. Estonian Act for the Execution of the European Public Prosecutor's Office – *Law*

11

- Money Laundering and Terrorist Financing Prevention Act/*Rahapesu ja terrorismi rahastamise tõkestamise seadus*
- Police and Border Guard Act/*Politsei ja piirivalve seadus*

12 ***OLAF***

- Administrative Procedure Act/*Haldusmenetluse seadus*
- Law Enforcement Act/*Korrakaitseseadus*

Kriminaalmenetluse seadustiku ja kohtuekspertiisiseaduse muutmise seadus (arestimis- ja konfiskeerimisotsuste vastastikuse tunnustamise määruse ning Euroopa Prokuratuuri määruse rakendamine)
Vastu võetud 17.12.2020

Act amending the Code of Criminal Procedure and the Forensic Science Act (implementation of the Regulation on Mutual Recognition of Seizure and Confiscation Decisions and the Regulation on the European Public Prosecutor's Office)
Adopted on 17.12.2020

§ 1. Kriminaalmenetluse seadustiku muutmine

Kriminaalmenetluse seadustikus tehakse järgmised muudatused:

1) paragrahvi 30 täiendatakse lõikega 3 järgmises sõnastuses:

"(3) Nõukogu määrusest (EL) 2017/1939, millega rakendatakse tõhustatud koostööd Euroopa Prokuratuuri asutamisel (ELT L 283, 31.10.2017, lk 1–71), tulenevate Euroopa Prokuratuuri ülesannete täitmisel on Euroopa prokuröril ja Euroopa delegaatprokuröril samad õigused, mis on prokuratuuril käesoleva seadustiku kohaselt.";

2) paragrahvi 126^4 lõiget 6 täiendatakse kolmanda lausega järgmises sõnastuses:

"Nõukogu määruse (EL) 2017/1939 alusel menetletavas kriminaalasjas annab

§ 1. Amendment of Code of Criminal Procedure

The following amendments are made to the Code of Criminal Procedure:

1) subpara (3) is added to § 30 worded as follows:

"(3) When performing a task of the European Prosecutor's Office emanating from Council Regulation (EU) 2017/1939 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office (OJ L 283, 31.10.2017, pp 1–71), a European Prosecutor or a European Delegated Prosecutor have the same rights as those held by the Prosecutor's Office under this Code.";

2) subpara 126^4 (6) is amended by adding a third sentence worded as follows:

"In a criminal case dealt with under Council Regulation (EU) 2017/1939, the relevant authorisation is granted, or

eelnimetatud loa või esitab taotluse Euroopa prokurör või Euroopa delegaatprokurör.”;

application made, by a European Prosecutor or a European Delegated Prosecutor ”;

3) paragrahvi 1311 lõiget 2 täiendatakse teise lausega järgmises sõnastuses:

“Nõukogu määruse (EL) 2017/1939 alusel menetletavas kriminaalasjas esitab eelnimetatud taotluse Euroopa prokurör või Euroopa delegaatprokurör.”;

3) subpara 1311 (2) is amended by adding a second sentence worded as follows:
“In a criminal case dealt with under Council Regulation (EU) 2017/1939, the relevant authorisation is granted, or application made, by a European Prosecutor or a European Delegated Prosecutor”;

4) paragrahvi 136 pealkirja täiendatakse pärast sõnu “riigi peaprokuröri” sõnadega “või Euroopa prokuröri või Euroopa delegaatprokuröri”;

4) the title of § 136 is supplemented after the words “the Prosecutor General” by the words “or the European Public Prosecutor or the European Delegated Prosecutor”;

5) paragrahvi 136 teksti täiendatakse pärast sõnu ”riigi peaprokuröri” tekstiosaga “või käesoleva seadustiku § 1311 lõike 2 kohaselt Euroopa prokuröri või Euroopa delegaatprokuröri”;

5) the text of § 136 is supplemented after the words “the Attorney General of the State” by the text “or the European Public Prosecutor or the European Delegated Prosecutor” pursuant to subpara 1311 (2) of this Code;

6) paragrahvi 208 täiendatakse lõikega 11 järgmises sõnastuses:

6) subpara (1^1) is added to § 208 worded as follows:

“(1^1) Kui kriminaalmenetluse alustamata jätmine või lõpetamine on saanud nõukogu määruse (EL) 2017/1939 kohaselt prokuratuuris lõpliku lahenduse, võib kannatanu nimetatud lahendi advokaadi vahendusel vaidlustada ringkonnakohtus lahendi saamisest alates ühe kuu jooksul.”;

“(1^1) If the non-initiation or termination of criminal proceedings has been finalized by the Public Prosecutor’s Office in accordance with Council Regulation (EU) 2017/1939, the victim may challenge that decision in a district court within one month of receiving the decision.”;

7) paragrahvi 213 täiendatakse lõikega 8 järgmises sõnastuses:

"(8) Käesoleva paragrahvi lõigetes 5–7 sätestatu kohaldub nõukogu määruse (EL) 2017/1939 alusel menetletavas kriminaalasjas Euroopa prokurörile või Euroopa delegaatprokurörile, kui see ei ole vastuolus sama määrusega.";

7) subpara (8) is added to § 213 worded as follows:

"(8) The provisions of subparas (5) – (7) of this article apply to the European Public Prosecutor or the European Delegated Prosecutor in criminal proceedings conducted on the basis of Council Regulation (EU) 2017/1939, unless it is in conflict with the same regulation.";

8) paragrahvi 230 täiendatakse lõikega 11 järgmises sõnastuses:

"(11) Nõukogu määruse (EL) 2017/1939 alusel menetletavas kriminaalasjas on isikul õigus vaidlustada käesolevas paragrahvis sätestatud korras uurimisasutuse või prokuratuuri tegevus, millega on rikutud isiku õigusi, kui kaebus on saanud sama määruse kohaselt prokuratuuris lõpliku lahenduse.";

8) subpara (11) is added to § 230 worded as follows:

"(11) In a criminal proceeding conducted pursuant to Council Regulation (EU) 2017/1939, a person has the right to contest the activities of an investigative body or prosecutor's office pursuant to the procedure provided for in this article."

9) paragrahvi 375 täiendatakse lõikega 5 järgmises sõnastuses:

"(5) Nõukogu määruse (EL) 2017/1939 alusel menetletavas kriminaalasjas kohaldatakse käesolevas peatükis riigi peaprokuröri kohta sätestatut Euroopa peaprokurörile.";

9) subpara (5) is added to § 375 worded as follows:

"(5) In criminal proceedings under Council Regulation (EU) 2017/1939, the provisions of this Chapter concerning the Public Prosecutor shall apply to the European Public Prosecutor.";

10) paragrahvi 3821 täiendatakse lõikega 4 järgmises sõnastuses:

"(4) Nõukogu määruse (EL) 2017/1939 alusel menetletavas kriminaalasjas kohaldatakse käesolevas peatükis riigi peaprokuröri kohta sätestatut Euroopa peaprokurörile.";

10) subpara (4) is added to § 3821 worded as follows:

"(4) In criminal proceedings under Council Regulation (EU) 2017/1939, the provisions of this Chapter concerning the Public Prosecutor shall apply to the European Public Prosecutor.";

11) paragrahvi 385 punkti 5 täiendatakse pärast sõnu “riigi peaprokuröri” tekstiosaga “või käesoleva seadustiku § 1311 lõike 2, § 3951 lõike 7 või § 447 lõike 7 kohaselt Euroopa prokuröri või Euroopa delegaatprokuröri”;

11) clause 385 (5) is amended by adding the words “the Attorney General of the State” or the European Public Prosecutor or the European Delegated Prosecutor pursuant to § 1311 (2), § 3951 (7) or § 447 (7) of this Code;

12) paragrahvi 387 lõiget 2 täiendatakse pärast sõnu “riigi peaprokuröri” tekstiosaga “või käesoleva seadustiku § 1311 lõike 2, § 3951 lõike 7 või § 447 lõike 7 kohaselt Euroopa prokuröri või Euroopa delegaatprokuröri”;

12) subpara 387 (2) is amended by adding the words “the Attorney General of the State” or the European Public Prosecutor or the European Delegated Prosecutor pursuant to subpara 1311 (2), subpara 3951 (7) or subpara 447 (7) of this Code;

13) paragrahvi 3951 lõiget 7 täiendatakse pärast sõnu ”riigi peaprokuröri” tekstiosaga “või nõukogu määruse (EL) 2017/1939 alusel menetletavas kriminaalasjas Euroopa prokuröri või Euroopa delegaatprokuröri”;

13) subpara 3951 (7) is amended by adding the words “the European Public Prosecutor or the European Delegated Prosecutor” in criminal proceedings under Council Regulation (EU) 2017/1939;

14) paragrahvi 447 lõike 7 teist lauset täiendatakse pärast sõnu “riigi peaprokuröri” tekstiosaga ”või nõukogu määruse (EL) 2017/1939 alusel menetletavas kriminaalasjas Euroopa prokuröri või Euroopa delegaatprokuröri”;

14) the second sentence of subpara 447 (7) is supplemented after the words “the Attorney General” with the text “or the European Public Prosecutor or the European Delegated Prosecutor in criminal proceedings under Council Regulation (EU) 2017/1939”;

15) seadustiku 19. peatüki 8. jagu täiendatakse 13. jaotisega järgmises sõnastuses:

15) Division 13 of Chapter 19 of the Code is amended by adding Division 13 worded as follows:

“13. jaotis
Arestimis- ja konfiskeerimisotsuste vastastikune tunnustamine

§ 48953. Euroopa Parlamendi ja nõukogu määruse (EL) 2018/1805 rakendamine

Euroopa Liidu liikmesriigi arestimis- ja konfiskeerimisotsuste vastastikusel tunnustamisel kohaldatakse käesolevas seadustikus sätestatut niivõrd, kui Euroopa Parlamendi ja nõukogu määruses (EL) 2018/1805, mis käsitleb arestimis- ja konfiskeerimisotsuste vastastikust tunnustamist (ELT L 303, 28.11.2018, lk 1–38), sätestatust ei tulene teisiti.

§ 489[54]. Arestimisotsuse tunnustamine, täitmine ja edastamine

(1) Eestile Euroopa Parlamendi ja nõukogu määruse (EL) 2018/1805 alusel arestimistunnistuse abil edastatud arestimisotsust on pädev menetlema ja selle täitmist tagama prokuratuur ning tunnustama kohus. Prokuratuur võib kohustada arestimisotsust täitma uurimisasutuse.

(2) Arestimistunnistuse abil edastatud arestimisotsuse tunnustamisel otsustatakse vara arestimine käesoleva seadustiku §-s 142 sätestatud korras kohtu määrusega. Arestimisotsuse tunnustamiseks ning vara arestimise otsustamiseks on pädev Harju Maakohus.

“13. Article
Mutual recognition of seizure and confiscation orders

§ 48953. Implementation of Regulation (EU) 2018/1805 of the European Parliament and of the Council

The provisions of this Code shall apply to the mutual recognition of seizure and confiscation orders of a Member State of the European Union to the extent that Regulation (EU) 2018/1805 of the European Parliament and of the Council on mutual recognition of seizure and confiscation orders (OJ L 303, 28.11.2018, pp 1–38) , subject to the provisions of.

§ 489[54]. Recognition, enforcement and transmission of attachment order

(1) The Prosecutor’s Office is competent to process and ensure the execution of a seizure order transmitted to Estonia based on Regulation (EU) 2018/1805 of the European Parliament and of the Council by means of a seizure certificate. The prosecutor’s office may order the investigating authority to execute the seizure order.

(2) Upon recognition of a seizure decision transmitted by means of a seizure certificate, seizure of property shall be decided by a court ruling pursuant to the procedure provided for in § 142 of this Code. The Harju County Court has

Edasilükkamatutel juhtudel võib vara arestimise otsustada prokuratuur käesoleva seadustiku § 142 lõikes 3 sätestatud korras.

jurisdiction to recognize a seizure decision and to decide on the seizure of property. Urgent driver The Prosecutor's Office may decide on the seizure of property pursuant to the procedure provided for in subpara 142 (3) of this Code.

(3) Prokuratuur teavitab taotleva riigi pädevat asutust arestimisotsuse tunnustamisest ja täitmisest, tunnustamata ja täitmata jätmisest, täitmise edasilükkamisest ja täitmise võimatusest.

(3) The Prosecutor's Office shall notify the competent authority of the requesting state of the recognition and execution of a freezing order, non-recognition and non-execution, postponement of execution and impossibility of execution.

(4) Prokuratuur teavitab pärast arestimisotsuse täitmist talle teadaolevaid puudutatud isikuid arestimisotsuse tunnustamisest ja täitmisest. Kaebus arestimisotsuse tunnustamise aluseks olnud kohtu määruse või uurimisasutuse tegevuse peale seoses arestimisotsuse täitmisega esitatakse maakohtule, kelle tööpiirkonnas vaidlustatud määrus või menetlustoiming on tehtud, käesoleva seadustiku § 387 lõikes 2 sätestatud korras kümne tööpäeva jooksul määruse kättesaamisest arvates. Kohus võib kaebuse lahendada kirjalikus menetluses.

(4) After the execution of a freezing order, the Prosecutor's Office shall notify the affected persons known to it of the recognition and execution of the freezing order. An appeal against a ruling of a court or the activities of an investigative body which is the basis for recognition of a freezing order in connection with the execution of a freezing order shall be filed with the county court in whose jurisdiction the contested ruling or procedural act was made within ten working days after receipt of the ruling. The court may decide the appeal in a written procedure.

(5) Arestimisotsuse edastamiseks arestimistunnistuse abil on arestimistunnistust pädev koostama ja edastama kohtueelses menetluses prokuratuur ja kohtumenetluses kohus.

(5) In order to forward a seizure decision by means of a seizure certificate, the Prosecutor's Office is competent to prepare and forward the seizure certificate in pre-trial proceedings and in court proceedings.

§ 489[55]. Konfiskeerimisotsuse tunnustamine, täitmine ja edastamine

(1) Eestile Euroopa Parlamendi ja nõukogu määruse (EL) 2018/1805 alusel konfiskeerimistunnistuse abil edastatud konfiskeerimisotsust on pädev menetlema Justiitsministeerium ning tunnustama ja selle täitmist tagama kohus. Konfiskeerimisotsust täidetakse käesoleva seadustiku 18. peatükis sätestatud korras.

(2) Konfiskeerimistunnistuse abil edastatud konfiskeerimisotsuse tunnustamisel otsustatakse vara konfiskeerimine kohtu määrusega. Konfiskeerimisotsuse tunnustamiseks ning konfiskeerimise otsustamiseks on pädev selle isiku elukoha järgne maakohus, kelle vara on konfiskeerimisotsuse esemeks, või elukoha puudumise korral Harju Maakohus. Konfiskeerimisotsuse täitmine otsustatakse kirjalikus menetluses, kui süüdimõistetud isiku kaitsja või kolmas isik või tema esindaja ei taotle suulist menetlust. Konfiskeerimisotsuse tunnustamise ja täitmise otsustamiseks peetavast kohtuistungist võtavad osa prokurör, süüdimõistetud isiku kaitsja ning kolmas isik või tema esindaja.

(3) Kohus edastab määruse ja info konfiskeerimisotsuse täitmise kohta Justiits-

§ 489[55]. Recognition, enforcement and transmission of confiscation order

(1) The Ministry of Justice is competent to process a confiscation order transmitted to Estonia based on Regulation (EU) 2018/1805 of the European Parliament and of the Council by a court and to recognize and ensure the execution thereof. A confiscation order shall be executed pursuant to the procedure provided for in Chapter 18 of this Code.

(2) Upon recognition of a confiscation order forwarded by means of a confiscation certificate, the confiscation of property shall be decided by a court ruling. The county court of the place of residence of the person whose property is the object of the confiscation order, or, in the absence of residence, the Harju County Court has jurisdiction to recognize the confiscation order and decide on confiscation. Enforcement of the confiscation order shall be decided in a written procedure, unless the counsel of the sentenced person or a third party or his or her representative requests an oral hearing. The prosecutor, the defence counsel of the convicted person and a third party or his or her representative shall take part in the court hearing held to decide on the recognition and enforcement of the confiscation order.

(3) A court shall forward a ruling and information concerning the execution of a confiscation order to the Ministry

ministeeriumile, kes teavitab taotleva riigi pädevat asutust konfiskeerimisotsuse tunnustamisest ja täitmisest, tunnustamata ja täitmata jätmisest, täitmise edasilükkamisest ja täitmise võimatusest.

of Justice, which shall notify the competent authority of the requesting state of the recognition and execution of the confiscation order, non-recognition and non-execution, postponement of execution and impossibility of execution.

(4) Kohus teavitab pärast konfiskeerimisotsuse tunnustamist talle teadaolevaid puudutatud isikuid konfiskeerimisotsuse tunnustamisest. Kaebus konfiskeerimisotsuse tunnustamise aluseks olnud kohtu määruse peale esitatakse maakohtule, kelle tööpiirkonnas vaidlustatud määrus või menetlustoiming on tehtud, käesoleva seadustiku § 387 lõikes 2 sätestatud korras kümne tööpäeva jooksul määruse kättesaamisest arvates. Kohus võib kaebuse lahendada kirjalikus menetluses.

(4) After the recognition of a confiscation order, the court shall notify the affected persons known to him or her of the recognition of the confiscation order. An appeal against a ruling of the court based on which the confiscation order was recognized shall be filed with the county court in whose jurisdiction the contested ruling or procedural act was made pursuant to the procedure provided for in subpara 387 (2) of this Code within ten working days after receipt of the ruling. The court may decide the appeal in a written procedure.

(5) Konfiskeerimisotsust konfiskeerimistunnistuse abil edastama on pädev samas kriminaalasjas esmakordselt kohtulahendi teinud maakohus. Kohus koostab ja edastab konfiskeerimistunnistuse omal algatusel või prokuratuuri taotlusel.”;

(5) A county court which has made a court decision for the first time in the same criminal matter is competent to forward a confiscation decision by means of a confiscation certificate. The court shall draw up and transmit the confiscation certificate on its own initiative or at the request of the prosecutor’s office.”;

16) paragrahvi 5089 lõiget 4 täiendatakse pärast sõna “kohaldatakse” sõnadega “vara arestimise ja”;

16) subpara 5089 (4) is amended by adding the words “seizure of property and” after the word “applies”;

17) paragrahvi 50821 tekst loetakse lõikeks 1 ja paragrahvi täiendatakse lõikega 2 järgmises sõnastuses:

17) the text of § 50821 is deemed to be subpara (1) and the article is amended

by adding subpara (2) worded as follows:

“(2) Konfiskeerimistunnistuse korral kohaldatakse käesolevat jaotist üksnes Taani Kuningriigi ja Iiri Vabariigiga kriminaalasjades tehtavale koostööle.”

“(2) In the case of a confiscation certificate, this Title shall apply only to cooperation in criminal matters with the Kingdom of Denmark and the Republic of Ireland.”

§ 2. Kohtuekspertiisiseaduse muutmine

Kohtuekspertiisiseaduse § 8 täiendatakse lõikega 21 järgmises sõnastuses:

§ 2. Amendment of Forensic Science Act

§ 8 of the Forensic Science Act is amended by adding subpara 21 worded as follows:

“(21) Ekspertiisiasutuse juhiga sõlmib töölepingu viieks aastaks valdkonna eest vastutav minister. Tähtaega võib pikendada korduvalt viie aasta kaupa.”.

“(21) The minister responsible for the field shall enter an employment contract with the head of the expert body for a period of five years. This period may be extended repeatedly every five years.”.

Henn Põlluaas
Riigikogu esimees

Henn Põlluaas
Chairman of the Riigikogu

Kohtute seaduse ja prokuratuuriseaduse muutmise seadus
Vastu võetud 20.05.2020

Act to Amend the Courts Act and the Prosecutor’s Office Act
Adopted on 20.05.2020

§ 1. Kohtute seaduse muutmine

Kohtute seaduses tehakse järgmised muudatused:

§ 1. Amendment of Courts Act

The following amendments are made to the Courts Act:

1) paragrahvi 12 lõike 4 punkti 3, § 24 lõike 4 punkti 3 ja § 27 lõiget 51 täiendatakse pärast tekstiosa “kohtunikuks (§ 581)” tekstiosaga “või Eu-

1) the words “or the Attorney General of the European Public Prosecutor’s Office, the European Public Prosecutor or the European Delegated Prosecutor” are added after the text “as a judge (§ 58 1)”

roopa Prokuratuuri peaprokuröriks, Euroopa prokuröriks või Euroopa delegaatprokuröriks";

after the text of § 12 (4) 3), § 24 (4) 3) and § 27 (5);

2) paragrahvi 581 pealkirja täiendatakse pärast sõnu "rahvusvahelises kohtuinstitutsioonis" sõnadega „või Euroopa Prokuratuuris";

2) the title of § 58 1 is amended by adding the words "or the European Public Prosecutor's Office" after the words "in an international judicial institution";

3) paragrahvi 581 lõiget 1 täiendatakse pärast sõnu "rahvusvahelise kohtuinstitutsiooni kohtuniku ametikohale" tekstiosaga "Euroopa prokuröri ametikohale, Euroopa delegaatprokuröri ametikohale";

3) subpara 58 1 (1) is amended by adding the words "the position of the European Public Prosecutor, the position of the European Delegated Prosecutor" after the words "the position of a judge of an international judicial institution";

4) paragrahvi 581 lõike 2 punkte 1 ja 2 täiendatakse pärast sõnu "rahvusvahelises kohtuinstitutsioonis" tekstiosaga "Euroopa Prokuratuuris";

4) clauses 58 1 (2) 1) and 2) are amended by adding the words "in the European Public Prosecutor's Office" after the words "in an international judicial institution";

5) paragrahvi 581 lõikes 3 asendatakse sõnad "kohtuinstitutsiooni teenistusest lahkumise" sõnadega "kohtuinstitutsiooni või Euroopa Prokuratuuri teenistusest lahkumist";

5) in subpara 58 1 (3), the words "resignation from the service of a judicial authority" are substituted by the words "resignation from the service of a judicial authority or the European Public Prosecutor's Office";

6) paragrahvi 581 lõikeid 4 ja 5 täiendatakse pärast sõnu "rahvusvaheline kohtuinstitutsioon" vastavas käändes sõnadega "või Euroopa Prokuratuuri";
22.06.2020 14:15
Veaparandus – Parandatud ilmne ebatäpsus tekstilõigus "rahvusvaheline kohtuinstitutsioon" vastavas käändes Riigi

6) subparas 58 1 (4) and (5) are amended by adding the words "or the European Public Prosecutor's Office" after the words "international judicial authority";
22.06.2020 14:15
Correction of error – Corrected obvious inaccuracy in the text "international court institution" in the corresponding case based on subpara 10 (3) of the Riigi Teataja Act considering appl. no 4-14 /

Teataja seaduse § 10 lõike 3 alusel arvestades Riigikogu Kantselei 22.06.2020 taotlust nr 4-14/20-37/1

20-37 / 1 of the Chancellery of the Riigikogu

7) paragrahvi 99 lõike 1 punkti 6 täiendatakse pärast sõnu "kohtuinstitutsiooni teenistusest" sõnadega "Euroopa prokuröri ametikohalt või Euroopa delegaatprokuröri ametikohalt".

7) clause 99 (1) 6) is amended by adding the words "from the position of European Public Prosecutor or from the position of European Delegated Prosecutor" after the words "service of a judicial authority".

§ 2. Prokuratuuriseaduse muutmine
Prokuratuuriseaduses tehakse järgmised muudatused:

§ 2. Amendment of Prosecutor's Office Act
The following amendments are made to the Prosecutor's Office Act:

1) seadust täiendatakse §-dega 71 ja 72 järgmises sõnastuses:

1) articles 7^{1} and 7^{2} are added to the Act worded as follows:

"§ 7^{1}. Euroopa prokurör
(1) Euroopa prokurör on nõukogu määruse (EL) 2017/1939, millega rakendatakse tõhustatud koostööd Euroopa Prokuratuuri asutamisel (ELT L 283, 31.10.2017, lk 1–71), artikli 16 lõike 3 alusel Eestist Euroopa Prokuratuuri ametisse nimetatud isik.

"§ 7^{1}. European Public Prosecutor
(1) The European Public Prosecutor is a person appointed from Estonia to the European Public Prosecutor's Office pursuant to article 16 (3) of Council Regulation (EU) 2017/1939 implementing enhanced cooperation in the establishment of the European Public Prosecutor's Office (OJ L 283, 31.10.2017, pp 1–71).

(2) Euroopa prokurör ei kuulu Eesti prokuröriteenistusse ning on oma tegevuses Eesti prokuratuurist sõltumatu.

(2) The European Public Prosecutor is not a member of the Estonian Prosecutor's Office and is independent of the Estonian Public Prosecutor's Office in its activities.

(3) Euroopa prokurörile ei kohaldata käesoleva seaduse sätteid, kui seadusest ei tulene teisiti.

(3) The provisions of this Act do not apply to a European Public Prosecutor unless otherwise provided by law.

§ 7^2. Euroopa delegaatprokurör

(1) Euroopa delegaatprokurör on nõukogu määruse (EL) 2017/1939 artikli 17 alusel Eestist Euroopa Prokuratuuri ametisse nimetatud isik. Määrusest tulenevate ülesannete täitmisel on Euroopa delegaatprokurör väljaspool Eesti prokuratuuriteenistust ning on oma tegevuses Eesti prokuratuurist sõltumatu.

(2) Euroopa delegaatprokurör võib täita riigisisese prokuröri ülesandeid riigi peaprokuröri otsuse alusel niivõrd, kuivõrd see ei takista teda täitmast nõukogu määrusest (EL) 2017/1939 tulenevaid ülesandeid.

(3) Nõukogu määrusest (EL) 2017/1939 tulenevate ülesannete täitmisel ei kohaldata Euroopa delegaatprokurörile käesoleva seaduse sätteid, kui seadusest ei tulene teisiti. Riigisisese prokuröri ülesannete täitmisel kohalduvad Euroopa delegaatprokurörile kõik käesoleva seaduse sätted.

(4) Eestist ametisse nimetatud delegaatprokurör nimetatakse delegaatprokuröri ametiajaks riigiprokuröriks.";

2) paragrahvi 9 täiendatakse lõikega 4 järgmises sõnastuses:

§ 7^2. European Delegated Prosecutor

(1) A European Delegated Prosecutor is a person appointed from Estonia to the European Public Prosecutor's Office pursuant to article 17 of Council Regulation (EU) 2017/1939. In performing the tasks arising from the Regulation, the European Delegated Prosecutor is outside the Estonian Prosecutor's Office and is independent of the Estonian Prosecutor's Office.

(2) The European Delegated Prosecutor may perform the duties of a national prosecutor based on a decision of the Public Prosecutor, insofar as this does not prevent him or her from performing the duties arising from Council Regulation (EU) 2017/1939.

(3) The provisions of this Act shall not apply to the European Delegated Prosecutor in the performance of duties arising from Council Regulation (EU) 2017/1939, unless otherwise provided by law. In the performance of the duties of a national prosecutor, all the provisions of this Act shall apply to the European Delegated Prosecutor.

(4) A delegated prosecutor appointed from Estonia shall be appointed public prosecutor for the term of office of the delegated prosecutor.";

2) subpara (4) is added to § 9 worded as follows:

“(4) Teenistuslikku järelevalvet käesoleva paragrahvi alusel ei teostata Euroopa delegaatprokuröri üle, kui tema tegevus on seotud nõukogu määrusest (EL) 2017/1939 tulenevate ülesannete täitmisega.”;

3) seadust täiendatakse §-ga 321 järgmises sõnastuses:

“§ 32[1]. Euroopa delegaatprokuröri distsiplinaarvastutus

(1) Euroopa delegaatprokuröri suhtes võib läbi viia distsiplinaarmenetluse.

(2) Kui distsiplinaarmenetluse algatamise vajadus on seotud Euroopa delegaatprokuröri poolt riigisisese prokuröri ülesannete täitmisega, teavitab riigi peaprokurör enne menetluse algatamist Euroopa peaprokuröri.

(3) Kui distsiplinaarmenetluse algatamise vajadus on seotud Euroopa delegaatprokuröri poolt nõukogu määrusest (EL) 2017/1939 tulenevate ülesannete täitmisega, peab distsiplinaarmenetluse algatamiseks olema Euroopa peaprokuröri nõusolek, kaasa arvatud juhul, kui distsiplinaarmenetlust alustatakse pärast Euroopa delegaatprokuröri ametist vabastamist Euroopa Prokuratuuris.”;

4) seaduse 4. peatüki 8. jao pealkiri muudetakse ja sõnastatakse järgmiselt:

“8. jagu

“(4) Official supervision shall not be exercised over a European Delegated Prosecutor on the basis of this article if his or her activities are related to the performance of duties arising from Council Regulation (EU) 2017/1939.“;

3) Article 32 [1] is added to the Act worded as follows:

“§ 32 [1]. Disciplinary action of the European Delegated Prosecutor

(1) Disciplinary proceedings may be instituted against a European Delegated Prosecutor.

(2) If the need to initiate disciplinary proceedings is related to the performance of the duties of a national public prosecutor by a European Delegated Prosecutor, the public prosecutor shall notify the European Public Prosecutor before initiating the proceedings.

(3) Where the need to initiate disciplinary proceedings is related to the performance of disciplinary proceedings by the European Delegated Prosecutor under Council Regulation (EU) 2017/1939, the European Public Prosecutor shall be required to initiate disciplinary proceedings, including after the dismissal of the European Delegated Prosecutor.

4) the title of Division 8 of Chapter 4 of the Act is amended and worded as follows:

“Division 8

Prokuröri kaasamine haldusülesannete täitmisse või sisekaitselise rakenduskõrgkooli õppetegevusse, üleviimine Riigikohtusse või tema tööle asumine Euroopa Prokuratuuris";

Involvement of a Prosecutor in the Performance of Administrative Tasks or in the Study Activities of an Institution of Internal Defence, Transfer to the Supreme Court or Starting Work in the European Public Prosecutor 's Office";

5) paragrahvi 52 pealkiri muudetakse ja sõnastatakse järgmiselt:

5) the title of § 52 is amended and worded as follows:

"§ 52. Prokuröri nimetamine Riigiprokuratuuri, Justiitsministeeriumi, Riigikohtu või Euroopa Prokuratuuri koosseisus ettenähtud ametikohale";

"§ 52. Appointment of prosecutors to prescribed positions in the Public Prosecutor's Office, the Ministry of Justice, the Supreme Court or the European Public Prosecutor's Office";

6) paragrahvi 52 täiendatakse lõigetega 41–46 järgmises sõnastuses:

6) subparas 4^1–4^6 are added to § 52 worded as follows:

"(4^1) Prokuröri nimetamise korral Euroopa peaprokuröriks tema teenistussuhe prokuratuuris lõpeb.

"(4^1) If a prosecutor is appointed European Public Prosecutor, his or her service in the Public Prosecutor's Office shall end.

(4^2) Prokuröri nimetamise korral Euroopa prokuröriks tema teenistussuhe prokuratuuris peatub.

(4^2) Upon the appointment of a prosecutor as a European Public Prosecutor, his or her employment with the Prosecutor's Office shall be suspended.

(4^3) Kui Euroopa prokurörina töötanud prokurör soovib tagasi pöörduda prokuröriteenistusse või Euroopa delegaatprokurör soovib tagasi pöörduda oma senisele ametikohale, on tal õigus ilma konkursita asuda senisele ametikohale, kui ametikoht on vaba, välja arvatud juhul, kui isik on Euroopa Prokuratuuri ametist vabastatud seoses süülise teo

(4^3) If a prosecutor who has worked as a European Public Prosecutor wishes to return to the Public Prosecutor's Office or the European Delegated Prosecutor wishes to return to his or her current post without a competition, the post shall be vacant, unless the person is relieved committing an act or permanently incapacitating in accordance with article 16

toimepanemisega või püsiva võimetusega oma ülesandeid täita vastavalt nõukogu määruse (EL) 2017/1939 artikli 16 lõikele 5 või artikli 17 lõikele 3.

(5) or article 17 (3) of Council Regulation (EU) 2017/1939.

(4^4) Tagasipöördumise soovist teatab Euroopa prokurör või Euroopa delegaatprokurör riigi peaprokurörile kirjalikult:

(4^4)The European Public Prosecutor or the European Delegated Prosecutor shall notify the Chief Public Prosecutor in writing of a request for return:

1) hiljemalt üks kuu enne ametiaja korralist lõppemist Euroopa Prokuratuuris;

1) not later than one month before the end of the term of office in the European Public Prosecutor's Office;

2) hiljemalt üks kuu pärast ametiaja ennetähtaegset lõppemist Euroopa Prokuratuuris.

2) no later than one month after the early expiry of the term of office in the European Public Prosecutor's Office.

(4^5) Käesoleva paragrahvi lõikes 44 nimetatud tagasipöördumise soovist tähtaegselt teatamata jätmise korral loetakse, et prokurör ei soovi samasse prokuratuuri tagasi pöörduda.

(4^5) If the request for return specified in subpara (4) 4 of this article is not notified in due time, it is deemed that the prosecutor does not wish to return to the same prosecutor's office.

(4^6) Kui Euroopa prokuröril või Euroopa delegaatprokuröril puudub pärast ametiaja lõppemist Euroopa Prokuratuuris võimalus tagasi pöörduda senisele ametikohale, võib riigi peaprokurör määrata isiku tema nõusolekul madalama astme prokuröriks või prokuröriks teise prokuratuuri. Kui uuel ametikohal prokurörile makstav palk on väiksem võrreldes sellega, mis ta oleks saanud, kui ta oleks tagasi pöördunud senisele ametikohale, säilitatakse talle kuue kuu jooksul kõrgem palk.";

(4^6) If the European Public Prosecutor or the European Delegated Public Prosecutor does not have the opportunity to return to the current position in the European Public Prosecutor's Office after the expiry of his or her term, the public prosecutor may, with his or her consent, appoint another prosecutor or a lower public prosecutor. If the salary paid to the prosecutor in the new post is lower than that which he would have received if he had returned to his previous post, he shall be retained with a higher salary for a period of six months.";

7) paragrahvi 52 lõige 5 muudetakse ja sõnastatakse järgmiselt:	7) subpara 52 (5) is amended and worded as follows:
“(5) Teenistusaeg Justiitsministeeriumis, Riigikohtus, Euroopa Prokuratuuris või Riigiprokuratuuris arvatakse prokuröri senise ametikoha teenistusaja hulka.”;	“(5) Service in the Ministry of Justice, the Supreme Court, the European Public Prosecutor’s Office or the Public Prosecutor’s Office shall be included in the length of service of a prosecutor’s previous position.“;
8) seadust täiendatakse §-ga 592 järgmises sõnastuses:	8) Article 592 is added to the Act worded as follows:
“§ 592. Käesoleva seaduse § 52 kohaldamise erisused	“§ 592. Specifications for application of § 52 of this Act
Esimesel Eestist nimetatud Euroopa delegaatprokuröril on õigus kolme aasta jooksul alates ametisse nimetamisest ilma avaliku konkursita pöörduda tagasi oma senisele ametikohale.”.	The first European Delegated Prosecutor appointed from Estonia shall have the right to return to his or her post without a public competition within three years from the date of his or her appointment.”.
Henn Põlluaas Riigikogu esimees	Henn Põlluaas Chairman of the Riigikogu

14

- Public Procurement Act/*Riigihangete seadus*
- State Budget Act (SBA)/*Riigieelarve seadus*
- Fisheries Market Organisation Act/*Kalandusturu korraldamise seadus*
- European Union Common Agricultural Policy Implementation Act/*Euroopa Liidu ühise põllumajanduspoliitika rakendamise seadus*
- Code of Administrative Court Procedure/*Halduskohtumenetluse seadustik*

B. EPPO Regulation

I. Start of Criminal Investigations According to the EPPO Regulation Based on National Law

Hauck, *Schneider*, *Laird*, *Karakocaoğlu* *University of Gießen*

The first EPPO Annual Report 2021 revealed that Estonia had very few ongoing investigations in 2021.[9] But compared to OLAF's "[i]nvestigations into the use of EU funds managed or spent in whole or in part at national or regional level concluded in 2021"[10], which only presented one investigation, the **EPPO started conducting at least 6 investigations**. **OLAF assigned three cases to the EPPO** by virtue of Art. 12e of the new OLAF Regulation.[11] **1**

The second **EPPO Annual Report 2022**, which put the focus on **revenue fraud**, showed that 11 investigations were active and one indictement was filed.[12] One case was therefore in the trial phase. 14 cases involved typologies of **non-procurement expenditure fraud**.[13] One case involved **procurement expenditure fraud**, one non **VAT revenue fraud** and the last one misappropriation.[14] The expenditure cases involved suspected fraud in agricultural and rural development programmes as well as regional and urban development programmes.[15] **2**

The third **EPPO Annual Report 2023**, showed that 10 investigations were active. Two cases were in trial phase. 14 cases involved typologies of non-procurement expenditure fraud. One case involved procurement expendizure fraud. The expenditure cases involved 4 cases of suspected fraud in agricultural and rural development programmes, 6 cases of regional and urban development programmes, one case of Climate and environment programmes and one case of other programmes/doubt cases.[16] **3**

The following chapter will depict the **investigative framework** of the „main points" in the combat against fraud to the detriment of the Union in Estonia in the area of criminal law, i.e. the **legal area of the Estonian European Delegated Prosecutors**. **4**

[9] See https://www.eppo.europa.eu/sites/default/files/2022-03/CH2.7_EPPO-Annual-Report-2021-EE.pdf. Accessed 30 June 2025.
[10] OLAF Report 2021, p 37.
[11] OLAF Report 2021, p 38.
[12] EPPO 2023a.
[13] EPPO 2023a, p 27.
[14] EPPO 2023a, p 27.
[15] EPPO 2023a, p 27.
[16] EPPO 2023a, p 27.

II. Introduction and a Few Remarks to the Estonian EPPO Legal Scenery: EPPO Experience in Estonia

Professor *Jaan Ginter*, University of Tartu

1. Foreword to the Estonian judicial system related to the EPPO

1 The European Union places a high priority on the protection of its financial interests. The creation of the European Public Prosecutor's Office (EPPO) and its integration into participating Member States' national judicial systems significantly enhance the fight against crimes that harm the EU budget. The Estonia's judicial system is well-positioned to collaborate effectively with the EPPO.

2 The **court system** is simple and consists of four trial courts:

1 Harju District Court;
2 Viru District Court;
3 Pärnu District Court;
4 Tartu District Court.[17]

3 The judgements of the district courts can be appealed to two circuit courts of appeal:

1 Court of Appeal for the Circuit of Tallinn; and
2 Court of Appeal for the Circuit of Tartu[18].

4 The judgements of the circuit courts of appeal can be reviewed by the Supreme Court which is the highest court in the state.[19]

5 The Estonian Prosecutor's Office mirrors this simplicity. There are four district prosecutor's offices and the Office of the Prosecutor General. The three European Delegated Prosecutors operate within Estonia in the Office of the Prosecutor General.[20]

[17] Courts Act, Official Gazette, RT I 2002, 64, 390 as amended by RT I, 11.03.2023, 3, https://www.riigiteataja.ee/akt/111032023019?leiaKehtiv, English translation available: https://www.riigiteataja.ee/en/eli/ee/517032023014/consolide/current, § 9.
[18] Courts Act, § 22.
[19] Courts Act § 25.
[20] Prosecutor's Office Act, Official Gazette, RT I 1998, 41, 625 as amended by RT I, 06.07.2023, 6, https://www.riigiteataja.ee/akt/106072023066?leiaKehtiv, English translation available: https://www.riigiteataja.ee/en/eli/ee/520122023002/consolide/current.

2. Introductory Remarks on the Protection of the EU's Financial Interests by Means of Criminal Law in Estonia

The Estonian criminal law is fully in harmony with the EU legal framework in this regard. In accordance with the EU law requirements, all the **offences in EPPO jurisdiction** constitute offences, that are, consequently, punishable under the Estonian Penal Code. In principle, their basic material elements are established in the Estonian Penal Code: **6**

- cross-border VAT fraud involving total damages of at least EUR 10,000,000 is criminalised by the Penal Code[21] § 209;
- other types of fraud affecting the EU's financial interests – Penal Code §§ 209 and 209[1];
- corruption that damages, or is likely to damage, the EU's financial interests – Penal Code §§ 294–298[1];
- misappropriation of EU funds or assets by a public official - Penal Code § 201;
- money laundering and organised crime, as well as other offences inextricably linked to one of the previous categories – Penal Code §§ 255, 256, 394 and 394[1].

3. Introductory Remarks on the Procedural Protection of the EU's Financial Interests by Means of Criminal Procedural Law in Estonia

a) The EPPO Adoption Act of Estonia: Kriminaalmenetluse seadustiku ja kohtuekspertiisiseaduse muutmise seadus (arestimis- ja kon-fiskeerimisotsuste vastastikuse tun-nustamise määruse ning Euroopa Prokuratuuri määruse rakendamine) Vastu võetud 17.12.2020

The EPPO Adoption Act offered the European Prosecutor and the European Delegated Prosecutors when performing a task of the European Prosecutor's Office the same powers as the national prosecutors are having in criminal proceedings.[22] **7**

In several aspects the powers of the European Prosecutor and the European Delegated prosecutors are equalled to the powers of the Prosecutor General. Such powers include: **8**

- issuing general guidelines to investigative authorities;
- authorising, or applying to the court for authorisation to conduct, covert operations for more than one year;

[21] Penal Code. Official Gazette, RT I 2001, 61, 364 as amended by RT I, 06.07.2023, 6, https://www.riigiteataja.ee/akt/106072023040?leiaKehtiv, English translation available: https://www.riigiteataja.ee/en/eli/ee/502012024009/consolide/current.

[22] Code of Criminal Procedure, Official Gazette, RT I 2003, 27, 166 as amended by RT I, 06.07.2023, 6, https://www.riigiteataja.ee/akt/106072023049?leiaKehtiv, English translation available: https://www.riigiteataja.ee/en/eli/527122023006/consolide, § 30.

- extend the duration of committal in custody beyond four months;
- application to the pre-trial investigation judge extend extradition custody for more than one year.[23]

9 In case of issuing a **statement of charges** and for performance of certain procedural operations with regard to the President of the Republic, members of the Government of the Republic, the auditor general, the chancellor of justice, the chief justice and justices of the Supreme Court and of judges and members of the Riigikogu in a criminal case dealt with under Council Regulation (EU) 2017/1939 the powers of the Prosecutor General are executed by the European Chief Prosecutor.[24]

b) The EPPO's Role Explained with Two Recent Cases Involving Estonia

10 To offer some understanding regarding the work of European Delegated Prosecutors in Tallinn let us look at two cases.

11 The European Public Prosecutor's Office (EPPO) in Tallinn (Estonia) has filed an indictment in the Harju County Court against five individuals and five companies, for fraud involving a project to develop IT systems, co-funded by the EU.

12 The facts date back to 2018, when a company specialised in transport, warehousing and customs services along the **e-commerce chain** applied to Enterprise Estonia (EAS), the national agency responsible for awarding and paying EU funds (currently named Estonian Business and Innovation Agency), requesting a subsidy from the European Regional Development Fund. The aim of the funds was to create an IT programme and carry out IT development activities, to implement the company's value-added sales and marketing activities and the end-to-end service of the company. The total cost of the project was around EUR 725,000 – 45% of which (around EUR 325,000) was financed by EU funds, and the remaining by the company's own funds.

13 To receive the EU contribution, the beneficiary of the funds submitted invoices and documents to certify that the company had made payments with the company's own resources to other companies providing the services. However, according to the investigation, the payments were never actually made.

[23] Code of Criminal Procedure §§ 126^4, 131^1, 213 and 447.
[24] Code of Criminal Procedure §§ 375 and 382^1.

According to the evidence, the beneficiary of the funds transferred the money to related companies, using false invoices to create the appearance of real commercial transactions, to mislead the agency managing the funds. The investigation revealed that the money ended up being transferred back to the beneficiary of the funds or to companies related or controlled by the beneficiary of the funds. **14**

The **pre-trial investigation** was carried out by the department of cyber and economic crimes of the Criminal Bureau of the Estonian Police and Border Guard Board (*Politsei- ja Piirivalveamet, kriminaalbüroo, küber- ja majanduskuritegude talitus*), under the direction of the EPPO. **15**

In October 2023 the European Delegated Prosecutor expected that the pre-trial hearing of the criminal case will be held in **Harju County Court** on 14 November 2023.[25] **16**

After the first preliminary hearing held in November 2023 the judge unfortunately had to be replaced and the second pre-trial hearing to schedule the future trial days was held only on 13 February 2024. As it was difficult to find suitable session times for all parties in the future, the first trial hearing got scheduled for 2 September 2024.[26] **17**

In **another case** the European Public Prosecutor's Office (EPPO) in Tallinn (Estonia) authorised search on 30 November 2023 at several locations, in a probe into a suspected fraud involving a **project to renovate street lighting** in the municipality of Põltsamaa. **18**

At issue is a project to renovate existing lighting in some streets of the m**unicipality of Põltsamaa**, co-financed by the **EU's Cohesion Fund**, and granted by Estonia's Environmental Investment Centre (EIC). **19**

However, there are grounds to believe that, at the time of the application, there was no existing lighting in some of the added street articles – and, therefore, that there were no legal prerequisites for applying for a subsidy for these articles. The **potential damage** to the EU budget amounts to around EUR 35,000. **20**

The investigation is still ongoing, to ascertain the nature and extent of the suspected criminal activities. No one has been officially declared a suspect.[27] **21**

[25] EPPO 2023c.
[26] Daily Äripäev 2024.
[27] EPPO 2023b.

4. Concluding Remarks and Use of the Compendium Chapter on Estonia

22 The EPPO has started its operation in Estonia successfully. Three European Delegated Prosecutors work in Estonia. Their mandate is to investigate crimes committed in Estonia that fall under the jurisdiction of the EPPO. While the number of cases may seem small compared to the workload of domestic prosecutors, it is important to note that Delegated Prosecutors in Estonia have only two assistants.

23 Their responsibilities exceed those of a domestic prosecutor. They must **regularly report their activities** to both the supervising European Prosecutor and the Permanent Chamber, which confirms all significant procedural decisions. As EPPO's role in the national procedural chain is still new, awareness efforts, training sessions, meetings with partners, and the creation of an efficient network for rapid information exchange are necessary. Delegated Prosecutors face a double workload even regarding technical tools. They must comply with domestic requirements and EPPO's internal procedural rules, updating all criminal proceedings information in EPPO's case management system.

24 In the discussions with the European Delegated Prosecutors the major concern they have indicated is the sharing of investigative resources with domestic investigations. The sharing of investigative resources (both in terms of investigative units and investigators) makes it difficult to speed up EPPO proceedings, and the lack of focus on a separate analysis may have affected the rate of discovery.

25 In the following the **presentation of the collection of laws**, source material and comments on Art. 26–33 EPPO Regulation starts with an overview of the contents of Art. 26 EPPO Regulation.

III. Rules on Investigations by the EPPO

SECTION 1
Rules on investigations

1. Article 26 Initiation of investigations and allocation of competences

1. Article 26 61
a) Introduction and Short Overview 63
b) Powers of the Estonian EDPs (Euroopa Delaatprokurör) by Virtue of articles 13, 17, and 26 EPPO Regulation 66
c) The Assessment Cycle (Verification) for Opening an Investigation Due to Indications of a Criminal PIF Offence 69
aa. Transfer of Information to Determine Competence 70
bb. EPPO Crime Report, Verifications (Article 24 Para 6) and Relevant Sources of Indications for a Criminal Offence Within EPPO's Competence 72
cc. Tax and Customs Board (Area of VAT Frauds and Customs Duties Fraud) 73
d) Competence and Reasonable Grounds for a Criminal Offence Within EPPO's Competence 74
aa. Determination of the Competent European Public Prosecutor 77
(1) The Union: Articles 24–25 EPPO Regulation .. 77
(a) The PIF Offences in Estonia 78
(b) Examples & Judgements for Reasonable Grounds for PIF Offences in Estonian Criminal Law – Overview 78
(c) Excerpts and Information from Selected Judgements Decided by Estonian Courts in the PIF Crimes Area 79
(2) Jurisdiction of and Exercise of Competence by the European Delegated Prosecutor in Estonia 80
bb. Competence of the EPPO, article 26 para 4 EPPO Regulation 80
e) Actions „If Decision to Open a Case" 80
f) Justiciability and Appeals 81
g) Fraud-Related Peculiarities 86
aa. In National Case-Law .. 86
bb. In the Case-Law of the ECJ and ECtHR 86

1. Where, **in accordance with the applicable national law,** there are **reasonable grounds to believe that** an offence within the competence of the EPPO is being or has been committed, a European Delegated Prosecutor in a Member State which **according to its national law** has jurisdiction over the offence shall, without prejudice to the rules set out in article 25(2) and (3), initiate an investigation and note this in the case management system.2. Where upon verification in accordance with article 24(6), the EPPO decides to initiate an investigation, it shall without undue delay inform the authority that reported the criminal conduct in accordance with article 24(1) or (2).
3. Where no investigation has been initiated by a European Delegated Prosecutor, the Permanent Chamber to which the case has been allocated shall, under the conditions set out in para 1, instruct a European Delegated Prosecutor to initiate an investigation.
4. A case shall as a rule be initiated and handled by a European Delegated Prosecutor from the Member State where the focus of the criminal activity is or, if several connected offences within the competences of the EPPO have been committed, the Member State where the bulk of the offences has been committed. A European Delegated Prosecutor of a different Member State that has jurisdiction for the case may only initiate or be instructed by the competent Permanent Chamber to initiate an investigation where a deviation from the rule set out in the previous sentence is duly justified, considering the following criteria, in order of priority:
(a) the place of the suspect's or accused person's habitual residence;
(b) the nationality of the suspect or accused person;
(c) the place where the main financial damage has occurred.
5. Until a decision to prosecute under article 36 is taken, the competent Permanent Chamber may, in a case concerning the jurisdiction of more than one Member State and after consultation with the European Prosecutors and/or European Delegated Prosecutors concerned, decide to:
(a) reallocate the case to a European Delegated Prosecutor in another Member State;
(b) merge or split cases and, for each case choose the European Delegated Prosecutor handling it,
if such decisions are in the general interest of justice and in accordance with the criteria for the choice of the handling European Delegated Prosecutor in accordance with para 4 of this article.
6. Whenever the Permanent Chamber is taking a decision to reallocate, merge or split a case, it shall take due account of the current state of the investigations.
7. The EPPO shall inform the competent national authorities without undue delay of any decision to initiate an investigation.

1 Estonian EDPs will open an investigation by determining the **relevant national law**, especially the harmonized PIF offences:

a) Introduction and Short Overview

The main information required for the EDPs are the offences that determine their competence. **2**

Sources & national articles 1: Article 26 EPPO Regulation **3**

Overview	
Relevant national law	Sources: Penal Code (Karistusseadustik)[28]; Code of Criminal Procedure (Kriminaalmenetluse seadustik (lühend - KrMS)
"an offence within the competence of the EPPO"	For the text of the offences that are mentioned by Art. 26 EPPO Regulation "an offence within…" cf. already the EU Fraud Commentary (Implementation of the PIF Directive) · Fraud: 209, 209[1] Penal Code, 210, 217[2] Penal Code; § 389[1], § 389[2] has been repealed, Penal Code (tax-related) · Customs Code · Corruption : 294–298[1] Penal Code, · Criminal Organisations: §§ 255 and 256. · Misappropriation: 201 Penal Code
"[competence of] an EDP Estonia "jurisdiction"	ss. 7[1] and 7[2] Public Prosecutor's Act, para 30 CPC Cf. ss. from the Estonian Penal Code and cf. Art. 11 of the PIF Directive ss. 6, 10 (territory, place of commission principle), 7 para 1 2) and para 2 2) (nationality principle), 11 Place of commission of fact. In Estonia, the EDP exercises full prosecutorial powers equivalent to the national Prosecutor's Office when handling cases falling under the EPPO Regulation. The EDP has territorial competence across the entire territory of Estonia and may issue all authorisations, applications, and procedural decisions required in EPPO cases, including covert measures, investigative acts, seizure and confiscation procedures (see below → Art 30). Personally, the EDP acts independently from the Estonian prosecution service when

[28] As the law may change after the publication of this compendium, we refer you to the permanently updated version of the official translation https://www.riigiteataja.ee/en/eli/ee/502012024009/consolide/current. Accessed 30 June 2025.

	fulfilling EPPO functions but may also perform national prosecutorial tasks if authorised by the AG.
	§ 11. Penal Code Place of commission of act[29] (1) An act is deemed to be committed at the place where: 1) the person acted; 2) the person was legally required to act; 3) the consequence which constitutes a necessary element of the offence occurred; or 4) according to the assumption of the person, the consequence which constitutes a necessary element of the offence should have occurred. (2) Complicity is deemed to be committed at the place where: 1) the principal offender committed the criminal offence; 2) the accomplice acted; 3) the accomplice was legally required to act; or 4) according to the assumption of the accomplice, the consequence which constitutes a necessary element of the offence should have occurred. (3) If an accomplice to a criminal offence committed in a foreign state commits an act in the territory of Estonia and pursuant to the penal law of Estonia such act is punishable and the act of the principal offender is punishable at the place of commission of the act, or no penal power is applicable at the place of commission of the act, the penal law of Estonia applies to the accomplice.

[29] **§ 11. Teo toimepanemise koht**
1) Tegu on täide viidud kohas, kus:
1) isik tegutses;
2) isik oli õiguslikult kohustatud tegutsema;
3) saabus süüteokoosseisu kuuluv tagajärg või
4) isiku ettekujutuse järgi oleks pidanud saabuma süüteokoosseisu kuuluv tagajärg.
2) Teost osavõtt on toime pandud kohas, kus:
1) täideviija pani toime kuriteo;
2) osavõtja tegutses;
3) osavõtja oli õiguslikult kohustatud tegutsema või
4) osavõtja ettekujutuse järgi oleks pidanud saabuma süüteokoosseisu kuuluv tagajärg.
3) Kui välismaal täideviidud kuriteost osavõtja pani teo toime Eesti territooriumil ning kui Eesti karistusseaduse järgi on selline tegu karistatav ja teo täideviimise kohas on täideviija tegu karistatav või kui täideviimise kohas ei kehti ükski karistusõigus, siis kehtib osavõtja kohta Eesti karistusseadus.

§ 7. Applicability of penal law by reason of person concerned
[RT I 2004, 46, 329 – entry into force 01.07.2004]

(1) The penal law of Estonia applies to an act committed outside the territory of Estonia if such act constitutes a criminal offence pursuant to the penal law of Estonia and is punishable at the place of commission of the act, or if no penal power is applicable at the place of commission of the act and if:
1) the act is committed against a citizen of Estonia or a legal person registered in Estonia; or
2) the offender is a citizen of Estonia at the time of commission of the act or becomes a citizen of Estonia after the commission of the act, or if the offender is an alien who has been detained in Estonia and is not extradited.
[RT I 2004, 46, 329 – entry into force 01.07.2004]

(2) The penal law of Estonia applies:
1) to an act committed outside the territory of Estonia if such act constitutes a criminal offence pursuant to the penal law of Estonia and the offender is a member of the Defence Forces performing his or her duties;
2) to grant, acceptance or arranging receipt of bribes, or influence peddling committed outside the territory of Estonia, or to crimes which damage the financial interests of the European Union, if such act was committed by an Estonian citizen, Estonian official or a legal person registered in Estonia, or an alien who has been detained in Estonia and who is not extradited, or if such person participated therein;
[RT I, 20.12.2019, 1 – entry into force 30.12.2019]
3) joining, participating in and supporting a foreign act of aggression committed outside the territory of Estonia, if the act was committed by a person who was an Estonian citizen, a person holding an Estonian residence permit or a right of residence, or a legal person registered in Estonia at the time of the act.
[RT I, 28.04.2022, 24 – entry into force 08.05.2022]

	(3) For the purposes of this Code, any assets, income and expenses covered by the European Union's budget and the budgets managed by the structural units of the European Union are regarded as the financial interests of the European Union. [RT I, 20.12.2019, 1 – entry into force 30.12.2019]

Source: The authors.

4 First, it needs to be determined, which General provisions of national law apply regarding the initiation the Penal CodeP: Mainly the Estonian Code of Criminal Procedure will be applicable. The **structure of the Code** is as follows:

Code of Criminal Procedure – Contents

1 General Provisions
2 Subjects of Criminal Proceedings
3 Evidence
3^1 Covert Activities
3^2 (Passenger name record information)
4 Ensuring Criminal Proceedings (Ensuring compliance in criminal proceedings)
5 Procedural Documents, Translation and Summons
6 Time Limits for Procedures
7 Costs of Criminal Proceedings
8 Pre-Trial Procedure
9 Simplified Procedures
10 Litigation County Court
11 Appeals Procedure
12 Cassation Procedure
13 Procedure for Review of a Judgment
14 Special Procedure for preparing a prosecution for the President of the Republic, A Member of The Government of the Republic, the Auditor of Chance, the Chairperson of the Supreme Court and the Performance of some proceedings […].

b) Powers of the Estonian EDPs (*Euroopa Delaatprokurör*)

5 The Estonian EDPs are vested by virtue of Articles 13, 17, and 26 EPPO Regulation with the same powers as a national prosecutor under s. 7^2 of the amended Public Prosecutors Act and s. 30 para 3 CPC:

§ 7[2]. European Delegated Prosecutor[30] Public Prosecutor's Act

(1) A European Delegated Prosecutor is a person appointed from Estonia to the European Public Prosecutor's Office pursuant to article 17 of Council Regulation (EU) 2017/1939. In performing the tasks arising from the Regulation, the European Delegated Prosecutor is outside the Estonian Prosecutor's Office and is independent of the Estonian Prosecutor's Office.

(2) The European Delegated Prosecutor may perform the duties of a national prosecutor based on a decision of the Prosecutor General, insofar as this does not prevent him or her from performing the duties arising from Council Regulation (EU) 2017/1939.

(3) The provisions of this Act shall not apply to the European Delegated Prosecutor in the performance of duties arising from Council Regulation (EU) 2017/1939, unless otherwise provided by law. In the performance of the duties of a national prosecutor, all the provisions of this Act shall apply to the European Delegated Prosecutor.

(4) A delegated prosecutor appointed from Estonia shall be appointed a state[31] prosecutor for the term of office of the delegated prosecutor.

Subchapter 2 **6**

Prosecutor's Office

§ 30. Prosecutor's Office in criminal proceedings CPC

(1) The Prosecutor's Office directs pre-trial proceedings, ensures their legality and efficiency and represents public prosecution in the courts. Where provided for by this Code, the Prosecutor's Office has a right to file a civil court claim or a statement of a public-law claim. Unless otherwise provided by this Code, the Prosecutor's Office does not have, for the purposes of collecting the evidence required for proving such a claim, the rights of the proceedings authority as provided by this Code. [32]

[30] **§ 72[2]. Euroopa delegaatprokurör** Prokuratuuriseaduse muutmise seadus

(1) Euroopa delegaatprokurör on nõukogu määruse (EL) 2017/1939 artikli 17 alusel Eestist Euroopa Prokuratuuri ametisse nimetatud isik. Määrusest tulenevate ülesannete täitmisel on Euroopa delegaatprokurör väljaspool Eesti prokuratuuriteenistust ning on oma tegevuses Eesti prokuratuurist sõltumatu.

(2) Euroopa delegaatprokurör võib täita riigisisese prokuröri ülesandeid riigi peaprokuröri otsuse alusel niivõrd, kuivõrd see ei takista teda täitmast nõukogu määrusest (EL) 2017/1939 tulenevaid ülesandeid.

(3) Nõukogu määrusest (EL) 2017/1939 tulenevate ülesannete täitmisel ei kohaldata Euroopa delegaatprokurörile käesoleva seaduse sätteid, kui seadusest ei tulene teisiti. Riigisisese prokuröri ülesannete täitmisel kohalduvad Euroopa delegaatprokurörile kõik käesoleva seaduse sätted.

(4) Eestist ametisse nimetatud delegaatprokurör nimetatakse delegaatprokuröri ametiajaks riigiprokuröriks."

[31] Be aware that according to the Estonian legal system and the linguistic translation there are differences between powers and benefits of just "public prosecutors" and "state prosecutors". State prosecutors are the high-ranking prosecutors working in the Office of the Prosecutor General.

[32] **2. Jagu Prokuratuur § 30. Prokuratuur kriminaalmenetluses**

1) Prokuratuur juhib kohtueelset menetlust, tagades selle seaduslikkuse ja tulemuslikkuse ning esindab riiklikku süüdistust kohtus. Käesolevas seadustikus sätestatud juhul on prokuratuuril õigus esitada tsiviilhagi või avalik-õiguslik nõudeavaldus. Kui käesolev seadustik ei sätesta teisiti, ei ole prokuratuuril tsiviilhagi või avalik-õigusliku nõudeavalduse tõendamiseks vajalike tõendite kogumisel käesolevas seadustikus sätestatud menetleja õigusi. [RT I, 05.02.2019, 2 - jõust. 15.02.2019]

[RT I, 05.02.2019, 2 – entry into force 15.02.2019]
(2) The powers of the Prosecutor's Office in criminal proceedings are exercised, in the name of the Prosecutor's Office, by a prosecutor who acts independently and is subject only to the law. The powers of the Prosecutor's Office provided by this Code in relation to conducting proceedings concerning a civil court claim or statement of a public-law claim are exercised by the prosecutor or another person authorised by the Prosecutor General or by the relevant chief prosecutor.
[RT I, 05.02.2019, 2 – entry into force 15.02.2019]
(3) When performing a task of the European Prosecutor's Office emanating from Council Regulation (EU) 2017/1939 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office (OJ L 283, 31.10.2017, pp 1–71), a European Prosecutor or a European Delegated Prosecutor have the same rights as those held by the Prosecutor's Office under this Code.
[RT 29.12.2020, 1 – entry into force 08.01.2021]

§ 213. Prosecutor's Office in pre-trial proceedings
(1) The Prosecutor's Office presides over pre-trial proceedings and ensures their legality and effectiveness, and is authorised to:
1) where this is needed, perform procedural operations;
[RT I 2004, 46, 329 – entry into force 01.07.2004]
2) be present at the performance of procedural operations and intervene during such operations;
3) terminate criminal proceedings;
4) require the materials of a criminal file and any other materials of a case to be handed over so that it may acquaint itself with those materials and verify them;
5) issue instructions to investigative authorities;
6) set aside and vary any orders of investigative authorities;
7) remove an official of an investigative authority from criminal proceedings;
8) change the investigative jurisdiction of a criminal case;
9) declare pre-trial proceedings completed;
10) require an official of an investigative authority to present oral or written explanations concerning circumstances related to proceedings;

2) Prokuratuuri volitusi kriminaalmenetluses teostab prokuratuuri nimel prokurör sõltumatult, alludes ainult seadusele. Käesolevas seadustikus sätestatud prokuratuuri volitusi tsiviilhagi ja avalik-õigusliku nõudeavalduse menetlemisel teostab prokurör või riigi peaprokuröri või juhtivprokuröri volitatud muu isik. [RT I, 05.02.2019, 2 - jõust. 15.02.2019]
3) ***Nõukogu määrusest (EL) 2017/1939, millega rakendatakse tõhustatud koostööd Euroopa Prokuratuuri asutamisel (ELT L 283, 31.10.2017, lk 1–71), tulenevate Euroopa Prokuratuuri ülesannete täitmisel on Euroopa prokuröril ja Euroopa delegaatprokuröril samad õigused, mis on prokuratuuril käesoleva seadustiku kohaselt.*** [RT I, 29.12.2020, 1 - jõust. 08.01.2021].

11) assign the task of appointing a probation officer to the Head of the probation supervision department;
12) in pre-trial proceedings, perform any other tasks provided by this Code.
(2) When exercising the rights mentioned in clauses 1 and 2 of subpara 1 of this article, the Prosecutor's Office enjoys the rights of an investigative authority.
[...]
(5) To ensure the legality and efficacy of pre-trial proceedings, the Prosecutor General may issue general guidelines to the Prosecutor's Office and to investigative authorities. Guidelines intended for investigative authorities are agreed with the Head of the investigative authority for which the instructions are meant.
[RT I 2004, 46, 329 – entry into force 01.07.2004]
(6) A higher-ranking prosecutor may require a lower-ranking prosecutor to present oral or written explanations concerning circumstances related to proceedings and may, by their order, revoke an unlawful or unfounded order, instruction or demand of the lower-ranking prosecutor. The opinion set out in the order of the higher-ranking prosecutor on the interpretation and application of a legal rule is mandatory for the lower-ranking prosecutor in criminal proceedings in that case.
[RT I, 23.02.2011, 1 – entry into force 01.09.2011]
(7) If an investigative authority finds that carrying out an order issued by the Prosecutor's Office is impractical due to a lack of funds or for another valid reason, the Head of the authority notifies this to the Prosecutor General who decides the matter and informs the Minister in charge of the policy sector.
[RT I 2004, 46, 329 – entry into force 01.07.2004]
(8) Where a criminal case is being deal with under Council Regulation 2017/1939, the provisions of subparas 5–7 of this article apply to the European prosecutor or the European delegated prosecutor – unless this is contrary to that Regulation.
[RT I, 29.12.2020, 1 – entry into force 08.01.2021]

c) The Assessment Cycle (Verification) for Opening an Investigation Due to Indications of a Criminal PIF Offence

The information about a **PIF offence** can arrive arrive at the EPPO headquarters in at least two main ways. The first one is stipulated by Art. 24 para 1 EPPO Regulation. The second is described in Art. 24 para 2 EPPO Regulation.[33] The third way the EPPO can **7**

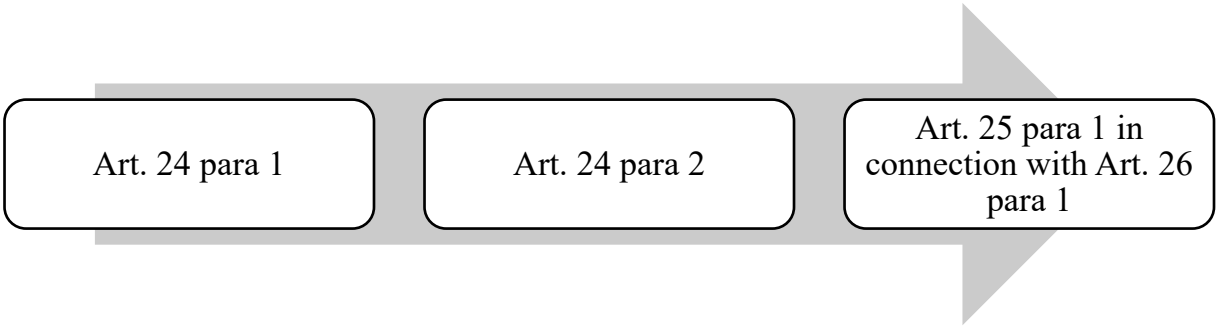
[33] Excerpts from supranational law: ***SECTION 2 Exercise of the competence of the EPPO*** *article 24* **Reporting, registration and verification of information**
1. The institutions, bodies, offices and agencies of the Union and the authorities of the Member States competent under applicable national law shall without undue delay report to the EPPO any criminal conduct in respect of which it could exercise its competence in accordance with article 22, article 25(2) and (3).
2. When a judicial or law enforcement authority of a Member State initiates an investigation in respect of a criminal offence for which the EPPO could exercise its competence in accordance with article 22, article 25(2) and

receive information is via the EPPO Crime Report, which has a direct conncetion to the EPPO Case Management System.

aa. Transfer of Information to Determine Competence

8 Thus supranational law determines the transfer of information that may constitute a PIF offence according to Estonian PIF law, ie the harmonized PIF Directive Implementation legal area. This process can be visualized as follows:

Figure 3 Article 24 para 1 and 2 EPPO Regulation (Scheme)



9 Next there can be a criminal complaint by virtue of s. 195 CPC, which indicates that a PIF crime could have been committed or is being committed:

> **§ 195. Crime report**
> (1) A crime report is presented to an investigative authority or the Prosecutor's Office orally or in writing.[34]

(3), or where, at any time after the initiation of an investigation, it appears to the competent judicial or law enforcement authority of a Member State that an investigation concerns such an offence, that authority shall without undue delay inform the EPPO so that the latter can decide whether to exercise its right of evocation in accordance with article 27.
2. JAGU
Euroopa prokuratuuri pädevuse teostamine
Artikkel 24
Teabe esitamine, registreerimine ja kontrollimine
1. Liidu institutsioonid, organid ja asutused ning liikmesriikide ametiasutused, kellel on pädevus kohaldatava siseriikliku õiguse alusel, teavitavad Euroopa Prokuratuuri põhjendamatu viivituseta igast kuriteost, mille puhul viimane võib teostada oma pädevust kooskõlas artikliga 22 ning artikli 25 lõigetega 2 ja 3.
2. Kui liikmesriigi õigus- või õiguskaitseasutus algatab uurimise seoses kuriteoga, mille puhul Euroopa Prokuratuur võib teostada oma pädevust kooskõlas artikliga 22 ning artikli 25 lõigetega 2 ja 3 või kui liikmesriigi pädev õigus- või õiguskaitseasutus leiab ükskõik millal pärast uurimise algatamist, et uurimine puudutab sellist kuritegu, teavitab see asutus põhjendamatu viivituseta Euroopa Prokuratuuri, et viimasel oleks võimalik otsustada, kas ta kasutab oma evokatsiooniõigust kooskõlas artikliga 27.

[34] **§ 195. Kuriteoteade**
1) Kuriteoteade esitatakse uurimisasutusele või prokuratuurile suuliselt või kirjalikult.
2) Teade, milles isikut süüstatakse kuriteos, on kuriteokaebus.
3) Kohapeal vahetult esitatud suuline kuriteoteade protokollitakse ja protokolli koopia antakse kuriteoteate esitajale. Telefoni teel edastatud kuriteoteade talletatakse kirjalikult või helisalvestatakse.
[RT I, 06.01.2016, 5 - jõust. 16.01.2016]

(2) A report in which a crime is incriminated to a person is a criminal complaint.
(3) A report is filed concerning an oral crime report that is made first-hand on the scene and a copy of the report is handed to the person who made the crime report. A crime report that is communicated by telephone is taken down in writing or audio recorded.
[RT I, 06.01.2016, 5 – entry into force 16.01.2016]
(4) If the person who presented a crime report is an individual victim, a written acknowledgement of receipt of the crime report is sent to them within 20 days following such receipt; such an acknowledgement may also be included in a notice of refusal to commence criminal proceedings or in a summons to a procedural operation.
[RT I, 06.01.2016, 5 – entry into force 16.01.2016]
(5) Where this is needed, linguistic assistance is provided to a victim who presents a crime report. If the victim applies for this, an acknowledgement of receipt of the crime report is provided to them in a language that they understand.
[RT I, 06.01.2016, 5 – entry into force 16.01.2016]

National law further provides for relevant legislation: **10**

§ 197. Other information indicating that a crime has been committed[35] **11**
(1) Indication for criminal proceedings may consist in information that the Prosecutor's Office or an investigative authority identifies in a publication and that indicates that a crime has taken place.
(2) Indication for criminal proceedings may consist in information indicating that a crime has taken place, which an investigative authority or the Prosecutor's Office has ascertained in the performance of their duties.

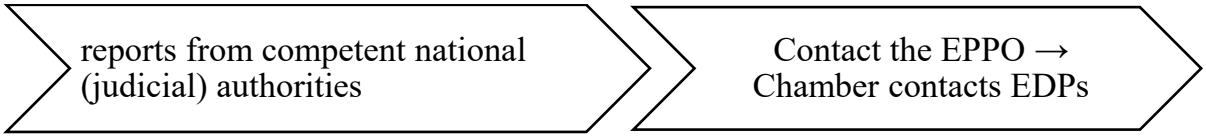
4) Kui kuriteoteate esitajaks on füüsilisest isikust kannatanu, saadetakse talle kuriteoteate kättesaamise kohta 20 päeva jooksul selle saamisest arvates kirjalik kinnitus, mis võib sisalduda kriminaalmenetluse mittealustamise teatises või kutses menetlustoimingule.
[RT I, 06.01.2016, 5 - jõust. 16.01.2016]
5) Vajaduse korral osutatakse kannatanust kuriteoteate esitajale keeleabi. Kannatanu soovil antakse talle kinnitus kuriteoteate vastuvõtmise kohta talle arusaadavas keeles.
[RT I, 06.01.2016, 5 - jõust. 16.01.2016]
[35] **§ 197. Kuriteole viitav muu teave**
1) Kriminaalmenetluse ajendiks võib olla prokuratuuri või uurimisasutuse sedastatud teabelevis avaldatud kuriteole viitav teave.
2) Kriminaalmenetluse ajend võib olla kuriteole viitav teave, mille on sedastanud uurimisasutus või prokuratuur oma ülesandeid täites.

12 Taking this information into consideration the EDPs must decide based on the information, which they receive either from national authorities, the EPPO chamber or private parties.[36] To open an investigation the Regulation asks the EDPs to assess if "*there are reasonable grounds to believe that an offence within the competence of the EPPO is being or has been committed*". According to the Glossary of the Estonian Prosecutor pre-trial proceedings are „only preparations for court proceedings. In the pre-trial proceedings, the investigating authority and the prosecutor's office find out the circumstances that justify and accuse the suspect and the accused. The purpose of pre-trial proceedings is to gather evidence and create the necessary conditions for court proceedings.[37] If the EDP decides to open an investigation at the end of the assessment he/she needs i.e. the EDP shall **open a case file**.[38]

bb. EPPO Crime Report, Verifications (Article 24 Para 6) and Relevant Sources of Indications for a Criminal Offence Within EPPO's Competence

13 According to Art. 24 para 6 EPPO Regulation the EDPs will need to assess and verify the information that are submitted to them via at least two (or three) different ways:

14 *Figure 4: National (indirect way of) Obtaining information for the EPPO competence and the exercise of jurisdiction*



Art. 24 para 2: Tax and Customs Board, regional police offices, General Prosecution Office

[36] Criminal Chamber of the Supreme Court, 1-24-4770/14, 22.05.2025: „The Code of Criminal Procedure does not prescribe the form and form in which the information must be submitted on the basis of which criminal proceedings are initiated and a permit for surveillance is applied for. Case law has accepted the understanding that when assessing the justification for a criminal suspicion, it is permissible to rely on information considered as independent evidence and on general human, forensic and criminal procedural experience. Consequently, the court does not necessarily have to rely on the types of evidence listed in § 63 (1) and (11) of the Criminal Procedure Code when deciding whether to grant a permit for surveillance. (p 22)".

[37] "Kohtueelne menetlus on vaid kohtumenetluse ettevalmistus. Kohtueelses menetluses selgitavad uurimisasutus ja prokuratuur välja kahtlustatavat ja süüdistatavat õigustavad ja süüdistavad asjaolud. Kohtueelse menetluse eesmärk on koguda tõendusteavet ja luua kohtumenetluseks vajalikud tingimused", see https://www.prokuratuur.ee/et/pressile/seletav-sonastik. Accessed 30 June 2025.

[38] **Article 45 EPPO Regulation**
Case files of the EPPO
1. Where the EPPO decides to open an investigation or exercise its right of evocation in accordance with this Regulation, the handling European Delegated Prosecutor shall open a case file.
The case file shall contain all the information and evidence available to the European Delegated Prosecutor that relates to the investigation or prosecution by the EPPO.
Once an investigation has been opened, the information from the register referred to in article 44(4)(a) shall become part of the case file.
2. The case file shall be managed by the handling European Delegated Prosecutor in accordance with the law of his/her Member State.

In the area of anti-corruption s. 3 and 6 Anti-Corruption Act obliges the civil servants of Estonia to supply the relevant institutions with information about suspicious conduct.[39] **15**

Figure 5: Supranational (direct way of) Obtaining information for the EPPO competence and the exercise of jurisdiction **16**

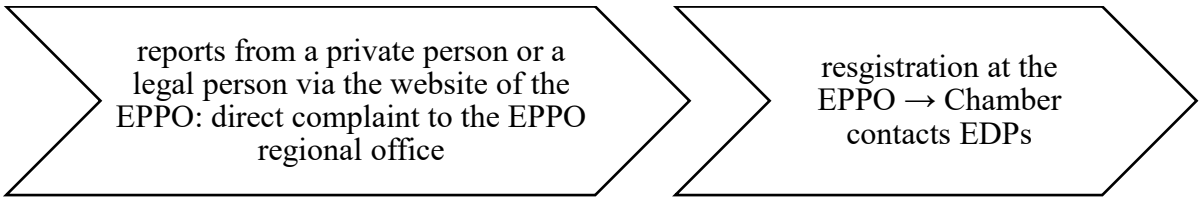
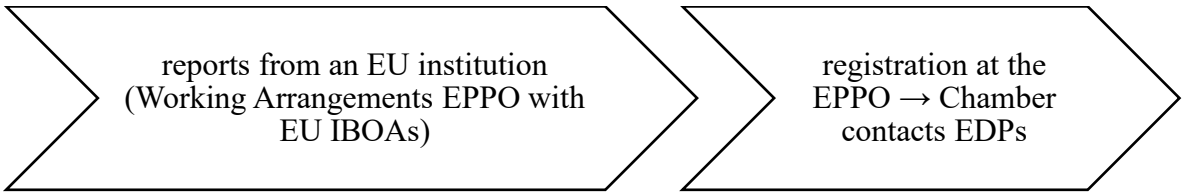


Figure 6: Obtaining information for exercise of competence from EU IBOAs **17**



If the assessment is positive and the EDP decides to continue it still needs to recognize its powers according to Estonian law and it needs to further assess competence and reasonable grounds for a PIF offence. **18**

cc. Tax and Customs Board (Area of VAT Frauds and Customs Duties Fraud)

In the area of non-VAT revenue frauds Estonian authorities can use special databases to conduct investigations and discover fraud and irregularities.[40] **19**

[39] **§ 6. Notification of incidents of corruption Anti-corruption Act**
(1) An official is not permitted to conceal violations of the prohibitions specified in subpara 3 (1) of this Act or any other incidents of corruption known to the official.
(2) If agencies performing public duties, their officials, persons exercising supervision over agencies, persons controlling declarations or bodies conducting proceedings concerning an offence are notified of an incident of corruption, the confidentiality of the fact of notification shall be ensured. Information about the fact of notification may be disclosed only with the written consent of the notifier. If the notifier is involved as a witness in the proceedings concerning the offence, the provisions of proceedings concerning the offence apply to incidents of corruption without violating the confidentiality of the fact of notification.
(3) If the notifier knowingly communicates incorrect information, the confidentiality of the fact of notification shall not be ensured.
(4) Courts shall apply shared burden of proof for the protection of the person having notified of an incident of corruption. A person having recourse to a court shall state in his or her application the facts based on which it may be presumed that he or she has been subject to unequal treatment. If the person against whom the application was filed does not prove otherwise, it is presumed that unequal treatment was caused by notification of an incident of corruption.
(5) The principles provided for in this article also apply in the case of notification of an incident of corruption occurred outside the performance of public duties.

[40] See https://joinup.ec.europa.eu/collection/study-data-analytics-member-states-and-citizens/discussion/blog-10-estonian-tax-and-customs-board-analytics-solution-fraud-detection-koke-system-and-automated. Accessed 30 June 2025.

d) Competence and Reasonable Grounds for a Criminal Offence Within EPPO's Competence

20 The EDPs (in the first office term i.e. currently *Silvia Kruusmaa*, *Kati Maitse-Pärkna and Kristiina Savtšenkova* [41]) of Estonia are in the centre of the EPPO in Estonia and are supervised and supported by the Estonian EP *Kristel Siitam-Nyiri*. The EDPs in the → **Centre of TALLINN** (Wismari 7 10142 Tallinn) must assess according to Art. 26 para 1 EPPO Regulation, which stipulates the principle of mandatory proceedings from the point of view of supranational law and which is similar to s. 6 Estonian Code of criminal procedure if there is an initial suspicion for a criminal offence falling within the competence of the EPPO. For the interpretation and better understanding of what Art. 26 para 1 EPPO Regulation wants to address, it suffices to read the national article:

21

> **§ 6. Principle of mandatory criminal proceedings CPC**
> Investigative bodies and Prosecutors' Offices are required to conduct criminal proceedings ***upon the appearance of facts referring to a criminal offence***,[42] unless the circumstances provided for in § 199 of this Code exist which preclude criminal proceedings or unless the grounds to terminate criminal proceedings pursuant to subpara 201 (2), §§ 202, 203, 203[1], 204, 205, 205[1], 205[2] or subpara 435 (3) of this Code exist. [RT I, 21.06.2014, 11 – entry into force 01.07.2014]

22 Summarizing this article's output it becomes apparent that there must be no absolute grounds for an exclusion of the criminal proceedings.

23

> **Chapter 8 PRE-COURT PROCEDURE Division 1 Commencement and Termination of Criminal Proceedings**
> **§ 193. Commencement of criminal proceedings CPC**
> (1) The investigative body or the general Prosecutor's Office commences criminal proceedings by the first investigative activity or other procedural operation ***if an indication and the grounds for commencing such proceedings are present*** and if the circumstances provided in subpara 1 of article 199 of this Code are absent.[43]

[41] Silvia Kruusmaa Public Prosecutor, Phone: 613 9400, E-Mail: silvia.kruusmaa@prokuratuur.ee, Status: European Delegated Prosecutor; Kati Maitse-Pärkna Public Prosecutor, Phone: 694 4414, E-Mail: kati.maitse-parkna@prokuratuur.ee, Status: European Delegated Prosecutor.

[42] **§ 6. Kriminaalmenetluse kohustuslikkuse põhimõte**
Kuriteo asjaolude ilmnemisel on uurimisasutus ja prokuratuur kohustatud toimetama kriminaalmenetlust, kui puuduvad käesoleva seadustiku §-s 199 sätestatud kriminaalmenetlust välistavad asjaolud või kui käesoleva seadustiku § 201 lõike 2, § 202, 203, 203[1], 204, 205, 205[1], 205[2] või § 435 lõike 3 kohaselt puudub alus kriminaalmenetlus lõpetada. [RT I, 21.06.2014, 11 - jõust. 01.07.2014].

[43] **8. Peatükk KOHTUEELNE MENETLUS**
1. jagu Kriminaalmenetluse alustamine ja lõpetamine
§ 193. Kriminaalmenetluse alustamine

(2) If criminal proceedings are commenced by an investigative body, the body shall immediately notify the Prosecutor's Office of the commencement of proceedings.
(3) If criminal proceedings are commenced by the Prosecutor's Office. the Office shall transmit the materials of the criminal matter in accordance with investigative jurisdiction.

The Supreme Court of Estonia has decided on ss. 193 and 194 CPC. Thus, these judgements establish the limits and thresholds for the actions of the EDPs regarding the investigation of PIF offences. **24**

Supreme Court, Case number:3-1-1-60-10, ECLI: EE: RK: 2010: 3.1.1.60.10.330.

"If, in making a court judgment, doubts must be interpreted in favour of the accused based on the principle *in dubio pro reo*, the provisions of § 6 of the Code of Criminal Procedure require that the decision on initiation of criminal proceedings be based on the principle of in dubio pro duriore. At the same time, it cannot be denied that even with the initiation of criminal proceedings alone, individuals may be stigmatized due to the prevailing attitudes in society. Therefore, the initiation of criminal proceedings in a situation where there is no suspicion of a crime at all or is purely theoretical must be condemned."

Supreme Court, Case number:3-1-1-41-08, ECLI: EE: RK: 2008: 3.1.1.41.08.303

"Pursuant to the provisions of § 193 (1) and § 194 (2) of the Penal CodeP, pre-trial proceedings in a criminal matter shall be commenced when the elements of a criminal offence have become apparent (if a suspicion of a criminal offence has arisen). Suspected criminal offences are suspicions of the most serious offences, the validity of which can only be verified through criminal proceedings (initially in pre-trial proceedings and, if necessary, in subsequent court proceedings). It is important to keep in mind that no one can be convicted of a criminal offence because of pre-trial proceedings alone, because according to § 146 of the Constitution only a court adjudicates and according to § 211 of the Penal CodeP the purpose of pre-trial proceedings is only to create conditions for court proceedings."[44]

1) Uurimisasutus või prokuratuur alustab kriminaalmenetlust esimese uurimis- või muu menetlustoiminguga, kui selleks on ajend ja alus ning puuduvad käesoleva seadustiku § 199 lõikes 1 sätestatud asjaolud.
2) Kui kriminaalmenetlust alustab uurimisasutus, teatab ta menetluse alustamisest viivitamata prokuratuurile.
3) Kui kriminaalmenetlust alustab prokuratuur, edastab ta kriminaalasja materjalid uurimisalluvuse kohaselt.

[44] See https://www.riigiteataja.ee/kohtulahendid/detailid.html?id=206128583. Accessed 30 June 2025.

Supreme Court, Case number: 4-21-3478 / 29, Decision date: 31.5.2022, ECLI: EE: RK: 2022: 4.21.3478.8294 [concealment of tax liability and unjustified increase of claim for refund, fraud]

"The current law of criminal procedure no longer knows the stage of initiation of a so-called criminal matter [cf. § 93 (3) of the Code of Criminal Procedure in the version in force before 1 July 2000]. Pursuant to § 193 (1) of the Penal CodeP, criminal proceedings are initiated with the first investigative or another procedural act. When initiating or not initiating criminal proceedings based on a criminal notice (§ 195 of the Penal CodeP), the person conducting the proceedings shall first proceed from the circumstances described in the criminal notice, generally assuming their accuracy. It is for the criminal proceedings to determine whether there is evidence of the alleged offence. Although the person conducting the proceedings has the right to request additional information from the submitter of the criminal notice to decide on the commencement of criminal proceedings [§ 198 (1^1)], it may not impose the burden of proving a criminal offence on the submitter. It is particularly reprehensible for a prosecutor to request from a whistleblower, to initiate criminal proceedings, evidence that is in the possession of a third party and is likely to be obtained only by public coercion. (p 28)

The non-initiation of criminal proceedings is justified, in particular, if the act described in the criminal record does not, even if proven, correspond to the characteristics of any constituent part of the criminal record; this act would have lapsed as a criminal offence or if the investigation of the act would be hindered by other circumstances prescribed in subpara 1 or 2 of § 199 of the Penal CodeP. However, the above does not exclude the possibility to consider the prospects of gathering evidence when deciding to initiate criminal proceedings (see also Supreme Court judgement No 1-20-79 / 9, p 31). However, by not initiating criminal proceedings due to the impossibility of gathering evidence, the person conducting the proceedings may not act arbitrarily or use the reference to a lack of evidence as a mere excuse for not complying with the principle of legality. (p 29)"[45]

[45] "Kehtiv kriminaalmenetlusõigus ei tunne enam nn kriminaalasja algatamise staadiumi (vrd kriminaalmenetluse koodeksi enne 1. juulit 2000 kehtinud redaktsiooni § 93 lg 3). KrMS § 193 lg 1 kohaselt alustatakse kriminaalmenetlust esimese uurimis- või muu menetlustoiminguga. Kuriteoteate (KrMS § 195) alusel kriminaalmenetluse alustamisel või alustamata jätmisel tuleb menetlejal lähtuda esmajoones kuriteoteates kirjeldatud asjaoludest, eeldades üldjuhul nende õigsust. Selle kontrollimine, kas väidetava kuriteo kohta leidub ka tõendeid, on kriminaalmenetluse ülesanne. Kuigi menetlejal on õigus nõuda kuriteoteate esitajalt kriminaalmenetluse alustamise otsustamiseks täiendavaid andmeid (KrMS § 198 lg 11), ei tohi ta panna kuriteo tõendamise kohustust kuriteoteate esitajale. Iseäranis taunitav on see, kui menetleja nõuab kriminaalmenetluse alustamiseks kuriteoteate esitajalt sellist tõendusteavet, mis on kolmanda isiku valduses ja mida on tõenäoline saada vaid riiklikku sunnivõimu kasutades. (p 28)

The initial suspicion must relate to one of the offences within the EPPO's competence and it must fall into the competence of a regional office in Estonia. The national criminal offences harmonized by the PIF Directive apply for the question of competence in combination with Art. 23 EPPO Regulation, as specified in the Short Overview Box above. **25**

aa. Determination of the Competent European Public Prosecutor

First, it must be determined whether the Estonian EDPs are competent in the material dimension at all. This depends on the criteria of the Regulation (see Art. 22, 23, 24 and 26). In addition, there are rules i.e. guidelines issued by the EPPO Chamber (e.g. for Art. 27: Right of evocation), which will apply. The legal nature of these guidelines can only be soft law as they are not established by a commonly recognized procedure of enacting law by virtue of the TFEU principles. Still the Regulation does already mention the guidelines explicitly, thus the legislator acting on behalf of the European citizens through the actions of the EU parliament has recognized and accepted these possibilities to ensure the *ratio legis*, which is effective EPPO investigations. **26**

(1) The Union: Articles 24–25 EPPO Regulation

The subject-matter competence is according to Art. 22 is explored below. EPPO may only exercise competence if the damage or advantage resulting from the offence exceeds certain monetary thresholds, namely: **27**

- Fraud (PIF Directive, article 3 para 2 (a): where the damage or advantage is at least EUR 10,000.
- Cross-border VAT fraud: where the total damage is at least EUR 10 million.

Where the damage is below these thresholds, national authorities remain competent unless specific conditions for EPPO intervention are met (e.g. serious or transnational character of the offence, involvement of Union staff, or links to other EPPO cases). The EPPO has priority over national authorities for cases within its competence. National authorities must refrain from exercising jurisdiction once the EPPO decides to open an investigation. The allocation of cases and any conflicts of jurisdiction are subject to the procedural rules of the EPPO, including decisions of the Permanent Chamber in Luxembourg. **28**

Kriminaalmenetluse alustamata jätmine on põhjendatud eeskätt siis, kui kuriteoteates kirjeldatud tegu ei vastaks isegi selle tõendatuse korral ühegi kuriteokoosseisu tunnustele; see tegu oleks kuriteona aegunud või kui teo uurimist takistaksid muud KrMS § 199 lg-s 1 või 2 ette nähtud asjaolud. Eelmärgitu ei välista siiski võimalust võtta kriminaalmenetluse alustamise otsustamisel arvesse ka tõendite kogumise väljavaateid (vt ka RKKKm nr 1-20-79/9, p 31). Jättes kriminaalmenetluse alustamata tõendite kogumise võimatuse tõttu, ei tohi menetleja toimida aga meelevaldselt ega kasutada viidet tõendusteabe puudulikkusele pelgalt ettekäändena legaliteedipõhimõtte järgimata jätmiseks. (p 29)"

(a) The PIF Offences in Estonia

29 According to article 22 EPPO Regulation, the EPPO's material competence is mainly defined by the PIF offences, which are enshrined or transposed in the substantive Estonian criminal, customs or tax laws:

30 *Sources and national articles 1: PIF Directive Implementation Navigator*

PIF Directive	***Description***	***Estonian National Law***	***Relevant Articles***
Art. 3(2)(a)	Non-procurement-related expenditure	Penal Code (Karistusseadustik)	§ 209; § 210
Art. 3(2)(b) i	Procurement-related expenditure	Penal Code provides separate offences for procurement fraud	§ 209[1]; § 210; § 299; § 300
Art. 3(2)(b) ii	Revenue other than VAT-based own resources	Estonian Penal Code	§ 209[1]; § 210
Art. 3(2)(b) iii	Revenue arising from VAT own resources	Taxation Act; Customs Act	§ 389[1]; § 391; § 393; § 73 of the Customs Act
Art. 4(1)	Other criminal offences affecting the Union's financial interests	Concealment of tax liabilities; fraudulent claims	§ 389[1]; § 389[2] Penal Code
Art. 4(2)(a)	Passive corruption	Penal Code	§ 294; § 298
Art. 4(2)(b)	Active corruption	Penal Code	§ 298; § 217[2]; § 25; § 255
Art. 5(1)	Incitement, aiding and abetting	Penal Code	§§ 21; 22
Art. 5(2)	Attempt	Penal Code	§§ 21; 25

Source: Estonian Government. Report to the EPPO according to Art. 117 EPPO Regulation.

31 The table and overview above summarizing the relevant sources and national sections needs some explanation. § 209–210 cover fraud and misuse affecting public funds; § 299–300 relate specifically to procurement fraud, which Estonia treats as a separate offence; § 389–389[2] cover tax fraud, including concealment and fraudulent VAT behaviour; § 294–298 cover corruption offences (active and passive); §§ 21–25 establish general rules on attempt, incitement, and aiding/abetting in Estonian criminal law.

(b) Examples & Judgements for Reasonable Grounds for PIF Offences in Estonian Criminal Law – Overview

Figure 7: The offences in national law by virtue of the Estonian PIF offences Acquis (examples) **32**

Offences from the Criminal Code	Special CC offences with regard to tax fraud
• § 209 fraud CC, § 209[1] CC Procurement fraud to the detriment of the financial interests of the European Union CC, • § 210. CC Favorable fraud, • § 213. Computer fraud • Illegal acts with preferential goods and excise goods, • § 394. Money laundering, • § 398. Misuse of inside information	• § 389[1] Concealment of tax liability and unjustified increase of claim for refund, • § 391. Smuggling, • § 393. Illegal acts with preferential goods and excise goods

***** *The relevant Code "CC" is the Estonian Penal Code.*

(c) Excerpts and Information from Selected Judgements

In the following overview box information from Estonian **judgements, which relate to PIF offences in the broader sense**, i.e. decided by Estonian Courts in the PIF Crimes Area are presented: **33**

Examples for Penal Code offences:

§ 209[1]. Penal Code Procurement fraud to the detriment of the financial interests of the European Union Penal Code, see Criminal Chamber of the Supreme Court, Case number: 1-15-2666/492, ECLI:EE:RK:2020:1.15.2666.22923.[46]

§ 210. Penal Code benefit fraud,

§ 213. Computer-related fraud

§§ 294–298[1]. Corruption offences, see Supreme Court, Case number: 3-1-1-12-14, ECLI:EE:RK:2014:1.1.12.14.243.

§ 389[1] Concealment of tax liability and unjustified increase of claim for refund, see Supreme Court, Case number: 3-1-1-40-14, ECLI:EE:RK:2014:3.1.1.40.14.478.[47]

§ 391. Smuggling,

[46] See https://www.riigiteataja.ee/kohtulahendid/detailid.html?id=280271543. Accessed 30 June 2025.
[47] See https://www.riigiteataja.ee/kohtulahendid/detailid.html?id=206131939. Accessed 30 June 2025.

§ 393. Unlawful acts with goods subject to customs preferences and excise goods,
§ 394. Money laundering, see Supreme Court, Case number: 1-17-5176/37, ECLI: EE:RK:2018:1.17.5176.15504.
§ 398. Misuse of inside information

(2) Jurisdiction of an Exercise of Competence by the European Delegated Prosecutor in Estonia

34 The jurisdiction of the Estonian EDPs for PIF offences is stipulated by the Public Prosecutors Act (*Prokuratuuriseadus*) and the role of the prosecutors in criminal proceedings by s. 30 CPC.

bb. Competence of the EPPO, article 26 para 4 EPPO Regulation

35 More generally speaking, the EPPO exercises competence for offences committed:

- in whole or in part within the territory of a Member State participating in the enhanced cooperation,
- by a national of such a Member State,
- or outside the territory of those Member States if the Union's financial interests are affected and a Member State has jurisdiction under its national law.

e) Actions "If Decision to Open a Case"

36 If a case is opened the EDP must comply with Art. 44 para 2 of the EPPO Regulation and submit all information to the Case Management System.

37 The concrete investigation in Estonia is handled under national law. Thus s. 210 CPC will apply, too:

38

§ 210. eFile procedural information management system
(1) The eFile procedural information management system (hereinafter, the 'eFile system') is a database belonging to State Information Systems which is maintained for the processing of procedural information and personal data and whose objective is to:
1) provide an overview of criminal cases in which proceedings are conducted by investigative authorities, the Prosecutor's Office or the courts as well as of cases in which criminal proceedings were not commenced;
2) reflect information concerning operations performed during criminal proceedings;
3) facilitate organising the work of proceedings authorities;
4) collect crime statistics which are necessary for making decisions in the field of criminal justice policy;
5) allow for electronic transmission of data and documents.
(2) The following information is entered in the database:

1) information concerning criminal cases in which proceedings are pending, cases in which a decision was made not to commence criminal proceedings and cases in which criminal proceedings were terminated;
2) information concerning operations performed in the course of criminal proceedings;
3) digital documents were provided for by this Code;
4) information concerning proceedings authorities, parties to proceedings, convicted offenders, experts, specialist witnesses and witnesses;
[RT I, 23.02.2011, 1 – entry into force 01.09.2011]
5) judicial dispositions that have been rendered.
(3) The eFile system is established and its constitutive regulations are enacted by the Government of the Republic.
(4) The data controller of the eFile system is the Ministry of Justice. Authorised processors of the system are persons appointed by the Minister in charge of the policy sector.
(5) The Minister in charge of the policy sector may issue regulations to organise the work of the eFile system.
(6) Based on data in the eFile system, by 1 March each year the Ministry of Justice publishes a report concerning criminal activity during the previous year.
(7) Crime statistics are published by the Ministry of Justice.
(8) The Government of the Republic enacts rules concerning the publication of crime statistics. [RT I 2008, 28, 180 – entry into force 15.07.2008]

f) Justiciability and Appeals

Appeals can be launched (from a defence perspective) only based on the Code of Criminal Procedure. The suspicion might be challenged as insufficient. The prosecutor might be challenged as biased and there might be a ground for him/her to recuse themselves. **39**

§ 52. Grounds for a prosecutor to recuse themselves **40**
(1) The prosecutor is required to recuse themselves from criminal proceedings on grounds provided by subparas 1 and 6 of § 49 of this Code.
[RT I, 23.02.2011, 1 – entry into force 01.09.2011]
(2) Previous participation as prosecutor in criminal proceedings in the case does not constitute a ground for the prosecutor to recuse themselves.

§ 53. Recusing the prosecutor
(1) Where the prosecutor has not recused themselves on grounds provided by subparas 1 and 6 of § 49 of this Code, the suspect, accused, victim, civil defendant, third party or defence counsel may file an application or motion to recuse them.
[RT I, 23.02.2011, 1 – entry into force 01.09.2011]
(2) During pre-trial proceedings, an application to recuse the prosecutor is disposed of by an order of the Office of the Prosecutor General within five days following the filing of the application.
(3) During judicial proceedings, the motion for recusal is disposed of by the court.

41 Furthermore, there are special articles that deal with the appeal possibilities in the CPC:

42

Subchapter 5 Complaints or Appeals against Actions of an Investigative Authority or of the Prosecutor's Office

§ 228. Complaints or appeals against actions of an investigative authority or of the Prosecutor's Office[48]
(1) If a party to proceedings or a non-party finds that a violation of procedural requirements during the performance of a procedural operation – or in relation to the making of an order – by the investigative authority has resulted in a violation of their rights, they have a right to file a complaint against such an operation or an appeal against such an order with the Prosecutor's Office before the statement of charges is issued.
(2) Before the statement of charges is issued, a person mentioned in subpara 1 of this article has a right to file an appeal with the Office of the Prosecutor General against an order or procedural operation of the Prosecutor's Office.

[48] **§ 228. Uurimisasutuse ja prokuratuuri tegevuse peale kaebamine**
1) Menetlusosalisel ja menetlusvälisel isikul on õigus enne süüdistusakti koostamist esitada prokuratuurile kaebus uurimisasutuse menetlustoimingu või määruse peale, kui ta leiab, et menetlusnõuete rikkumine menetlustoimingu tegemisel või määruse koostamisel on kaasa toonud tema õiguste rikkumise.
2) Käesoleva paragrahvi lõikes 1 nimetatud isikul on õigus enne süüdistusakti koostamist esitada Riigiprokuratuurile kaebus prokuratuuri määruse või menetlustoimingu peale.
3) Käesoleva paragrahvi lõigetes 1 ja 2 nimetatud kaebus esitatakse kaebuse lahendajale vahetult või isiku kaudu, kelle määrus või menetlustoiming vaidlustatakse.
4) Kaebuses märgitakse:
1) prokuratuuri nimetus, kellele kaebus esitatakse;
2) kaebuse esitaja ees- ja perekonnanimi, menetlusseisund ning elu- või asukoht ja aadress;
3) määrus või menetlustoiming, mida vaidlustatakse; määruse või menetlustoimingu tegemise kuupäev ja selle isiku nimi, kelle osas menetlustoiming või määrus vaidlustatakse;
4) millises osas määrus või menetlustoiming vaidlustatakse;
5) kaebuses esitatud taotluste sisu ja põhjendus;
6) kaebusele lisatud dokumentide loetelu.
5) Uurimisasutuse või prokuratuuri tegevuse peale kaebuse esitamine ei peata vaidlustatud määruse täitmist ega menetlustoimingut.
6) Kui käesoleva paragrahvi lõigetes 1 ja 2 nimetatud kaebus saabub prokuratuuri pärast süüdistusakti käesoleva seadustiku § 226 lõike 3 kohast kohtusse saatmist, edastatakse see kriminaalasja arutavale kohtule.
[RT I 2004, 46, 329 - jõust. 01.07.2004]

(3) A complaint or an appeal mentioned in subparas 1 or 2 of this article is filed with the body who is to dispose of it, either directly or through the person whose order or procedural operation the appeal or complaint contests.
(4) The complaint or appeal states:
1) the name of the branch of the Prosecutor's Office with which it is filed;
2) the given name and surname, procedural role, residence or seat and address of the complainant or appellant;
3) the order or procedural operation contested, the date of the order or operation, and the name of the person in whose respect the order or operation is contested;
4) what part of the order or procedural operation is contested;
5) the substance of and reasons for the relief sought by the complaint or appeal;
6) a list of any documents appended to the appeal.
(5) A complaint or appeal against the actions of an investigative authority or of the Prosecutor's Office does not stay execution of the contested order or performance of the procedural operation.
(6) Where the Prosecutor's Office receives a complaint or appeal mentioned in subparas 1 or 2 of this article after the statement of charges has been sent to court according to subpara 3 of § 226 of this Code, the appeal is communicated to the court that deals with the criminal case.

§ 229. Disposing of a complaint or appeal in the Prosecutor's Office or in the Office of the Prosecutor General[49]
(1) A complaint or appeal filed with the Prosecutor's Office or the Office of the Prosecutor General is disposed of within 30 days following its receipt.
(2) When dealing with an appeal against an order of an investigative authority or of the Prosecutor's Office, or with a complaint concerning a procedural operation of an investigative authority or of the Prosecutor's Office, the Prosecutor's Office or the Office of the Prosecutor General may, by order:
1) deny the appeal;

[49] **§ 229. Kaebuse lahendamine prokuratuuris ja Riigiprokuratuuris**
1) Prokuratuurile või Riigiprokuratuurile esitatud kaebus lahendatakse kaebuse saamisest arvates 30 päeva jooksul.
2) Uurimisasutuse või prokuratuuri määruse ja menetlustoimingu peale esitatud kaebust lahendades võib prokuratuur või Riigiprokuratuur määrusega:
1) jätta kaebuse rahuldamata;
2) rahuldada kaebuse täielikult või osaliselt ja kui õiguste rikkumist ei saa enam kõrvaldada, tunnistada isiku õiguste rikkumist;
3) tühistada vaidlustatud määruse või peatada vaidlustatud menetlustoimingu täielikult või osaliselt, kõrvaldades õiguste rikkumise.
3) Kaebuse esitajat teavitatakse õigusest kaevata edasi maakohtusse vastavalt käesoleva seadustiku §-le 230.
[RT I 2005, 39, 308 - jõust. 01.01.2006]
4) Kaebust lahendades tehtud määrus saadetakse viivitamata vaidlustatud määruse või menetlustoimingu teinud uurimisasutusele või prokuratuurile ja määruse koopia kaebuse esitajale.
[RT I, 23.02.2011, 1 - jõust. 01.09.2011]

2) grant the appeal in full or in part and – if the violation can no longer be eliminated – recognise that the person's rights were violated;
3) set aside the contested order or stay the contested procedural operation in full or in part, eliminating the violation of rights.
(3) The person who filed the complaint or appeal is notified of their right to file a further appeal with the district court under § 230 of this Code. [RT I 2005, 39, 308 – entry into force 01.01.2006]
(4) An order entered to dispose of an appeal or a complaint is sent without delay to the investigative authority or the Prosecutor's Office that made the contested order or performed the contested procedural operation; a copy of the order is sent to the person who filed the appeal or complaint. [RT I, 23.02.2011, 1 – entry into force 01.09.2011]

§ 230. Filing an appeal with the district court[50]
(1) Where actions are contested which have violated a person's rights and which have been carried out by an investigative authority or the Prosecutor's Office, and where the person does not agree with the order given by the Office of the Prosecutor General following consideration of the person's appeal, the person has a right to file an appeal with the pre-trial investigation judge of the district court in whose service area the contested order was made or the contested procedural operation conducted.
(11) Where, in a criminal case that is dealt with under Council Regulation (EU) 2017/1939, a person's rights have been violated by actions of an investigative authority or of the Prosecutor's Office and the corresponding complaint or appeal has been finally disposed of by the Prosecutor's Office under that Regulation, the person has a right to contest such actions following the rules provided by this article.
[RT I, 29.12.2020, 1 – entry into force 08.01.2021]
(2) An appeal may be filed within ten days following the day when the person became or should have become aware of the contested order.
(3) Appeals are filed in writing following the requirements of clauses 2–6 of subpara 4 of § 228 of this Code. [RT I 2006, 21, 160 – entry into force 25.05.2006]

[50] **§ 230. Kaebuse esitamine maakohtule**
1) Kui on vaidlustatud uurimisasutuse või prokuratuuri tegevus, millega on rikutud isiku õigusi, ning kui isik ei nõustu kaebuse läbivaadanud Riigiprokuratuuri määrusega, on tal õigus esitada kaebus maakohtu eeluurimiskohtunikule, kelle tööpiirkonnas vaidlustatud määrus või menetlustoiming on tehtud.
11) Nõukogu määruse (EL) 2017/1939 alusel menetletavas kriminaalasjas on isikul õigus vaidlustada käesolevas paragrahvis sätestatud korras uurimisasutuse või prokuratuuri tegevus, millega on rikutud isiku õigusi, kui kaebus on saanud sama määruse kohaselt prokuratuuris lõpliku lahenduse.
[RT I, 29.12.2020, 1 - jõust. 08.01.2021]
2) Kaebuse võib esitada kümne päeva jooksul, alates päevast, mil isik sai vaidlustatavast määrusest teada või pidi teada saama.
3) Kaebus esitatakse kirjalikult, järgides käesoleva seadustiku § 228 lõike 4 punktide 2–6 nõudeid.
[RT I 2006, 21, 160 - jõust. 25.05.2006]

§ 231. Disposing of the appeal in the district court[51]
(1) The pre-trial investigation judge considers the appeal within 30 days following its receipt.
(2) The appeal is considered by written procedure having regard to the scope of the appeal and in respect of the person concerning whom it was filed.
(3) When disposing of the appeal, the court may:
1) deny the appeal;
2) grant the appeal in full or in part and – if the violation can no longer be eliminated – recognise that the person's rights were violated;
3) set aside the contested order or stay the contested procedural operation in full or in part, eliminating the violation of rights.
(4) The court that receives the appeal may suspend execution of the contested order or procedural operation.
(5) An order of the pre-trial investigation judge is final and not subject to appeal, except for orders disposing of appeals concerning the course of a covert operation or against a decision not to notify a person of, or not to present the information collected by, such an operation. [RT I, 29.06.2012, 2 – entry into force 01.01.2013]

§ 232. Abandoning an appeal[52]
An appeal filed against the actions of an investigative authority; the Prosecutor's Office or the Office of the Prosecutor General may be abandoned until it has been disposed of.

In addition, the Code of Criminal Procedure of Appeal and Cassation (*Apellatsiooni- ja kassatsiooni kriminaalmenetluse seadustik*) might apply. But be aware that this Code has been abolished since 30 June 2004. It may apply in very specific situations, if legality of some very old criminal proceeding is evaluated. *De facto* it is practically never applied. **43**

[51] **§ 231. Kaebuse lahendamine maakohtus**
1) Eeluurimiskohtunik vaatab kaebuse läbi selle esitamisest alates 30 päeva jooksul.
2) Kaebus vaadatakse läbi kirjalikus menetluses kaebuse piires ja isiku suhtes, kelle kohta see on esitatud.
3) Kaebust lahendades võib kohus:
1) jätta kaebuse rahuldamata;
2) rahuldada kaebuse täielikult või osaliselt ja kui õiguste rikkumist ei saa enam kõrvaldada, tunnistada õiguste rikkumist;
3) tühistada vaidlustatud määruse või peatada vaidlustatud menetlustoimingu täielikult või osaliselt, kõrvaldades õiguste rikkumise.
4) Kaebuse saanud kohus võib vaidlustatud määruse või menetlustoimingu täitmise peatada.
5) Eeluurimiskohtuniku määrus on lõplik ja edasikaebamisele ei kuulu, välja arvatud määrus, mis on tehtud jälitustoimingu käigu, sellest teavitamata jätmise või sellega kogutud andmete tutvustamata jätmise peale esitatud kaebuse lahendamisel.
[RT I, 29.06.2012, 2 - jõust. 01.01.2013].
[52] **§ 232. Kaebusest loobumine**
Uurimisasutuse, prokuratuuri või Riigiprokuratuuri tegevuse peale esitatud kaebusest võib loobuda enne kaebuse lahendamist.

g) Fraud-Related Peculiarities

44 There are different types of fraud against the EU budget. A **basic distinction** must be made between **fraud on the revenue side and fraud on the expenditure side**. This separation applies not only to investigations by the European Delegated Prosecutors, but also to OLAF investigators and national authorities in administrative procedures (especially on the expenditure side, for example in the case of subsidies). The first EPPO crime report therefore correctly distinguishes between:

aa. In National Case-Law

45 **Non-procurement expenditure fraud**[53] is fraud involving EU funds outside of public procurement, e.g. misuse of agricultural or structural funding through false declarations or ineligible expenses. **Procurement expenditure fraud** means fraud in public tenders financed by EU funds, such as bid-rigging, overpricing, or fake invoices in projects co-funded by the Union. **VAT revenue fraud** includes mainly fraudulent schemes to evade or unlawfully obtain VAT, such as undeclared sales, carousel fraud, or false refund claims, where EU budget revenue is affected. **Cum-ex-fraud/MTIC fraud** has happened in Estonia in form of complex trading or missing-trader schemes to unlawfully claim tax refunds or avoid paying VAT. MTIC (Missing Trader Intra-Community) fraud typically involves goods traded across EU borders without VAT being paid. **Non-VAT revenue fraud** is fraud against other EU revenues, e.g. customs duties, excise duties, or other Union levies collected by Estonia on behalf of the EU. **Corruption cases** include political trading influences in Estonian parliament and special. [54]

bb. In the Case-Law of the ECJ and ECtHR

46 During all pre-trial proceedings conducted under Estonian law, the persons suspected of fraud must have access to a lawyer as it is the case in other national cases.[55]

[53] See Pärnu County Court Haapsalu courthouse in Kärdla, ECLI:EE:PMK:2017:1.17.7478.18316 [Offences against public trust, Economic offences, Offences against property]
[54] Estonia has seen corruption in the past, see e.g., https://www.theguardian.com/world/2021/jan/13/estonian-government-collapses-over-corruption-investigation. See as well theEurojust, "Eurojust Casework on Corruption: 2016–2021 Insights", 2022.
[55] ECtHR *Martin v. Estonia* (no 35985/09).

2. Article 27 Right of evocation

2. Article 27 87
a) Provisions with a Precluding Effect for the Right of Evocation of the EPPO, Para 2 89
aa. Statute of Limitations (*Süüteo Aegumine*) 92
bb. Amnesty 94
cc. Abatement of Action (Dispense with Prosecution) 94
dd. Opposing Legal Validity 94
ee. Abatement of Action (Dispense with Prosecution) 94
b) Urgent Measures of National Authorities for Securing an Investigation and Prosecution 95
c) Competent National Authorities in Paras 3 to 7 of article 27 95
d) Provisions Regarding the Finalisation of the National Investigation, Para 7 96

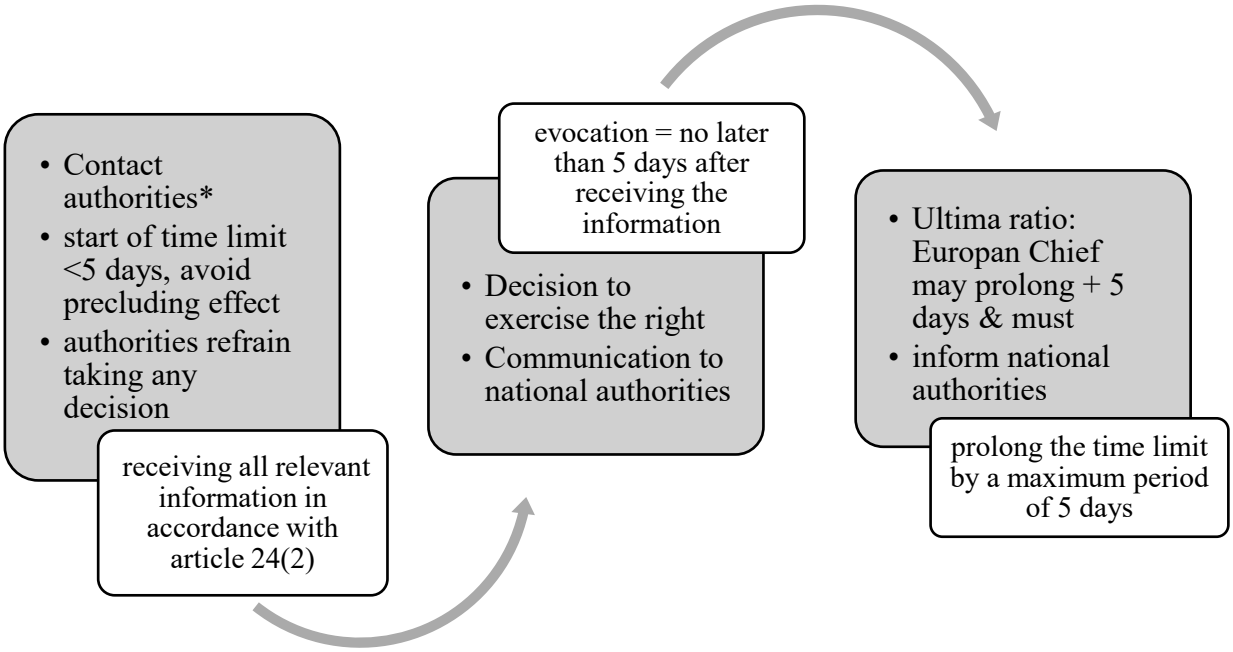
1. Upon receiving all relevant information in accordance with article 24(2), the EPPO shall take its decision on whether to exercise its right of evocation as soon as possible, but no later than 5 days after receiving the information from the national authorities and shall inform the national authorities of that decision. The European Chief Prosecutor may in a specific case take a reasoned decision to prolong the time limit by a maximum period of 5 days and s**hall inform the national authorities** accordingly.
2. During the periods referred to in para 1, the national authorities shall refrain from taking **any decision under national law** that may have the effect of precluding the EPPO from exercising its right of evocation.
The **national authorities s**hall take any urgent measures necessary, **under national law**, to ensure effective investigation and prosecution.
3. If the EPPO becomes aware, by means other than the information referred to in article 24(2), of the fact that an investigation in respect of a criminal offence for which it could be competent is already undertaken **by the competent authorities of a Member State**, it shall inform **these authorities** without delay. After being duly informed in accordance with article 24(2), the EPPO shall take a decision on whether to exercise its right of evocation. The decision shall be taken within the time limits set out in para 1 of this article.
4. The EPPO shall, where appropriate, consult the **competent authorities of the Member State** concerned before deciding whether to exercise its right of evocation.
5. Where the EPPO exercises its right of evocation, the **competent authorities of the Member States** shall transfer the file to the EPPO and refrain from carrying out further acts of investigation in respect of the same offence.

6. The right of evocation set out in this article may be exercised by a European Delegated Prosecutor from any Member State whose **competent authorities** have initiated an investigation in respect of an offence that falls within the scope of articles 22 and 23.
Where a European Delegated Prosecutor, who has received the information in accordance with article 24(2), considers not to exercise the right of evocation, he/she shall inform the competent Permanent Chamber through the European Prosecutor of his/her Member State with a view to enabling the Permanent Chamber to take a decision in accordance with article 10(4).
7. Where the EPPO has refrained from exercising its competence, it shall inform the competent national authorities without undue delay. At any time during the proceedings, the competent national authorities shall inform the EPPO of any new facts which could give the EPPO reasons to reconsider its decision not to exercise competence.
The EPPO may exercise its right of evocation after receiving such information, provided that the **national investigation has not already been finalised** and that an **indictment has not been submitted** to a court. The decision shall be taken within the time limit set out in para 1.
8. Where, with regard to offences which caused or are likely to cause damage to the Union's financial interests of less than EUR 100,000, the College considers that, with reference to the degree of seriousness of the offence or the complexity of the proceedings in the individual case, there is no need to investigate or to prosecute at Union level, it shall in accordance with article 9(2), issue general guidelines allowing the European Delegated Prosecutors to decide, independently and without undue delay, not to evoke the case.
The guidelines shall specify, with all necessary details, the circumstances to which they apply, by establishing clear criteria, taking specifically into account the nature of the offence, the urgency of the situation and the commitment of the **competent national authorities** to take all necessary measures to fully recover the damage to the Union's financial interests.
9. To ensure coherent application of the guidelines, a European Delegated Prosecutor shall inform the competent Permanent Chamber of each decision taken in accordance with para 8 and each Permanent Chamber shall report annually to the College on the application of the guidelines.

1 During the periods prescribed by Art. 27 para 2 EPPO Regulation the national authorities shall refrain from taking actions that (may) preclude the right of evocation, see the rules on the termination of criminal procedures, which are regulated in §§ 200–205[1] CPC. According to these articles a prosecutor may terminate criminal proceedings, and this shall **equally apply** in the case that an EDP conducts a case. If reading the following provisions one can consider that some of them will apply as well to the EDPs if they want to file an indictment by virtue of the Regulation. Thus, the same provisions that

apply to the national authorities while standing still until the EPPO has decided to exercise its right of evocation or not (Art. 27) will apply in cases of EPPO indictments (Art. 34 et seq.).

Figure 8: Right of evocation/time limits/refrain taking decisions that have a precluding effect – Overview for Estonia **2**



a) Provisions with a Precluding Effect for the Right of Evocation of the EPPO, Para 2

The national authorities can be detected by reading ss. 31, 32 CPC: **3**

Investigative Bodies

§ 31. Definition of investigative body[56] CPC

(1) Investigative authorities are, within their respective jurisdictions, **the Police and Border Guard Board, the Internal Security Service, the Tax and Customs Board**, the Competition Board, the Military Police, the Environment Board as well as the De-

[56] **3. Jagu Uurimisasutus**
§ 31. Uurimisasutuste piiritlemine
1) Uurimisasutused on oma pädevuse piires Politsei- ja Piirivalveamet, Kaitsepolitseiamet, Maksu- ja Tolliamet, Konkurentsiamet, Sõjaväepolitsei, Keskkonnaamet ning Justiitsministeeriumi vanglate osakond ja vangla, kes täidavad uurimisasutuse ülesandeid vahetult või nende hallatavate või kohalike asutuste kaudu.
[RT I, 10.07.2020, 2 - jõust. 01.01.2021]
2) [Kehtetu - RT I, 23.02.2011, 1 - jõust. 01.09.2011]
3) [Kehtetu - RT I, 23.02.2011, 1 - jõust. 01.09.2011]
4) [Kehtetu - RT I, 23.02.2011, 1 - jõust. 01.09.2011]
5) Nende ametikohtade loetelu, mida täitvatel ametnikel on õigus kriminaalmenetluses osaleda uurimisasutuse pädevuse piires, kinnitab käesoleva paragrahvi lõikes 1 nimetatud asutuse juht.
[RT I, 23.02.2011, 1 - jõust. 01.09.2011].

partment of Prisons of the Ministry of Justice and the prisons, which perform the functions of the investigative authority directly or through an institution administered by them or through a local office.
[RT I, 10.07.2020, 2 – entry into force 01.01.2021] (2) [Repealed - RT I, 23.02.2011, 1 – entry into force 01.09.2011]
(3)–(4) [Repealed - RT I, 23.02.2011, 1 – entry into force 01.09.2011]
(5) A list of the positions in which the officials have the right to participate in criminal proceedings within the limits of competence of an investigative body shall be approved by the heads of the bodies specified in subpara (1) of this article.

§ 32. Investigative bodies in criminal procedure[57] CPC
(1) The investigative authority performs the procedural operations provided by this Code independently unless performance of the operation requires the permission of the court or the permission or direction of the Prosecutor's Office.
(2) The investigative authority may require the production of any document that is, or any data that are, needed for solving the criminal case.

4 Estonian criminal procedural law presents with s. 199 CPC a fundamental, catch-all-cases provision that needs to be observed by national authorities during the time limits indicated in Art. 27 EPPO Regulation:

5

§ 199. Circumstances precluding criminal proceedings
(1) Criminal proceedings are not commenced where:[58]

[57] **§ 32. Uurimisasutus kriminaalmenetluses**
1) Uurimisasutus teeb käesolevas seadustikus sätestatud menetlustoiminguid iseseisvalt, kui menetlustoiminguks ei ole vaja kohtu luba või prokuratuuri luba või korraldust.
2) Uurimisasutusel on õigus nõuda kriminaalasja lahendamiseks vajaliku dokumendi esitamist.
[58] **§ 199. Kriminaalmenetlust välistavad asjaolud**
1) Kriminaalmenetlust ei alustata, kui:
1) puudub kriminaalmenetluse alus;
2) kuriteo aegumistähtaeg on möödunud;
3) amnestiaakt välistab karistuse kohaldamise;
4) kahtlustatav või süüdistatav on surnud või juriidilisest isikust kahtlustatav või süüdistatav on lõppenud;
[RT I 2004, 46, 329 - jõust. 01.07.2004]
5) samas süüdistuses on isiku suhtes jõustunud kohtulahend või kriminaalmenetluse lõpetamise määrus käesoleva seadustiku §-s 200 sätestatud alusel;
[RT I 2004, 46, 329 - jõust. 01.07.2004]
6) kahtlustatav või süüdistatav on parandamatult haigestunud ning ei ole seetõttu võimeline kriminaalmenetluses osalema ega karistust kandma;
[RT I, 23.02.2011, 1 - jõust. 01.09.2011]
7) tegemist on karistusseadustiku §-des 414, 415, 418 ja 4181 sätestatud kuritegudega ning isik loovutab vabatahtlikult ebaseaduslikus valduses oleva tulirelva, lõhkeseadeldise või selle olulise osa, laskemoona või lõhkeaine;
[RT I, 16.04.2013, 1 - jõust. 26.04.2013]
8) kriminaalmenetlus on koondatud teise riiki käesoleva seadustiku §-des 4361–4366 sätestatud alustel.

1) no grounds for criminal proceedings are present;
2) the limitation period of the criminal offence has expired;
3) an amnesty instrument precludes the imposition of a sanction;
4) the suspect or accused has died or the corporate suspect or accused has been dissolved; [RT I 2004, 46, 329 – entry into force 01.07.2004]
5) on the charges in question, a judicial disposition or an order terminating criminal proceedings in the case on the grounds provided by § 200 of this Code has entered effect in respect of the person; [RT I 2004, 46, 329 – entry into force 01.07.2004]
6) the suspect or accused suffers from an incurable illness and, because of this, is unable to participate in criminal proceedings or to serve the sentence;
[RT I, 23.02.2011, 1 – entry into force 01.09.2011]
7) the criminal offence in question is one defined in § 414, § 415, § 418 or § 4181 of the Penal Code and the person voluntarily surrenders the firearm or explosive device or a material part of such a firearm or device, or ammunition or explosives that they possess illegally; [RT I, 16.04.2013, 1 – entry into force 26.04.2013]
8) criminal proceedings are concentrated in another state on the grounds provided by §§ 4361–4366 of this Code.
[RT I, 06.01.2016, 5 – entry into force 16.01.2016]
(2) Criminal proceedings are not commenced when the person's arrest as a suspect is substituted according to § 219 of this Code.
(3) Criminal proceedings are continued if this is applied for the purposes of rehabilitation by: [RT I 2004, 46, 329 – entry into force 01.07.2004]
1) the suspect or accused, in situations provided for by clause 2 or 3 of subpara 1 of this article;
2) the representative of a deceased suspect or accused in a situation provided for by clause 4 of subpara 1 of this article; [RT I 2004, 46, 329 – entry into force 01.07.2004]
3) the suspect, accused or their representative in a situation provided for by clause 6 of subpara 1 of this article. [RT I, 23.02.2011, 1 – entry into force 01.09.2011]

[RT I, 06.01.2016, 5 - jõust. 16.01.2016]
2) Kriminaalmenetlust ei alustata, kui kahtlustatava kinnipidamine asendatakse vastavalt käesoleva seadustiku §-le 219.
3) Kriminaalmenetlust jätkatakse, kui seda rehabiliteerimise eesmärgil taotleb:
[RT I 2004, 46, 329 - jõust. 01.07.2004]
1) kahtlustatav või süüdistatav käesoleva paragrahvi lõike 1 punktides 2 ja 3 sätestatud juhtudel;
2) surnud kahtlustatava või süüdistatava esindaja käesoleva paragrahvi lõike 1 punktis 4 sätestatud juhul;
[RT I 2004, 46, 329 - jõust. 01.07.2004]
3) kahtlustatav, süüdistatav või tema esindaja käesoleva paragrahvi lõike 1 punktis 6 sätestatud juhul.
[RT I, 23.02.2011, 1 - jõust. 01.09.2011].

aa. Statute of Limitations (*Süüteo Aegumine*)

6 In Estonia offences are **crimes and misdemeanours**. And crimes are first- and second-degree crimes. **First-degree crimes** are those for which a natural person may be punished by imprisonment for more than five years up to life imprisonment, the remaining crimes are **second-degree crimes**.

7

Chapter 6 Limitation Periods

§ 81. Limitation period of offence[59]

(1) No one shall be convicted of or punished for a criminal offence if the following terms have expired between the completion of the criminal offence and the entry into force of the corresponding court judgment:

1) ten years in the case of a criminal offence in the first degree.

2) five years in the case of a criminal offence in the second degree.

[59] **§ 81. Süüteo aegumine**

1) Kedagi ei tohi kuriteos süüdi mõista ega karistada, kui kuriteo lõpuleviimisest kuni selle kohta tehtud kohtuotsuse jõustumiseni on möödunud:

1) kümme aastat esimese astme kuriteo korral;

2) viis aastat teise astme kuriteo korral.

(2) Agressioonikuritegu, genotsiidikuritegu, inimsusevastane kuritegu, sõjakuritegu ja kuritegu, mille eest on ette nähtud eluaegne vangistus, ei aegu.

(3) Väärtegu on aegunud, kui selle lõpuleviimisest kuni selle kohta tehtud otsuse jõustumiseni on möödunud kaks aastat, kui seadus ei näe selle eest ette kuni viieaastast aegumistähtaega.

[RT I, 11.03.2023, 1 - jõust. 01.11.2023](4) Jätkuva süüteo korral arvutatakse aegumise tähtaega viimase teo lõpuleviimisest. Vältava süüteo korral arvutatakse aegumise tähtaega vältava teo lõppemisest.

(5) Kuriteo aegumine katkeb kriminaalmenetluses järgmiste menetlustoimingute tegemisega:

1) kahtlustatavale või süüdistatavale tõkendi kohaldamisega või tema vara või rahapesu objektiks oleva vara arestimisega;

2) süüdistatava kohtu alla andmisega;

3) kohtuliku arutamise edasilükkamisega süüdistatava ilmumata jäämise korral;

4) kohtulikul arutamisel süüdistatava ülekuulamisega;

5) kohtulikul arutamisel ekspertiisi või täiendavate tõendite kogumise määramisega.

(6) Kui kuriteo aegumine on katkenud, algab aegumine uuesti käesoleva paragrahvi lõikes 5 sätestatud menetlustoimingu tegemisest. Isikut ei tohi kuriteos siiski süüdi mõista ega karistada, kui selle lõpuleviimisest kuni selle kohta tehtud kohtuotsuse jõustumiseni on möödunud käesoleva paragrahvi lõikes 1 sätestatust viie aasta võrra pikem aeg.

6^{1}) Kuriteo aegumise peatumise erisused seoses Riigikogu liikme immuniteediga on sätestatud Riigikogu liikme staatuse seaduse §-s 181.

[RT I, 22.12.2014, 9 - jõust. 01.01.2015]

(7) Süüteo aegumine peatub:

1) kahtlustatava, süüdistatava või menetlusaluse isiku kõrvalehoidumisel kohtueelsest menetlusest, kohtuvälisest menetlusest või kohtust kuni isiku kinnipidamiseni või tema ilmumiseni menetleja juurde;

2) väärteo tunnustega teo kohta kriminaalmenetluse alustamisel kuni kriminaalmenetluse lõpetamiseni;

3) seksuaalse enesemääramise vastase kuriteo korral noorema kui kaheksateistaastase isiku suhtes kuni kannatanu kaheksateistaastaseks saamiseni, kui kriminaalmenetluse ajend ei ilmnenud enne tema poolt nimetatud vanuse saavutamist.

(8) Käesoleva paragrahvi lõike 7 punktides 1 ja 2 sätestatud juhtudel ei uuene aegumine, kui kuriteo lõpuleviimisest on möödunud viisteist aastat. Väärteo aegumine ei uuene, kui väärteo lõpuleviimisest on möödunud käesoleva paragrahvi lõikes 3 sätestatust aasta võrra pikem aeg.

[RT I, 11.03.2023, 1 - jõust. 01.11.2023]

(2) Crimes of aggression, crimes of genocide, crimes against humanity, war crimes and criminal offences for which life imprisonment is prescribed do not expire.
(3) A misdemeanour expires after two years have passed between the completion thereof and the entry into force of a judgment on it, unless the law prescribes a limitation period of up to five years.
[RT I, 11.03.2023, 1 – entry into force 01.11.2023] (4) In the case of an intermittent offence, the limitation period shall be calculated as of the completion of the last act. In the case of a continuous offence, the limitation period shall be calculated as of the termination of the continuous act.
(4^1) The limitation period of a misdemeanour shall be interrupted upon submission of a petition provided for in subpara 1 of § 1661 of the Code of Misdemeanour Procedure.
[RT I, 26.06.2017, 17 – entry into force 06.07.2017]
(4^2) If the limitation period of a misdemeanour is interrupted, the limitation period shall commence again as of submission of a petition provided for in subpara 1 of § 1661 of the Code of Misdemeanour Procedure. A person shall however not be convicted of or punished for a misdemeanour if the period between the completion of the misdemeanour and the entry into force of the corresponding court judgment is two years longer than the term provided for in subpara 3 of this article.
[RT I, 26.06.2017, 17 – entry into force 06.07.2017]
(5) The limitation period of a criminal offence is interrupted with the performance of the following procedural act in the criminal proceeding:
1) application of a preventive measure regarding the suspect or accused, or seizure of his or her property, or property which is the object if money laundering;
2) the prosecution of the accused;
3) adjournment of the hearing of a matter in the case the accused fails to appear;
4) interrogation of the accused in the court hearing;
5) ordering of expert assessment or additional evidence in the court hearing.
(6) If the limitation period of a criminal offence is interrupted, the limitation period shall commence again with the performance of the procedural act provided in subpara 5 of this article. A person shall however not be convicted of or punished for a criminal offence if the period between the completion of the criminal offence and the entry into force of the corresponding court judgment is five years longer than the term provided for in subpara 1 of this article.
(6^1) Specifications for suspension of expiry of limitation periods of criminal offences in connection with immunity of members of the Riigikogu is provided for in § 181 of the Status of Members of the Riigikogu Act.
[RT I, 22.12.2014, 9 – entry into force 01.01.2015]
(7) The limitation period of offence is interrupted:

1) in the case a suspect, accused or person subject to proceedings absconds from pre-trial proceedings, extra-judicial proceedings or court, until the person is detained or appears before the body conducting the proceedings;
2) upon commencement of criminal proceedings in a matter of an act with elements of a misdemeanour, until the termination of the criminal proceedings;
3) in the case of marriage against will, disabling female genital mutilation, illegal termination of pregnancy and criminal offence against sexual self-determination against a person younger than eighteen years of age, until the victim attains eighteen years of age, unless the reason for the criminal proceedings became evident before the victim attained such age.
[RT I, 26.06.2017, 69 – entry into force 06.07.2017]
(8) In the cases provided by clauses 1 and 2 of subpara 7 of this article, the limitation period is not resumed where fifteen years have passed from the completion of the criminal offence. The limitation period for a misdemeanour is not resumed where a period that is one year longer than that provided in subpara 3 of this article has passed from the completion of the misdemeanour.

bb. Amnesty

8 Art. 199 para 1 3) enshrines the possibility of an amnesty. § 487[1] and § 489[16] CPC are of importance for amnesties granted in foreign states.

cc. Abatement of Action (Dispense with Prosecution)

9 "§ 199 of this Code which preclude criminal procedure or unless the basis to terminate criminal proceedings in accordance with subpara 201 (2), §§ 202, 203, 203[1], 204, 205 or 205[1]"

10 An order terminating criminal proceedings with the permission of the Prosecutor's Office/ *Prokuratuuri loal kriminaalmenetluse lõpetamise määrus* shall not be issued before the decision of the EPPO to evocate the case or not to evocate.

dd. Opposing Legal Validity

11 The *ne bis in idem* principle is anchored in s. 23 (3) of the Estonian Constitution.

ee. Abatement of Action (Dispense with Prosecution)

12

§ 23. Estonian Constitution
No one shall be convicted of an act which did not constitute a criminal offence under the law in force at the time the act was committed.
No one shall be sentenced to a heavier penalty than the one that was applicable at the time the offence was committed. If, after the commission of an offence, the law provides for a lighter penalty, the lighter penalty shall be applied.

No one shall be tried or punished again for an act for which he or she has been finally convicted or acquitted in accordance with the law.

b) Urgent Measures of National Authorities for Securing an Investigation and Prosecution

Urgent measures might be arrest, detention, search and seizure of things and property. § 212 para 2, 3 CPC e.g. stipulates that certain non-police-investigative bodies may take urgent measures as well. **13**

These are **14**

1) […]
2) **the Tax and Customs Board**, regarding criminal offences in tax and customs matters, regarding criminal offences related to the conveying of narcotic drugs and psychotropic substances across the border and regarding any acts mentioned in § 421^1 of the Penal Code, except where the offence involves a radioactive or explosive substance or a quantity of ammunition that exceeds the limit provided by subpara 5 of § 46 of the Weapons Act, or a firearm that does not fully meet the technical requirements for rendering weapons incapable of firing, and regarding any acts mentioned in § 421^2 of the Penal Code where such acts involve goods used to commit human rights violations or services related such violations; [RT I, 16.06.2017, 1 – entry into force 01.07.2017]
3) the Military Police regarding criminal offences relating to service in the Defence Forces and regarding war crimes; [RT I 2008, 35, 212 – entry into force 01.01.2009]
4) [Repealed – RT I 2003, 88, 590 – entry into force 01.07.2004]
5) the Competition Board regarding criminal offences in the field of competition;
6) the Department of Prisons of the Ministry of Justice and prisons regarding criminal offences committed in prisons and criminal offences committed by prisoners; [RT I, 23.02.2011, 1 – entry into force 01.09.2011]
7) the Environment Board regarding criminal offences relating to violation of requirements for the protection and use of the environment and of natural resources.

c) Competent National Authorities in Paras 3 to 7 of article 27

§ 31. Definition of investigative body CPC **15**
(1)[60] Investigative authorities are, within their respective jurisdictions, **the Police and Border Guard Board, the Internal Security Service, the Tax and Customs Board**,

[60] **3. jagu**
Uurimisasutus
§ 31. Uurimisasutuste piiritlemine

the Competition Board, the Military Police, the Environment Board as well as the Department of Prisons of the Ministry of Justice and the prisons, which perform the functions of the investigative authority directly or through an institution administered by them or through a local office.

d) Provisions Regarding the Finalisation of the National Investigation, Para 7

Operations of an investigative authority on completion of pre-trial proceedings[61]
(1) If the official of an investigative authority is convinced that the **evidence required** in the criminal case has been collected, they send the **criminal file**, whose material has been systematised and whose pages have been numbered, without delay to the Prosecutor's Office together with any items of physical evidence, any recordings and any sealed envelopes containing the personal particulars of an anonymous witness. Where so instructed by the Prosecutor's Office, they present to the Office a summary of pre-trial proceedings which complies with the requirements of § 153 of this Code. The summary is sent to the Prosecutor's Office together with the criminal file as a paper copy as well as electronically.
(2) If the criminal case has several suspects, a joint summary of pre-trial proceedings is filed, stating the personal particulars of each suspect separately.
(3) A certificate concerning the costs of criminal proceedings is annexed to the criminal file sent to the Prosecutor's Office. [RT I, 23.02.2011, 1 – entry into force 01.09.2011]

1) Uurimisasutused on oma pädevuse piires Politsei- ja Piirivalveamet, Kaitsepolitseiamet, Maksu- ja Tolliamet, Konkurentsiamet, Sõjaväepolitsei, Keskkonnaamet ning Justiitsministeeriumi vanglate osakond ja vangla, kes täidavad uurimisasutuse ülesandeid vahetult või nende hallatavate või kohalike asutuste kaudu.
[RT I, 10.07.2020, 2 - jõust. 01.01.2021]
2) [Kehtetu - RT I, 23.02.2011, 1 - jõust. 01.09.2011]
3) [Kehtetu - RT I, 23.02.2011, 1 - jõust. 01.09.2011]
4) [Kehtetu - RT I, 23.02.2011, 1 - jõust. 01.09.2011]
5) Nende ametikohtade loetelu, mida täitvatel ametnikel on õigus kriminaalmenetluses osaleda uurimisasutuse pädevuse piires, kinnitab käesoleva paragrahvi lõikes 1 nimetatud asutuse juht.
[RT I, 23.02.2011, 1 - jõust. 01.09.2011].
[61] **§ 222. Uurimisasutuse toimingud kohtueelse menetluse lõpuleviimisel**
[RT I, 23.02.2011, 1 - jõust. 01.09.2011]
1) Kui uurimisasutuse ametnik on veendunud, et kriminaalasjas vajalikud tõendid on kogutud, edastab ta kriminaaltoimiku, mille materjal on süstematiseeritud ja lehed nummerdatud, viivitamata koos kriminaaltoimikus hoitavate asitõendite, salvestiste ja anonüümse tunnistaja isikuandmeid sisaldava pitseeritud ümbrikuga prokuratuurile. Prokuratuuri korraldusel esitab ta prokuratuurile kohtueelse menetluse kokkuvõtte, mis vastab käesoleva seadustiku § 153 nõuetele. Kohtueelse menetluse kokkuvõte edastatakse prokuratuurile koos kriminaaltoimikuga paberil ja elektrooniliselt.
[RT I, 23.02.2011, 1 - jõust. 01.09.2011]
2) Kui kriminaalasjas on mitu kahtlustatavat, koostatakse ühine kohtueelse menetluse kokkuvõte, milles esitatakse isikuandmed iga kahtlustatava kohta eraldi.
3) Prokuratuuri saadetavale kriminaaltoimikule lisatakse õiend kriminaalmenetluse kulude kohta.
[RT I, 23.02.2011, 1 - jõust. 01.09.2011]

§ 223. Operations of the Prosecutor's Office on receiving the criminal file[62]

(1) The branch of the Prosecutor's Office that receives a criminal file declares pre-trial proceedings to have been completed, requires the investigative authority to perform additional procedural operations or terminates criminal proceedings on the grounds and following the rules provided by §§ 200–2052 of this Code. [RT I, 21.06.2014, 11 – entry into force 01.07.2014]

(2) Where necessary, the branch of the Prosecutor's Office that received the criminal file performs additional operations after receipt of the file. The Prosecutor's Office has a right to remove from the file any material that is irrelevant to the criminal case and, if this is needed, re-systematise the file.

(3) When it declares pre-trial proceedings to have been completed, the Prosecutor's Office presents the criminal file according to § 224 of this Code to allow the parties mentioned in that article to acquaint themselves with the file. [RT I, 23.02.2011, 1 – entry into force 01.09.2011]

(4) Where this is needed for dealing with the case under the plea agreement procedure, the Prosecutor's Office performs the operations provided by §§ 240 and 2441 of this Code. [RT I, 06.01.2016, 5 – entry into force 01.01.2017]

[62] **§ 223. Prokuratuuri toimingud kriminaaltoimiku saamise korral**

1) Kriminaaltoimiku saanud prokuratuur tunnistab kohtueelse menetluse lõpuleviiduks, kohustab uurimisasutust tegema lisatoiminguid või lõpetab kriminaalmenetluse käesoleva seadustiku §-des 200–2052 sätestatud alustel ja korras.

[RT I, 21.06.2014, 11 - jõust. 01.07.2014]

2) Vajaduse korral teeb kriminaaltoimiku saanud prokuratuur lisatoiminguid. Prokuratuuril on õigus kõrvaldada kriminaaltoimikust kriminaalasja seisukohalt tähtsusetut materjali ja vajaduse korral süstematiseerida kriminaaltoimik uuesti.

3) Kui prokuratuur tunnistab kohtueelse menetluse lõpuleviiduks, esitab ta kriminaaltoimiku tutvumiseks käesoleva seadustiku § 224 järgi.

[RT I, 23.02.2011, 1 - jõust. 01.09.2011]

4) Vajaduse korral teeb prokuratuur käesoleva seadustiku §-des 240 ja 2441 sätestatud toiminguid kokkuleppemenetluse kohaldamiseks.

[RT I, 06.01.2016, 5 - jõust. 01.01.2017].

3. Article 28 Conducting the investigation

3. Article 28 Conducting the investigation 98
a) The Handling EDP Carrying Out the Investigative Measures, Para 1 100
b) Instructions and Assignment of Investigative Measures for "Those National Authorities" 100
aa. Ensuring Compliance with National Law 104
(1) Via the General Investigation Provisions 104
(2) Via National Administrative Decrees/Regulations under Criminal Procedural Law 116
(a) Estonia 116
(b) Specific Decrees, Non-Formal Laws, Execution of the CPC 117
bb. Urgent Measures in Accordance with National Law Necessary to Ensure Effective Investigations 118
c) Provisions in Relation to the Gathering of Evidence 124

1. The European Delegated Prosecutor handling a case may, in accordance with this Regulation **and with national law**, either undertake the investigation measures and other measures on his/her own or instruct the competent authorities in his/her Member State. Those authorities shall, **in accordance with national law**, ensure that all instructions are followed and undertake the measures assigned to them. The handling European Delegated Prosecutor shall report through the case management system to the competent European Prosecutor and to the Permanent Chamber any significant developments in the case, in accordance with the rules laid down in the internal rules of procedure of the EPPO.
2. At any time during the investigations conducted by the EPPO, the competent national authorities shall take urgent measures **in accordance with national law** necessary to ensure effective investigations even where not specifically acting under an instruction given by the handling European Delegated Prosecutor. The national authorities shall without undue delay inform the handling European Delegated Prosecutor of the urgent measures they have taken.
3. The competent Permanent Chamber may, on proposal of the supervising European Prosecutor decide to reallocate a case to another European Delegated Prosecutor in the same Member State when the handling European Delegated Prosecutor:
(a) cannot perform the investigation or prosecution; or
(b) fails to follow the instructions of the competent Permanent Chamber or the European Prosecutor.

4. In exceptional cases, after having obtained the approval of the competent Permanent Chamber, the supervising European Prosecutor may take a reasoned decision to conduct the investigation personally, either by undertaking personally the investigation measures and other measures or by instructing the competent authorities in his/her Member State, where this appears to be indispensable in the interest of the efficiency to the investigation or prosecution by reasons of one or more of the following criteria:
(a) the seriousness of the offence, in view of its possible repercussions at Union level;
(b) when the investigation concerns officials or other servants of the Union or members of the institutions of the Union;
(c)in the event of failure of the reallocation mechanism provided for in para 3.
In such exceptional circumstances Member States shall ensure that the European Prosecutor is entitled to order or request investigative measures and other measures and that he/she has all the powers, responsibilities and obligations of a European Delegated Prosecutor in accordance with this Regulation and national law.
The competent national authorities and the European Delegated Prosecutors concerned by the case shall be informed without undue delay of the decision taken under this para.

In her speech for the first anniversary of the EPPO, given in the *Hémicylce* in Luxembourg on 1st June 2022, Laura Kövesi outlined that to enhance the detection rates of EU fraud specialized customs units and specialized financial experts, groups of specialized EU investigators educated in the typologies of EU frauds are needed to enhance the conduct of investigations. She underlined that these special units could be set up tomorrow and that doing so depended only on political will. **1**

As long as there are no special units as the first Advocate General of the EPPO requested – this depends on the political will of the parties in every MS, here: Estonia –, the detection rates depend on the conduct of investigations and the cooperation with national authorities and OLAF, Art. 12g OLAF Regulation – especially the assignment and instruction of investigative tasks. Looking on *Linked.In* Estonian authorities, including the FIU or private companies, offer at least 60 jobs related to fraud investigations.[63] By reading this one could guess that the fraud sector needs to fear a lot of results in inspections, but major landmark cases related to EU fraud are apparently missing. The situation in Estonia will be analysed below, stating the cooperation level and important actions to be taken. It should be mentioned that Estonia has not send a Notification by virtue of Art. 117 EPPO Regulation to the EPPO. **2**

[63] See https://ee.linkedin.com/jobs/fraud-investigations-jobs?countryRedirected=1&position=1&pageNum=0. Accessed 30 June 2025.

a) The Handling EDP Carrying Out the Investigative Measures, Para 1

3 That the handling EDP carries out the measure, depends on the initiation decision according to Art. 26 and 27 EPPO Regulation (for a detailed description of the applicable national law in this regard, see above → Art. 26, 27 EPPO Regulation).

b) Instructions and Assignment of Investigative Measures for "Those National Authorities"

4 The *Prokuratuur* outlines that:

> "[t]he Prosecutor's Office prosecutes criminal offences in co-operation with the following investigative bodies: the Police and Border Guard Board, the Security Police Board, the Tax and Customs Board, the Competition Board, the Environmental Inspectorate and the General Staff of the Defence Forces."[64]

5 **OSCE** has already analysed the structure of the Estonian police, which seems to be an important partner for the EPPO as well.[65] The **EU Commission** has as well financed projects that dealt with the role of the police in fighting crime – even if not addressing the fight against fraud explicitly.[66] **INTERPOL** has a regional office located within the structure of the Estonian police (Intelligence Management Bureau, a unit of the Estonian Police and Border Guard Board).[67]

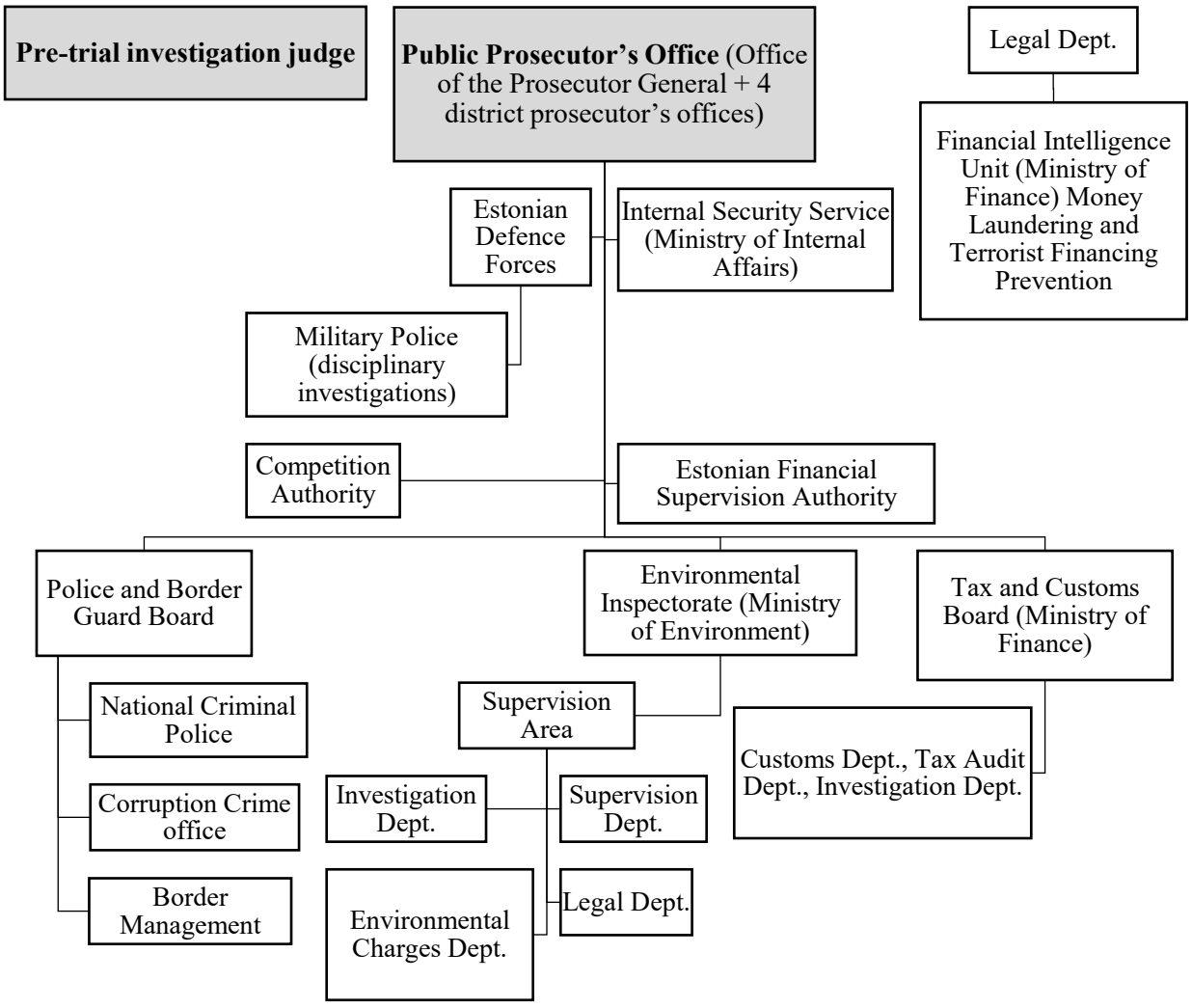
6 The national authorities can be summarized as follows:

National authorities:

- Police and Border Guard Board, Financial Crime Investigation
- [Internal Security Service (FCIS)[68)]]
- Estonian Tax and Customs Board

[64] Prokuratuur menetleb kuritegusid koostöös järgmiste uurimisasutustega: Politsei- ja Piirivalveamet , Kaitsepolitseiamet, Maksu- ja Tolliamet, Konkurentsiamet, Keskkonnainspektsioon ja Kaitsejõudude Peastaap, see https://www.prokuratuur.ee/et/prokuratuur. Accessed 30 June 2025.
[65] See https://www.osce.org/country/estonia. Accessed 30 June 2025.
[66] See State Police of the Republic of Latvia 2015, pp 14–34.
[67] See https://www.interpol.int/Who-we-are/Member-countries/Europe/ESTONIA. Accessed 30 June 2025.
[68] Read more: https://www.delfi.lt/en/business/cross-border-vat-fraud-case-handed-over-to-court.d?id=88383385: "As estimated, the organized criminal group generated EUR 23 million from the illicit sale of oil. To legalize this money, the organized group used bogus companies established in Latvia, Estonia and the Czech Republic and their bank accounts, falsified documents and bogus financial transactions. Some EUR 13 million were thus transferred to the accounts of the companies operating in Lithuania and the remaining EUR 10 million were legalized using fake cash payments."

Figure 9: Assignment of "those national authorities" in Estonia, Article 28 EPPO Regulation **7**



Source: Estonian Public Prosecutor's Office Website.

8 Relating provisions:

Code of Criminal Procedure[69]

§ 21. CPC[70] **Pre-trial investigation judge**

(1) The pre-trial investigation judge is a district court judge who, sitting alone, discharges the duties assigned to them by this Code in pre-trial proceedings.

(2) In situations provided for by this Code, permission to conduct a covert operation is granted by the pre-trial investigation judge.

For the **investigative authorities** see above → A. II.

§ 32. CPC[71] **Investigative authorities under criminal procedure**

(1) An investigative authority performs the procedural operations provided by this Code independently unless performance of the operation requires the permission of the court or the permission or direction of the Prosecutor's Office.

(2) The investigative authority may require the production of any document that is, or any data that are, needed for solving the criminal case. [RT I, 11.03.2023, 2 – entry into force 01.05.2023]

Code of Misdemeanour Procedure[72]

§ 2.[73] **Application of provisions on criminal procedure**

Unless otherwise provided for in this Code, the provisions of criminal procedure apply in misdemeanour procedure, without prejudice to rules special to misdemeanour procedure.

9 The semi-official English translation of the Estonian Code of Criminal Procedure, which we tried to use in most parts employs the term *"fast-track procedure"* for §§ 256¹–256⁵.

[69] Kriminaalmenetluse seadustik, Vastu võetud 12.02.2003, RT I 2003, 27, 166, jõustumine 01.07.2004.

[70] **§ 21. Kriminaalmenetluse seadustik** Eeluurimiskohtunik

(1) Eeluurimiskohtunik on maakohtu kohtunik, kes täidab talle käesoleva seadustikuga pandud ülesandeid kohtueelses menetluses ainuisikuliselt.

(2) Käesolevas seadustikus sätestatud juhtudel annab jälitustoiminguks loa eeluurimiskohtunik.

[71] **§ 32. Kriminaalmenetluse seadustik** Uurimisasutus kriminaalmenetluses

(1) Uurimisasutus teeb käesolevas seadustikus sätestatud menetlustoiminguid iseseisvalt, kui menetlustoiminguks ei ole vaja kohtu luba või prokuratuuri luba või korraldust.

(2) Uurimisasutusel on õigus nõuda kriminaalasja lahendamiseks vajaliku dokumendi või vajalike andmete esitamist.

[RT I, 11.03.2023, 2 - jõust. 01.05.2023].

[72] Väärteomenetluse seadustik, Vastu võetud 22.05.2002, RT I 2002, 50, 313, jõustumine 01.09.2002

[73] **§ 2. Väärteomenetluse seadustik** Kriminaalmenetluse sätete kohaldamine

Kui käesolevas seadustikus ei ole sätestatud teisiti, kohaldatakse väärteomenetluses kriminaalmenetluse sätteid, arvestades väärteomenetluse erisusi.

However, it is important to note that Estonian law **provides four distinct forms of simplified proceedings**, which can be applied with respect to Art. 39 and 40 EPPO Regulation by an Estonian EDP: 10

- the **abridged procedure** (§§ 233–238), which dispenses with the oral hearing of witnesses by relying primarily on the written case file;
- the **plea agreement procedure** (§§ 239–250), which is the most frequently applied and allows the prosecution and defence to reach a binding agreement subject to court approval;
- the **summary procedure** (§§ 251–256), designed for minor offences;
- and the **fast-track procedure** (§§ 256[1]–256[5]), which is used comparatively rarely.

For this reason, it would be misleading to single out only the fast-track procedure in the context of EPPO-related proceedings, since in practice the **plea agreement and abridged procedures** account for the **vast majority of cases in Estonia**, while the fast-track procedure remains exceptional. 11

Chapter 2 Misdemeanour procedure – the proceedings authority, the party to proceedings, experts, interpreters or translators and the parties to judicial proceedings 12

Subchapter 1 Proceedings Authority in Misdemeanour Procedure

§ 8.[74] **Proceedings authority**

The proceedings authority is:

1) in out-of-court proceedings, the out-of-court proceedings authority;

2) in judicial proceedings, the court.

§ 9.[75] **Out-of-court proceedings authority**

Where this is provided for by law, the out-of-court proceedings authority is:

1) an agency vested with the relevant executive authority;

2) the executive of a rural or urban municipality.

[74] **2. peatükk**
MENETLEJA, MENETLUSOSALINE, EKSPERT, TÕLK JA KOHTUMENETLUSE POOLED VÄÄRTEOMENETLUSES
1. jagu
Menetleja väärteomenetluses
§ 8. Menetleja
Menetleja on:
1) kohtuvälises menetluses kohtuväline menetleja;
2) kohtumenetluses kohus.

[75] **§ 9.** Kohtuväline menetleja
Kohtuväline menetleja on seadusega sätestatud juhul:
1) täidesaatva riigivõimu volitustega asutus;
2) valla- ja linnavalitsus.

§ 10.[76] **Official of an out-of-court proceedings authority**
(1) An out-of-court proceedings authority participates in proceedings through an official.
(2) An out-of-court proceedings authority approves a list of positions whose holders are authorized to participate in misdemeanour proceedings in its name. If necessary, positions on the list may be differentiated according to the sanctions that position holders are authorized to impose.
(2^1) Within the scope of procedural jurisdiction of an out-of-court proceedings authority, the head of the authority may issue general directions to ensure the legality and efficacy of proceedings.
(3) An out-of-court proceedings authority issues an authorized official with a service card certifying the official's status as a representative of the authority. The card must show the title, number and date of the legal instrument under which the official holds the status.
(3^1) Where the official is a police officer, their service ID serves as proof of their status.
(4) Officials of the out-of-court proceedings authority are required to present their service card to the person subject to proceedings, to any other parties to proceedings and to the court.

aa. Ensuring Compliance with National Law

(1) Via the General Investigation Provisions

13

Subchapter 2
General Conditions for Pre-Trial Proceedings

§ 211. CPC Purpose of pre-trial proceedings
(1) The purpose of pre-trial proceedings is to collect evidentiary information and establish other conditions that are needed for judicial proceedings in the case.[77]

[76] **§ 10.** Kohtuvälise menetleja ametnik
(1) Kohtuväline menetleja osaleb menetluses ametniku kaudu.
(2) Kohtuväline menetleja kinnitab nende ametikohtade loetelu, mida täitev ametnik on pädev väärteomenetluses osalema kohtuvälise menetleja nimel. Vajaduse korral võib loetelus eristada ametikohad karistuse määramise pädevusest tulenevalt.
(2 1) Kohtuvälise menetleja juht võib anda kohtuvälise menetluse seaduslikkuse ja tulemuslikkuse tagamiseks kohtuvälise menetleja menetluspädevuse valdkonnas üldiseid juhiseid.
(3) Kohtuväline menetleja annab ametnikule tema pädevust tõendava tunnistuse. Tunnistuses peab olema märgitud ametniku pädevuse aluseks oleva õigusakti nimetus, number ja kuupäev.
(3 1) Kui kohtuvälise menetleja ametnikuks on politseiametnik, tõendab tema pädevust politseiametniku ametitõend.
(4) Kohtuvälise menetleja ametnik on kohustatud esitama menetlusalusele isikule ja teistele menetlusosalistele ning kohtule oma pädevust tõendava tunnistuse.

[77] **2. jagu**
Kohtueelse menetluse üldtingimused
§ 211. Kriminaalmenetluse seadustik Kohtueelse menetluse eesmärk

(2) In pre-trial proceedings, the investigative authority and the Prosecutor's Office ascertain any circumstances that justify and any circumstances that incriminate the suspect or accused.

In EPPO proceedings conducted in Estonia, the provisions of **§ 212 CPC (Investigative jurisdiction)** and **§ 213 CPC (Prosecutor's Office in pre-trial proceedings)** must be observed alongside the EPPO Regulation. **14**

Nota bene → The full statutory wording of both provisions is reproduced in the volume above; what follows is a summary of their significance for practice.

Under **§ 212 CPC**, investigative jurisdiction is primarily vested in the Police and Border Guard Board and the Internal Security Service, with additional competence assigned in specific areas to specialised bodies such as the Tax and Customs Board (tax and customs crimes), the Military Police (service-related offences and war crimes), the Competition Board, the Department of Prisons, and the Environment Board. In principle, this division of competence also applies in EPPO cases. Importantly, the Prosecutor's Office may, by order, vary the investigative jurisdiction in individual cases to ensure efficiency. For the EDP, this means respecting the national allocation of investigative powers while retaining the possibility to redirect jurisdiction if necessary.

Under **§ 213 CPC**, the Prosecutor's Office presides over and supervises all pre-trial proceedings, ensuring their legality and effectiveness. The prosecutor has wide-ranging powers, including conducting or intervening in procedural operations, terminating proceedings, issuing binding instructions to investigative authorities, altering investigative jurisdiction, and declaring proceedings complete. **15**

These powers extend *mutatis mutandis* to the EDP when acting under the EPPO Regulation. Subsections (5)–(7) of § 213 explicitly provide that the supervisory and hierarchical powers of the Prosecutor's Office apply to European prosecutors and European delegated prosecutors, unless inconsistent with Union law. **16**

In practice, the EDP must respect the national allocation of investigative jurisdiction under § 212 CPC, while using the power to reassign jurisdiction where justified; apply the supervisory functions in § 213 CPC, including issuing instructions to investigative authorities, intervening in operations, and ensuring legality and efficiency. Last but not **17**

(1) Kohtueelse menetluse eesmärk on koguda tõendusteavet ja luua kohtumenetluseks muud tingimused.
(2) Kohtueelses menetluses selgitavad uurimisasutus ja prokuratuur kahtlustatavat ja süüdistatavat õigustavad ja süüstavad asjaolud.

least they must operate within the framework of the EPPO Regulation, giving precedence to Union law in the event of a conflict. § 222 CPC, which regulates on operations of an investigative authority on completion of pre-trial proceedings.

18

§ 435. CPC Judicial authorities competent to conduct international cooperation in relation to criminal proceedings

(1)[78] The central authority for **international cooperation in criminal proceedings** is the Ministry of Justice, unless otherwise provided by law or by an international legal instrument binding on the Republic of Estonia.

(2) Within the scope provided by law or the relevant international legal instrument binding on the Republic of Estonia, the judicial authorities vested with the competence to conduct international cooperation in criminal proceedings are the courts, the Prosecutor's Office, the Police and Border Guard Board, the Internal Security Service, the Tax and Customs Board, the Environment Board, the Competition Board and the Military Police.

(3) Where the Penal Code of Estonia is applied in respect of a criminal offence which was committed outside the territory of the Republic of Estonia, this must be notified without delay to the Office of the Prosecutor General which will initiate criminal proceedings in the case or verify the legality or justifiability of such proceedings having been commenced.

Chapter 14[1] Special rules for performance of certain procedural operations and for issuing a statement of charges in respect of members of the Riigikogu

§ 382[1] CPC Scope of application of this Chapter

(1) The provisions of this Chapter are to be observed when performing the procedural operations provided by § 3822 of this Code and when issuing a statement of charges in respect of a member of the Riigikogu.

(2) The provisions of this Chapter are to be observed when performing the procedural operations provided by § 3822 of this Code and when issuing a statement of charges in respect of persons who have the status of a member of the Riigikogu at the time when the decision is made to grant the consent provided for by §§ 3822 and 3829 of this Code,

[78] **§ 435. Kriminaalmenetluse seadustik** Rahvusvaheliseks kriminaalmenetlusalaseks koostööks pädevad õigusasutused

(1) Rahvusvahelise kriminaalmenetlusalase koostöö keskasutus on Justiitsministeerium, kui seaduses või Eesti Vabariigile siduvas rahvusvahelises õigusaktis ei ole sätestatud teisiti.

(2) Seaduses ning Eesti Vabariigile siduvas rahvusvahelises õigusaktis sätestatud ulatuses on rahvusvaheliseks kriminaalmenetlusalaseks koostööks pädevad õigusasutused kohus, prokuratuur, Politsei- ja Piirivalveamet, Kaitsepolitseiamet, Maksu- ja Tolliamet, Keskkonnaamet, Konkurentsiamet ja Sõjaväepolitsei.

(3) Kui Eesti karistusseadustikku kohaldatakse väljaspool Eesti Vabariigi territooriumi toimepandud kuriteo suhtes, tuleb sellest viivitamata teatada Riigiprokuratuurile, kes alustab kriminaalmenetlust või kontrollib kriminaalmenetluse alustamise seaduslikkust ja põhjendatust.

regardless of whether the act was committed before the person became a member of the Riigikogu or during their service as a member of that body.
(3) The provisions of this Chapter concerning members of the Riigikogu also apply to any alternate member of the Riigikogu who performs the functions of a member.
(4) In a criminal case dealt with under Council Regulation (EU) 2017/1939, the provisions of this Chapter concerning the Prosecutor General apply to the European Chief Prosecutor.

Police and Border Guard Act[79]

§ 3.[80] **Functions of the Police**

(1) The functions of the police are:

[79] Politsei ja piirivalve seadus, Vastu võetud 06.05.2009, RT I 2009, 26, 159, jõustumine 01.01.2010, osaliselt 01.01.2012.

[80] **2. peatükk**
POLITSEI ÜLESANDED JA KORRALDUS
§ 3. Politsei ja piirivalve seadus Politsei ülesanded
(1) Politsei ülesanneteks on:
1) karistusseadustiku 9., 12., 13., 16., 17., 21. ja 22. peatükis sätestatud süütegude ennetamine, kui see ülesanne ei ole seadusega antud muu korrakaitseorgani pädevusse, ning avaliku korra kaitse korrakaitseseaduses sätestatud alusel ja korras;
2) dokumentide ja tegevuslubade väljastamine eriseadustes sätestatud alustel ja korras;
3) kodakondsuse ja migratsiooni valdkonna asjade korraldamine;
4) otsingu- ja päästetöö tegemine välislepinguga sätestatud Eesti päästepiirkonnas;
[RT I, 20.06.2022, 2 - jõust. 01.01.2023]
41) merereostuse avastamisel osalemine sise- ja territoriaalmeres ning majandusvööndis;
[RT I, 20.06.2022, 2 - jõust. 01.01.2023]
42) reostuse avastamise ja likvideerimise korraldamine Peipsi, Lämmi- ja Pihkva järvel ning muus piiriveekogus;
[RT I, 20.06.2022, 2 - jõust. 01.01.2023] 5) otsingutööde tegemine maismaal lennuõnnetuse korral;
6) piirivalve valdkonna asjade korraldamine;
7) süütegude menetlemine ja karistuste täideviimine seaduses sätestatud alustel ja korras;
8) Vabariigi Presidendi ja tema perekonna, samuti seaduses sätestatud juhul ametist lahkunud presidendi, peaministri, välisriigi riigipeade, valitsusjuhtide, välisministrite ning Politsei- ja Piirivalveameti peadirektori või tema volitatud isiku poolt käesoleva paragrahvi lõike 3 alusel määratud isikute kaitsmine ning Vabariigi Valitsuse poolt käesoleva paragrahvi lõike 4 alusel või Politsei- ja Piirivalveameti peadirektori poolt käesoleva paragrahvi lõike 4^2 alusel määratud objektide valvamine;
9) muude seadusest ja selle alusel antud õigusaktidest tulenevate ülesannete täitmine.
(1^1) Nõuded politsei ülesannete täitmisel sündmuskoha lineaarmõõtmise mõõteprotseduurile ja mõõtetulemuse töötlemisele kehtestab Vabariigi Valitsus või tema volitatud minister määrusega.
(2) Isikute kaitse ja objektide valve korraldamise alused, teostamise viisid ning koostöö korra kehtestab Vabariigi Valitsus määrusega.
(3) Politsei- ja Piirivalveameti peadirektor või tema volitatud isik määrab vajaduse korral kaitsealused isikud, nende kaitsmise viisid ja kestuse.
(4) Politsei poolt valvatavate objektide loetelu kehtestab Vabariigi Valitsus määrusega. Vabariigi Valitsuse määratud valvatavate objektide valve teostamise viisid määrab valdkonna eest vastutav minister käskkirjaga.
(4^1) Käesoleva paragrahvi lõike 1 punktis 4 sätestatud otsingu- ja päästetöö tegemisel osaleb Päästeamet päästeseaduses sätestatud alustel ja korras. Politsei- ja Piirivalveameti ning Päästeameti koostöö korraldamisel lähtutakse kiirema abi põhimõttest, mille järgi reageerib sündmusele esimesena lähim vastavat varustust omav üksus.
(4^2) Politsei poolt ajutiselt valvatavate objektide loetelu, objektide valve teostamise viisid ning ajalise kestuse määrab Politsei- ja Piirivalveameti peadirektor käskkirjaga.
(5) Otsingu- ja päästetöö, sealhulgas Eesti merealal ning Peipsi, Lämmi- ja Pihkva järvel ning muus piiriveekogus merereostuse avastamise ja likvideerimise korra kehtestab Vabariigi Valitsus määrusega.
(6) Politsei- ja Piirivalveamet menetleb käesoleva paragrahvi lõikes 1 sätestatud ülesannetega seoses talle saabunud või Häirekeskuse vastuvõetud hädaabiteadet.
(7) Hädaabiteadete menetlemise korra kehtestab valdkonna eest vastutav minister määrusega.

1) prevention of offences provided for in Chapters 9, 12, 13, 16, 17, 21 and 22 of the Penal Code if this duty has not been assigned to another law enforcement agency by law, and protection of public order on the bases and pursuant to the procedure provided for in the Law Enforcement Act;
2) issue of documents and activity licences based on and pursuant to the procedure provided for in specific laws;
3) organisation of matters around citizenship and migration;
4) performance of search and rescue operations in the Estonian search and rescue region provided by an international agreement;
[RT I, 20.06.2022, 2 – entry into force 01.01.2023]
4^1) participation in detection of marine pollution in inland maritime waters and territorial waters and in the exclusive economic zone;
[RT I, 20.06.2022, 2 – entry into force 01.01.2023]
4^2) organisation of detection and elimination of pollution on Lake Peipsi, Lake Lämmi and Lake Pihkva and on other transboundary water bodies;
[RT I, 20.06.2022, 2 – entry into force 01.01.2023]
5) performance of search operations on land in case of an aircraft accident;
6) organisation of matters around border guard;
7) process of offences and enforcement of punishments based on and pursuant to the procedure provided by law;
8) protection of the President of the Republic and his or her family, and in cases provided by law also of the President whose term of office has expired, the Prime Minister, Heads of Foreign Countries, Heads of Governments, Ministers of Foreign Affairs and persons specified by the Director General of the Police and Border Guard Board or by a person authorised thereby on the basis of subpara 3 of this article, and guarding of objects specified by the Government of the Republic on the basis of subpara 4 of this article or by the Director General of the Police and Border Guard Board on the basis of subpara 4^2 of this article;
9) performance of other functions arising from the law and legislation issued on the basis thereof.
(1^1) Requirements for the procedure of linear measuring of the scene of an event and for processing measuring results upon the performance of the functions of the police are established by a regulation of the Government of the Republic or a minister authorised thereby.
(2) The bases for the organisation of protection of persons and guarding of objects, manners of performance thereof and the procedure for cooperation shall be established by the Government of the Republic by a regulation.
(3) If necessary, the Director General of the Police and Border Guard Board or a person authorised thereby shall specify the persons being protected and the manners and duration of their protection.

(4) A list of objects guarded by the police shall be established by the Government of the Republic by a regulation. The manners of performance of the guarding of the guarded objects specified by the Government of the Republic shall be specified by the minister in charge of the policy sector by a directive.
(4[1]) The Rescue Board and the Defence Forces participate in the performance of search and rescue operations provided in clause 4 of subpara 1 of this article. The organisation of co-operation between the Police and Border Guard Board, the Rescue Board and the Defence Forces is based on the principle of fastest aid according to which the nearest properly equipped unit is to respond to an event first.
[RT I, 20.06.2022, 2 – entry into force 01.01.2023]
(4[2]) A list of objects guarded by the police on a temporary basis, the manners of performance of the guarding of the objects and the duration thereof shall be determined by a directive of the Director General of the Police and Border Guard Board.
(5) The procedure for search and rescue operations, including for detection and elimination of marine pollution in Estonian maritime waters and on Lake Peipsi, Lake Lämmi and Lake Pihkva as well as on other transboundary water bodies shall be established by the Government of the Republic by a regulation.
(6) The Police and Border Guard Board shall process emergency notifications received by the Police and Border Guard Board in connection with the functions provided for in subpara 1 of this article or by the Emergency Centre.
(7) The procedure for processing emergency notifications shall be established by a regulation of the minister in charge of the policy sector.

§ 4.[81] Police and Border Guard Board
(1) The Police and Border Guard Board is a governmental authority within the area of government of the Ministry of the Interior. The Police and Border Guard Board is a police authority.
(2) The territorial jurisdiction of the Police and Border Guard Board is the territory of the Republic of Estonia, unless otherwise provided by law or an international agreement.
(3) The Police and Border Guard Board is headed by the Director General.

[81] **§ 4. Politsei ja piirivalve seadus** Politsei- ja Piirivalveamet
(1) Politsei- ja Piirivalveamet on Siseministeeriumi valitsemisalas asuv valitsusasutus. Politsei- ja Piirivalveamet on politseiasutus.
(2) Politsei- ja Piirivalveameti tööpiirkond on Eesti Vabariigi territoorium, kui seaduses või välislepingus ei ole sätestatud teisiti.
(3) Politsei- ja Piirivalveametit juhib peadirektor.
(4) Politsei- ja Piirivalveameti pädevuses on politseile pandud ülesannete täitmine. Seadusega, määrusega, valdkonna eest vastutava ministri käskkirjaga ning Politsei- ja Piirivalveameti peadirektori käskkirjaga võib Politsei- ja Piirivalveameti ülesannete täitmise pädevuse määrata Politsei- ja Piirivalveameti struktuuriüksuse, sealhulgas prefektuuri territoriaalse või funktsionaalse struktuuriüksuse või arestimaja täpsusega.
(5) Politsei- ja Piirivalveameti kriminaalpolitsei, riigipiiri valvamise, objektide valvamise, isikute kaitsmise ja teabeturbe korralduse struktuur, teenistuskohtade koosseis ja isikkoosseis on asutusesiseseks kasutamiseks mõeldud teave avaliku teabe seaduse tähenduses.

(4) The Police and Border Guard Board is competent to perform functions assigned to the police. The competence of the Police and Border Guard Board to perform the functions may be defined by a law, a regulation, a directive of the minister in charge of the policy sector and a directive of the Director General of the Police and Border Guard Board by specifying a structural unit of the Police and Border Guard Board, including a territorial or functional structural unit of a prefecture or a house of detention.
(5) The organisation of the criminal police, guarding of the state border, guarding of objects, protection of persons and information security, and posts and staff of the Police and Border Guard Board is information intended for internal use within the meaning of the Public Information Act.

Chapter 5 Police service
Subchapter 1 General Provisions

§ 33.[82] **Police service**

(1) Police service shall be deemed service in the Police and Border Guard Board, the Estonian Internal Security Service or an institution of professional higher education for public defence in the position of a police officer.
(2) Police service is a special type of public service.

For the Code of Misdemeanour Procedure[83] cf. § 2. Application of provisions on criminal procedure above.

§ 10. Official of an out-of-court proceedings authority

(1) An out-of-court proceedings authority participates in proceedings through an official.[84]

[82] **5. peatükk**
POLITSEITEENISTUS
1. jagu
Üldsätted
§ 33. Politsei ja piirivalve seadus Politseiteenistus
(1) Politseiteenistuseks loetakse teenistust Politsei- ja Piirivalveametis, Kaitsepolitseiametis või sisekaitselises rakenduskõrgkoolis politseiametniku ametikohal.
(2) Politseiteenistus on avaliku teenistuse eriliik.

[83] Väärteomenetluse seadustik, Vastu võetud 22.05.2002, RT I 2002, 50, 313, jõustumine 01.09.2002

[84] **§ 10.** Kohtuvälise menetleja ametnik
(1) Kohtuväline menetleja osaleb menetluses ametniku kaudu.
(2) Kohtuväline menetleja kinnitab nende ametikohtade loetelu, mida täitev ametnik on pädev väärteomenetluses osalema kohtuvälise menetleja nimel. Vajaduse korral võib loetelus eristada ametikohad karistuse määramise pädevusest tulenevalt.
(2 1) Kohtuvälise menetleja juht võib anda kohtuvälise menetluse seaduslikkuse ja tulemuslikkuse tagamiseks kohtuvälise menetleja menetluspädevuse valdkonnas üldiseid juhiseid.
(3) Kohtuväline menetleja annab ametnikule tema pädevust tõendava tunnistuse. Tunnistuses peab olema märgitud ametniku pädevuse aluseks oleva õigusakti nimetus, number ja kuupäev.

(2) An out-of-court proceedings authority approves a list of positions whose holders are authorized to participate in misdemeanour proceedings in its name. If necessary, positions on the list may be differentiated according to the sanctions that position holders are authorized to impose.
(2[1]) Within the scope of procedural jurisdiction of an out-of-court proceedings authority, the head of the authority may issue general directions to ensure the legality and efficacy of proceedings.
(3) An out-of-court proceedings authority issues an authorized official with a service card certifying the official's status as a representative of the authority. The card must show the title, number and date of the legal instrument under which the official holds the status.
(3[1]) Where the official is a police officer, their service ID serves as proof of their status.
(4) Officials of the out-of-court proceedings authority are required to present their service card to the person subject to proceedings, to any other parties to proceedings and to the court.

§ 31.[85] Collection of evidence and application of provisions of criminal procedure when performing procedural operations
(1) Under misdemeanour procedure, the offering and collection of evidence is subject to the relevant provisions of criminal procedure without prejudice to special rules provided in this Code.
(1[1]) If the place, time or manner, or other aspects, of the commission of the misdemeanour have been photo or video recorded during a law enforcement operation, the recording may be used as an independent evidentiary item in misdemeanour proceedings, provided the following are apparent from that recording:

(3 1) Kui kohtuvälise menetleja ametnikuks on politseiametnik, tõendab tema pädevust politseiametniku ametitõend.
(4) Kohtuvälise menetleja ametnik on kohustatud esitama menetlusalusele isikule ja teistele menetlusosalistele ning kohtule oma pädevust tõendava tunnistuse.
[85] **5. peatükk**
MENETLUSTOIMINGUD, MENETLUSTÄHTAJAD JA MENETLUSKULUD
§ 31. Väärteomenetluse seadustik Tõendite kogumine ja kriminaalmenetluse sätete kohaldamine menetlustoimingute tegemisel
(1) Tõendamisel ja tõendite kogumisel järgitakse väärteomenetluses kriminaalmenetluse sätteid käesolevas seadustikus sätestatud erisusi arvestades.
(1[1]) Kui väärteo toimepanemise aeg, koht või viis või muud väärteo tehiolud on riikliku järelevalve käigus foto- või videosalvestatud, võib see salvestis olla väärteomenetluses iseseisvaks tõendiks, kui salvestisest nähtuvad:
1) salvestise seos väärteoasjaga;
2) millal, millistel asjaoludel ja kelle poolt on salvestis loodud;
3) väärteoasja lahendamiseks olulised asjaolud.
(2) Kohtuvälisel menetlejal ja kohtul on õigus nõuda füüsiliselt ja juriidiliselt isikult väärteoasja lahendamiseks vajaliku dokumendi, eseme või muu objekti esitamist.
(3) Korruptsioonivääreo kohtuväline menetleja võib taotleda kohtult sellise määruse andmist, millega võimaldatakse juurdepääs pangasaladusele ja fondiosakute registri andmetele, kui see on vältimatult vajalik korruptsioonivääreo menetluse eesmärgi saavutamiseks.

1) the link between the recording and the misdemeanour case;
2) when, under what circumstances and by whom the recording was created;
3) other facts which are relevant for the purposes of resolving the misdemeanour case.
(2) The out-of-court proceedings authority, and the court, has a right to require a natural or legal person to produce any documents or physical or other objects required for resolving the misdemeanour case.
(3) Where this is unavoidably necessary to accomplish the aim of proceedings concerning a corruption misdemeanour, the out-of-court proceedings authority may apply to the court for an order allowing access to banking secrets and to data in the Register of Fund Units.

19 The next part deals with the Taxation Act and the options available from this statutory instrument:

20

Taxation Act[86]

Chapter 7 Enquiry to communications undertaking, surveillance activities and secret co-operation§ 81[1].[87] **Enquiry to communications undertaking**

(1) The Tax and Customs Board may make an enquiry to the electronic communications undertaking on the basis specified in clauses 1 and 2 of subpara 1 of § 126[2] of the Code of Criminal Procedure and regarding the persons specified in clauses 1 and 2 of subpara 3 of § 126[2] of the Code of Criminal Procedure to get the following information:
1) the information needed to establish the end-user connected to the identifier of the user used in the electronic communication network, except the information concerning the fact of transmission of messages;
2) the information to the electronic communications undertaking specified in subparas 2 and 3 of § 111[1] of the Electronic Communications Act which are not mentioned in clause 1 of this subpara.

[86] Maksukorralduse seadus, Vastu võetud 20.02.2002, RT I 2002, 26, 150, jõustunud vastavalt §-le 170.
[87] **71. peatükk.**
PÄRING SIDEETTEVÕTJALE, JÄLITUSTOIMINGUD JA SALAJANE KOOSTÖÖ
§ 81 1. Maksukorralduse seadus Päringu tegemine sideettevõtjale
(1) Maksu- ja Tolliamet võib teha päringu elektroonilise side ettevõtjale kriminaalmenetluse seadustiku § 1262 lõike 1 punktides 1 ja 2 nimetatud alusel ning kriminaalmenetluse seadustiku § 1262 lõike 3 punktides 1 ja 2 nimetatud isikute suhtes järgmiste andmete saamiseks:
1) elektroonilise side võrgus kasutatavate identifitseerimistunnustega seotud lõppkasutaja tuvastamiseks vajalikud andmed, välja arvatud sõnumi edastamise faktiga seotud andmed;
2) elektroonilise side ettevõtjale elektroonilise side seaduse § 111[1] lõigetes 2 ja 3 nimetatud andmed, mida ei ole nimetatud käesoleva lõike punktis 1.
(2) Käesoleva paragrahvi lõike 1 punktis 2 nimetatud päringu tegemiseks annab loa prokuratuur. Päringu tegemise loas märgitakse kuupäevalise täpsusega ajavahemik, mille kohta andmete nõudmine on lubatud.

(2) The authorisation for making the enquiry specified in clause 2 of subpara 1 of this article shall be granted by the prosecutor's office. The authorisation for making an inquiry shall set out the interval for which the request for information is allowed with an accuracy of date.

§ 151[11]. Suspension of proceedings

(1)[88] If, under the circumstances related to a question in dispute, a misdemeanour or criminal proceeding is commenced against the complainant due to fraud, wilful default or gross negligence, the Tax and Customs Board shall have the right to suspend the proceeding as of the commencement of the misdemeanour or criminal proceeding until termination of the proceedings in this matter.

(2) The Tax and Customs Board shall inform, without delay, the complainant and the competent authority of the Member State concerned of the suspension of the procedure and continuation of the procedure.

Prosecutor's Office Act[89]

Chapter 1

§ 1.[90] Prosecutor's office

(1) The prosecutor's office is a government agency within the area of government of the Ministry of Justice which participates in the planning of surveillance necessary to combat and detect criminal offences, directs pre-trial criminal procedure and ensures the legality and efficiency thereof, represents public prosecution in court and performs other duties assigned to the prosecutor's office by law.

(1[1]) The prosecutor's office is independent in the performance of its functions arising from law, and it acts pursuant to this Act, other Acts, and legislation issued on the basis thereof.

---

[88] **§ 151 11. Maksukorralduse seadus** Menetluse peatamine

(1) Kui kaebaja suhtes on alustatud vaidlusaluse küsimusega seotud asjaoludel väärteo- või kriminaalmenetlus pettuse, tahtliku tegevusetuse või hooletuse tõttu, on Maksu- ja Tolliametil õigus kaebuse menetlus peatada väärteo- või kriminaalmenetluse algatamisest arvates kuni asjas menetluse lõpetamiseni.

(2) Maksu- ja Tolliamet teavitab menetluse peatamisest ning menetluse jätkamisest viivitamata kaebajat ja asjaomase liikmesriigi pädevat asutust.

[89] Prokuratuuriseadus, Vastu võetud 22.04.1998, RT I 1998, 41, 625, jõustumine 20.05.1998, osaliselt 01.01.2001. a.

[90] **1. peatükk**
ÜLDSÄTTED
§ 1. Prokuratuur

(1) Prokuratuur on Justiitsministeeriumi valitsemisalas olev valitsusasutus, mis osaleb kuritegude tõkestamiseks ja avastamiseks vajaliku jälitustegevuse planeerimises, juhib kohtueelset kriminaalmenetlust, tagades selle seaduslikkuse ja tulemuslikkuse, esindab kohtus riiklikku süüdistust ning täidab muid seadusega prokuratuurile pandud ülesandeid.

(1[1]) Prokuratuur on oma seadusest tulenevate ülesannete täitmisel sõltumatu ja tegutseb, lähtudes käesolevast seadusest, muudest seadustest ning nende alusel antud õigusaktidest.

(2) Prokuratuur jaguneb Riigiprokuratuuriks ja temale alluvateks ringkonnaprokuratuurideks.

(2) The prosecutor's office is divided into the Office of the Prosecutor General and into district prosecutor's offices subordinate to it.

§ 2.[91] **Prosecutors**

(1) Prosecutors are the prosecutors of the Office of the Prosecutor General and prosecutors of the district prosecutor's offices.

(2) Prosecutors shall be independent in the performance of their duties and act only pursuant to law and according to their conscience.

Chapter 2
ORGANISATION OF PROSECUTOR'S OFFICE

§ 3.[92] **Prosecutor General**

(1) The Prosecutor General shall direct the prosecutor's office and perform other duties imposed on him or her by law.

(2) If the Prosecutor General is temporarily unable to perform his or her duties due to illness or other hindrance, the minister responsible for the area shall designate a substitute for him or her from among the prosecutors of the Office of the Prosecutor General.

§ 4.[93] **Office of Prosecutor General**

(1) The prosecutors of the Office of the Prosecutor General shall ensure the legality and efficacy of pre-trial procedure, represent public prosecutions in the courts and perform other duties imposed on them by law.

(2) The prosecutors of the Office of the Prosecutor General are the Prosecutor General, the chief state prosecutors, state prosecutors and assistant prosecutors.

(3) The Office of the Prosecutor General may be divided into departments, which shall be approved by the minister responsible for the area. The Prosecutor General shall designate the state prosecutors and assistant prosecutors who belong to the departments.

---

[91] **§ 2. Prokurör**

(1) Prokurörid on Riigiprokuratuuri prokurörid ning ringkonnaprokuratuuri prokurörid.

(2) Prokurör on oma ülesannete täitmisel sõltumatu ning tegutseb ainult seaduse alusel ja oma veendumuse järgi.

[92] **2. peatükk**

PROKURATUURI KORRALDUS

§ 3. Riigi peaprokurör

(1) Riigi peaprokurör juhib prokuratuuri ja täidab teisi temale seadusega pandud ülesandeid.

(2) Kui riigi peaprokurör ei saa haiguse või muu takistuse tõttu ajutiselt oma ülesandeid täita, määrab valdkonna eest vastutav minister talle Riigiprokuratuuri prokuröride hulgast asendaja.

[93] **§ 4. Riigiprokuratuur**

(1) Riigiprokuratuuri prokurörid tagavad kohtueelse menetluse seaduslikkuse ja tulemuslikkuse ning esindavad riiklikku süüdistust kohtus ja täidavad teisi seadusega neile pandud ülesandeid.

(2) Riigiprokuratuuri prokurörid on riigi peaprokurör, juhtivad riigiprokurörid, riigiprokurörid ja abiprokurörid.

(3) Riigiprokuratuur võib jaguneda osakondadeks, mille kinnitab valdkonna eest vastutav minister. Osakonda kuuluvad riigiprokurörid ja abiprokurörid määrab riigi peaprokurör.

§ 5.[94] **District prosecutor's office**

(1) The prosecutors of a district prosecutor's office shall ensure the legality and efficacy of pre-trial procedure, represent public prosecutions in the courts and perform other duties imposed on them by law.

(2) The prosecutors of a district prosecutor's office are the chief prosecutor, senior prosecutors, specialised prosecutors, district prosecutors and assistant prosecutors.

(3) The location and territorial jurisdiction of a district prosecutor's office shall be established by a regulation of the Government of the Republic.

(4) A district prosecutor's office may be divided into departments, which shall be approved by the minister responsible for the area. A chief prosecutor shall appoint specialised prosecutors, district prosecutors and assistant prosecutors to departments. A chief prosecutor has the right to transfer a district prosecutor to another regional department within the same territorial jurisdiction without a public competition with his or her consent.

§ 7[1].[95] **European Prosecutor**

(1) A European Prosecutor is a person appointed from Estonia to the European Public Prosecutor's Office pursuant to article 16(3) of Council Regulation (EU) 2017/1939 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L 283, 31.10.2017, pp 1–71).

(2) A European Prosecutor shall not belong to the Estonian prosecutors' service and is independent of the Estonian Prosecutor's Office in his or her activities.

(3) The provisions of this Act shall not apply to a European Prosecutor, unless otherwise provided by law.

[94] **§ 5. Ringkonnaprokuratuur**

(1) Ringkonnaprokuratuuri prokurörid tagavad kohtueelse menetluse seaduslikkuse ja tulemuslikkuse ning esindavad riiklikku süüdistust kohtus ja täidavad teisi seadusega neile pandud ülesandeid.

(2) Ringkonnaprokuratuuri prokurörid on juhtivprokurör, vanemprokurörid, eriasjade prokurörid, ringkonnaprokurörid ja abiprokurörid.

(3) Ringkonnaprokuratuuri asukoha ja tööpiirkonna kehtestab Vabariigi Valitsus määrusega.

(4) Ringkonnaprokuratuur võib jaguneda osakondadeks, mille kinnitab valdkonna eest vastutav minister. Osakonda kuuluvad eriasjade prokurörid, ringkonnaprokurörid ja abiprokurörid määrab juhtivprokurör. Juhtivprokuröril on õigus ilma konkursita viia sama ringkonnaprokuratuuri tööpiirkonnas ringkonnaprokuratuuri prokurör tema nõusolekul ühest piirkondlikust osakonnast teise.

[95] **§ 7[1]. Euroopa prokurör**

(1) Euroopa prokurör on nõukogu määruse (EL) 2017/1939, millega rakendatakse tõhustatud koostööd Euroopa Prokuratuuri asutamisel (ELT L 283, 31.10.2017, lk 1–71), artikli 16 lõike 3 alusel Eestist Euroopa Prokuratuuri ametisse nimetatud isik.

(2) Euroopa prokurör ei kuulu Eesti prokuröriteenistusse ning on oma tegevuses Eesti prokuratuurist sõltumatu.

(3) Euroopa prokurörile ei kohaldata käesoleva seaduse sätteid, kui seadusest ei tulene teisiti.

§ 7².[96] **European Delegated Prosecutor**
(1) A European Delegated Prosecutor is a person appointed from Estonia to the European Public Prosecutor's Office pursuant to article 17 of Council Regulation (EU) 2017/1939. In the performance of the functions pursuant to the Regulation, a European Delegated Prosecutor shall be outside the Estonian prosecutor's service and independent of the Estonian prosecutor's office in his or her activities.
(2) A European Delegated Prosecutor may perform the functions of a national prosecutor based on a decision of the Prosecutor General insofar this does not prevent him or her from performing any functions arising from Council Regulation (EU) 2017/1939.
(3) In the performance of any functions arising from Council Regulation (EU) 2017/1939, the provisions of this Act shall not apply to a European Delegated Prosecutor, unless otherwise provided by law. In the performance of the functions of a national prosecutor, all the provisions of this Act apply to a European Delegated Prosecutor.
(4) A Delegated Prosecutor appointed from Estonia shall be appointed a state prosecutor for the term of office of the Delegated Prosecutor.

(2) Via National Administrative Decrees/Regulations under Criminal Procedural Law

(a) Estonia

21 **Code of Criminal Procedure Implementation Act**[97]

§ 1. Application of the Code of Criminal Procedure in pre-trial proceedings
(1)[98] Procedural and covert operations commenced prior to the entry into force of the Code of Criminal Procedure are completed in accordance with the Code of Criminal

[96] **§ 7². Euroopa delegaatprokurör**
(1) Euroopa delegaatprokurör on nõukogu määruse (EL) 2017/1939 artikli 17 alusel Eestist Euroopa Prokuratuuri ametisse nimetatud isik. Määrusest tulenevate ülesannete täitmisel on Euroopa delegaatprokurör väljaspool Eesti prokuratuuriteenistust ning on oma tegevuses Eesti prokuratuurist sõltumatu.
(2) Euroopa delegaatprokurör võib täita riigisisese prokuröri ülesandeid riigi peaprokuröri otsuse alusel niivõrd, kuivõrd see ei takista teda täitmast nõukogu määrusest (EL) 2017/1939 tulenevaid ülesandeid.
(3) Nõukogu määrusest (EL) 2017/1939 tulenevate ülesannete täitmisel ei kohaldata Euroopa delegaatprokurörile käesoleva seaduse sätteid, kui seadusest ei tulene teisiti. Riigisisese prokuröri ülesannete täitmisel kohalduvad Euroopa delegaatprokurörile kõik käesoleva seaduse sätted.
(4) Eestist ametisse nimetatud delegaatprokurör nimetatakse delegaatprokuröri ametiajaks riigiprokuröriks.

[97] Kriminaalmenetluse seadustiku rakendamise seadus, Vastu võetud 19.05.2004, RT I 2004, 46, 329, jõustumine 01.07.2004, osaliselt vastavalt §-le 26.

[98] **1. peatükk**
ÜLDSÄTTED
§ 1. **Kriminaalmenetluse seadustiku rakendamise seadus** Kriminaalmenetluse seadustiku rakendamine kohtueelses menetluses
(1) Enne kriminaalmenetluse seadustiku jõustumist alustatud menetlus- ja jälitustoiming viiakse lõpule, järgides kriminaalmenetluse koodeksit ja jälitustegevuse seadust, välja arvatud käesoleva paragrahvi lõikes 2 sätestatud juhtudel.
(2) Kriminaalasja kohtueelne menetlus viiakse prokuratuuris lõpule, järgides kriminaalmenetluse seadustiku §-des 223–227 sätestatud korda. Kriminaalmenetluse koodeksi § 176 kohaselt prokuratuurile saadetud kriminaalasjades,

Procedure and the Covert Operations Act, except in situations provided for in subpara 2 of this article.
(2) Pre-trial proceedings in a criminal case are completed by the Prosecutor's Office in accordance with the rules provided in articles 223–227 of the Code of Criminal Procedure. In criminal cases which are sent to the Prosecutor's Office under sec§ 176 of the Code of Criminal Procedure and in which the accused is represented by a defence counsel, the operations provided for in articles 224–225 of the Code of Criminal Procedure are forgone, except for provision to the counsel, at their request, of a copy of the criminal file.
(3) Complaints that have been lodged, prior to the entry into force of the Code of Criminal Procedure, with an administrative court against the actions of an investigator or a prosecutor are considered by the administrative court in accordance with the rules provided in the Code of Administrative Court Procedure.

In addition to the corpus of provisions presented above, the Estonian legal order contains several further statutory instruments of practical relevance to EPPO investigations. These norms regulate **specific investigative powers**, institutional competences, and procedural implementation mechanisms that supplement the main criminal procedural framework. The Estonian Taxation Act, particularly Chapter 7, provides the Tax and Customs Board with targeted investigatory powers that may become relevant where tax-related conduct overlaps with EU-relevant fraud. An important feature of the new Estonian system is the explicit statutory regulation of the **status of the European Prosecutor** (§ 71) and EDPs (§ 72) appointed from Estonia. Both categories act outside the Estonian prosecution service when performing functions under the EPPO Regulation. National provisions apply to them only where national law explicitly provides otherwise. EDPs may upon decision of the Prosecutor General, **perform national prosecutorial functions** insofar as these do not hinder their EPPO duties; in this case, the full Estonian prosecutorial framework applies. **As practitioner** one should read this part in conjunction with the earlier collection of criminal procedural and EPPO-related norms in order to gain a complete understanding of the domestic framework applicable to EPPO investigations on Estonian territory. **22**

(b) Specific Decrees, Non-Formal Laws, Execution of the CPC

§ 213 […] **(5)** To ensure the legality and effectiveness of pre-trial proceedings, the public prosecutor may issue general orders to the prosecutor's office and investigative agencies by a regulation. **23**

milles süüdistataval on kaitsja, ei teostata kriminaalmenetluse seadustiku §-des 224–225 sätestatud toiminguid, välja arvatud kaitsja taotlusel talle kriminaaltoimiku koopia andmine.
(3) Enne kriminaalmenetluse seadustiku jõustumist uurija või prokuröri tegevuse peale halduskohtusse esitatud kaebus vaadatakse halduskohtus läbi halduskohtumenetluse seadustikus sätestatud korras.

bb. Urgent Measures in Accordance with National Law Necessary to Ensure Effective Investigations

24

Code of Criminal Procedure[99]

§ 91.[100] **Search**

(1) The aim of a search is to find, in a building, a room, a vehicle or an enclosed area, an object to be confiscated or used as an item of physical evidence, or a document, thing or person needed for resolving the criminal case, or property to be attached in criminal proceedings, or a corpse, or to apprehend a person who has been declared a fugitive from justice. A search may be conducted provided there is a reasonable suspicion that what is searched for is located at the place to be searched.

---

[99] Kriminaalmenetluse seadustik, Vastu võetud 12.02.2003, RT I 2003, 27, 166, jõustumine 01.07.2004.

[100] **6. Jagu Läbiotsimine ja uurimiseksperiment**

§ 91. Kriminaalmenetluse seadustik Läbiotsimine

(1) Läbiotsimise eesmärk on leida hoonest, ruumist, sõidukist või piirdega alalt asitõendina kasutatav või konfiskeeritav objekt, kriminaalasja lahendamiseks vajalik dokument, asi või isik või kriminaalmenetluses arestitav vara või laip või tabada tagaotsitav. Läbiotsimist võib toimetada, kui esineb põhjendatud kahtlus, et otsitav asub läbiotsimiskohas.

(2) Kui käesolev seadustik ei sätesta teisiti, võib läbiotsimist toimetada prokuratuuri taotlusel eeluurimiskohtuniku määruse või kohtumääruse alusel. Nii eeluurimiskohtuniku määrus kui ka kohtumäärus prokuratuuri läbiotsimistaotluse lahendamise kohta võib olla koostatud pealdisena prokuratuuri taotlusel.

(3) Läbiotsimist võib toimetada prokuratuuri määruse alusel, välja arvatud läbiotsimine notari- või advokaadibüroos või ajakirjanduslikul eesmärgil informatsiooni töötleva isiku juures, kui on alust arvata, et kahtlustatav kasutab või kasutas läbiotsitavat kohta või sõidukit kuriteosündmuse või kohtueelse menetluse ajal, ning isikut kahtlustatakse käesoleva seadustiku § 126^2 lõikes 2 nimetatud kuriteo toimepanemises.

(4) Läbiotsimismääruses märgitakse:

1) mida läbiotsimise eesmärgina otsitakse (edaspidi otsitav objekt);

2) läbiotsimise põhjendus;

3) koht, kus läbiotsimist toimetatakse.

(5) Edasilükkamatul juhul, kui läbiotsimismääruse vormistamine ei ole õigel ajal võimalik, võib käesoleva paragrahvi lõikes 3 nimetatud tingimustel toimetada läbiotsimist prokuratuuri loa alusel, mis on antud taasesitamist võimaldaval viisil.

(6) Läbiotsimise toimetamisel käesoleva paragrahvi lõigetes 3 ja 5 nimetatud alustel tuleb sellest läbiotsimise alustamisele järgneva esimese tööpäeva jooksul prokuratuuri kaudu teatada eeluurimiskohtunikule. Eeluurimiskohtunik otsustab läbiotsimise lubatavaks tunnistamise määrusega, mis võib olla koostatud pealdisena prokuratuuri määrusel.

(7) Läbiotsimist rakendades tutvustatakse isikule, kelle juures läbi otsitakse, või tema täisealisele perekonnaliikmele või selle juriidilise isiku või riigi või kohaliku omavalitsuse asutuse, kelle juures läbi otsitakse, esindajale läbiotsimismäärust. Tutvustamise kohta võetakse määrusele allkiri. Käesoleva paragrahvi lõikes 5 nimetatud juhul selgitatakse läbiotsimist rakendades isikule, kelle juures läbi otsitakse, või tema täisealisele perekonnaliikmele või selle juriidilise isiku või riigi või kohaliku omavalitsuse asutuse, kelle juures läbi otsitakse, esindajale käesoleva paragrahvi lõikes 4 nimetatud asjaolusid ning põhjusi, miks läbiotsimist toimetatakse edasilükkamatult. Asjaolude selgitamise kohta võetakse läbiotsimisprotokollile allkiri. Vastava isiku või esindaja puudumisel peab kaasama kohaliku omavalitsuse esindaja.

(8) Notaribüroo või advokaadibüroo läbiotsimise juures peab viibima notar või advokaat, kelle juures läbi otsitakse. Kui asjaomane notar või advokaat ei saa läbiotsimise juures viibida, peab läbiotsimise juures viibima notari asendaja või teine sama advokaadibüroo kaudu õigusteenust osutav advokaat, selle võimatuse korral teine notar või advokaat.

(9) Läbiotsimist rakendades tehakse ettepanek anda välja otsitav objekt või näidata laiba või tagaotsitava peidukoht. Kui ettepanek jäetakse täitmata või kui on alust arvata, et seda on järgitud osaliselt, toimetatakse otsinguid.

(10) Läbiotsimise käigus võib ära võtta kõik objektid, mis kuuluvad konfiskeerimisele või on ilmselt kriminaalmenetluses tõendiks, kui need avastati ilma otsinguteta selgesti nähtavast kohast või otsitavate objektide leidmiseks ettevõetud mõistlike otsingute käigus. [RT I, 19.03.2015, 1 - jõust. 01.09.2016]

(2) Unless otherwise provided by this Code, a search may be conducted on an application of the Prosecutor's Office under an order from the pre-trial investigation judge or from the court. The order by which the pre-trial investigation judge or the court disposes of such an application may take the form of a note made on the application.
(3) A search may be conducted based on an order from the Prosecutor's Office, except for a search at a notary's office or at the office of a law firm or at the premises of a person processing information for journalistic purposes, provided there is reason to believe that the suspect is using the premises or vehicle to be searched, or used those premises or that vehicle, at the time of the criminal event or during pre-trial proceedings, and the person is suspected of having committed a criminal offence mentioned in subpara 2 of § 126^2 of this Code.
(4) A search order states:
1) as the aim of the search, what the search is for (hereinafter, 'the object searched for');
2) the reasons for the search;
3) the place at which the search is conducted.
(5) In a situation of urgency, if it is not possible to issue a search order at a proper time, a search may be conducted, on conditions provided by subpara 3 of this article, based on an authorisation of the Prosecutor's Office provided in a form reproducible in writing.
(6) When a search is conducted on the grounds provided by subparas 3 and 5 of this article, this must be notified, through the Prosecutor's Office, to the pre-trial investigation judge during the first working day following commencement of the search. The judge decides, by an order which may be made as a note on the order from the Prosecutor's Office, whether to declare the search permissible.
(7) During the lead-in to a search, the search order is presented to the person at whose premises the search is performed, or to a full-age member of their family, or to a representative of the legal person or of the State or municipal authority at whose premises the search is performed. Signed acknowledgement of such presentation is obtained on the order from the person, family member or representative. In a situation mentioned in subpara 5 of this article, the circumstances mentioned in subpara 4 of this article, and the reasons for conducting the search as a matter of urgency, are explained to the person, family member or representative. Signed acknowledgement of such explanation is obtained on the search report from the person, family member or representative. Where the relevant person or representative is not present, participation of a representative of the municipality must be arranged.
(8) When a search is conducted at the office of a notary or of a law firm, the notary or the attorney at whose premises the search is performed must be in attendance. If the notary or attorney cannot attend the search, it must be attended by the person who stands in for the notary or by another attorney who provides legal services through the same firm or, where this is impossible, by another notary or another attorney.

(9) During the lead-in to a search, an invitation is made to hand over the object searched for or to show the place where a corpse has been hidden or where a person who has been declared a fugitive is hiding. If the invitation is not acceded to or if there is reason to believe that it has only been followed in part, search operations are conducted.
(10) In the course of a search, any objects that are subject to confiscation or that clearly represent items of evidence in criminal proceedings may be seized, provided these were discovered without any search operations, in a clearly visible place, or in the course of reasonable search operations undertaken to find the objects searched for. [RT I, 19.03.2015, 1 – entry into force 01.09.2016]

§ 142.[101] **Seizure of property**
(1) The objective of attachment of property is to ensure interim protection of a civil court claim, of a statement of a public-law claim, of confiscation or substitutional confiscation, of a pecuniary penalty or of a forfeiture of property. 'Attachment of property' means recording the details of the property of the suspect, accused, convicted offender, civil defendant or third party, or of the property that is the subject matter of a money laundering or terrorist financing scheme, and preventing any transfer of such property.
[RT I, 11.03.2023, 2 – entry into force 01.05.2023]
(2) Property is seized at the request of a Prosecutor's Office and based on an order of a pre-trial investigation judge or based on a court ruling.
(3) In cases of urgency, property, except property which is the object of money laundering, may be seized without the permission of a pre-trial investigation judge. The pre-trial investigation judge shall be notified of the seizure of the property within 24 hours after the seizure and the pre-trial investigation judge shall immediately decide whether to grant or refuse permission. If the pre-trial investigation judge refuses to grant permission, the property shall be released from seizure immediately.
[...]

[101] **§ 142. Kriminaalmenetluse seadustik** Vara arestimine
(1) Vara arestimise eesmärk on tsiviilhagi, avalik-õigusliku nõudeavalduse, konfiskeerimise või selle asendamise või rahalise või varalise karistuse tagamine. Vara arestimine seisneb kahtlustatava, süüdistatava või süüdimõistetu, tsiviilkostja või kolmanda isiku või rahapesu või terrorismi rahastamise objektiks oleva vara üleskirjutamises ja vara võõrandamise tõkestamises.
[RT I, 11.03.2023, 2 - jõust. 01.05.2023]
(2) Vara arestitakse prokuratuuri taotlusel eeluurimiskohtuniku määruse või kohtumääruse alusel.
(3) Edasilükkamatutel juhtudel võib vara arestida eeluurimiskohtuniku loata, välja arvatud rahapesu objektiks olevat vara. Eeluurimiskohtunikule tuleb vara arestimisest teatada vara arestimisest alates 24 tunni jooksul ning eeluurimiskohtunik otsustab loa andmise või sellest keeldumise viivitamata. Kui eeluurimiskohtunik keeldub loa andmisest, vabastatakse vara kohe aresti alt.
[...]

§ 462.[102] **Proceedings in respect of a request for assistance received from a foreign State**

(1) The Ministry of Justice verifies whether a request for assistance received from a foreign State complies with the requirements. A request for assistance that complies with the requirements is transmitted to the Office of the Prosecutor General without delay.

(2) The Office of the Prosecutor General verifies whether execution of the request for assistance is permissible and possible and executes the request or transmits it to a judicial authority that is competent to execute it.

(3) Requests for assistance received by investigative authorities are transmitted to the Office of the Prosecutor General. In a situation of urgency, given the corresponding authorisation from the Office of the Prosecutor General, a request for assistance presented through the International Criminal Police Organisation (Interpol) or an alert in the Schengen Information System may be executed before arrival of a corresponding request for assistance at the Ministry of Justice.

[RT I, 21.06.2014, 11 – entry into force 01.01.2015]

§ 472. Cross-border surveillance

(1) In connection with pre-trial proceedings concerning criminal offences for which extradition is possible and where a person is kept under surveillance due to the suspicion of criminal offence or in order to help to identify the person suspected or ascertain his or her whereabouts, surveillance may be continued in the territory of another Member State party to the Schengen Agreement of 14 June 1985 on the gradual abolition of checks at their common borders signed at Schengen on 19 June 1990 (hereinafter Schengen Member State) where the latter has authorised cross-border surveillance in response to a request for assistance made in advance with supporting reasons. Conditions may be appended to the authorisation.

(2) The Office of the Prosecutor General is competent to submit a request for cross-border surveillance to another Schengen Member State; in cases of urgency a request may be submitted by a district prosecutor's office. The Office of the Prosecutor General

[102] **§ 462. Kriminaalmenetluse seadustik** Välisriigilt saabunud abistamistaotluse menetlemine Justiitsministeeriumis ja Riigiprokuratuuris

[RT I, 21.06.2014, 11 - jõust. 01.01.2015]

(1) Justiitsministeerium kontrollib välisriigist saabunud abistamistaotluse nõuetekohasust. Nõuetekohane abistamistaotlus edastatakse viivitamata Riigiprokuratuurile.

(2) Riigiprokuratuur kontrollib abistamistaotluse täitmise lubatavust ja võimalikkust ning täidab abistamistaotluse või edastab selle täitmiseks pädevale õigusasutusele.

(3) Uurimisasutustele saabunud abistamistaotlused edastatakse Riigiprokuratuurile. Edasilükkamatutel juhtudel võib Riigiprokuratuuri loal alustada Rahvusvahelise Kriminaalpolitsei Organisatsiooni (Interpol) kaudu esitatud abistamistaotluse või Schengeni infosüsteemis oleva teate täitmist enne abistamistaotluse saabumist Justiitsministeeriumisse.

[RT I, 21.06.2014, 11 - jõust. 01.01.2015].

grants authorisation for compliance with a request for cross-border surveillance submitted to Estonia. Compliance with a request may be conditional.
(3) Submission of a request for cross-border surveillance to another Schengen Member State is permitted in pre-trial proceedings concerning the criminal offences specified in subpara 126^2 (2) of this Code. Estonia as a state of location shall not refuse to comply with a request if the request is submitted in connection with a criminal offence which is punishable by at least one year of imprisonment according to both, the law of the requesting state and the Penal Code of Estonia.
(4) In cases of urgency, cross-border surveillance may be commenced without prior authorisation of the state of location in pre-trial proceedings concerning the following criminal offences:
1) murder;
2) manslaughter;
3) serious offence of a sexual nature;
4) arson;
5) counterfeiting and forgery of means of payment;
6) aggravated burglary and robbery and receiving stolen goods,
7) extortion;
8) kidnapping and hostage taking;
9) trafficking in human beings;
10) illicit trafficking in narcotic drugs and psychotropic substances:
11) breach of the laws on arms and explosives;
12) wilful damage through the use of explosives;
13) illicit transportation of toxic and hazardous waste;
14) serious fraud;
15) facilitation of unauthorised entry and residence;
16) money laundering;
17) illicit trafficking in nuclear or radioactive materials;
18) participation in a criminal organisation;
19) terrorism.
(5) If cross-border surveillance has been conducted in cases of urgency in pre-trial investigation of a criminal offence specified in subpara (4) of this article without prior authorisation of the state of location:
1) the state of location shall be immediately notified that an employee of the competent judicial authority of the requesting state has crossed the border and has commenced surveillance;
2) a request provided for in subpara (1) of this article which shall set out the reasons for unauthorised crossing of the border shall be immediately submitted to the state of location.
(6) In cross-border surveillance:

1) the law of the state of location and the instructions of the representatives of state authority shall be complied with;
2) a document authorising cross-border surveillance shall be carried, except in the case provided for in subpara (4) of this article;
3) acting for the performance of duties shall be proved at the request of the competent authority of the state of location;
4) service weapons may be carried with the consent of the state of location and used only for self-defence;
5) private property or any other places not intended for public use shall not be entered, and the person under surveillance shall not be stopped, questioned or detained;
6) the competent judicial authority of the state of location shall be notified of each surveillance operation and an officer carrying out surveillance shall appear to give explanations upon the request of the competent judicial authority of the state of location,
7) at the request of the competent judicial authority of the state of location assistance shall be provided upon conducting criminal proceedings in the state of location;
(7) Cross-border surveillance shall be terminated:
1) when the purpose of the surveillance has been achieved;
2) at the request of the state of location;
3) if within five hours as of crossing the border in order to commence cross-border surveillance pursuant to the procedure prescribed in subpara (5) of this article, the state of location has not granted authorisation for cross-border surveillance.

c) Provisions in Relation to the Gathering of Evidence

25

Code of Criminal Procedure[103]

General Conditions for Proof and Taking of Evidence

§ 60.[104] **Proof and matter of common knowledge**

(1) In the adjudication of a criminal matter, a court shall rely on facts which it has declared to be proved or a matter of common knowledge.

(2) A fact is deemed to be proved if, as a result of the proof submitted, a court is convinced that the facts relating to the subject of proof exist or do not exist.

(3) A fact concerning which reliable information is available from sources not subject to criminal proceedings may be declared a matter of common knowledge by a court.

§ 61. Evaluation of evidence

(1) No item of evidence has predetermined weight.

(2) The court assesses the evidence as a whole, following its inner conviction.

§ 62.[105] **Subject of proof**

The facts relating to a subject of proof are:

1) the time, place and manner of commission of the criminal offence and other facts relating to the criminal offence;

2) the necessary elements of the criminal offence;

3) the guilt of the person who committed the criminal offence;

4) information describing the person who committed the criminal offence, and other circumstances affecting the liability of the person.

---

[103] Kriminaalmenetluse seadustik, Vastu võetud 12.02.2003, RT I 2003, 27, 166, jõustumine 01.07.2004

[104] **3. peatükk**
TÕENDAMINE
1. jagu
Tõendamise ja tõendite kogumise üldtingimused
§ 60. Kriminaalmenetluse seadustik Tõendatus ja üldtuntus
(1) Kohus tugineb kriminaalasja lahendades asjaoludele, mis ta on tunnistanud tõendatuks või üldtuntuks.
(2) Tõendatus on kohtul tõendamise tulemusena kujunenud veendumus, et tõendamiseseme asjaolud on olemas või puuduvad.
(3) Üldtuntuks võib kohus tunnistada asjaolu, mille kohta saab usaldusväärset teavet kriminaalmenetlusvälistest allikatest.

[105] **§ 62. Kriminaalmenetluse seadustik** Tõendamisese
Tõendamiseseme asjaolud on:
1) kuriteo toimepanemise aeg, koht ja viis ning muud kuriteo tehiolud;
2) kuriteokoosseis;
3) kuriteo toimepannud isiku süü;
4) kuriteo toimepannud isikut iseloomustavad andmed ja muud tema vastutust mõjutavad asjaolud.

§ 63.[106] **Evidence** **26**

(1) Evidence means the statements of a suspect, accused, victim, the testimony of a witness, an expert's report, the statements given by an expert upon provision of explanations concerning the expert's report, physical evidence, reports on investigative activities, minutes of court sessions and reports on surveillance activities, and other documents, photographs, films or other data recordings.

(1^1) Submission of information collected pursuant to the Security Authorities Act as evidence in criminal proceedings shall be decided by the Chief Public Prosecutor taking into account the restrictions specified in subparas 126^1 (2) and 126^7 (2) of this Code.

(2) Evidence not listed in subpara (1) of this article may also be used in order to prove the facts relating to a criminal proceeding, except in the case the evidence has been obtained by a criminal offence or violation of a fundamental right.

§ 64.[107] **General conditions for taking of evidence**

(1) Evidence shall be taken in a manner which is not prejudicial to the honour and dignity of the persons participating in the taking of the evidence, does not endanger their life or health or cause unjustified proprietary damage. Evidence shall not be taken by torturing a person or using violence against him or her in any other manner or by means affecting a person's memory capacity or degrading his or her human dignity.

(2) If it is necessary to undress a person in the course of a search, physical examination or taking of comparative samples, the official of the investigative body, the prosecutor and the participants in the procedural act, except health care professionals and forensic pathologists shall be of the same sex as the person.

---

[106] **§ 63. Kriminaalmenetluse seadustik** Tõend

(1) Tõend on kahtlustatava, süüdistatava, kannatanu, tunnistaja või asjatundja ütlus, ekspertiisiakt, eksperdi antud ütlus ekspertiisiakti selgitamisel, asitõend, uurimistoimingu, kohtuistungi ja jälitustoimingu protokoll või muu dokument ning foto või film või muu teabetalletus.

(1 1) Julgeolekuasutuste seaduse alusel kogutud teabe tõendina esitamise kriminaalmenetluses otsustab riigi peaprokurör, arvestades käesoleva seadustiku § 126^1 lõikes 2 ja § 126^7 lõikes 2 nimetatud piiranguid.

(2) Kriminaalmenetluse asjaolude tõendamiseks võib kasutada ka käesoleva paragrahvi lõikes 1 loetlemata tõendeid, välja arvatud juhul, kui on tegemist kuriteo või põhiõiguse rikkumise teel saadud tõendiga.

[107] **§ 64. Kriminaalmenetluse seadustik** Tõendite kogumise üldtingimused

(1) Tõendeid kogutakse viisil, mis ei riiva kogumises osaleja au ja väärikust, ei ohusta tema elu või tervist ega tekita põhjendamatult varalist kahju. Keelatud on tõendeid koguda isikut piinates või tema kallal muul viisil vägivalda kasutades või isiku mäluvõimet mõjutavaid vahendeid ja inimväärikust alandavaid viise kasutades.

(2) Kui isiku läbiotsimisel, läbivaatusel või võrdlusmaterjali võtmisel on vaja paljastada tema keha, peavad uurimisasutuse ametnik, prokurör ja menetlustoimingus osaleja, välja arvatud tervishoiutöötaja või kohtuarst, olema temaga samast soost.

(3) Kui tõendeid kogudes kasutatakse tehnikavahendeid, teatatakse sellest eelnevalt menetlustoimingus osalejatele ja neile selgitatakse tehnikavahendite kasutamise eesmärki.

(4) [Kehtetu]

(5) Vajaduse korral hoiatatakse menetlustoimingus osalejaid, et käesoleva seadustiku § 214 kohaselt ei ole lubatud kohtueelse menetluse andmeid avaldada.

(6) Jälitustoiminguga tõendite kogumine on reguleeritud käesoleva seadustiku peatükis 31.

(3) If technical equipment is used in the course of taking of evidence, the participants in the procedural act shall be notified thereof in advance and the objective of using the technical equipment shall be explained to them.
(4) [Repealed]
(5) If necessary, participants in a procedural act shall be warned that disclosure of information relating to pre-trial proceedings is prohibited in accordance with § 214 of this Code.
(6) The taking of evidence by surveillance activities is regulated by the Chapter 31 of this Code.

§ 65.[108] **Evidence obtained from ships during voyages and from foreign states**
(1) Evidence taken in a foreign state pursuant to the legislation of such state may be used in a criminal proceeding conducted in Estonia unless the procedural acts performed to obtain the evidence are in conflict with the principles of Estonian CPC. The University of Nottingham (*Cooperation and Judicial Assistance Database* (CJAD)) has already analysed this area criminal procedure considering the specifications provided for in subpara (2) of this article.
(2) If the object of the criminal proceeding is an act of a person serving in the Defence Force committed outside the Republic of Estonia, evidence taken in a foreign state may be used in a criminal proceeding unless the procedural acts performed in order to obtain the evidence are in conflict with the principles of the Estonian legislation once criminal procedure regardless of the fact of whether the procedural act was conducted on the basis of a request for assistance or not.
(3) If an act to which the Estonian Penal Code applies is committed on board of a ship during a voyage, the documents prepared by the master of the ship pursuant to § 73 of the Merchant Shipping Code are the evidence in the criminal proceedings.

Taxation Act

§ 11. Principle of investigation
(1) When verifying the correctness of the payment of taxes and assessing tax, a tax authority is required to take into consideration all facts relevant to the matter, including facts which increase and facts which decrease the tax liability.

[108] **§ 65. Kriminaalmenetluse seadustik** Reisil viibival laeval ja välisriigis saadud tõendid
(1) Eesti kriminaalmenetluses on lubatud kasutada välisriigis selle riigi seaduste kohaselt kogutud tõendeid, kui tõendi saamiseks tehtud menetlustoiming ei ole vastuolus Eesti kriminaalmenetluse põhimõtetega, arvestades käesoleva paragrahvi lõikes 2 nimetatud erisust.
(2) Kui kriminaalmenetluse esemeks on kaitseväeteenistuses oleva isiku tegu, mis pandi toime väljaspool Eesti Vabariiki, siis on kriminaalmenetluses lubatud kasutada välisriigis kogutud tõendeid, kui tõendi saamiseks tehtud menetlustoiming ei ole vastuolus Eesti kriminaalmenetluse põhimõtetega, sõltumata asjaolust, kas menetlustoiming tehti abistamistaotluse alusel või mitte.
(3) Kui reisil viibival laeval leiab aset tegu, millele kohaldatakse Eesti karistusseadustikku, on kapteni poolt kaubandusliku meresõidu koodeksi § 73 alusel koostatud dokumendid kriminaalmenetluses tõendiks.

(2)[109] A tax authority shall decide on the need to perform acts to verify the correctness of the payment of a tax and on the type and extent of the acts and shall collect evidence which is necessary to make a decision in the matter. When ascertaining facts relevant from the point of view of taxation, a tax authority is not only restricted to the requests and evidence submitted by participants in the proceedings.

§ 29.[110] **Disclosure of information containing tax secret**

A tax authority may disclose information subject to tax secrecy:

1) to pre-trial investigators and prosecutors for the purposes of preventing and detecting criminal offences, apprehending criminal offenders, investigating and hearing matters subject to criminal proceedings, preparing the court hearing of matters subject to criminal proceedings, as well as for conducting security checks and performing other duties for security authorities provided in the Security Authorities Act;

2) to persons authorised to conduct proceedings in matters of misdemeanours for the purposes of apprehending offenders, investigating or hearing matters and preparing the hearing of matters;

3) to courts for the purposes of preparing the hearing of and hearing criminal, civil and administrative matters or misdemeanours, and making decisions;

[...]

8) to the Financial Intelligence Unit for the prevention, detection and investigation of money laundering or terrorist financing or criminal offences related to money laundering or terrorist financing;

[...]

[109] **§ 11. Maksukorralduse seadus** Uurimispõhimõte

(1) Maksuhaldur on maksude tasumise õigsuse kontrollimisel ja maksusumma määramisel kohustatud arvestama kõiki asjas tähendust omavaid, sealhulgas nii maksukohustust suurendavaid kui ka vähendavaid asjaolusid.

(2) Maksuhaldur otsustab maksude tasumise õigsuse kontrollimisega seotud toimingute sooritamise vajaduse, toimingute liigi ja ulatuse ning kogub asja otsustamiseks vajalikke tõendeid. Maksuhaldur ei ole maksustamise seisukohast tähendust omavate asjaolude väljaselgitamisel seotud ainult menetlusosalise esitatud taotluste ja tõenditega.

[110] **§ 29. Maksukorralduse seadus** Maksusaladust sisaldava teabe avaldamine

Maksuhaldur võib avaldada maksusaladust sisaldavat teavet:

1) uurijale ja prokurörile kuriteo tõkestamiseks ning avastamiseks, kurjategija tabamiseks, kriminaalmenetluses oleva asja uurimiseks, menetlemiseks, asja kohtuliku arutamise ettevalmistamiseks, samuti julgeolekuasutusele julgeolekukontrolli läbiviimiseks ja muude julgeolekuasutuste seaduses sätestatud ülesannete täitmiseks;

2) väärtegu menetlema volitatud isikule õigusrikkuja tabamiseks, asja uurimiseks, arutamiseks ja arutamise ettevalmistamiseks;

3) kohtule kriminaal-, tsiviil-, haldusasja või väärteo arutamise ettevalmistamiseks, arutamiseks ja kohtulahendi tegemiseks;

[...]

8) Rahapesu Andmebüroole rahapesu või terrorismi rahastamise või nendega seotud kuritegude vältimiseks, avastamiseks ja uurimiseks;

[...]

Chapter 6 Evidence

§ 59.[111] Collection of evidence

(1) Evidence in tax proceedings is any information collected regarding the matter, including information, documents and things obtained from taxable persons, third parties and state, local government and city agencies, facts established by observation and expert opinions. A tax authority shall decide, according to the functions imposed on the tax authority by law and the right of discretion, which evidence needs to be collected in a particular matter.

(1^1) For assessment and analysis of risk of violation of acts concerning a tax and this Act and identification of the related persons for the purposes of § 8 of the Income Tax Act, the tax authority for state taxes has the right to receive, on the basis of a justified request, free data from the state database concerning the persons related to the assets in the ownership or possession of the persons, concerning the business activities of the persons and the nature and logistics of the goods and services related thereto. The administrator of the database shall notify the tax authority for state taxes of the facts which make it impossible to execute the request or due to which it is necessary to extend the term for execution of the request.

(1^2) All the evidence gathered during a joint tax control within the framework of international professional assistance are assessed on the same legal basis as the evidence specified in subpara 1 of this article.

[RT I, 29.12.2022, 1 – entry into force 01.01.2024] (2) [Repealed] (3) [Repealed]

Chapter 71

Enquiry to communications undertaking, surveillance activities and secret co-operation

§ 81^1. Enquiry to communications undertaking

(1) The Tax and Customs Board may make an enquiry to the electronic communications undertaking on the basis specified in clauses 1 and 2 of subpara 1 of § 126^2 of the Code

[111] **6. Peatükk TÕENDID § 59. Maksukorralduse seadus** Tõendite kogumine
(1) Tõendid maksumenetluses on kõik asjas kogutud andmed, sealhulgas maksukohustuslaselt, kolmandalt isikult, riigi-, valla- või linnaasutuselt saadud teave, dokumendid, asjad, vaatluse teel tuvastatud asjaolud ning eksperdiarvamus. Maksuhaldur otsustab, lähtudes talle seadusega pandud ülesannetest ning kaalutlusõigusest, milliseid tõendeid ta peab vajalikuks konkreetses asjas koguda.
(1^1) Riiklike maksude maksuhalduril on maksuseaduste ja käesoleva seaduse rikkumise ohu hindamiseks ja analüüsiks ning tulumaksuseaduse § 8 tähenduses seotud isikute tuvastamiseks õigus saada põhjendatud taotluse alusel riigi andmekogust tasuta andmeid isikute omandis või valduses oleva vara ja varaga seotud isikute kohta, isikute majandustegevuse ning sellega seotud kaupade ja teenuste olemuse ja logistika kohta. Andmekogu haldaja teavitab riiklike maksude maksuhaldurit asjaoludest, mis teevad taotluse täitmise võimatuks või mille tõttu on vaja taotluse täitmise tähtaega pikendada.
(1^2) Rahvusvahelise ametiabi raames ühise maksukontrolli käigus kogutud kõiki tõendeid hinnatakse samadel õiguslikel alustel kui käesoleva paragrahvi lõikes 1 nimetatud tõendeid.
[RT I, 29.12.2022, 1 - jõust. 01.01.2024]
(2) [Kehtetu]
(3) [Kehtetu].

of Criminal Procedure and with regard to the persons specified in clauses 1 and 2 of subpara 3 of § 126[2] of the Code of Criminal Procedure to get the following information:
1) the information needed to establish the end-user connected to the identifier of the user used in the electronic communication network, except the information concerning the fact of transmission of messages; [112]
2) the information to the electronic communications undertaking specified in subparas 2 and 3 of § 111[1] of the Electronic Communications Act which are not mentioned in clause 1 of this subpara.
(2) The authorisation for making the enquiry specified in clause 2 of subpara 1 of this article shall be granted by the prosecutor's office. The authorisation for making an inquiry shall set out the interval for which the request for information is allowed with an accuracy of date.

The CCP requires courts to rely only on facts they see proven, based on their conviction from the presented evidence (§ 60). **Evidence** is **evaluated freely**, with no item having predetermined weight (§ 61). The subject of proof includes the manner of the offence, its legal elements, the offender's guilt, and personal circumstances affecting liability (§ 62). **Evidence encompasses** statements, expert opinions, physical evidence, investigative and surveillance reports, and documentary or digital records (§ 63 para 1). Evidence obtained abroad may be used if compatible with Estonian procedural principles (§ 65 para 1 to para 3). Evidence must be taken in a manner **respecting dignity and prohibiting coercion or degrading treatment** (§ 64 para 1). Searches requiring undressing must be conducted by same-sex officials (§ 64(2)). Surveillance evidence is regulated separately (Chapter 31). Under the Taxation Act, the Tax and Customs Board must establish all facts relevant to tax liability (§ 11). It may collect any necessary evidence. Tax-secret information may be disclosed to prosecutors, courts, and the Financial Intelligence Unit (§ 29). Evidence includes documents, objects, expert reports, and observations. State-database information may be requested for risk analysis (§ 59 para 11). For the full legislative text and detailed statutory extracts, see the provisions reproduced above under: Code of Criminal Procedure §§ 60–65; Taxation Act §§ 11, 29, 59, 811. **27**

[112] **71. peatükk**
PÄRING SIDEETTEVÕTJALE, JÄLITUSTOIMINGUD JA SALAJANE KOOSTÖÖ
§ 81[1]. Päringu tegemine sideettevõtjale
(1) Maksu- ja Tolliamet võib teha päringu elektroonilise side ettevõtjale kriminaalmenetluse seadustiku § 126[2] lõike 1 punktides 1 ja 2 nimetatud alusel ning kriminaalmenetluse seadustiku § 126[2] lõike 3 punktides 1 ja 2 nimetatud isikute suhtes järgmiste andmete saamiseks:
1) elektroonilise side võrgus kasutatavate identifitseerimistunnustega seotud lõppkasutaja tuvastamiseks vajalikud andmed, välja arvatud sõnumi edastamise faktiga seotud andmed;
2) elektroonilise side ettevõtjale elektroonilise side seaduse § 111[1] lõigetes 2 ja 3 nimetatud andmed, mida ei ole nimetatud käesoleva lõike punktis 1.
(2) Käesoleva paragrahvi lõike 1 punktis 2 nimetatud päringu tegemiseks annab loa prokuratuur. Päringu tegemise loas märgitakse kuupäevalise täpsusega ajavahemik, mille kohta andmete nõudmine on lubatud.

4. Article 29 and Privileges for articles 34, 41 of the Regulation

4. Article 29 and Privileges for articles 34, 41 of the Regulation 130
a) National Privilege and Immunity Provisions, Para 1 131
b) Provisions on Lifting a Legal (Professional) Privilege 136
aa. Spousal Privilege 137
bb. Privilege Against Self-Incrimination 139
(1) Enshrinement in Estonian Law 139
(2) Jurisprudence 145
cc. Immunity Provisions: Parliamentary Privilege or Immunity 145
(1) National Legislation 145
(2) Provisions on the Lifting of Immunities? .. 150
c) Immunities and Privileges Under Union Law, Para 2 151

Article 29 Lifting privileges or immunities

1. Where the investigations of the EPPO involve persons protected by a privilege or immunity **under national law**, and such privilege or immunity presents an obstacle to a specific investigation being conducted, the European Chief Prosecutor shall make a reasoned written request for its lifting **in accordance with the procedures laid down by that national law.**

2. Where the investigations of the EPPO involve persons protected by privileges or immunities under the Union law, in particular the Protocol on the privileges and immunities of the European Union, and such privilege or immunity presents an obstacle to a specific investigation being conducted, the European Chief Prosecutor shall make a reasoned written request for its lifting in accordance with the procedures laid down by Union law.

1 **Politicians are not immune to fraud** and other crimes – even in Estonia.[113] Art. 29 is complex on the execution level. It addresses primarily the European Chief Prosecutor and must be initiated by her/him. Next, the parliaments and their structures are involved.

2 This makes the significance of the provision clear. Above all, it focuses on the so-called political immunities and privileges.

3 However, national privileges (such as the privileges of relatives, the rights of lawyers or clergy) go beyond this. They are also considered here, since defence lawyers in EPPO criminal cases have these privileges and these cannot be undermined by supranational

[113] See latest news BNN, Estonian ex-minister suspected of fraud and embezzlement of 7,500 euros, 30 November 2021, https://bnn-news.com/estonian-ex-minister-suspected-of-fraud-and-embezzlement-of-7500-euros-230439. Accessed 30 June 2025.

law, and as long as there is no genuine European criminal procedural law, the national provisions apply at this point.

a) National Privilege and Immunity Provisions, Para 1

First, it should be remembered that Members of Parliament have absolute freedom of speech in their parliament as this is granted for its members. This situation in most Member States is comparable. This constitutional mechanism keeps the instruments of **checks and balances** in place.[114] Although, it might be unjust for the private individual, it also guarantees a **level of transparency**. The *telos* and *ratio legis* are to ensure that they also enjoy freedom from arrest for any civil debt and can operate their political activity (without the fear of *fumus persecutionis*[115] "that is, where proceedings are brought by a political adversary or appear to be motivated primarily by the desire to harm the MEP"[116]). **4**

Still this freedom is limited in exceptional cases. The Parliament has the following competences to lift or waive an immunity[117]: **5**

The main **legal defence strategies** under article 29 EPPO Regulation include putting arguments forward for any procedural errors, competence issues, breaches of immunity rights, and violations of EU fundamental rights. Main arguments might rely on non-compliance with essential procedural rules, lack of legal basis, EPPO exceeding its competence, infringement of articles 7–9 of Protocol No 7, and failure to recognise *fumus persecutionis*.[118] **6**

[114] Callewaert 2021 questions whether the EPPO is tied to ECtHR case-law, if it would, it could apply in cases regarding Art. 29. Already in 2017 Negri tried to find best practices for the EPPO. Nowadays some are already established, but still a profound EPPO related jurisprudence is missing – despite the recent cases of the ECJ. Staffler 2024 on procedural safeguards that are equally protected in nearly all democratic constitutions, see mn. 50 et seq.

[115] See Stöger 2015, p 147. This concept is known in the Member States, see Iovene and Recchia 2017, p 162.

[116] For this definition see Bradely 2018, Chapter 14, III. Part E.

[117] See https://www.parlament.mt/en/menues/about-parliament/how-parliament-works/parliament-procedures/. Accessed 30 June 2025.

[118] See e.g. the Action brought on 19 April 2024 – *Kaili v. Parliament* (Case T-212/24). The decision shows that the EPPO is closely scrutinized by defence lawyers.

7 In Estonia, the legal professional privilege (LLP) between a lawyer and client is a recognized and protected principle that ensures confidentiality of communication between an attorney (*advokaat*) and their client.

8

§ 66. CPC[119] Witness [...] (3) A witness is required to give testimony unless there are lawful bases specified in §§ 71–73 of this Code for refusal to give testimony. While giving testimony, the witness is required to tell the truth.

§ 71. CPC[120] Refusal to give testimony for personal reasons
(1) The following persons have the right to refuse to give testimony as witnesses:
1) the descendants and ascendants of the suspect or accused;
2) a sister, half-sister, brother or half-brother of the suspect or accused, or a person who is or has been married to or in a registered partnership with them; [RT I, 06.07.2023, 6 – entry into force 01.01.2024]
3) a step or foster parent or a step or foster child of the suspect or accused;
4) an adoptive parent or an adopted child of the suspect or accused;
5) the spouse or registered partner of or a person permanently living together with the suspect or accused, and the parents of the spouse, partner or person, including after the marriage, registered partnership or permanent cohabitation has ended. [RT I, 06.07.2023, 6 – entry into force 01.01.2024]
(2) A witness may also refuse to give testimony if:
1) the testimony may lay blame on him or her or a person listed in subpara (1) of this article for the commission of a criminal offence or a misdemeanour.
2) he or she has been acquitted or convicted in the same criminal offence as a joint principal offender or an accomplice.

[119] **2. jagu**
Tunnistaja ülekuulamine
§ 66. Kriminaalmenetluse seadustik Tunnistaja
[...]
(3) Tunnistaja on kohustatud andma ütlusi, kui ütluste andmisest keeldumiseks puudub seaduslik alus käesoleva seadustiku §-de 71–73 järgi. Ütlusi andes on tunnistaja kohustatud rääkima tõtt.
[120] **§ 71**. **Kriminaalmenetluse seadustik** Ütluste andmisest keeldumine isiklikel põhjustel
(1) Õigus keelduda tunnistajana ütluste andmisest on kahtlustatava või süüdistatava:
1) alanejal ja ülenejal sugulasel;
2) õel, poolõel, vennal, poolvennal või isikul, kes on või on olnud abielus või registreeritud kooselus kahtlustatava või süüdistatava õe, poolõe, venna või poolvennaga;
[RT I, 06.07.2023, 6 - jõust. 01.01.2024]
3) võõras- või kasuvanemal, võõras- või kasulapsel;
4) lapsendajal ja lapsendatul;
5) abikaasal, registreeritud elukaaslasel, püsivas kooselus oleval isikul ja tema vanemal, sealhulgas pärast abielu, kooselulepingu või püsiva kooselu lõppemist.
[RT I, 06.07.2023, 6 - jõust. 01.01.2024] (2) Tunnistaja võib keelduda ütluste andmisest ka siis, kui:
1) ütlused võivad kuriteo või väärteo toimepanemises süüstada teda ennast või käesoleva paragrahvi lõikes 1 loetletud isikuid;
2) ta on kaastäideviijana või osavõtjana samas kuriteos süüdi või õigeks mõistetud.

§ 72. CPC[121] Refusal to give testimony due to professional or other activities

(1) The following persons have the right to refuse to give testimony as witnesses concerning the circumstances which have become known to them in their professional or other activities:

1) the ministers of religion of the religious organisations registered in Estonia;

2) counsels and notaries unless otherwise provided by law;

3) health care professionals and pharmacists regarding circumstances concerning the descent, artificial insemination, family or health of a person;

3^1) persons processing information for journalistic purposes regarding information which enables identification of the person who provided the information, except in the case taking of the evidence by other procedural acts is precluded or especially complicated and the object of the criminal proceeding is a criminal offence for which at least up to eight years' imprisonment is prescribed as punishment, there is predominant public interest for giving testimony and the person is required to give testimony at the request of a Prosecutor's Office based on a ruling of a pre-trial investigation judge or court ruling;

4) persons on whom the obligation to maintain a professional secret has been imposed by law.

(2) The professional support staff of the persons specified in clauses (1) 1)–3) of this article also have the right to refuse to give testimony.

(2^1) In the case provided for in clause (1) 3^1) of this article, the persons who in their professional activities come across the circumstances which may identity the person who provided information to the person processing the information for journalistic purposes has the right to refuse to give testimony.

[121] **§ 72. Kriminaalmenetluse seadustik** Ütluste andmisest keeldumine kutse- või muu tegevuse tõttu

(1) Õigus tunnistajana keelduda kutse- või muus tegevuses teatavaks saanud asjaolude kohta ütluste andmisest on:

1) Eestis registreeritud usuorganisatsiooni vaimulikul;

2) kaitsjal ja notaril, kui seaduses ei ole sätestatud teisiti;

3) tervishoiutöötajal ja farmatseudil isiku päritolusse, kunstlikku viljastamisse, perekonnasse või tervisesse puutuvate asjaolude puhul;

3^1) ajakirjanduslikul eesmärgil informatsiooni töötleval isikul teabe kohta, mis võimaldab tuvastada teavet andnud isiku, välja arvatud juhul, kui muude menetlustoimingutega on tõendite kogumine välistatud või oluliselt raskendatud ning kriminaalmenetluse esemeks on kuritegu, mille eest on ette nähtud karistusena vähemalt kuni kaheksa aastat vangistust, ütluste andmiseks esineb ülekaalukas avalik huvi ja isikut kohustatakse ütluste andmiseks prokuratuuri taotlusel eeluurimiskohtuniku või kohtu määruse alusel;

4) isikul, kellele on seadusega pandud ameti- või kutsesaladuse hoidmise kohustus.

(2) Õigus ütluste andmisest keelduda on ka käesoleva paragrahvi lõike 1 punktides 1–3 nimetatud isikute erialasel abipersonalil.

(2^1) Käesoleva paragrahvi lõike 1 punktis 3^1 sätestatud juhul on õigus ütluste andmisest keelduda isikul, kes puutub ametialaselt kokku ajakirjanduslikul eesmärgil informatsiooni töötlevale isikule informatsiooni andnud isikut tuvastada võivate asjaoludega.

(3) Käesoleva paragrahvi lõigetes 1, 2 ja 21 nimetatud isikutel ei ole õigust keelduda ütluste andmisest, kui ütluste andmisega nõustub isik, kelle huvides on saladuse hoidmise kohustus kehtestatud.

[RT I, 11.03.2023, 2 - jõust. 01.05.2023] (4) Kui kohus menetlustoimingu põhjal veendub, et käesoleva paragrahvi lõigetes 1 ja 2 nimetatud isiku keeldumine ütluste andmisest ei seondu tema kutsetegevusega, võib ta kohustada nimetatud isikut ütlusi andma.

(3) Persons mentioned in subparas 1, 2 and 2^1 of this article may not refuse to give a statement or testify if the person in whose interests the confidentiality obligation was imposed agrees to their giving the statement or testifying.
[RT I, 11.03.2023, 2 – entry into force 01.05.2023]
(4) If the court is convinced based on a procedural act that the refusal of a person specified in subpara (1) or (2) of this article to give testimony is not related to his or her professional activities, the court may require the person to give testimony.

§ 73. CPC[122] Refusal to give testimony concerning state secrets or classified information of foreign states
(1) A witness has the right to refuse to give testimony concerning circumstances to which the State Secrets and Classified Information of Foreign States Act applies.
(2) If a witness refuses to give testimony to protect a state secret or classified information of a foreign state, the investigative body, Prosecutor's Office or court shall request the agency in possession of the state secret or classified information of a foreign state to confirm classification of the facts as state secret or classified information of a foreign state.
(3) If an agency in possession of a state secret or classified information of a foreign state does not confirm classification of facts as state secret or classified information of a foreign state or does not respond to a request specified in subpara (2) of this article within twenty days, the witness is required to give testimony.
The Taxation Act contains the section 64, which rules on the right to refuse to provide information or submit evidence.

[122] **§ 73. Kriminaalmenetluse seadustik** Riigisaladuse ja salastatud välisteabe kohta ütluste andmisest keeldumine
(1) Tunnistajal on õigus keelduda ütluste andmisest nende asjaolude kohta, mille suhtes kohaldatakse riigisaladuse ja salastatud välisteabe seadust.
(2) Kui tunnistaja keeldub ütluste andmisest riigisaladusele või salastatud välisteabele viidates, pöördub uurimisasutus, prokuratuur või kohus riigisaladust või salastatud välisteavet valdava asutuse poole taotlusega kinnitada asjaolude tunnistamist riigisaladuseks või salastatud välisteabeks.
(3) Kui riigisaladust või salastatud välisteavet valdav asutus ei kinnita asjaolude tunnistamist riigisaladuseks või salastatud välisteabeks või kui ta ei vasta käesoleva paragrahvi lõikes 2 nimetatud taotlusele kahekümne päeva jooksul, on tunnistaja kohustatud andma ütlusi.

Bar Association Act[123]

§ 45.[124] **Maintenance of professional secrets**

(1) An advocate is required to maintain the confidentiality of information which has become known to him or her in the provision of legal services, the confidentiality of persons who request the advocate to provide legal services and of the amount of remuneration paid for legal services. Such obligation shall have an unspecified term and it shall also apply after the termination of the activities of the advocate. Such obligation shall extend to the employees of law offices and of the Bar Association and to public servants to whom an advocate's professional secret has become known in connection with their official duties. The obligation to maintain the confidentiality of persons who request the advocate to provide legal services and of the amount of remuneration paid to the advocate for legal services does not apply regarding provision of state legal aid and the fee paid therefor.

(2) A client or his or her legal successor may, by his or her written consent, exempt an advocate from the obligation to maintain a professional secret.

(3) The obligation to maintain confidentiality shall not extend to the collection of costs for legal services provided by an advocate who participated in a matter.

(4) Disclosure of information to the Board in the exercise of supervision over the activities of an advocate or to the court of honour in the hearing of a matter concerning a disciplinary offence shall not be deemed to be a violation of professional secrecy.

(4^1) Disclosure of information to the Minister of Justice in the exercise of supervision in the matters of acting as a trustee in bankruptcy shall not be deemed to be a violation of professional secrecy.

(5) In order to prevent a criminal offence in the first degree, an advocate has the right to submit a reasoned written application for exemption from the obligation to maintain a professional secret to the Chairman of an administrative court or an administrative judge

[123] Advokatuuriseadus, Vastu võetud 21.03.2001, RT I 2001, 36, 201, jõustunud vastavalt §-le 83.

[124] **§ 45. Advokatuuriseadus** Kutsesaladuse hoidmine

(1) Advokaat on kohustatud hoidma saladuses talle õigusteenust osutades teatavaks saanud andmeid, tema poole õigusteenuse saamiseks pöördumist ja õigusteenuse eest makstud tasu suurust. Kohustus ei ole ajaliselt piiratud ja kehtib ka pärast advokaaditegevuse lõppemist. Kohustus kehtib ka advokaadibüroo töötaja ja advokatuuri töötaja kohta ning selle avaliku teenistuja kohta, kellele on advokaadi kutsesaladus teatavaks saanud teenistuskohustusi täites. Advokaadi poole õigusteenuse saamiseks pöördumise ja temale õigusteenuse eest makstud tasu suuruse saladuses hoidmise kohustus ei kehti riigi õigusabi osutamise ja selle eest makstava tasu suhtes.

(2) Klient või tema õigusjärglane võib vabastada advokaadi kutsesaladuse hoidmise kohustusest oma kirjaliku nõusolekuga.

(3) Saladuse hoidmise kohustus ei kehti asjas osalenud advokaadi õigusteenuse kulude sissenõudmise kohta.

(4) Kutsesaladuse rikkumiseks ei peeta andmete avaldamist järelevalvet teostavale juhatusele ja distsiplinaarsüüteoasja arutavale aukohtule.

(4^1) Kutsesaladuse rikkumiseks ei peeta andmete avaldamist järelevalvet teostavale justiitsministrile pankrotihaldurina tegutsemise asjades.

(5) Esimese astme kuriteo ärahoidmiseks on advokaat õigustatud esitama halduskohtu esimehele või tema määratud sama kohtu halduskohtunikule põhjendatud kirjaliku taotluse kutsesaladuse hoidmise kohustusest vabastamiseks. Kohtunik vaatab taotluse viivitamata läbi ja annab kohustusest vabastamiseks kirjaliku loa või keeldub sellest.

of the same court appointed by the Chairman. A judge shall hear a submitted application immediately and shall issue or refuse to issue a written permission.

b) Provisions on Lifting a Legal (Professional) Privilege

9 In EPPO investigations conducted in Estonia, **special rules on refusal to testify** and the protection of professional or state secrets must be respected. The full l**egal texts are provided above**; what follows is a practical summary for application in cross-border proceedings.

10 Certain **categories of persons** may refuse to testify about information obtained in their professional capacity, including clergy, **lawyers and notaries**, health professionals, pharmacists, journalists (with exceptions), and others bound by statutory confidentiality. Support staff of these professions enjoy the same right. Testimony can only be compelled if the person protected by confidentiality consents, or if the court determines that the refusal is unrelated to professional activities.

11 Any EDP must respect **professional secrecy obligations** when summoning witnesses. Where journalistic sources are concerned, additional safeguards apply (judicial authorisation and strict conditions).

12 Witnesses may **refuse testimony** that would disclose state secrets or classified information of foreign states. In such cases, the competent agency must confirm the classification within 20 days. If no confirmation is provided, the witness is obliged to testify. As EDP one must ensure that classification checks are coordinated with national security authorities and anticipate possible delays when classified information is invoked.

13 Advocates are bound by an indefinite **duty of professional secrecy** covering all information obtained while providing legal services, including client identity and remuneration, with limited exceptions (e.g. state legal aid, disciplinary proceedings, or where the client consents). Disclosure is only possible under narrowly defined circumstances, such as with court approval to prevent a serious crime.

14 Advocate-client **confidentiality is broadly protected** under Estonian law and must be treated as inviolable unless a valid legal basis for exemption is obtained through judicial authorisation.

aa. Spousal Privilege

The spousal privilege may be important if a spouse shall be heard as a potential person in a criminal investigation: **15**

The Constitution of the Republic of Estonia[125]

§ 22. Constitution[126] No one may be deemed guilty of a criminal offence before he or she has been convicted in a court and before the conviction has become final.
No one is required to prove his or her innocence in criminal proceedings.
may be compelled to testify against himself or herself, or against those closest to him or her.

Code of Criminal Procedure[127]

§ 71. CPC[128] **Refusal to give testimony for personal reasons**
(1) The following persons have the right to refuse to give testimony as witnesses:
1) the descendants and ascendants of the suspect or accused;
2) a sister, half-sister, brother or half-brother of the suspect or accused, or a person who is or has been married to or in a registered partnership with them;
[RT I, 06.07.2023, 6 – entry into force 01.01.2024]
3) a step or foster parent or a step or foster child of the suspect or accused;
4) an adoptive parent or an adopted child of the suspect or accused;
5) the spouse or registered partner of or a person permanently living together with the suspect or accused, and the parents of the spouse, partner or person, including after the marriage, registered partnership or permanent cohabitation has ended.
[RT I, 06.07.2023, 6 – entry into force 01.01.2024]
(2) A witness may also refuse to give testimony if:
1) the testimony may lay blame on him or her or a person listed in subpara (1) of this article for the commission of a criminal offence or a misdemeanour.

[125] Eesti Vabariigi põhiseadus, Vastu võetud 28.06.1992, RT 1992, 26, 349, jõustumine 03.07.1992.
[126] **§ 22. Eesti Vabariigi põhiseadus** Kedagi ei tohi käsitada kuriteos süüdi olevana enne, kui tema kohta on jõustunud süüdimõistev kohtuotsus.
Keegi ei ole kriminaalmenetluses kohustatud oma süütust tõendama.
Kedagi ei tohi sundida tunnistama iseenda või oma lähedaste vastu.
[127] Kriminaalmenetluse seadustik, Vastu võetud 12.02.2003, RT I 2003, 27, 166, jõustumine 01.07.2004
[128] **§ 71. Kriminaalmenetluse seadustik** Ütluste andmisest keeldumine isiklikel põhjustel
(1) Õigus keelduda tunnistajana ütluste andmisest on kahtlustatava või süüdistatava:
1) alanejal ja ülenejal sugulasel;
2) õel, poolõel, vennal, poolvennal või isikul, kes on või on olnud abielus või registreeritud kooselus kahtlustatava või süüdistatava õe, poolõe, venna või poolvennaga;
[RT I, 06.07.2023, 6 - jõust. 01.01.2024] 3) võõras- või kasuvanemal, võõras- või kasulapsel;
4) lapsendajal ja lapsendatul;
5) abikaasal, registreeritud elukaaslasel, püsivas kooselus oleval isikul ja tema vanemal, sealhulgas pärast abielu, kooselulepingu või püsiva kooselu lõppemist.
[RT I, 06.07.2023, 6 - jõust. 01.01.2024]
(2) Tunnistaja võib keelduda ütluste andmisest ka siis, kui:
1) ütlused võivad kuriteo või väärteo toimepanemises süüstada teda ennast või käesoleva paragrahvi lõikes 1 loetletud isikuid;
2) ta on kaastäideviijana või osavõtjana samas kuriteos süüdi või õigeks mõistetud.

2) he or she has been acquitted or convicted in the same criminal offence as a joint principal offender or an accomplice.

Taxation Act[129]

§ 64.[130] **Right to refuse to provide information or submit evidence**

(1) The right to refuse to perform an obligation specified in §§ 60–63 of this Act to provide information or submit evidence exists:

1) for advocates in respect of circumstances which become known to them in connection with the provision of legal assistance;

2) for doctors, notaries, patent agents and ministers of religion in respect of information which becomes known to them in connection with their professional activities;

3) for agencies which organise state statistical surveys and officials who conduct such surveys in respect of information which becomes known to them in connection with a survey;

4) for auditors and persons engaged in the professional activities of an auditor, pursuant to the provisions of the Authorised Public Accountants Act;

5) for spouses, registered partners, direct blood relatives, sisters or brothers of taxable persons, descendants of sisters or brothers of taxable persons, and direct blood relatives or sisters or brothers of spouses or registered partners of taxable persons, unless such persons are required to provide information in the given case and submit documents in connection with their own tax liability;

[RT I, 09.04.2021, 1 – entry into force 01.01.2024]

[129] Maksukorralduse seadus, Vastu võetud 20.02.2002, RT I 2002, 26, 150, jõustunud vastavalt §-le 170.

[130] **§ 64. Maksukorralduse seadus** Teabe andmisest ja tõendite esitamisest keeldumise õigus

(1) Käesoleva seaduse §-de 60–63 alusel teabe andmisest ja tõendite esitamisest on õigus keelduda:

1) advokaadil asjaolude kohta, mis said temale teatavaks seoses õigusabi andmisega;

2) arstil, notaril, patendivolinikul ja vaimulikul temale seoses kutse- või ametitegevusega teatavaks saanud andmete kohta;

3) riikliku statistilise vaatluse korraldajal ja seda läbiviinud ametnikul talle seoses vaatlusega teatavaks saanud andmete kohta;

4) audiitoril ja audiitori kutsetegevusega seotud isikul vastavalt audiitortegevuse seaduses sätestatule;

5) maksukohustuslase abikaasal, registreeritud elukaaslasel, otsejoones sugulasel, õel või vennal, õe või venna alanejal sugulasel, abikaasa või registreeritud elukaaslase otsejoones sugulasel, õel või vennal, välja arvatud juhul, kui ta peab antud asjas teavet andma ja dokumente esitama seoses enda maksukohustusega;

[RT I, 06.07.2023, 6 - jõust. 01.01.2024] 6) isikul küsimustes, millele vastamine tähendaks enda või käesoleva lõike punktis 5 nimetatud isiku õigusrikkumises süüditunnistamist;

7) kui teabe andmine või tõendite esitamine rikuks posti, telegraafi, telefoni või muul üldkasutataval teel edastatavate sõnumite saladust või riigisaladuse või salastatud välisteabe hoidmise kohustust.

(2) Tööülesannete täitmisega teatavaks saanud asjaolude suhtes on teabe andmisest keeldumise õigus ka käesoleva paragrahvi lõike 1 punktides 1–4 nimetatud isikuid nende ameti- ja kutsetegevuses abistavatel isikutel.

(3) Käesoleva paragrahvi lõike 1 punktis 5 nimetatud isikutelt ütluste, dokumentide või asitõendite esitamise või ettenäitamise nõudmise korral tuleb neid kirjalikult või suuliselt teavitada õigusest kohustuse täitmisest keelduda. Suulise teavitamise kohta võetakse isikult allkiri.

6) for persons in respect of questions to which giving an answer would mean that the persons would incriminate themselves or a person specified in clause 5) of this subpara in an offence;
7) if the provision of information or submission of evidence would violate the confidentiality of messages sent or received by post, telegraph, telephone or other commonly used means or the confidentiality of a state secret.

bb. Privilege Against Self-Incrimination

(1) Enshrinement in Estonian Law

The Constitution of the Republic of Estonia[131] **16**

§ 22. Constitution[132] No one may be deemed guilty of a criminal offence before he or she has been convicted in a court and before the conviction has become final.
is required to prove his or her innocence in criminal proceedings.
may be compelled to testify against himself or herself, or against those closest to him or her.

Code of Criminal Procedure[133]

§ 71. CPC[134] Refusal to give testimony for personal reasons
(1) The following persons have the right to refuse to give testimony as witnesses:
1) the descendants and ascendants of the suspect or accused;
2) a sister, half-sister, brother or half-brother of the suspect or accused, or a person who is or has been married to or in a registered partnership with them;
[RT I, 06.07.2023, 6 – entry into force 01.01.2024]
3) a step or foster parent or a step or foster child of the suspect or accused;
4) an adoptive parent or an adopted child of the suspect or accused;

[131] Eesti Vabariigi põhiseadus, Vastu võetud 28.06.1992, RT 1992, 26, 349, jõustumine 03.07.1992.
[132] **§ 22. Eesti Vabariigi põhiseadus** Kedagi ei tohi käsitada kuriteos süüdi olevana enne, kui tema kohta on jõustunud süüdimõistev kohtuotsus.
Keegi ei ole kriminaalmenetluses kohustatud oma süütust tõendama.
Kedagi ei tohi sundida tunnistama iseenda või oma lähedaste vastu.
[133] Kriminaalmenetluse seadustik, Vastu võetud 12.02.2003, RT I 2003, 27, 166, jõustumine 01.07.2004
[134] **§ 71. Kriminaalmenetluse seadustik** Ütluste andmisest keeldumine isiklikel põhjustel
(1) Õigus keelduda tunnistajana ütluste andmisest on kahtlustatava või süüdistatava:
1) alanejal ja ülenejal sugulasel;
2) õel, poolõel, vennal, poolvennal või isikul, kes on või on olnud abielus või registreeritud kooselus kahtlustatava või süüdistatava õe, poolõe, venna või poolvennaga; 3) võõras- või kasuvanemal, võõras- või kasulapsel;
4) lapsendajal ja lapsendatul;
5) abikaasal, registreeritud elukaaslasel, püsivas kooselus oleval isikul ja tema vanemal, sealhulgas pärast abielu, kooselulepingu või püsiva kooselu lõppemist.
[RT I, 06.07.2023, 6 - jõust. 01.01.2024] (2) Tunnistaja võib keelduda ütluste andmisest ka siis, kui:
1) ütlused võivad kuriteo või väärteo toimepanemises süüstada teda ennast või käesoleva paragrahvi lõikes 1 loetletud isikuid;
2) ta on kaastäideviijana või osavõtjana samas kuriteos süüdi või õigeks mõistetud.

5) the spouse or registered partner of or a person permanently living together with the suspect or accused, and the parents of the spouse, partner or person, including after the marriage, registered partnership or permanent cohabitation has ended.
[RT I, 06.07.2023, 6 – entry into force 01.01.2024]
(2) A witness may also refuse to give testimony if:
1) the testimony may lay blame on him or her or a person listed in subpara (1) of this article for the commission of a criminal offence or a misdemeanour.
2) he or she has been acquitted or convicted in the same criminal offence as a joint principal offender or an accomplice.

17 In Tax Law the privilege can be found in s. 64 Tax Code.[135]

§ 64. Right to refuse to provide information or submit evidence
(1) The right to refuse to perform an obligation specified in §§ 60–63 of this Act to provide information or submit evidence exists:
1) for advocates in respect of circumstances which become known to them in connection with the provision of legal assistance;
2) for doctors, notaries, patent agents and ministers of religion in respect of information which becomes known to them in connection with their professional activities;
3) for agencies which organise state statistical surveys and officials who conduct such surveys in respect of information which becomes known to them in connection with a survey;
4) for auditors and persons engaged in the professional activities of an auditor, pursuant to the provisions of the Authorised Public Accountants Act;
5) for spouses, registered partners, direct blood relatives, sisters or brothers of taxable persons, descendants of sisters or brothers of taxable persons, and direct blood relatives or sisters or brothers of spouses or registered partners of taxable persons, unless such persons are required to provide information in the given case and submit documents in connection with their own tax liability;
[RT I, 09.04.2021, 1 – entry into force 01.01.2024]
6) for persons in respect of questions to which giving an answer would mean that the persons would incriminate themselves or a person specified in clause 5) of this subpara in an offence;
7) if the provision of information or submission of evidence would violate the confidentiality of messages sent or received by post, telegraph, telephone or other commonly used means or the confidentiality of a state secret.
[RT I 2007, 16, 77 – entry into force 01.01.2008]

[135] See Kanger 2012, p 13; Supreme Court of 12.02.2004 in criminal case 3-1-1-120-03; e Supreme Court's Constitutional Monitoring Board. ruling in case No 3-4-1-3-10, para 16.

(2) Persons who assist persons specified in clauses (1) 1)–4) of this article in their professional activities also have the right to refuse to disclose information in respect of facts which become known to them in the performance of their duties.
(3) If persons specified in clause (1) 5) of this article are requested to give testimony or to submit or present documents or evidence, such persons shall be notified in writing or orally of their right to refuse to perform the obligation. If oral notification is given, a signature shall be obtained from the person.

The Interrogation of a suspect as an investigative measure is closely connected with the question of privileges. **18**

Division 3

Interrogation of Suspect

§ 75. CPC[136] Interrogation of Suspect

(1) Upon application of interrogation of a suspect, his or her name, residence or seat and address, personal identification code or, in the absence thereof, date of birth, citizenship, education, native language and the place of work or educational institution shall be ascertained.
(2) At the beginning of interrogation, it shall be explained to the suspect that he or she has the right to refuse to give statements and that the statements given may be used against him or her.
(3) The suspect shall be asked whether he or she committed the criminal offence of which he or she is suspected, and a proposal shall be made to the suspect to give statements in his or her own words concerning the facts relating to the criminal offence on which the suspicion is based.
(3[1]) The suspect and his or her counsel have the **right to get a copy of the record of interrogation of the suspect** during the interrogation to the extent provided for in clauses 76 (1) 1)–3) of this Code.

[136] **3. jagu**
Kahtlustatava ülekuulamine
§ 75. Kriminaalmenetluse seadustik Kahtlustatava ülekuulamine
(1) Kahtlustatava ülekuulamise rakendamisel selgitatakse kahtlustatava nimi, elu- või asukoht ja aadress, isikukood või selle puudumisel sünniaeg, kodakondsus, haridus, emakeel ning töökoht või õppeasutus.
(2) Ülekuulamist alustades selgitatakse kahtlustatavale, et tal on õigus keelduda ütluste andmisest ning et antud ütlusi võidakse kasutada tema vastu.
(3) Kahtlustatavalt küsitakse, kas ta on toime pannud kuriteo, milles teda kahtlustatakse, ning talle tehakse ettepanek anda vabalt jutustades ütlusi kahtluse aluseks oleva kuriteo asjaolude kohta.
(3 1) Kahtlustataval ja tema kaitsjal on õigus saada ülekuulamise käigus koopia kahtlustatava ülekuulamise protokollist käesoleva seadustiku § 76 lõike 1 punktides 1–3 sätestatud ulatuses.
(4) Kahtlustatava ülekuulamisel järgitakse käesoleva seadustiku § 66 lõiget 2[1], § 68 lõikeid 3–6 ning § 69 lõikeid 1 ja 2. Vajaduse korral alaealise kahtlustatava ülekuulamine salvestatakse.
[RT I, 06.05.2020, 1 - jõust. 07.05.2020].

(4) Subpara 2^1 of § 66, subparas 3–6 of § 68 and subparas 1 and 2 of § 69 of this Code are followed when interviewing a suspect. Where this is needed, an interview with an underage suspect is recorded.
[RT I, 06.05.2020, 1 – entry into force 07.05.2020]

Code of Misdemeanour Procedure

§ 56. Testimony concerning commission of misdemeanour

(1) Testimony of a natural person subject to proceedings who is a natural person and the testimony of the legal representative of a legal person subject to proceedings concerning the commission of a misdemeanour shall be sound and video recorded or recorded on the form of a decision made by expedited procedure or as a separate document. When the minutes are taken, the person subject to proceedings may write his or her testimony concerning the commission of the misdemeanour in own hand.
(2) When a person subject to proceedings is interrogated, the following shall be recorded:
1) the date and place of giving the testimony;
2) the name of the body conducting the extra-judicial proceedings who takes the testimony;
3) if the person subject to proceedings is a natural person, his or her given name, surname and personal identification code or, in the case of an alien or a person without a personal identification code, his or her place and date of birth, the name and number of his or her identity document, nationality, address of the residence, place of employment, telephone number and electronic mail address;
4) if the person subject to proceedings is a legal person, the name and registry code of the person or, in the case of a foreign legal person, the numerical or letter combination equal to a registry code, and the address of the seat, telephone number and electronic mail address of the person;
5) the given name and surname of the legal representative of the legal person subject to proceedings, the address of his or her residence or seat, his or her place of employment, telephone number and electronic mail address;
6) notification of the person subject to proceedings of the rights and obligations of the person pursuant to § 19 of this Code and of the specifications concerning expedited procedure pursuant to clauses 55 (1) 2) and 3) of this Code, whereas the person subject to proceedings shall certify by a separate signature on the minutes of the interrogation that he or she has been notified of such rights, obligations and specifications, or shall confirm it orally in the case the testimony is sound and video recorded;
7) the testimony of the person subject to proceedings concerning commission of the misdemeanour;

8) the person's consent or refusal of consent to the expedited procedure, which consent shall be certified by a separate signature on the minutes or shall confirm it orally in the case the testimony is sound and video recorded.
(2^1) If the testimony of a person is recorded in a decision made by expedited procedure, the information specified in clauses (2) 6) and 8) of this article is set out and the person shall sign to confirm it in the decision made by expedited procedure.
(3) The minutes of interrogation shall be signed or an oral confirmation is made in the case of sound and video recording of the testimony by the natural person subject to proceedings or by the legal representative of the legal person subject to proceedings.
(4) If a person specified in subpara (3) of this article refuses to give testimony, sign the minutes or make a confirmation, he or she is deemed to refuse consent to the expedited procedure. The refusal shall be noted in the minutes of interrogation or on the form of a decision made by expedited procedure or is sound and video recorded, and the general procedure shall be commenced.

§ 65. Testimony of person subject to proceedings
(1) Minutes of the testimony of a natural person subject to proceedings or the legal representative of a legal person subject to proceedings concerning the commission of a misdemeanour shall be taken on the form for the minutes of interrogation, or in the misdemeanour report pursuant to clause 69 (2) 3) of this Code. The person subject to proceedings my write his or her testimony himself or herself in hand-writing.
(2) The minutes of interrogation shall set out:
1) The minutes of interrogation shall set out: the information listed in clauses 56 (2) 1) to 5) of this Code;
2) notification of the person subject to proceedings of the rights and obligations of the person pursuant to § 19 of this Code, whereas the person subject to proceedings shall certify by a separate signature on the minutes of the interrogation that he or she has been notified of such rights and obligations;
3) the testimony of the person subject to proceedings concerning commission of the misdemeanour.
(3) The minutes of interrogation shall be signed by the natural person subject to proceedings or by the legal representative of the legal person subject to proceedings.
(4) If a person specified in subpara (3) of this article refuses to give testimony or gives testimony but refuses to sign it, the official of the body conducting extra-judicial proceedings shall make a notation concerning the refusal in the minutes of the interrogation.

§ 69. Content of misdemeanour report

[…]

(7) If the testimony of a person subject to proceedings or a witness has been entered in a misdemeanour report, the testimony shall be signed by the person subject to proceedings or the witness who gave the testimony. If the person subject to proceedings refuses to give testimony or gives testimony but refuses to sign it, the official of body conducting the extra-judicial proceedings shall make a notation concerning the refusal in the misdemeanour report.

Taxation Act[137]

§ 64.[138] **Right to refuse to provide information or submit evidence**

(1) The right to refuse to perform an obligation specified in §§ 60–63 of this Act to provide information or submit evidence exists:

1) for advocates in respect of circumstances which become known to them in connection with the provision of legal assistance;

2) for doctors, notaries, patent agents and ministers of religion in respect of information which becomes known to them in connection with their professional activities;

3) for agencies which organise state statistical surveys and officials who conduct such surveys in respect of information which becomes known to them in connection with a survey;

4) for auditors and persons engaged in the professional activities of an auditor, pursuant to the provisions of the Authorised Public Accountants Act;

5) for spouses, registered partners, direct blood relatives, sisters or brothers of taxable persons, descendants of sisters or brothers of taxable persons, and direct blood relatives

[137] Maksukorralduse seadus, Vastu võetud 20.02.2002, RT I 2002, 26, 150, jõustunud vastavalt §-le 170.

[138] **§ 64. Maksukorralduse seadus** Teabe andmisest ja tõendite esitamisest keeldumise õigus

(1) Käesoleva seaduse §-de 60–63 alusel teabe andmisest ja tõendite esitamisest on õigus keelduda:

1) advokaadil asjaolude kohta, mis said temale teatavaks seoses õigusabi andmisega;

2) arstil, notaril, patendivolinikul ja vaimulikul temale seoses kutse- või ametitegevusega teatavaks saanud andmete kohta;

3) riikliku statistilise vaatluse korraldajal ja seda läbiviinud ametnikul talle seoses vaatlusega teatavaks saanud andmete kohta;

4) audiitoril ja audiitori kutsetegevusega seotud isikul vastavalt audiitortegevuse seaduses sätestatule;

5) maksukohustuslase abikaasal, registreeritud elukaaslasel, otsejoones sugulasel, õel või vennal, õe või venna alanejal sugulasel, abikaasa või registreeritud elukaaslase otsejoones sugulasel, õel või vennal, välja arvatud juhul, kui ta peab antud asjas teavet andma ja dokumente esitama seoses enda maksukohustusega;

[RT I, 06.07.2023, 6 - jõust. 01.01.2024]

6) isikul küsimustes, millele vastamine tähendaks enda või käesoleva lõike punktis 5 nimetatud isiku õigusrikkumises süüditunnistamist;

7) kui teabe andmine või tõendite esitamine rikuks posti, telegraafi, telefoni või muul üldkasutataval teel edastatavate sõnumite saladust või riigisaladuse või salastatud välisteabe hoidmise kohustust.

(2) Tööülesannete täitmisega teatavaks saanud asjaolude suhtes on teabe andmisest keeldumise õigus ka käesoleva paragrahvi lõike 1 punktides 1–4 nimetatud isikuid nende ameti- ja kutsetegevuses abistavatel isikutel.

(3) Käesoleva paragrahvi lõike 1 punktis 5 nimetatud isikutelt ütluste, dokumentide või asitõendite esitamise või ettenäitamise nõudmise korral tuleb neid kirjalikult või suuliselt teavitada õigusest kohustuse täitmisest keelduda. Suulise teavitamise kohta võetakse isikult allkiri.

or sisters or brothers of spouses or registered partners of taxable persons, unless such persons are required to provide information in the given case and submit documents in connection with their own tax liability;
[RT I, 09.04.2021, 1 – entry into force 01.01.2024]
6) for persons in respect of questions to which giving an answer would mean that the persons would incriminate themselves or a person specified in clause 5) of this subpara in an offence;
7) if the provision of information or submission of evidence would violate the confidentiality of messages sent or received by post, telegraph, telephone or other commonly used means or the confidentiality of a state secret.
(2) Persons who assist persons specified in clauses (1) 1)–4) of this article in their professional activities also have the right to refuse to disclose information in respect of facts which become known to them in the performance of their duties.
(3) If persons specified in clause (1) 5) of this article are requested to give testimony or to submit or present documents or evidence, such persons shall be notified in writing or orally of their right to refuse to perform the obligation. If oral notification is given, a signature shall be obtained from the person.

(2) Jurisprudence

See ECtHR, Case of *R.B. v. Estonia*, Appl. no 22597/16, final 22 September 2021 – **effective investigation**, child's testimony and **right not to testify against the father**, case of sexual abuse. ⚖

cc. Immunity Provisions: Parliamentary Privilege or Immunity

The parliamentary privileges and immunities are of uttermost importance for investigations into irregularities and suspicion of fraud at the highest political levels. **19**

(1) National Legislation

The Constitution of the Republic of Estonia[139] **20**

§ 76. Constitution[140] Members of the Riigikogu are immune from prosecution. Criminal charges against a member may only be brought on a proposal of the Chancellor of Justice and with the consent of a majority of the members of the Riigikogu.

[139] Eesti Vabariigi põhiseadus, Vastu võetud 28.06.1992, RT 1992, 26, 349, jõustumine 03.07.1992.
[140] **§ 76. Eesti Vabariigi põhiseadus** Riigikogu liige on puutumatu. Teda saab kriminaalvastutusele võtta ainult õiguskantsleri ettepanekul Riigikogu koosseisu enamuse nõusolekul.

§ 85. Constitution[141] Criminal charges may be brought against the President only on the proposal of the Chancellor of Justice, and with the consent of a majority of the members of the Riigikogu.

§ 101. Constitution[142] Criminal charges may only be brought against a member of the Government of the Republic on the proposal of the Chancellor of Justice, and with the consent of a majority of the members of the Riigikogu.

§ 138. Constitution[143] Criminal charges may be brought against the Auditor General only on the proposal of the Chancellor of Justice, and with the consent of a majority of the members of the Riigikogu.

Chapter XII
THE CHANCELLOR OF JUSTICE

§ 139. Constitution[144] The Chancellor of Justice is a public official who scrutinises legislative instruments of the legislative and executive branch of government and of local authorities for conformity with the Constitution and the laws, and who is independent in discharging his or her duties.
The Chancellor of Justice considers proposals made to him or her concerning the amendment of laws, the passage of new laws and the work of government agencies, and, if necessary, reports his findings to the Riigikogu.
In the cases set out in articles 76, 85, 101, 138 and 153 of the Constitution, the Chancellor of Justice makes a proposal to the Riigikogu to allow criminal charges to be brought against a member of the Riigikogu, the President, a member of the Government of the Republic, the Auditor General, the Chief Justice of the Supreme Court or a justice of the Supreme Court.

---

[141] **§ 85. Eesti Vabariigi põhiseadus** Vabariigi Presidenti saab kriminaalvastutusele võtta ainult õiguskantsleri ettepanekul Riigikogu koosseisu enamuse nõusolekul.
[142] **§ 101. Eesti Vabariigi põhiseadus** Vabariigi Valitsuse liiget saab kriminaalvastutusele võtta ainult õiguskantsleri ettepanekul Riigikogu koosseisu enamuse nõusolekul.
Valitsuse liiget süüdi mõistva kohtuotsuse jõustumisega lõpevad tema volitused.
[143] **§ 138. Eesti Vabariigi põhiseadus** Riigikontrolöri saab kriminaalvastutusele võtta ainult õiguskantsleri ettepanekul Riigikogu koosseisu enamuse nõusolekul.
[144] **XII. peatükk**
ÕIGUSKANTSLER
§ 139. Eesti Vabariigi põhiseadus Õiguskantsler on oma tegevuses sõltumatu ametiisik, kes teostab järelevalvet seadusandliku ja täidesaatva riigivõimu ning kohaliku omavalitsuse õigustloovate aktide põhiseadusele ja seadustele vastavuse üle.
Õiguskantsler analüüsib seaduste muutmise, uute seaduste vastuvõtmise ja riigiasutuste töö kohta talle tehtud ettepanekuid ning esitab vajaduse korral Riigikogule ettekande.
Õiguskantsler teeb Riigikogule põhiseaduse §-des 76, 85, 101, 138, 153 ettenähtud juhtudel ettepaneku Riigikogu liikme, Vabariigi Presidendi, Vabariigi Valitsuse liikme, riigikontrolöri, Riigikohtu esimehe või Riigikohtu liikme kriminaalvastutusele võtmiseks.

§ 145. Constitution[145] Criminal charges may be brought against the Chancellor of Justice only on the proposal of the President, and with the consent of a majority of the members of the Riigikogu.

§ 153. Constitution[146] Criminal charges may be brought against a judge during his or her term of office only on a proposal of the Supreme Court, and with the consent of the President.
Criminal charges may be brought against the Chief Justice and justices of the Supreme Court only on a proposal of the Chancellor of Justice, and with the consent of a majority of the members of the Riigikogu.

Code of Criminal Procedure[147]

§ 4. CPC[148] **Applicability of criminal procedural law by reason of person concerned**
Criminal procedural law applies equally to all persons with the following exceptions:
1) special rules are provided by Chapter 14 of this Code concerning the issuing of a statement of charges and performance of certain procedural operations in respect of the President of the Republic, of members of the Government of the Republic, of the Auditor General, of the Chancellor of Justice and of the Chief Justice and justices of the Supreme Court;
2) special rules are provided by Chapter 14^1 of this Code concerning procedural operations that are performed in respect of members of the Riigikogu before the issuing of a statement of charges and concerning the issuing of the statement of charges;
3) in respect of a person who enjoys diplomatic immunity or is otherwise privileged under a treaty, the Estonian law of criminal procedure may be applied at the request of the relevant foreign State, subject to special rules provided by the treaty.
[RT I, 22.12.2014, 9 – entry into force 01.01.2015]

[145] **§ 145. Eesti Vabariigi põhiseadus** Õiguskantslerit saab kriminaalvastutusele võtta ainult Vabariigi Presidendi ettepanekul Riigikogu koosseisu enamuse nõusolekul.
[146] **§ 153. Eesti Vabariigi põhiseadus** Kohtunikku saab ametisoleku ajal kriminaalvastutusele võtta ainult Riigikohtu ettepanekul Vabariigi Presidendi nõusolekul.
Riigikohtu esimeest ja liikmeid saab kriminaalvastutusele võtta ainult õiguskantsleri ettepanekul Riigikogu koosseisu enamuse nõusolekul.
[147] Kriminaalmenetluse seadustik, Vastu võetud 12.02.2003, RT I 2003, 27, 166, jõustumine 01.07.2004.
[148] **§ 4. Kriminaalmenetluse seadustik** Kriminaalmenetlusõiguse isikuline kehtivus
Kriminaalmenetlusõigus kehtib võrdselt kõigi isikute kohta järgmiste eranditega:
1) Vabariigi Presidendi, Vabariigi Valitsuse liikme, riigikontrolöri, õiguskantsleri, Riigikohtu esimehe ja kohtuniku kohta süüdistusakti koostamise ning neid puudutavate mõnede menetlustoimingute erisused on sätestatud käesoleva seadustiku 14. peatükis;
2) Riigikogu liikme suhtes enne süüdistusakti koostamist tehtavate menetlustoimingute ning süüdistusakti koostamise erisused on sätestatud käesoleva seadustiku 141. peatükis;
3) isikule, kellel on diplomaatiline puutumatus või välislepingus ettenähtud muud eesõigused, võib Eesti kriminaalmenetlusõigust kohaldada välisriigi taotlusel, arvestades välislepingus sätestatud erisusi.
[RT I, 22.12.2014, 9 - jõust. 01.01.2015]

§ 465. CPC[149] Immunity of person arriving in Estonia on basis of request for assistance submitted to foreign state

(1) A witness or expert appearing before a judicial authority on a summons set out in a request for assistance shall not be prosecuted, accused, taken into custody or detained as a suspect in connection with any criminal offence which was committed before his or her departure from the territory of the requesting party and which was not expressly specified in the summons.

(2) The accused appearing before a judicial authority on a summons set out in a request shall not be prosecuted, accused, taken into custody or detained as a suspect in connection with any criminal offences or charges which were committed or brought before his or her departure from the territory of the requesting party and were not expressly specified in the summons.

(3) The immunity provided for in subparas (1) and (2) of this article ceases when the witness, expert or accused has been in Estonia for fifteen consecutive days after the date when his or her presence was no longer required by the judicial authority although he or she has had the opportunity of leaving or, having left, has returned.

§ 492. CPC[150] Circumstances precluding or restricting surrender of persons

[…]

(6) If a person whose surrender is requested enjoys immunity or privileges in the Republic of Estonia, execution of the European arrest order shall be suspended until receipt of a notice from a competent authority concerning deprivation of the person of the immunity or privileges.

[149] **§ 465. Kriminaalmenetluse seadustik** Välisriigile esitatud abistamistaotluse alusel Eestisse saabunud isiku puutumatus

(1) Abistamistaotluses esitatud kutse peale õigusasutusse ilmuvat tunnistajat ega eksperti ei või anda kohtu alla, süüdistada, vahistada ega kahtlustatavana kinni pidada seoses kuriteoga, mis pandi toime enne tema lahkumist taotleva poole territooriumilt ning mis pole kohtukutses täpselt määratletud.

(2) Taotluses esitatud kutse peale õigusasutusse ilmuvat süüdistatavat ei või anda kohtu alla, süüdistada, vahistada ega kahtlustatavana kinni pidada seoses kuriteo või süüdistusega, mis pandi toime või esitati enne tema lahkumist taotleva poole territooriumilt ning mis pole kohtukutses täpselt määratletud.

(3) Käesoleva paragrahvi lõigetes 1 ja 2 sätestatud puutumatus lõpeb, kui tunnistaja või ekspert või süüdistatav on olnud Eestis 15 järjestikuse päeva jooksul pärast päeva, millal õigusasutusele ei olnud enam vaja tema kohalolekut, vaatamata sellele, et tal on olnud võimalus lahkuda või et ta on pärast lahkumist tagasi pöördunud.

[150] **§ 492. Kriminaalmenetluse seadustik** Isiku loovutamist välistavad ja piiravad asjaolud

[...]

(6) Kui isik, kelle loovutamist taotletakse, omab Eesti Vabariigis puutumatust või eelistusi, peatub Euroopa vahistamismääruse täitmine kuni pädevalt asutuselt teate saamiseni, et isikult on puutumatus või eesõigused ära võetud.

In addition to § 508[11] CPC, there are several other provisions in the Estonian Code of Criminal Procedure that regulate **immunities, privileges, or grounds for refusal** which may become relevant in the context of EPPO investigations and judicial cooperation. For the sake of consistency, these provisions should at least be named, even if their detailed wording is not reproduced here. Among them are: **21**

- § 436 – impermissibility of international cooperation in criminal proceedings;
- § 477 – scope of assistance;
- § 489[22] – grounds for refusal to recognise a decision on application of compliance measures;
- § 489[51] – refusal to execute a European Investigation Order;
- § 492 – circumstances precluding or restricting surrender of persons;
- § 508[39] – circumstances precluding or restricting the recognition of a judgment and enforcement of the sentence;
- § 508[58] – circumstances precluding or restricting the recognition of a judgment and enforcement of any supervision ordered;
- § 508[71] – circumstances that restrict or preclude recognition.

These provisions underline that, alongside substantive criminal law and procedural rules, **national limitations on international cooperation and mutual recognition** must also be observed. Their potential relevance in EPPO proceedings lies in situations where Estonian authorities are requested to cooperate, recognise, or enforce measures and decisions adopted in other Member States under the EPPO framework. **22**

Code of Misdemeanour Procedure[151]

§ 3.[152] **Applicability of law on misdemeanour procedure by reason of person concerned**

(1) The law on misdemeanour procedure is applicable to natural and legal persons. Written caution procedure is also applicable to the state, local governments and legal persons in public law.

(2) To persons enjoying diplomatic immunity or priorities prescribed by an international agreement, Estonian law on misdemeanour procedure may be applied at the request of a foreign country, considering the specifications provided by the international agreement.

[151] Väärteomenetluse seadustik, Vastu võetud 22.05.2002, RT I 2002, 50, 313, jõustumine 01.09.2002.

[152] **§ 3. Väärteomenetluse seadustik** Väärteomenetlusõiguse isikuline kehtivus

(1) Väärteomenetlusõigus kehtib füüsilise ja juriidilise isiku kohta. Kirjalikku hoiatamismenetlust kohaldatakse ka riigi, kohaliku omavalitsuse ja avalik-õigusliku juriidilise isiku suhtes.

(2) Isiku suhtes, kellel on diplomaatiline puutumatus või välislepingus ettenähtud eesõigused, võib Eesti väärteomenetlusõigust kohaldada välisriigi taotlusel, arvestades välislepingus sätestatud erisusi.

(2) Provisions on the Lifting of Immunities?

23 The following constitutional provisions establish the special procedures for lifting immunities of high-ranking state officials in Estonia, which may also affect the conduct of EPPO investigations:

24

The Constitution of the Republic of Estonia[153]

§ 85. Constitution[154] Criminal charges may be brought against the President only on the proposal of the Chancellor of Justice, and with the consent of a majority of the members of the Riigikogu.

§ 101. Constitution[155] Criminal charges may only be brought against a member of the Government of the Republic on the proposal of the Chancellor of Justice, and with the consent of a majority of the members of the Riigikogu.

§ 138. Constitution[156] Criminal charges may be brought against the Auditor General only on the proposal of the Chancellor of Justice, and with the consent of a majority of the members of the Riigikogu.

Chapter XII
THE CHANCELLOR OF JUSTICE

§ 139. Constitution[157] The Chancellor of Justice is a public official who scrutinises legislative instruments of the legislative and executive branch of government and of local authorities for conformity with the Constitution and the laws, and who is independent in discharging his or her duties.

[153] Eesti Vabariigi põhiseadus, Vastu võetud 28.06.1992, RT 1992, 26, 349, jõustumine 03.07.1992.
[154] **§ 85.** Vabariigi Presidenti saab kriminaalvastutusele võtta ainult õiguskantsleri ettepanekul Riigikogu koosseisu enamuse nõusolekul.
[155] **§ 101.** Vabariigi Valitsuse liiget saab kriminaalvastutusele võtta ainult õiguskantsleri ettepanekul Riigikogu koosseisu enamuse nõusolekul.
Valitsuse liiget süüdi mõistva kohtuotsuse jõustumisega lõpevad tema volitused.
[156] **§ 138.** Riigikontrolöri saab kriminaalvastutusele võtta ainult õiguskantsleri ettepanekul Riigikogu koosseisu enamuse nõusolekul.
[157] **XII. peatükk**
ÕIGUSKANTSLER
§ 139. Õiguskantsler on oma tegevuses sõltumatu ametiisik, kes teostab järelevalvet seadusandliku ja täidesaatva riigivõimu ning kohaliku omavalitsuse õigustloovate aktide põhiseadusele ja seadustele vastavuse üle.
Õiguskantsler analüüsib seaduste muutmise, uute seaduste vastuvõtmise ja riigiasutuste töö kohta talle tehtud ettepanekuid ning esitab vajaduse korral Riigikogule ettekande.
Õiguskantsler teeb Riigikogule põhiseaduse §-des 76, 85, 101, 138, 153 ettenähtud juhtudel ettepaneku Riigikogu liikme, Vabariigi Presidendi, Vabariigi Valitsuse liikme, riigikontrolöri, Riigikohtu esimehe või Riigikohtu liikme kriminaalvastutusele võtmiseks.

The Chancellor of Justice considers proposals made to him or her concerning the amendment of laws, the passage of new laws and the work of government agencies, and, if necessary, reports his findings to the Riigikogu.
In the cases set out in articles 76, 85, 101, 138 and 153 of the Constitution, the Chancellor of Justice makes a proposal to the Riigikogu to allow criminal charges to be brought against a member of the Riigikogu, the President, a member of the Government of the Republic, the Auditor General, the Chief Justice of the Supreme Court or a justice of the Supreme Court.

§ 145. Constitution[158] Criminal charges may be brought against the Chancellor of Justice only on the proposal of the President, and with the consent of a majority of the members of the Riigikogu.

§ 153. Constitution[159] Criminal charges may be brought against a judge during his or her term of office only on a proposal of the Supreme Court, and with the consent of the President.
Criminal charges may be brought against the Chief Justice and justices of the Supreme Court only on a proposal of the Chancellor of Justice, and with the consent of a majority of the members of the Riigikogu.

c) Immunities and Privileges Under Union Law, Para 2

Cf. → Article 29 EPPO Regulation and the subsequent analysis. Union law differs from national law and is not researched here in-depth. **Union law contains a** protocol, which will apply if the immunity or a privilege of a Union official needs to be lifted. It is enshrined in the consolidated version of the Treaty on the Functioning of the European Union **Protocol (No 7) on the privileges and immunities of the European Union** (OJ C 326, 26.10.2012, pp 266–272). **25**

[158] **§ 145.** Õiguskantslerit saab kriminaalvastutusele võtta ainult Vabariigi Presidendi ettepanekul Riigikogu koosseisu enamuse nõusolekul.
[159] **§ 153.** Kohtunikku saab ametisoleku ajal kriminaalvastutusele võtta ainult Riigikohtu ettepanekul Vabariigi Presidendi nõusolekul.
Riigikohtu esimeest ja liikmeid saab kriminaalvastutusele võtta ainult õiguskantsleri ettepanekul Riigikogu koosseisu enamuse nõusolekul.

IV. Criminal Investigation Measures According to the EPPO Regulation Based on National Law

[…]

SECTION 2
Rules on investigation measures and other measures

1. Article 30 Investigation measures and other measures

1. Article 30 Investigation measures and other measures ... 152
a) Member States Shall Ensure that the European Delegated Prosecutors Are Entitled to Order or Request ... 154
aa. Adaption Law of the Member State ... 154
bb. Important Provision in the CPC for the Application of article 30 EPPO Regulation ... 155
b) Investigation Measures ... 155
aa. Para 1(a) Search measures ... 155
(1) Legislative statutes for search measures ... 156
(a) Search Any Premises or Land ... 159
(b) Search Any Means of Transport ... 159
(c) Search Any Private Home ... 159
(d) Search Any Clothes and Any Other Personal Property ... 159
(e) Search Any Computer System ... 160
(2) Conservatory Measures Necessary to Preserve Integrity, Avoid Loss, or Prevent Contamination of Evidence ... 160
bb. Para 1(b) ... 162
cc. Para 1(c) ... 164
(1) Obtaining Production of Stored Computer Data, Encrypted or Decrypted 164
(a) General Provisions in the CPC ... 164
(b) Special Provisions in the CPC Tax Code, Digital Evidence Act . 165
(2) Obtaining Banking Account Data and Traffic Data ... 165
(3) Exception of Data Specifically Retained in Accordance with National Law (Pursuant to the Second Sentence of article 15(1) of Directive 2002/58/EC of the European Parliament and of the Council) ... 165
dd. Para 1(d) ... 166
(1) Freezing Instrumentalities or Proceeds of Crime, Including Assets ... 166

(2) Subject to Confiscation Status by the Trial Court 166
ee. Para 1(e) Interception of Electronic Communications to and from the Suspect or Accused Person 167
(1) Provisions in the CPC and Other National Laws 167
(2) Summary to e) 171
ff. Para 1(f) Track & Trace 172
c) Para 2: Specific Restrictions in National Law That Apply Regarding Certain Categories of Persons or Professionals with an LLP Obligation, article 29 177
d) Para 3: Conditions/ Thresholds for Investigation Measures 177
aa. Conditions and Limitations for Investigation Measures of Para 1(c), (e) and (f) 178
bb. Serious Offences Limitation for Offences of Para 1(e) and (f) 179
cc. Notifications According to the Last Sentence of Para 3 179
e) Para 4: Any Other Measure(s) in the EDP's Member State 179
f) Para 5: National Procedures and Modalities for Taking Investigative Measures 180

1. At least in cases where the offence subject to the investigation is punishable by a maximum penalty of at least 4 years of imprisonment, Member States shall ensure that the European Delegated Prosecutors are entitled to order or request the following investigation measures:
(a) search any premises, land, means of transport, private home, clothes and any other personal property or computer system, and take any conservatory measures necessary to preserve their integrity or to avoid the loss or contamination of evidence;
(b) obtain the production of any relevant object or document either in its original form or in some other specified form;
(c) obtain the production of stored computer data, encrypted or decrypted, either in their original form or in some other specified form, including banking account data and traffic data except for data specifically retained in accordance with national law pursuant to the second sentence of article 15(1) of Directive 2002/58/EC of the European Parliament and of the Council;
(d) freeze instrumentalities or proceeds of crime, including assets, that are expected to be subject to confiscation by the trial court, where there is reason to believe that the owner, possessor or controller of those instrumentalities or proceeds will seek to frustrate the judgement ordering confiscation.
(e) intercept electronic communications to and from the suspect or accused person, over any electronic communication means that the suspect or accused person is using;

(f) track and trace an object by technical means, including controlled deliveries of goods.
2. Without prejudice to article 29, the investigation measures set out in para 1 of this article may be subject to conditions in accordance with the applicable national law if the national law contains specific restrictions that apply regarding certain categories of persons or professionals who are legally bound by an obligation of confidentiality.
3. The investigation measures set out in points(c), (e) and (f) of para 1 of this article may be subject to further conditions, including limitations, provided for in the applicable national law. In particular, Member States may limit the application of points (e) and (f) of para 1 of this article to specific serious offences. A Member State intending to make use of such limitation shall notify the EPPO of the relevant list of specific serious offences in accordance with article 117.
4. The European Delegated Prosecutors shall be entitled to request or to order any other measures in their Member State that are available to prosecutors under national law in similar national cases, in addition to the measures referred to in para 1.
5. The European Delegated Prosecutors may only order the measures referred to in paras 1 and 4 where there are reasonable grounds to believe that the specific measure in question might provide information or evidence useful to the investigation, and where there is no less intrusive measure available which could achieve the same objective. The procedures and the modalities for taking the measures shall be governed by the applicable national law.

1 If the EDP enters the stadium of really conducting the investigation, she/he needs to decide, which measures to take according to the internal investigation plan and national law.[160] EDPs must have competence to request such measures or order in serious cases. We show the provisions while clarifying some of the conditions under which such measures must be exercised in line with national law.

a) Member States Shall Ensure that the European Delegated Prosecutors Are Entitled to Order or Request

aa. Adaption Law of the Member State

2 Cf. above (before Section 1). *Nota bene*: The authorization of an EDP (the „handling" EDP in one of the MS) to order or request could/should or must be enshrined in the new adaption laws which the Member States enacted to be fully operational for the EPPO and its tasks. As most of the Member States either amended their Code of Criminal Procedure or their Code of the Organization of the Judiciary and/or the Prosecutors Act, the relevant provision(s) is (are) presented in the following.

[160] As the law may change after the publication of the manual, we refer you to the permanently updated, official translation page of the Estonian Government https://www.riigiteataja.ee/en/eli/ee/527012016001/consolide/current. Accessed 30 June 2025.

bb. Important Provision in the CPC for the Application of article 30 EPPO Regulation

§ 1. Scope of regulation of Code **3**
(1) This Code provides the rules for pre-trial procedure and court procedure for criminal offences and the procedure for enforcement of the decisions made in criminal matters.
(2) ***This Code also provides the bases of and procedure for conduct of surveillance activities.*** [RT I, 29.06.2012, 2 – entry into force 01.01.2013]

§ 21. Pre-trial investigation judge
(1) A pre-trial investigation judge is a county court judge who, sitting alone, shall perform the duties assigned to him or her by this Code in pre-trial proceedings.
(2) In the cases provided for in this Code, ***permission for surveillance activities is granted by a pre-trial investigation judge.*** [RT I, 29.06.2012, 2 – entry into force 09.07.2012]

b) Investigation Measures

aa. Para 1(a) Search measures

For **EE**=ss. 91, 92, 470 para 5 CPC;

Authorizations by competent body:
§ 91. (2) Unless otherwise provided by this Code, a search may be conducted on an application of the Prosecutor's Office under an order from the pre-trial investigation judge or from the court. The order by which the pre-trial investigation judge or the court disposes of such an application may take the form of a note made on the application.
(3) A search may be conducted based on an order from the Prosecutor's Office, except for a search at a notary's office or at the office of a law firm or at the premises of a person processing information for journalistic purposes, provided there is reason to believe that the suspect is using the premises or vehicle to be searched, or used those premises or that vehicle, at the time of the criminal event or during pre-trial proceedings, and the person is suspected of having committed a criminal offence mentioned in subpara 2 of § 126^2 of this Code.

An important decision of the Supreme Court clarifies that a search may encompass other items not primarily aimed at: "Evidence found during a search conducted to investigate one suspicion of a crime is **generally usable to prove another crime** even if the first suspicion of a crime has been dropped. It is irrelevant whether the suspicion of a crime that was the basis for the search was dropped because some factual circumstances were

not confirmed or because the person conducting the proceedings corrected the interpretation of the elements of the offence that were the basis for the suspicion of a crime. (p 59) A search **may be considered unlawful** due to the absence of suspicion of a crime, in particular if there is reason to believe that the pre-trial investigator knew, when ordering and carrying out the searches, that the act in question had not taken place or that it was not punishable as a crime, or wrongfully ignored factual or legal aspects that clearly exclude suspicion of a crime.

4 The **recognition of the absence of suspicion** of a crime, which is a prerequisite for carrying out an investigative measure, **must be assessed ex ante**, not ex post. (p 60) If the material of the criminal case does not allow it to be established that, when conducting the search, the person conducting the search acted in a manner that deviated from the purpose of the search warrant, i.e. by searching for objects that were not related to the subject matter of the criminal proceedings, the search report and the evidence obtained as a result of the search can be considered admissible evidence in criminal proceedings (3-1-1-28-14, section 17.2). (section 62)."[161]

(1) Legislative statutes for search measures

5 The Estonian EDPs have already taken part in a transnational investigation in 2022, which *Thomas Wahl* reported for eucrim:

Case Study: Suspected commercial and organised tax evasion involving several Member States

"On 4 February 2022, the EPPO informed of the results of investigations conducted by the Hanover Customs Investigation Office under the supervision of the EPPO office in Hamburg, Germany. The investigations have been conducted since 2021 and targeted a scheme of commercial and organised tax evasion with the import of luxury cars by several international criminal groups in Germany and Estonia. With the support of customs offices in Germany, 26 searches were carried out and vehicles with a total value of EUR 3,6 million were seized. Investigations and actions also involved the EPPO offices in Estonia and Latvia; investigators from the Hanover Customs Investigation Office took part in search activities in Estonia. The estimated total tax loss amounts to at least EUR 5 million."[162]

6 This leads to the conclusion that search measures are one of the most effective investigative tools to gather evidence and will appear more often in future investigations.

[161] Supreme Court, 3-1-1-93-15, 20.11.2015.
[162] Wahl 2022, pp 17–18.

Most search measures stipulate a certain threshold. S. 91 CPC para 1 request for example that "[a] search may be conducted [only] provided there is a **reasonable suspicion** that what is searched for is located at the place to be searched." Thus, the suspicion needs to be established and the search cannot be conducted in case of the fact that the investigators have no thoughts of what could be located at the place to be searched. The search measures need to be requested or authorized by the EDP, which has the same powers as a national prosecutor in similar national cases. Thus s. 91 paras 2 and 3 apply. Under KrMS § 91 for majority of searches EDP does not need involvement of a pre-trial investigation judge (EDP's own order suffices). Court rulings are involved only in exceptional cases in which search will be conducted during a trial phase. **7**

It is very important to highlight the fact that s. 91 para 3 stipulates various limitations (e.g. a search in a lawyer's office). **8**

9

S. 91 para 3 to 10 can apply in all the cases mentioned by s. 91 para 1 and it explains how to conduct and what to obey during the setup of a search under Estonian Law:

§ 91. CPC
[...] (4) A **search order** states:[163]

[163] For the Estonian original see below.
1) Läbiotsimise eesmärk on leida hoonest, ruumist, sõidukist või piirdega alalt asitõendina kasutatav või konfiskeeritav objekt, kriminaalasja lahendamiseks vajalik dokument, asi või isik või kriminaalmenetluses arestitav vara või laip või tabada tagaotsitav. Läbiotsimist võib toimetada, kui esineb põhjendatud kahtlus, et otsitav asub läbiotsimiskohas.
2) Kui käesolev seadustik ei sätesta teisiti, võib läbiotsimist toimetada prokuratuuri taotlusel eeluurimiskohtuniku määruse või kohtumääruse alusel. Nii eeluurimiskohtuniku määrus kui ka kohtumäärus prokuratuuri läbiotsimistaotluse lahendamise kohta võib olla koostatud pealdisena prokuratuuri taotlusel.
3) Läbiotsimist võib toimetada prokuratuuri määruse alusel, välja arvatud läbiotsimine notari- või advokaadibüroos või ajakirjanduslikul eesmärgil informatsiooni töötleva isiku juures, kui on alust arvata, et kahtlustatav kasutab või kasutas läbiotsitavat kohta või sõidukit kuriteosündmuse või kohtueelse menetluse ajal, ning isikut kahtlustatakse käesoleva seadustiku § 126[2] lõikes 2 nimetatud kuriteo toimepanemises.
4) Läbiotsimismääruses märgitakse:
1) mida läbiotsimise eesmärgina otsitakse (edaspidi otsitav objekt);
2) läbiotsimise põhjendus;
3) koht, kus läbiotsimist toimetatakse.
5) Edasilükkamatul juhul, kui läbiotsimismääruse vormistamine ei ole õigel ajal võimalik, võib käesoleva paragrahvi lõikes 3 nimetatud tingimustel toimetada läbiotsimist prokuratuuri loa alusel, mis on antud taasesitamist võimaldaval viisil.
6) Läbiotsimise toimetamisel käesoleva paragrahvi lõigetes 3 ja 5 nimetatud alustel tuleb sellest läbiotsimise alustamisele järgneva esimese tööpäeva jooksul prokuratuuri kaudu teatada eeluurimiskohtunikule. Eeluurimiskohtunik otsustab läbiotsimise lubatavaks tunnistamise määrusega, mis võib olla koostatud pealdisena prokuratuuri määrusel.
7) Läbiotsimist rakendades tutvustatakse isikule, kelle juures läbi otsitakse, või tema täisealisele perekonnaliikmele või selle juriidilise isiku või riigi või kohaliku omavalitsuse asutuse, kelle juures läbi otsitakse, esindajale läbiotsimismäärust. Tutvustamise kohta võetakse määrusele allkiri. Käesoleva paragrahvi lõikes 5 nimetatud juhul selgitatakse läbiotsimist rakendades isikule, kelle juures läbi otsitakse, või tema täisealisele perekonnaliikmele või selle juriidilise isiku või riigi või kohaliku omavalitsuse asutuse, kelle juures läbi otsitakse, esindajale käesoleva paragrahvi lõikes 4 nimetatud asjaolusid ning põhjusi, miks läbiotsimist toimetatakse edasilükkamatult. Asjaolude

1) as the aim of the search, what the search is for (hereinafter, 'the **object searched for'**);
2) the **reasons for the search**;
3) the **place** at which the search is conducted.
(5) In a **situation of urgency**, if it is not possible to issue a search order at a proper time, a search may be conducted, on conditions provided by subpara 3 of this article, based on an authorisation of the Prosecutor's Office provided in a form reproducible in writing.
(6) When a search is conducted on the grounds provided by subparas 3 and 5 of this article, this **must be notified**, through the Prosecutor's Office, to the pre-trial investigation judge during the first working day following commencement of the search. The judge decides, by an order which may be made as a note on the order from the Prosecutor's Office, whether to declare the search permissible.
(7) During the lead-in to a search, the **search order** is **presented to the person** at whose premises the search is performed, or to a member of their family who is a legal adult, or to a representative of a legal person or of the institution of the State or of a local authority at whose premises the search is performed. Signed acknowledgement of such presentation is obtained on the order from the person, family member or representative. In a situation mentioned in subpara 5 of this article, the circumstances mentioned in subpara 4 of this article, and the reasons for conducting the search as a matter of urgency, are explained to the person, family member or representative. Signed acknowledgement of such explanation is obtained on the search report from the person, family member or representative. Where the relevant person or representative is not present, participation of a representative of the local authority must be arranged.
(8) […]
(9) During the lead-in to a search, an invitation is made to **hand over the object** searched for or to show the place where a corpse has been hidden or where a person who has been declared a fugitive is hiding. If the invitation is not acceded to or if there is reason to believe that it has only been followed in part, search operations are conducted.
(10) In the course of a search, any objects that are subject to confiscation or that clearly represent items of evidence in criminal proceedings may be seized, provided these were

selgitamise kohta võetakse läbiotsimisprotokollile allkiri. Vastava isiku või esindaja puudumisel peab kaasama kohaliku omavalitsuse esindaja.
8) Notaribüroo või advokaadibüroo läbiotsimise juures peab viibima notar või advokaat, kelle juures läbi otsitakse. Kui asjaomane notar või advokaat ei saa läbiotsimise juures viibida, peab läbiotsimise juures viibima notari asendaja või teine sama advokaadibüroo kaudu õigusteenust osutav advokaat, selle võimatuse korral teine notar või advokaat.
9) Läbiotsimist rakendades tehakse ettepanek anda välja otsitav objekt või näidata laiba või tagaotsitava peidukoht. Kui ettepanek jäetakse täitmata või kui on alust arvata, et seda on järgitud osaliselt, toimetatakse otsinguid.
10) Läbiotsimise käigus võib ära võtta kõik objektid, mis kuuluvad konfiskeerimisele või on ilmselt kriminaalmenetluses tõendiks, kui need avastati ilma otsinguteta selgesti nähtavast kohast või otsitavate objektide leidmiseks ettevõetud mõistlike otsingute käigus.
[RT I, 19.03.2015, 1 - jõust. 01.09.2016].

discovered without any search operations, in a clearly visible place, or during reasonable search operations undertaken to find the objects searched for.
[RT I, 19.03.2015, 1 – entry into force 01.09.2016]

(a) Search Any Premises or Land

§ 91. Search 10
(1) The aim of a search is to find, in a **building, a room, a vehicle or an enclosed area**, an object to be confiscated or used as an item of physical evidence, or a document, thing or person needed for resolving the criminal case, or property to be attached in criminal proceedings, […]

(b) Search Any Means of Transport

Subchapter 6 11
Search and Investigative Experiment
§ 91. Search
(1) The aim of a search is to find, in a building, a room, **a vehicle** or an enclosed area, an object to be confiscated or used as an item of physical evidence, or a document, thing or person needed for resolving the criminal case, or property to be attached in criminal proceedings, or a corpse, or to apprehend a person who has been declared a fugitive from justice.

(c) Search Any Private Home

Subchapter 6 12
Search and Investigative Experiment
§ 91. Search
(1) The aim of a search is to find, **in a building, a room**, a vehicle or an enclosed area, an object to be confiscated or used as an item of physical evidence, or a document, thing or person needed for resolving the criminal case, or property to be attached in criminal proceedings, […]

(d) Search Any Clothes and Any Other Personal Property

S. 91 refers to a thing needed for resolving the criminal case. Clothes and other movable property is a thing by common understanding of the term. The courts must decide **from case to case** what a thing means by virtue of s. 91 CPC. As a reader of the compendium, please refer to the Estonian case law database and the Curia Website. 13

(e) Search Any Computer System

14 It is important to notice that "the search described in Estonia's Penal Code does not cover searching a computer system."[164] Computer systems and any other relevant digital equipment is seized during the search and search of computer systems is regarded later as an inspection of physical evidence. **No extra authorization** is required for inspection of seized computer systems (see last footnote).

(2) Conservatory Measures Necessary to Preserve Integrity, Avoid Loss, or Prevent Contamination of Evidence

15 First, the search measures need to be documented, s. 92 CPC:

> **§ 92. Search report**
> (1) A search report records:
> 1) the invitation to hand over the object searched for or to show the location of a corpse or of a person who has been declared a fugitive from justice;
> 2) the names of any objects that were handed over voluntarily;
> 3) the conditions, course and results of any search operations;
> 4) the names of any objects found and the characteristic features of any objects that are of relevance for resolving the criminal case;
> 5) particulars regarding the identification of a person who has been declared a fugitive from justice and who was apprehended.
> [RT I, 13.03.2019, 2 – entry into force 15.03.2019]
> (1^1) In a situation mentioned in subpara 5 of § 9 of this Code, the circumstances mentioned in subpara 4 of § 91 and the reasons why the search was conducted as a matter of urgency are stated in the introductory part of the search report.
> [RT I, 19.03.2015, 1 – entry into force 01.09.2016]
> (2) Where a physical examination of a person is performed during a search, the particulars listed in subpara 4 of § 88 of this Code may be recorded in the search report. In such a situation, it is not necessary to file a report of physical examination of the person.
> [RT I, 23.02.2011, 1 – entry into force 01.09.2011]

16 The next question is: What can be **an item of physical evidence**. § 124 CPC contains a definition:

17

> **§ 124. Item of physical evidence**
> (1) 'Item of physical evidence' means a the object or material that constituted an element of the criminal offence committed, the means used to commit that offence, an object bearing indicia of the criminal offence, an impression or a print made of such indicia, or

[164] Laurits 2020, p 62 (65–70); Laurits 2015, pp 136–137.

any other unique object which is related to the criminal event and which can be used to ascertain the circumstances that constitute the subject matter of evidence.
(2) If an object that is used as an item of physical evidence has not been described in the **report on the investigative operation with the degree of detail** required for evidentiary purposes, an inspection of the object is carried out to record its characteristic features.
(3) An item of physical evidence or an object that has been seized is returned to the owner or former lawful possessor without delay provided this does not interfere with criminal proceedings in the case. As a rule, such an item or object is returned at the place where it is held.
[RT I, 31.12.2016, 2 – entry into force 10.01.2017]
(4) Where six months have elapsed from the time when an item of physical evidence was seized but there is no accused in the criminal case, the item is handed over for safekeeping, on an application of its owner or lawful possessor and under the conditions for safekeeping of physical evidence, to the person who filed the application, except in situations mentioned in subparas 5 and 6 of this article.
[RT I, 23.02.2011, 1 – entry into force 01.09.2011]
(5) On an application of the investigative authority, the prosecutor may extend the six-month time limit mentioned in subpara 4 of this article to up to one year. Where no application mentioned in subpara 4 is has been made, the time limit extends automatically.
[RT I, 23.02.2011, 1 – entry into force 01.09.2011]
(6) On an application of the Prosecutor's Office, the pre-trial investigation judge may extend the time limits mentioned in subparas 4 and 5 of this article to more than one year if the delay in bringing the charges is due to the complexity or large volume of the criminal case or to exceptional circumstances related to international cooperation. Where no application mentioned in subpara 4 is has been made, the time limit extends automatically.
[RT I, 23.02.2011, 1 – entry into force 01.09.2011]

§ 125. Safekeeping of the item of physical evidence
(1) An item of physical evidence is kept in the criminal file, in a physical evidence storage facility of the investigative authority, the Prosecutor's Office or the court, or in any other room in their possession or area guarded or monitored by them, or in a forensic institution, or is made subject to the measures prescribed by § 126 of this Code, provided this does not prejudice the interests of criminal proceedings in the case.
[RT I, 31.12.2016, 2 – entry into force 10.01.2017]
(2) An item of physical evidence which cannot be kept following the rules provided by subpara 1 of this article and with regard to which, having regard to the interests of criminal proceedings, prior to the entry into effect of the judgment or to termination of the

proceedings, the measures prescribed in § 126 of this Code cannot be applied, is deposited for safekeeping on a contract basis.
(3) The keeper of an item of physical evidence ensures the inviolability and preservation of the item.
(4) A depositary who is not the item's owner or lawful possessor is entitled to compensation for the safekeeping fee, which is included in costs of the case. The costs of safekeeping are compensated for based on a contract between the proceeding's authority and the depositary.
(5) If the item of physical evidence represents a document which its holder requires during their subsequent economic or professional activity or for another valid reason, the proceedings authority makes a copy of the document for the holder. The truth of the copy is certified by the signature of the proceeding's authority on the copy.
(6) Subparas 1−5 of this article are applied also regarding an object that has been seized but that does not constitute an item of physical evidence.
[RT I 2004, 46, 329 – entry into force 01.07.2004].

bb. Para 1(b)

18 By virtue of s. 83. CPC the aim of the inspection and the objects of inspection become clearer. Para 1 states that the **aim of an inspection is to collect information required for resolving the criminal case**, to detect the indicia of a criminal offence and to seize any objects that are to be used as physical evidence.

19

See **EE**=ss. 89 Seizure and examination of postal or telegraphic items CPC; 215, Obtainment of the production of any relevant object or document

20

Subchapter 9 Document and Item of Physical Evidence
§ 123. Document
(1) When proving one's case, any document may be used that contains information concerning circumstances that constitute the subject matter of evidence in the case.
(2) A document is deemed an item of physical evidence if it possesses the characteristics mentioned in subpara 1 of § 124 of this Code.

§ 215. Binding nature of orders and requirements issued by investigative authorities and the Prosecutor's Office
(1) Any orders or requirements issued by investigative authorities and the Prosecutor's Office in any criminal proceedings they are conducting are binding on everyone and are executed throughout the territory of the Republic of Estonia. Where the subject-matter of criminal proceedings is an act of a person serving in the Defence Forces, such orders or requirements are binding on members of the Defence Forces who are carrying out a

mission abroad. The costs incurred to comply with a requirement or order are not subject to compensation.

According to s. 154 para 1 10) CPC all information concerning any items of physical evidence and any other objects seized as part of criminal proceedings in the case is included in the body of a statement of charges. **21**

production of any relevant object	**§ 89.** (3) A copy of the order by which a postal or telegraphic item is attached is sent for execution to the Head of the provider of the postal or telecommunications service. (4) When conducting an examination of a postal or telegraphic item, information to reflect the inspection is collected concerning the circumstances that constitute the subject matter of evidence in the case and any items to be used as physical evidence in criminal proceedings are seized from the provider of the postal or telecommunications service. The provider transmits to the addressee any examined object that is not related to the criminal case. **§ 215. Binding nature of orders and requirements issued by investigative authorities and the Prosecutor's Office** (1) Any orders or requirements issued by investigative authorities and the Prosecutor's Office in any criminal proceedings they are conducting are binding on everyone and are executed throughout the territory of the Republic of Estonia. Where the subject-matter of criminal proceedings is an act of a person serving in the Defence Forces, such orders or requirements are binding on members of the Defence Forces who are carrying out a mission abroad. The costs incurred to comply with a requirement or order are not subject to compensation.	**22**
– its original form **– in some other specified form**	**§ 126.** (7) The Government of the Republic enacts rules for registration, safekeeping, transfer and destruction of items of physical evidence and attached property by proceedings authorities as well as for appraisal, disposal and destruction – by such authorities – of highly perishable items of physical evidence and of property attached as an interim measure to achieve a confiscation. [RT I 2008, 19, 132 – entry into force 23.05.2008]	

production of any relevant document	**See above § 215.**
– its original form	-
– in some other specified form	-

cc. Para 1(c)

(1) Obtaining Production of Stored Computer Data, Encrypted or Decrypted

(a) General Provisions in the CPC

23 The following may apply:

24

§ 90[1]. CPC Requiring data from an electronic communications undertaking
(1) A proceedings authority may make an enquiry to an electronic communications undertaking concerning the data required to identify an end user linked to certain identification tokens used in a public electronic communications network, except for data relating to the fact of communication of a message.
(2) On an application of the Prosecutor's Office and with the authorisation of the pre-trial investigation judge in pre-trial proceedings – or of the court in judicial proceedings – an investigative authority may make an enquiry to an electronic communications undertaking concerning data that are listed in subparas 2 and 3 of § 111[1] of the Electronic Communications Act and that are not mentioned in subpara 1 of this article.
(3) An enquiry provided for by subpara 2 of this article may be made if the criminal offence is one listed in subpara 2 of § 1262 of this Code and if it is ineluctably necessary for achieving the purpose of criminal proceedings. In relation to a criminal offence not mentioned in the list, such an enquiry is permitted if it is ineluctably necessary for achieving the purpose of criminal proceedings, justified by the gravity and nature of the offence and does not unjustifiably interfere with personal rights.
(4) An authorisation for an enquiry concerning communication data states:
1) the data that are allowed to be collected by the enquiry;
2) the reason for collecting the data;
3) the period of time concerning which collection of the data is allowed.
(5) An order of the pre-trial investigation judge – or a court order – that disposes of the application of the Prosecutor's Office may be made as a note on the application.
(6) In a situation of urgency where it is not possible to obtain, at the proper time, an authorisation of the pre-trial investigation judge or of the court, an enquiry mentioned in subpara 2 of this article may be made under an authorisation of the Prosecutor's Office which has been given in a form that is reproducible in writing and contains at least the particulars provided for by clauses 1 and 3 of subpara 4 of this article. In such a case, a

reasoned application for allowing the enquiry must be filed with the court within the first business day following its making. The pre-trial investigation judge decides on allowing the enquiry by an order that may be made as a note on the application of the Prosecutor's Office. [RT I, 22.12.2021, 44 – entry into force 01.01.2022].

§ 126[3]. CPC
(5) When conducting a covert operation mentioned in subpara 1 and in clauses 2 and 3 of subpara 2 of this article, it is permitted to covertly enter a building, a room, a vehicle, an enclosed area or a computer system provided this is ineluctably necessary for achieving the objectives of the operation.

(b) Special Provisions in the CPC Tax Code, Digital Evidence Act

Estonia has no special Digital Evidence Act yet, but the Estonian CPC presents various articles that may be applicable in similar cases. **25**

But the Electronic Communications Act might apply as well as the Banking Act e.g. the Bank of Estonia (*Eesti Pank*) Act. **26**

(2) Obtaining Banking Account Data and Traffic Data

The **Financial Supervision Authority** is competent to investigate and grant access to bank accounts in Estonia. Various competences in this area must be distinguished. The Financial Supervision Authority upon the existence of justified doubt of a violation of law, is entitled to file a motivated petition with a court for restriction of the use of such accounts. § 230 (3) of the Securities Market Act (*Väärtpaberituru seadus (lühend - VPTS*). **27**

§ 57. Stopping of transaction, restriction of disposal of property and transfer of property to state ownership Money Laundering and Terrorist Financing Prevention Act
(1) In the event of suspicion of money laundering or terrorist financing, the Financial Intelligence Unit may issue a compliance notice to stop a criminal activity or, at the request of the financial intelligence unit of another country, to suspend a transaction or impose restrictions on the disposal of property on an account, property kept on an account or property constituting the object of the transaction, official operation or official service or other property suspected of being associated with money laundering or terrorist financing for up to 30 calendar days as of the delivery of the compliance notice.

(3) Exception of Data Specifically Retained in Accordance with National Law (Pursuant to the Second Sentence of article 15(1) of Directive 2002/58/EC of the European Parliament and of the Council)

- Electronic Communications Act **28**

- Information Society Services Act
- Security Authorities Act
- Penal Code
- Code of Criminal Procedure
- Security Agency Act

dd. Para 1(d)

(1) Freezing Instrumentalities or Proceeds of Crime, Including Assets

Overview
s. 142 Seizure of property, 143; 470 (handing over of property to a foreign state)
Authorizations by competent body:
s. 89 para 1: "at the request of a Prosecutor's Office and on the basis of an order of a pre-trial investigation judge or on the basis of a court ruling."
s. 142 para 2: "Property is seized at the request of a Prosecutor's Office and on the basis of an order of a pre-trial investigation judge or on the basis of a court ruling."
s. 142 para 3 allows seizure of property ("except property which is the object of money laundering") without an authorization in urgent cases. The investigating judge needs to be informed within 24 hours.
s. 142 para 8 and 9.

(2) Subject to Confiscation Status by the Trial Court

29

§ 142. Attachment of property
(1) The objective of attachment of property is to ensure interim protection of a civil court claim, of a statement of a public-law claim, of confiscation or substitutional confiscation, of a pecuniary penalty or of a forfeiture of property. 'Attachment of property' means recording the details of the property of the suspect, accused, convicted offender, civil defendant or third party, or of the property that is the subject matter of a money laundering or terrorist financing scheme, and preventing any transfer of such property.
[RT I, 11.03.2023, 2 – entry into force 01.05.2023]
(2) Property is attached on an application of the Prosecutor's Office by order of the pre-trial investigation judge or of the court, having regard to the exception mentioned in subpara 3 of this article.
[RT I, 06.01.2016, 5 – entry into force 01.07.2016]
(2^1) The attachment of property held in an account with a credit or financial institution consists in setting a restriction on using the account such that during the time the restriction applies the credit or financial institution does not, to the extent of the property attached, execute debiting instructions in respect of that account.
[RT I, 06.01.2016, 5 – entry into force 01.07.2016]

ee. Para 1(e) Interception of Electronic Communications to and from the Suspect or Accused Person

(1) Provisions in the CPC and Other National Laws

EE=ss. 126[1] et seq. CPC;
Authorizations by competent body:
ss. 126[2] et seq. CPC
s. 126[2] para 1
s. 126[7]

The following provisions shall be reproduced here: **30**
31

§ 43. Constitution[165]
Everyone has the right to confidentiality of messages sent or received by him or her by post, telegraph, telephone or other commonly used means. Derogations from this right may be made in the cases and pursuant to a procedure provided by law if they are authorised by a court and if they are necessary to prevent a criminal offence, or to ascertain the truth in a criminal case.

Chapter 31 Code of Criminal Procedure[166]
§ 126[1]. CPC General conditions for conduct of surveillance activities
(1)[167] The Police and Border Guard Board, the Security Police Board, the Tax and Customs Board, the Military Police and the Prisons Department of the Ministry of Justice

[165] **§ 43. Eesti Vabariigi põhiseadus** Igaühel on õigus tema poolt või temale posti, telegraafi, telefoni või muul üldkasutataval teel edastatavate sõnumite saladusele. Erandeid võib kohtu loal teha kuriteo tõkestamiseks või kriminaalmenetluses tõe väljaselgitamiseks seadusega sätestatud juhtudel ja korras.
[166] Kriminaalmenetluse seadustik, Vastu võetud 12.02.2003, RT I 2003, 27, 166, jõustumine 01.07.2004
[167] **3 1. peatükk**
JÄLITUSTOIMINGUD
§ 126[1]. Kriminaalmenetluse seadustik Jälitustoimingu tegemise üldtingimused
(1) Jälitustoiming on isikuandmete töötlemine seaduses sätestatud ülesande täitmiseks eesmärgiga varjata andmete töötlemise fakti ja sisu andmesubjekti eest.
(2) Jälitustoiming on käesolevas seadustikus sätestatud alustel lubatud, kui andmete kogumine muude toimingutega või tõendite kogumine muude menetlustoimingutega ei ole võimalik, ei ole õigel ajal võimalik või on oluliselt raskendatud või kui see võib kahjustada kriminaalmenetluse huve.
(3) Jälitustoiminguga ei või ohustada isiku elu ja tervist, põhjendamatult ohustada vara ja keskkonda ega põhjendamatult riivata muid isikuõigusi.
(4) Jälitustoiminguga saadud teave on tõend, kui jälitustoimingu loa taotlemisel ja andmisel ning jälitustoimingu tegemisel on järgitud seaduse nõudeid.
(5) Jälitustoiminguid tehakse vahetult nii käesoleva seadustiku § 126[2] lõikes 1 nimetatud asutuste kui ka nende hallatavate asutuste ja jälitustoimingute tegemiseks volitatud asutuste, allüksuste ja töötajate kaudu, samuti politseiagentide, variisikute ja salajasele koostööle kaasatud isikute kaudu.
(6) Käesolevas peatükis sätestatud toimingutesse võib kaasata Riigikogu ning valla- ja linnavolikogu liikme, kohtuniku, prokuröri, advokaadi ja vaimuliku, Riigikogu valitava ja nimetatava ametiisiku nende nõusolekul ning

and prisons (hereinafter surveillance agency) may conduct surveillance activities on the following bases:
1) a need to collect information about the preparation of a criminal offence for the purpose of detection and prevention thereof;
2) the execution of a ruling on declaring a person a fugitive;
3) a need to collect information in confiscation proceedings pursuant to the provisions of Chapter 161 of this Code;
4) a need to collect information in a criminal proceeding about a criminal offence."

Mainly s. 126[4] issues special authorization restrictions etc:

"(1) A covert operation may be conducted when this is authorised in writing by the Prosecutor's Office or by the pre-trial investigation judge. The pre-trial investigation judge decides the grant of the authorisation by an order based on a reasoned application of the Prosecutor's Office. The pre-trial investigation judge considers the application without delay and grants, or refuses, the authorisation by an order. The court may also issue the authorisation to conduct a covert operation that, under this Chapter, requires the authorisation of the Prosecutor's Office.
(2) In situations of urgency, a covert operation that requires an authorisation from the Prosecutor's Office may be conducted with such an authorisation being issued in a reproducible form. A written authorisation is issued within 24 hours following commencement of the operation.
(3) Where an immediate danger to the life, physical integrity, physical freedom or a high-value property interest of a person is involved, and where it is not possible to apply for or to issue a relevant authorisation at a proper time, a covert operation that requires authorisation from the court may be conducted, in a situation of urgency, with such an authorisation being issued in a reproducible form. A written application is filed and a corresponding authorisation issued within 24 hours following commencement of the operation.
(4) An authorisation issued in a situation of urgency in a reproducible form must contain the following information:
1) the issuer of the authorisation;
2) the date and time of issue of the authorisation;
3) the covert operation for which the authorisation is issued;
4) where it is known, the name of the person in respect of whom the covert operation is to be conducted;

alaealise isiku tema seadusliku esindaja nõusolekul eeluurimiskohtuniku loal üksnes juhul, kui nad on samas kriminaalasjas menetlusosalised või tunnistajad või kui kuritegu on suunatud nende või nende lähedase vastu.
(7) Kui jälitustoimingu tegemist taotleb teine uurimisasutus, edastab jälitustoimingu teinud jälitusasutus taotlenud asutusele jälitustoiminguga saadud teabe koos jälitustoimingu käigus tehtud foto, filmi, heli- või videosalvestise või muu teabetalletusega.
(8) Jälitusasutusel on õigus töödelda jälitustoimingu tegemisel ka andmeid, mis pärinevad muudest allikatest kui jälitustoimingud.

5) the time limit of the permission for covert operations.
(5) Where, to conduct a covert operation or to place or remove any technical means required for such an operation, covert entry needs to be made to a building, room, vehicle, an enclosed area or a computer system, the Prosecutor's Office applies for and obtains a corresponding separate authorisation from the pre-trial investigation judge.
(6) The **duration of covert operations** conducted with respect to a particular person on the grounds provided by clauses 1, 2 and 4 of subpara 1 of § 1262 of this Code in the same proceedings must not exceed one year. In exceptional situations, the Prosecutor General may authorise, or apply to the court for authorisation to conduct, covert operations for more than one year. In a criminal case dealt with under Council Regulation (EU) 2017/1939, the relevant **authorisation is granted**, or application made, **by a European Prosecutor or a European Delegated Prosecutor**.

§ 126[7]. CPC[168] **Wire-tapping or covert observation of information**
(1) Information obtained by secret interception of messages transmitted over a public electronic communications network or of auditory or visual information transmitted by any other method is recorded.
(2) Information communicated by a person specified in § 72 of this Code or information communicated to such person by another person which is subject to wire-tapping or covert observation shall not be used as evidence if such information contains facts which have become known to the person in his or her professional activities, unless:
1) the person specified in § 72 of this Code has already given testimony regarding the same facts or if the facts have been disclosed in any other manner;
2) a permission has been granted with respect to such person for wire-tapping or covert observation; or
3) it is evident based on wire-tapping or covert observation of another person that the specified person commits or has committed a criminal offence.
(3) A pre-trial investigation judge shall immediately review a reasoned request submitted by a Prosecutor's Office and grant or refuse to grant permission for the conduct of the surveillance activities specified in this article for up to two months. After expiry of

[168] **§ 126[7]. Kriminaalmenetluse seadustik** Teabe salajane pealtkuulamine või -vaatamine
(1) Üldkasutatava elektroonilise side võrgu kaudu edastatavate sõnumite või muul viisil edastatava teabe salajasel pealtkuulamisel või -vaatamisel saadud teave salvestatakse.
(2) Tõendina ei kasutata käesoleva seadustiku §-s 72 nimetatud isiku poolt edastatavat teavet või sellisele isikule teise isiku poolt edastatavat teavet, mis on saadud salajasel pealtkuulamisel või -vaatamisel, kui teabe sisuks on isikule ameti- või kutsetegevuses teatavaks saanud asjaolud, välja arvatud juhul, kui:
1) käesoleva seadustiku §-s 72 nimetatud isik on samade asjaolude kohta juba andnud ütlusi või kui need on muul viisil avalikustatud;
2) nimetatud isiku suhtes on antud luba salajaseks pealtkuulamiseks või -vaatamiseks või
3) mõne muu isiku salajasest pealtkuulamisest või -vaatamisest nähtub, et nimetatud isik paneb või on pannud toime kuriteo.
(3) Käesolevas paragrahvis nimetatud jälitustoiminguks annab kuni kaheks kuuks loa eeluurimiskohtunik. Nimetatud tähtaja möödumisel võib eeluurimiskohtunik seda pikendada kuni kahe kuu kaupa.

the specified term, the pre-trial investigation judge may extent this term by up to two months.

Code of Misdemeanour Procedure[169]

§ 31².[170] **Requiring electronic communications undertakings to provide data**

(1) The Data Protection Inspectorate, the Financial Supervision Authority, the Estonian Internal Security Service, the Environmental Board, the Tax and Customs Board, the Financial Intelligence Unit and the Police and Border Guard Board may address enquiries to electronic communications undertakings concerning the data required to identify an end user linked to certain identification tokens used in a ruling.[…]" public electronic communications network, except for data relating to facts of transmission of messages.

(2) With the permission of the court, the authorities mentioned in subpara 1 of this article may address individual enquiries to electronic communications undertakings concerning the data listed in subparas 2 and 3 of § 111[1] of the Electronic Communications Act but not mentioned in the first subpara of this article. For the purposes of this article, an individual enquiry means a written enquiry for obtaining the information mentioned in subparas 2 and 3 of § 111[1] concerning a communication session related to transmitting a particular telephone call, email, electronic comment or other individual message.

(3) The enquiries mentioned in this article may be made only if this is unavoidably necessary for accomplish the aim of the misdemeanour proceedings.

(4) The Consumer Protection and Technical Regulatory Authority may make enquiries to an

electronic communications undertaking concerning the data required to identify an end user related to certain identification tokens used in a public electronic communications network.

[169] Väärteomenetluse seadustik, Vastu võetud 22.05.2002, RT I 2002, 50, 313, jõustumine 01.09.2002.

[170] **§ 31². Väärteomenetluse seadustik** Andmete nõudmine sideettevõtjalt

(1) Andmekaitse Inspektsioon, Finantsinspektsioon, Kaitsepolitseiamet, Keskkonnaamet, Maksu- ja Tolliamet, Rahapesu Andmebüroo ning Politsei- ja Piirivalveamet võivad teha päringu elektroonilise side ettevõtjale üldkasutatava elektroonilise side võrgus kasutatavate identifitseerimistunnustega seotud lõppkasutaja tuvastamiseks vajalike andmete kohta, välja arvatud sõnumi edastamise faktiga seotud andmed.

(2) Käesoleva paragrahvi lõikes 1 nimetatud asutus võib kohtu loal teha üksikpäringu elektroonilise side ettevõtjale elektroonilise side seaduse § 111[1] lõigetes 2 ja 3 loetletud andmete kohta, mida ei ole nimetatud käesoleva paragrahvi esimeses lõikes. Üksikpäring käesoleva paragrahvi tähenduses on kirjalik päring elektroonilise side seaduse § 111[1] lõigetes 2 ja 3 nimetatud andmete saamiseks konkreetse telefonikõne, elektronkirja, elektroonilise kommentaari või muu üksiksõnumi edastamisega seotud sideseansi kohta

(3) Käesolevas paragrahvis nimetatud päringu võib teha üksnes siis, kui see on vältimatult vajalik väärteomenetluse eesmärgi saavutamiseks.

(4) Tarbijakaitse ja Tehnilise Järelevalve Amet võib teha päringu elektroonilise side ettevõtjale üldkasutatava elektroonilise side võrgus kasutatavate identifitseerimistunnustega seotud lõppkasutaja tuvastamiseks vajalike andmete kohta.

Taxation Act[171]
Chapter 71
Enquiry to communications undertaking, surveillance activities and secret co-operation
§ 81[1].[172] **Enquiry to communications undertaking**
(1) The Tax and Customs Board may make an enquiry to the electronic communications undertaking on the basis specified in clauses 1 and 2 of subpara 1 of § 126[2] of the Code of Criminal Procedure and regarding the persons specified in clauses 1 and 2 of subpara 3 of § 126[2] of the Code of Criminal Procedure to get the following information:
1) the information needed to establish the end-user connected to the identifier of the user used in the electronic communication network, except the information concerning the fact of transmission of messages;
2) the information to the electronic communications undertaking specified in subparas 2 and 3 of § 111[1] of the Electronic Communications Act which are not mentioned in clause 1 of this subpara.
(2) The authorisation for making the enquiry specified in clause 2 of subpara 1 of this article shall be granted by the prosecutor's office. The authorisation for making an inquiry shall set out the interval for which the request for information is allowed with an accuracy of date.

(2) Summary to e)

Laurits has determined and explained the scope of ss. 126 et seq. CPC. The provisions allow the access to personal and public data and cover different situations. **32**

And *Laurits* explains further that: "In cybercrime investigations and for the collection of digital evidence, covert examination (s 126[5]) and covert observation or examination of wire-tapping information (s 126[7]) are the most undertaken surveillance activities."[173] **33**

[171] Maksukorralduse seadus, Vastu võetud 20.02.2002, RT I 2002, 26, 150, jõustunud vastavalt §-le 170.
[172] **71. peatükk**
PÄRING SIDEETTEVÕTJALE, JÄLITUSTOIMINGUD JA SALAJANE KOOSTÖÖ
§ 81[1]. Päringu tegemine sideettevõtjale
(1) Maksu- ja Tolliamet võib teha päringu elektroonilise side ettevõtjale kriminaalmenetluse seadustiku § 126[2] lõike 1 punktides 1 ja 2 nimetatud alusel ning kriminaalmenetluse seadustiku § 126[2] lõike 3 punktides 1 ja 2 nimetatud isikute suhtes järgmiste andmete saamiseks:
1) elektroonilise side võrgus kasutatavate identifitseerimistunnustega seotud lõppkasutaja tuvastamiseks vajalikud andmed, välja arvatud sõnumi edastamise faktiga seotud andmed;
2) elektroonilise side ettevõtjale elektroonilise side seaduse § 111[1] lõigetes 2 ja 3 nimetatud andmed, mida ei ole nimetatud käesoleva lõike punktis 1.
(2) Käesoleva paragrahvi lõike 1 punktis 2 nimetatud päringu tegemiseks annab loa prokuratuur. Päringu tegemise loas märgitakse kuupäevalise täpsusega ajavahemik, mille kohta andmete nõudmine on lubatud.
[173] Laurits, Regulating the Unregulatable: An Estonian Perspective on the CLOUD Act and the E-Evidence Proposal, JURIDICA INTERNATIONAL 29/2020, 62 (66-70).

ff. Para 1(f) Track & Trace

§ 126[1]. CPC[174] General conditions for conduct of surveillance, covert activities

(1) Surveillance activities denote the processing of personal data for the performance of a duty provided by law with the objective of hiding the fact and content of data processing from the data subject.

(2) Surveillance activities are permitted on the bases provided for in this Code if collection of data by other activities or taking of evidence by other procedural acts is impossible, is impossible on time or is especially complicated or if this may damage the interests of the **criminal** proceedings.

(3) Surveillance activities shall not endanger the life or health of persons, cause unjustified property and environment damage or unjustified infringement of other personality rights.

(4) Information obtained by surveillance activities is evidence if application for and grant of authorisation for surveillance activities and the conduct of surveillance activities is following the requirements of law.

(5) Surveillance activities are conducted both directly through the institution specified in subpara 126[2] (1) of this Code as well as the institutions, subordinate units and employees administered by them and authorised to conduct surveillance activities, and through police agents, undercover agents and persons recruited for secret co-operation.

(6) A member of the Riigikogu or a rural municipality or city council, a judge, prosecutor, advocate, minister of religion or an official elected or appointed by the Riigikogu with his or her consent and a minor with the consent of his or her legal representative

[174] **3[1]. peatükk**
JÄLITUSTOIMINGUD
§ 126 [1]. Kriminaalmenetluse seadustik Jälitustoimingu tegemise üldtingimused
(1) Jälitustoiming on isikuandmete töötlemine seaduses sätestatud ülesande täitmiseks eesmärgiga varjata andmete töötlemise fakti ja sisu andmesubjekti eest.
(2) Jälitustoiming on käesolevas seadustikus sätestatud alustel lubatud, kui andmete kogumine muude toimingutega või tõendite kogumine muude menetlustoimingutega ei ole võimalik, ei ole õigel ajal võimalik või on oluliselt raskendatud või kui see võib kahjustada kriminaalmenetluse huve.
(3) Jälitustoiminguga ei või ohustada isiku elu ja tervist, põhjendamatult ohustada vara ja keskkonda ega põhjendamatult riivata muid isikuõigusi.
(4) Jälitustoiminguga saadud teave on tõend, kui jälitustoimingu loa taotlemisel ja andmisel ning jälitustoimingu tegemisel on järgitud seaduse nõudeid.
(5) Jälitustoiminguid tehakse vahetult nii käesoleva seadustiku § 126[2] lõikes 1 nimetatud asutuste kui ka nende hallatavate asutuste ja jälitustoimingute tegemiseks volitatud asutuste, allüksuste ja töötajate kaudu, samuti politseiagentide, variisikute ja salajasele koostööle kaasatud isikute kaudu.
(6) Käesolevas peatükis sätestatud toimingutesse võib kaasata Riigikogu ning valla- ja linnavolikogu liikme, kohtuniku, prokuröri, advokaadi ja vaimuliku, Riigikogu valitava ja nimetatava ametiisiku nende nõusolekul ning alaealise isiku tema seadusliku esindaja nõusolekul eeluurimiskohtuniku loal üksnes juhul, kui nad on samas kriminaalasjas menetlusosalised või tunnistajad või kui kuritegu on suunatud nende või nende lähedase vastu.
(7) Kui jälitustoimingu tegemist taotleb teine uurimisasutus, edastab jälitustoimingu teinud jälitusasutus taotlenud asutusele jälitustoiminguga saadud teabe koos jälitustoimingu käigus tehtud foto, filmi, heli- või videosalvestise või muu teabetalletusega.
(8) Jälitusasutusel on õigus töödelda jälitustoimingu tegemisel ka andmeid, mis pärinevad muudest allikatest kui jälitustoimingud.

may be involved in the activities provided for in this Chapter with the permission of a pre-trial investigation judge only if they are parties to the proceeding or witnesses in the criminal matter concerned or a criminal offence is directed against him or her or a person close to him or her.
(7) If the conduct of surveillance activities is requested by another investigative body, the surveillance agency having conducted the surveillance activities shall send the information obtained by the surveillance activities to the requesting investigative body together with the photographs, films, audio and video recordings and other data recordings made during the surveillance activities.
(8) A surveillance agency has the right to also process, when conducing the surveillance activities, the data available from other sources besides surveillance activities.

§ 126[2]. CPC Bases for conduct of surveillance activities
[…][175] (2) A covert operation may be conducted **on the grounds mentioned in clauses 1 and 4 of subpara 1** of this article, provided the case concerns a criminal offence mentioned in §§ 89–93[1], 95–97, 99, 100[1], 101–104, 106–108, 110–114, 116, 118 and 120,

[175] **§ 126[2]. Kriminaalmenetluse seadustik** Jälitustoimingu tegemise alused
(1) Politsei- ja Piirivalveamet, Kaitsepolitseiamet, Maksu- ja Tolliamet, Sõjaväepolitsei ning Justiitsministeeriumi vanglate osakond ja vangla (edaspidi jälitusasutus) võivad teha jälitustoimingu järgmistel alustel:
1) vajadus koguda teavet kuriteo ettevalmistamise kohta selle avastamise või tõkestamise eesmärgil;
2) tagaotsitavaks kuulutamise määruse täitmine;
3) vajadus koguda teavet konfiskeerimismenetluses vastavalt käesoleva seadustiku 161. peatükis sätestatule;
4) vajadus koguda kriminaalmenetluses teavet kuriteo kohta.
(2) Käesoleva paragrahvi lõike 1 punktides 1 ja 4 nimetatud alusel võib teha jälitustoimingu, kui tegemist on karistusseadustiku §-des 89–93[1], 95–97, 99, 1001, 101–104, 106–108, 110–114, 116, 118 ja 120, § 121 lõikes 2, §-des 133–137, 1381, 141, 141[1], 143 ja 143[2]–145[1], § 151 lõigetes 2 ja 4, §-s 157[3], § 161 lõikes 2, §-des 162, 163, 172–1751, 178–179, 183–185, 187–190, 194, 195, 199 ja 200, § 201 lõigetes 2 ja 3, § 202 lõigetes 2 ja 3, §-des 204, 206–207, 209–214, 2161, 217, 2172, 222, 227, 231–238, 241, 243, 244, 246, 250, 251, 255 ja 256, § 258 lõike 1 punktis 2, §-des 259, 259[1] ja 263, § 266 lõigetes 2 ja 4, §-des 274, 290[1]–291[1], 294, 296, 298–300[1], 302, 303, 310–313 ja 315–316[1], § 321 lõikes 2, §-s 323, §-des 326–328, 331, 331[3], 333–334, 335, 336, 340 ja 347, § 356 lõigetes 1 ja 3, § 357 lõigetes 1 ja 3, § 361 lõigetes 1 ja 3, § 363 lõikes 2, § 364 lõigetes 2–3, §-des 368[1], 375–376[2], 384, 389[1], 391 ja 393–394[1], § 398 lõigetes 2 ja 4, § 398[1] lõigetes 2 ja 4, §-des 400, 402[3]–407, 414–416, 418–418[2], 421[1], 421[2], 434, 435 ja 437–439, § 440 lõikes 3 ning §-des 446 ja 449 nimetatud kuriteoga.
[RT I, 11.03.2023, 2 - jõust. 01.05.2023] (3) Käesoleva seaduse alusel on jälitustoimingut lubatud teha järgmiste isikute suhtes:
1) käesoleva paragrahvi lõike 1 punktis 1 nimetatud alusel isiku suhtes, kelle puhul on põhjendatult alust arvata, et ta paneb toime käesoleva paragrahvi lõikes 2 nimetatud kuriteo;
2) käesoleva paragrahvi lõike 1 punktis 2 nimetatud alusel isiku suhtes, kes on kuulutatud tagaotsitavaks;
3) käesoleva paragrahvi lõike 1 punktis 3 nimetatud alusel isiku suhtes, kellele kuulub konfiskeerimismenetluse objektiks olev vara või kes seda valdab;
4) käesoleva paragrahvi lõike 1 punktis 4 nimetatud alusel isiku suhtes, kes on kriminaalmenetluses kahtlustatav või kelle puhul on põhjendatult alust arvata, et ta pani või paneb toime nimetatud kuriteo.
(4) Käesoleva paragrahvi lõike 1 punktides 2–4 sätestatud alusel tehtavat jälitustoimingut võib teha ka isiku suhtes, kelle puhul on põhjendatult alust arvata, et ta käesoleva paragrahvi lõike 3 punktides 2–4 nimetatud isikuga suhtleb, vahendab talle teavet, osutab talle kaasabi või võimaldab tal kasutada oma sidevahendit, ning kui jälitustoimingu tegemine selle isiku suhtes võib anda jälitustoimingu eesmärgi saavutamiseks vajalikke andmeid.
(5) Jälitusasutus võib teha jälitustoimingu käesoleva paragrahvi lõikes 1 nimetatud alusel, kui see on seotud kuriteoga, mis on selle jälitusasutuse uurimisalluvuses.

in subpara 2 of § 121, in §§ 133–137, 138[1], 141, 141[1], 143 and 143[2]–145[1], in subparas 2 and 4 of § 151, in § 157[3], in subpara 2 of § 161, in §§ 162, 163, 172–175[1], 178–179, 183–185, 187–190, 194, 195, 199 and 200, in subparas 2 and 3 of § 201, in subparas 2 and 3 of § 202, in §§ 204, 206–207, 209–214, 216[1], 217, 2172, 222, 227, 231–238, 241, 243, 244, 246, 250, 251, 255 and 256, in clause 2 of subpara 1 of § 258, in §§ 259, 259[1] and 263, in subparas 2 and 4 of § 266, in §§ 274, 290[1]–291[1], 294, 296, 298–300[1], 302, 303, 310–313 and 315–316[1], in subpara 2 of § 321, in § 323, in §§ 326–328, 331, 331[3], 333–334, 335, 336, 340 and 347, in subparas 1 and 3 of § 356, in subparas 1 and 3 of § 357, in subparas 1 and 3 of § 361, in subpara 2 of § 363, in subparas 2–3 of § 364, in §§ 368[1], 375–376[2], 384, 389[1], 391, 393–394[1], in subparas 2 and 4 of § 398, in subparas 2 and 4 of § 398[1], in §§ 400, 402[3]–407, 414–416, 418–4182, 4211, 4212, 434, 435 and 437–439, in subpara 3 of § 440 and in §§ 446 and 449 of the Penal Code.
[RT I, 11.03.2023, 2 – entry into force 01.05.2023]
(3) On the basis of this Act, surveillance activities may be conducted in respect of the following persons:
1) on the basis specified in clause (1) 1) of this article in respect of the person in the case of whom there are serious reasons to believe that he or she commits the criminal offence specified in subpara (2) of this article;
2) on the basis specified in clause (1) 2) of this article in respect of the person who is declared to be a fugitive;
3) on the basis specified in clause (1) 3) of this article in respect of the person who owns or possesses the assets which are the object of confiscation proceedings;
4) on the basis specified in clause (1) 4) of this article in respect of the person who is a suspect in a criminal proceeding or with respect to whom there is justified reason to believe that he or she has committed or commits the specified criminal offence.
(4) The surveillance activities conducted on the basis provided for in clauses (1) 2)–4) of this article may be also conducted in respect of the person with regard to whom there is good reason to believe that he or she interacts with the person specified in clauses (3) 2)–4) of this article, communicates information to him or her, provides assistance to him or her or allows him or her to use his or her means of communication, and if the conduct

(6) Jälitusasutus võib käesolevas seadustikus sätestatud tingimustel ja korras teha jälitustoimingu oma pädevuse piires teise jälitusasutuse taotlusel.
(7) Politsei- ja Piirivalveamet ning Kaitsepolitseiamet võivad teha jälitustoiminguid ka muu uurimisasutuse taotlusel.
(8) Justiitsministeeriumi vanglate osakond ja vangla võivad teha jälitustoiminguid kinnipidamiskohas ka muu uurimisasutuse taotlusel.
(9) Jälitustoimingu aluse äralangemise korral tuleb jälitustoiming viivitamata lõpetada.
(10) Käesolevas seadustikus sätestamata alusel võib jälitustoiminguid teha üksnes kaitseväe korralduse seaduses, maksukorralduse seaduses, politsei ja piirivalve seaduses, relvaseaduses, strateegilise kauba seaduses, tolliseaduses, tunnistajakaitse seaduses, turvaseaduses, vangistusseaduses, välismaalaste seaduses ning väljasõidukohustuse ja sissesõidukeelu seaduses sätestatud alusel. Jälitustoimingu tegemisel, jälitustoiminguga kogutud andmete töötlemisel, jälitustoimingust teavitamisel ja kogutud andmete tutvustamisel kohaldatakse käesolevas peatükis sätestatut eespool nimetatud seadustes sätestatud erisustega.

of surveillance activities in respect of such person may provide the data required for the achievement of the objective of the surveillance activities.
(5) A surveillance agency may conduct surveillance activities on the basis specified in subpara (1) of this article if this is related to a criminal offence which is in the investigative jurisdiction of such surveillance agency.
(6) A surveillance agency may conduct surveillance activities at the request of another surveillance agency within the limits of its competence under the conditions and pursuant to the procedure provided for in this Code.
(7) The Police and Border Guard Board and the Security Police may also conduct surveillance activities at the request of other investigative bodies.
(8) The Prisons Department of the Ministry of Justice and prisons may also conduct surveillance activities in a custodial institution at the request of other investigative bodies.
(9) Where the bases for surveillance activities cease to exist, the surveillance activities shall be immediately terminated.
(10) Surveillance activities may be conducted on the basis not specified in this Code only on the basis provided for in the Estonian Defence Forces Organisation Act, Taxation Act, Police and Border Guard Act, Weapons Act, Strategic Goods Act, Customs Act, Witness Protection Act, Security Act, Imprisonment Act, Aliens Act and Obligation to Leave and Prohibition on Entry Act. The provisions of this Chapter apply to conduct of surveillance activities, processing of data collected by surveillance activities, giving notification of surveillance activities and submission of information collected for examination with the specifications provided for in the above specified Acts.

§ 126[3]. CPC Surveillance activities
(1)[176] On the basis specified in subpara 126[2] (1) of this Code, a surveillance agency may covertly watch a person, thing or area, covertly take comparative samples and conduct of perform initial examinations, covertly examine a thing and covertly replace it.

[176] **§ 126 [3]. Kriminaalmenetluse seadustik** Jälitustoimingud
(1) Käesoleva seadustiku § 126[2] lõikes 1 nimetatud alusel võib jälitusasutus jälgida varjatult isikut, asja või paikkonda, koguda varjatult võrdlusmaterjali ja teha esmauuringuid, teostada varjatult asja läbivaatust ning asendada selle varjatult.
(2) Politsei- ja Piirivalveamet ning Kaitsepolitseiamet võivad käesoleva seadustiku § 126[2] lõike 1 punktis 1 nimetatud alusel karistusseadustiku §-des 244, 246, 248, 255 ja 256 nimetatud kuriteo ettevalmistamise kohta teabe kogumisel ning punktides 3 ja 4 nimetatud alusel teha järgmisi jälitustoiminguid:
1) vaadata varjatult läbi postisaadetist;
2) vaadata või kuulata salaja pealt teavet;
3) kasutada politseiagenti.
(3) Politsei- ja Piirivalveamet ning Kaitsepolitseiamet võivad käesoleva seadustiku § 126[2] lõike 1 punktis 4 nimetatud alusel kuriteo avastamise või kurjategija kinnipidamise eesmärgil matkida kuritegu.
(4) Justiitsministeeriumi vanglate osakond ja vangla võivad käesoleva seadustiku § 126[2] lõike 1 punktides 1 ja 4 nimetatud alusel teha järgmisi jälitustoiminguid:

(2) The Police and Border Guard Board and the Security Police Board may conduct the following surveillance activities on the basis specified in clause 126[2] (1) 1) of this Code upon collection of information concerning the preparation of a criminal offence specified in §§ 244, 246, 248, 255 and 256 of the Penal Code and on the basis specified in clauses 3) and 4):
1) to covertly examine a postal item;
2) to covertly observe or wiretap information;
3) to use a police agent.
(3) The Police and Border Guard Board and the Security Police Board may stage a criminal offence on the basis specified in clause 126[2] (1) 4) of this Code for the purpose of detection of a criminal offence or detention of a criminal.
(4) The Prisons Department of the Ministry of Justice and prisons may conduct the following surveillance activities specified in clauses 126 2 (1) 1) and 4) of this Code:
1) to covertly examine a postal item;
2) to covertly observe or wire-tap information.
(4[1]) The Tax and Customs Board may, on the ground mentioned in clause 4 of subpara 1 of § 126[2] of this Code, covertly examine a postal item.
[RT I, 11.03.2023, 2 – entry into force 01.05.2023]
(5) Covert entry into a building, premises, vehicle, enclosed area or computer system is permitted upon conduct of the surveillance activities specified in subpara (1) and clauses (2) 2) and 3) of this article in the case this is unavoidably necessary for the achievement of the objectives of the surveillance activities.
(6) For the purposes of this Act, entry into the possessions of other persons is deemed to be covert if the fact of entry is covert examination and replacement of things; for the possessor or if a misconception of existing facts is knowingly caused by fraud upon entry and the possessor, with knowledge of the actual circumstances, would not have given possession for entry.
s. 126[6]. Covert examination of postal items
s. 126[9]. Use of police agents
Authorizations by competent body:
A Prosecutor's Office order is needed.

1) vaadata varjatult läbi postisaadetist;
2) vaadata või kuulata salaja pealt teavet.
(4[1]) Maksu- ja Tolliamet võib käesoleva seadustiku § 126[2] lõike 1 punktis 4 nimetatud alusel vaadata varjatult läbi postisaadetist.
[RT I, 11.03.2023, 2 - jõust. 01.05.2023]
(5) Käesoleva paragrahvi lõikes 1 ning lõike 2 punktides 2 ja 3 nimetatud jälitustoimingu tegemisel on lubatud varjatult siseneda hoonesse, ruumi, sõidukisse, piirdega alale või arvutisüsteemi juhul, kui see on vältimatult vajalik jälitustoimingu eesmärgi saavutamiseks.
(6) Käesoleva seaduse tähenduses loetakse teise isiku valdusesse sisenemine varjatuks, kui sisenemise fakt jääb valdaja eest varjatuks või kui sisenemisel on pettuse teel loodud teadvalt tegelikest asjaoludest ebaõige ettekujutus ning valdaja ei oleks tegelikke asjaolusid teades nõusolekut sisenemiseks andnud.

c) Para 2: Specific Restrictions in National Law That Apply Regarding Certain Categories of Persons or Professionals with an LLP Obligation, article 29

Without prejudice to article 29, the investigation measures set out in para 1 of this article may be subject to ***conditions in accordance with the applicable national law if the national law contains specific restrictions that apply regarding certain categories of persons or professionals who are legally bound by an obligation of confidentiality.*** **34**

Which are these **conditions and restrictions in the national law?** **35**

§ 91 para 2 CPC [limitations for search measures]
(3) A search may be conducted based on an order from the Prosecutor's Office, ***except for a search at a notary's office or at the office of a law firm or at the premises of a person processing information for journalistic purposes***, provided there is reason to believe that the suspect is using the premises or vehicle to be searched, or used those premises or that vehicle, at the time of the criminal event or during pre-trial proceedings, and the person is suspected of having committed a criminal offence mentioned in subpara 2 of § 126[2] [177] of this Code.
[…]
(8) When a search is conducted at the office of a notary or of a law firm, ***the notary or the attorney at whose premises the search is performed must be in attendance***. If the notary or attorney cannot attend the search, it must be attended by the person who stands in for the notary or by another attorney who provides legal services through the same firm or, where this is impossible, by another notary or another attorney.

d) Para 3: Conditions/Thresholds for Investigation Measures

The investigation measures set out in points(c), (e) and (f) of para 1 of this article may be subject to ***further conditions, including limitations, provided for in the applicable national law. Member States may limit the application of points (e) and (f) of para 1 of this article to specific serious offences. A Member State intending to make use of*** **36**

[177] [A] criminal offence mentioned in §§ 89–931, 95–97, 99, 100[1], 101–104, 106–108, 110–114, 116, 118 and 120, in subpara 2 of § 121, in §§ 133–137, 138[1], 141, 141[1], 143 and 143[2]–145[1], in subparas 2 and 4 of § 151, in § 157[3], in subpara 2 of § 161, in §§ 162, 163, 172–175[1], 178-179, 183–185, 187–190, 194, 195, 199 and 200, in subparas 2 and 3 of § 201, in subparas 2 and 3 of § 202, in §§ 204, 206–207, 209–214, 216[1], 217, 217[2], 222, 227, 231–238, 241, 243, 244, 246, 250, 251, 255 and 256, in clause 2 of subpara 1 of § 258, in §§ 259, 259[1] and 263, in subparas 2 and 4 of § 266, in §§ 274, 290[1]–291[1], 294, 296, 298–300[1], 302, 303, 310–313 and 315–316[1], in subpara 2 of § 321, in § 323, in §§ 326–328, 331, 331[3], 333–334, 335, 336, 340 and 347, in subparas 1 and 3 of § 356, in subparas 1 and 3 of § 357, in subparas 1 and 3 of § 361, in subpara 2 of § 363, in subparas 2–3 of § 364, in §§ 368[1], 375–3762, 384, 389[1], 391, 393–394[1], in subparas 2 and 4 of § 398, in subparas 2 and 4 of § 398[1], in §§ 400, 402[3]–407, 414–416, 418–418[2], 421[1], 421[2], 434, 435 and 437–439, in subpara 3 of § 440 and in §§ 446 and 449 of the Penal Code.
[RT I, 11.03.2023, 2 – entry into force 01.05.2023]

such limitation shall notify the EPPO of the relevant list of specific serious offences in accordance with article 117.

aa. Conditions and Limitations for Investigation Measures of Para 1(c), (e) and (f)

37

Taxation Act[178]

§ 64.[179] **Right to refuse to provide information or submit evidence**

(1) The right to refuse to perform an obligation specified in §§ 60–63 of this Act to provide information or submit evidence exists:

1) for advocates in respect of circumstances which become known to them in connection with the provision of legal assistance;

2) for doctors, notaries, patent agents and ministers of religion in respect of information which becomes known to them in connection with their professional activities;

3) for agencies which organise state statistical surveys and officials who conduct such surveys in respect of information which becomes known to them in connection with a survey;

4) for auditors and persons engaged in the professional activities of an auditor, pursuant to the provisions of the Authorised Public Accountants Act;

5) for spouses, registered partners, direct blood relatives, sisters or brothers of taxable persons, descendants of sisters or brothers of taxable persons, and direct blood relatives or sisters or brothers of spouses or registered partners of taxable persons, unless such persons are required to provide information in the given case and submit documents in connection with their own tax liability;

[RT I, 09.04.2021, 1 – entry into force 01.01.2024]

[178] Maksukorralduse seadus, Vastu võetud 20.02.2002, RT I 2002, 26, 150, jõustunud vastavalt §-le 170.

[179] **§ 64. Maksukorralduse seadus** Teabe andmisest ja tõendite esitamisest keeldumise õigus

(1) Käesoleva seaduse §-de 60–63 alusel teabe andmisest ja tõendite esitamisest on õigus keelduda:

1) advokaadil asjaolude kohta, mis said temale teatavaks seoses õigusabi andmisega;

2) arstil, notaril, patendivolinikul ja vaimulikul temale seoses kutse- või ametitegevusega teatavaks saanud andmete kohta;

3) riikliku statistilise vaatluse korraldajal ja seda läbiviinud ametnikul talle seoses vaatlusega teatavaks saanud andmete kohta;

4) audiitoril ja audiitori kutsetegevusega seotud isikul vastavalt audiitortegevuse seaduses sätestatule;

5) maksukohustuslase abikaasal, registreeritud elukaaslasel, otsejoones sugulasel, õel või vennal, õe või venna alanejal sugulasel, abikaasa või registreeritud elukaaslase otsejoones sugulasel, õel või vennal, välja arvatud juhul, kui ta peab antud asjas teavet andma ja dokumente esitama seoses enda maksukohustusega;

[RT I, 06.07.2023, 6 - jõust. 01.01.2024] 6) isikul küsimustes, millele vastamine tähendaks enda või käesoleva lõike punktis 5 nimetatud isiku õigusrikkumises süüditunnistamist;

7) kui teabe andmine või tõendite esitamine rikuks posti, telegraafi, telefoni või muul üldkasutataval teel edastatavate sõnumite saladust või riigisaladuse või salastatud välisteabe hoidmise kohustust.

(2) Tööülesannete täitmisega teatavaks saanud asjaolude suhtes on teabe andmisest keeldumise õigus ka käesoleva paragrahvi lõike 1 punktides 1–4 nimetatud isikuid nende ameti- ja kutsetegevuses abistavatel isikutel.

(3) Käesoleva paragrahvi lõike 1 punktis 5 nimetatud isikutelt ütluste, dokumentide või asitõendite esitamise või ettenäitamise nõudmise korral tuleb neid kirjalikult või suuliselt teavitada õigusest kohustuse täitmisest keelduda. Suulise teavitamise kohta võetakse isikult allkiri.

6) for persons in respect of questions to which giving an answer would mean that the persons would incriminate themselves or a person specified in clause 5) of this subpara in an offence;
7) if the provision of information or submission of evidence would violate the confidentiality of messages sent or received by post, telegraph, telephone or other commonly used means or the confidentiality of a state secret.
(2) Persons who assist persons specified in clauses (1) 1)–4) of this article in their professional activities also have the right to refuse to disclose information in respect of facts which become known to them in the performance of their duties.
(3) If persons specified in clause (1) 5) of this article are requested to give testimony or to submit or present documents or evidence, such persons shall be notified in writing or orally of their right to refuse to perform the obligation. If oral notification is given, a signature shall be obtained from the person.

bb. Serious Offences Limitation for Offences of Para 1(e) and (f)

Interception is allowed only for those Penal Code offences enumerated in §126² para 2. The list includes e.g. corruption (§§ 293–298), fraud (§§ 209–214), money laundering (§ 394), etc., all of which are PIF-relevant. Covert tracking and other measures also rely on the §126² para 2 serious-offence list. **38**

cc. Notifications According to the Last Sentence of Para 3

Estonia has not published such a document. **39**

e) Para 4: Any Other Measure(s) in the EDP's Member State

The European Delegated Prosecutors shall be entitled to request or to ***order any other measures in their Member State that are available to prosecutors under national law in similar national cases,*** *in addition to the measures referred to in para 1.* **40**

The Estonian system offers measures that are not requested by the Regulation. **41**

§ 93. Investigative experiment **42**
(1) The aim of an investigative experiment is to ascertain, by practical testing, whether the circumstances or operations of an investigated event were present at the time of the criminal event or whether it was possible to perceive their existence.
(2) The suspect, accused, victim or witness participates in an investigative experiment if:
1) their assistance is required to recreate the setting at the scene of events;
2) the results of the investigative experiment allow their statement or testimony to be verified;
3) the results of the tests depend on the qualities, abilities or skills of the participant.

(3) It is allowed to use an item of physical evidence in an investigative experiment if:
1) substitution of the item may affect the results of the investigative operation, and destruction of the item is precluded;
2) it is not necessary to present the item as part of an identification line-up to a person participating in the experiment.
(4) When explaining the results of an investigative experiment, conclusions based on specialised knowledge are not allowed.

§ 94. Report of an investigative experiment
The report of an investigative experiment records:
1) the question for whose determination it was deemed necessary to conduct practical tests;
2) whether the setting at the scene of events was recreated for conducting the tests;
3) whether the suspect, accused, witness or victim has declared the setting of the investigative experiment to correspond to the setting of the event under investigation;
4) a description of the tests: their number, sequential order, conditions, the changing of the number, and their substance;
5) the results of the tests.

§ 126^{8}. Simulating a criminal offence
(1) 'Simulating a criminal offence' means the commission, with the authorisation of the court, of an act that has elements of a criminal offence, having regard to the restrictions prescribed by subpara 3 of § 126^{1} of this Code.
(2) If possible, the simulation of a criminal offence is recorded by means of photographs, footage or an audio or video recording.
(3) For the covert operation mentioned in this article, authorisation is granted by the pre-trial investigation judge for up to two months. When the time limit for which the authorisation was granted elapses, the pre-trial investigation judge may extent it by up to two months at a time.
[RT I, 29.06.2012, 2 – entry into force 01.01.2013]

f) Para 5: National Procedures and Modalities for Taking Investigative Measures

43 The European Delegated Prosecutors may only order the measures referred to in paras 1 and 4 where there are reasonable grounds to believe that the specific measure in question might provide information or evidence useful to the investigation, and where there is no less intrusive measure available which could achieve the same objective. **The procedures and the modalities for taking the measures shall be governed by the applicable national law.**

§ 83. CPC[180] Objective of inspection and objects of inspection **44**

(1) The objective of an inspection is to collect information necessary for the adjudication of a criminal matter, detect the evidentiary traces of the criminal offence and confiscate objects which can be used as physical evidence.

(2) The objects of inspection are:

1) a scene of events;

2) a body;

3) a document, any other object or physical evidence;

4) in the case of physical examination, the person and the postal or telegraphic item.

(3) If the explanations of a suspect, accused, witness, qualified person or victim help to ensure the thoroughness, comprehensiveness and objectivity of the inspection, such person shall be asked to be present at the inspection.

The EDP must ensure that **inspection reports** are drawn up in a complete and accurate manner, recording the circumstances of the scene, identification of bodies, **objects or documents discovered**, evidentiary traces, and confiscated items. Importantly, statements by participants or surveillance-related information may not be included in the report. **45**

§ 87. CPC[181] Inspection report

(1) An inspection report shall set out:

1) a description of the circumstances on the scene of events;

2) the identity of the body or, in the case of an unidentified body, a description of the body;

[180] **5. jagu**
Vaatlus ja päring sideettevõtjale
§ 83. Kriminaalmenetluse seadustik Vaatluse eesmärk ja vaatlusobjektid
(1) Vaatluse eesmärk on koguda kriminaalasja lahendamiseks vajalikke andmeid, avastada kuriteojäljed ja võtta asitõenditena kasutatavad objektid ära.
(2) Vaatlusobjektid on:
1) sündmuskoht;
2) laip;
3) dokument, muu objekt või asitõend;
4) läbivaatuse toimetamise korral isik ning posti- või telegraafisaadetis.
(3) Kui kahtlustatava, süüdistatava, tunnistaja, asjatundja või kannatanu selgitused aitavad tagada vaatluse igakülgsuse, täielikkuse ja objektiivsuse, siis kutsutakse ta vaatluse juurde.

[181] **§ 87. Kriminaalmenetluse seadustik** Vaatlusprotokoll
(1) Vaatlusprotokolli kantakse:
1) sündmuskoha olustiku kirjeldus;
2) laiba isik või tundmatu laiba puhul isikukirjeldus;
3) vaatlusel avastatud dokumendi või muu objekti nimetus ja tunnused;
4) kuriteojälgede kirjeldus;
5) muud vaatlusandmed;
6) uurimistoimingus äravõetud ja asitõendina kasutatava objekti nimetus ja number.
(2) Sündmuskoha vaatlusprotokolli ei kanta uurimistoimingus osalenud isiku seletusi ega vaatluse ajal tehtud jälitustoimingute andmeid.

3) the names and characteristics of the documents or other objects discovered during the inspection;
4) a description of the evidentiary traces of the criminal offence;
5) other information derived from the inspection;
6) the names and numbers of the objects which have been confiscated during the procedural act to be used as physical evidence.
(2) The statements of the persons participating in the inspection of a scene of events or information relating to the surveillance activities conducted during the inspection shall not be recorded in the report on the inspection of the scene of events.

§ 88. CPC Physical examination
(1)[182] The following shall be ascertained upon physical examination:
1) whether there are evidentiary traces of a criminal offence on the body, clothes or footwear of the person and whether this gives reason to declare him or her as a suspect;
2) the nature of any health damage and the location and other characteristics of injuries;
3) the specific features of the body of the suspect, accused or victim or the distinctive characteristics on his or her body which need to be recorded to adjudicate the criminal matter;
4) whether the person has objects which can be used as physical evidence with him or her or hidden in his or her body;
5) other facts relating to a subject of proof in the criminal matter.
(2) If the objective of a physical examination is to detect the evidentiary traces of a criminal offence on the body of the person, a forensic pathologist, a health care professional or another qualified person shall participate in the examination.
(3) Samples and assessment material may be taken from a person upon physical examination. Samples and assessment material shall be taken in accordance with the provisions of § 100 of this Code.

[182] **§ 88. Kriminaalmenetluse seadustik** Isiku läbivaatus
(1) Isiku läbivaatusel selgitatakse:
1) kas isiku kehal, rõivastel või jalatsitel on kuriteojälgi, mis on tema kahtlustatavaks tunnistamise alus;
2) tervisekahjustuse laad, vigastuse paiknemine ja vigastuse muud tunnused;
3) kahtlustatava, kannatanu või tunnistaja keha iseärasused või kehal leiduvad eritunnused, mis on vaja talletada kriminaalasja lahendamiseks;
4) kas isiku juures või tema kehasse peidetuna on asitõendina kasutatavaid asju;
5) muid kriminaalasja tõendamiseseme asjaolusid.
(2) Kui isiku läbivaatuse eesmärk on avastada tema kehal kuriteojälgi, osaleb läbivaatusel kohtuarst või tervishoiutöötaja või muu asjatundja.
(3) Isiku läbivaatusel on lubatud võtta temalt proove ja ekspertiisimaterjali. Proove ja ekspertiisimaterjali võttes järgitakse käesoleva seadustiku §-s 100 sätestatut.
(4) Isiku läbivaatuse protokolli kantakse:
1) isiku kehal, rõivastel või jalatsitel avastatud kuriteojälgede kirjeldus;
2) isiku kehal leiduvate iseärasuste või eritunnuste kirjeldus;
3) uurimistoimingus avastatud ja asitõendina kasutatavate objektide nimetused.
(5) Isiku läbivaatuse protokollis ei ole lubatud teha järeldusi tervisekahjustuse laadi ja vanuse ning tervisekahjustuse tekitamise viisi või vahendi kohta.

(4) A report on physical examination shall set out:
1) a description of the evidentiary traces of a criminal offence discovered on the body, clothes or footwear of the person;
2) a description of the specific features or distinctive characteristics of the body of the person;
3) the names of the objects which have been discovered during the procedural act and can be used as physical evidence.
(5) A report on physical examination shall not contain conclusions as to the type of health damage, the time of incurring the health damage or the manner in or means by which the health damage was caused.

§ 89. CPC[183] Seizure and examination of postal or telegraphic items
(1) A postal or telegraphic item is seized for the purposes of examination at the request of a Prosecutor's Office and based on an order of a pre-trial investigation judge or based on a court ruling.
(2) An order or ruling on the seizure of a postal or telegraphic item shall set out:
1) the name of the sender or addressee of the seized item and the residence or seat and address thereof;
2) the reason for the seizure;
3) the procedure for notifying an investigative body of the seized postal or telegraphic item.
(3) A copy of an order or ruling on the seizure of a postal or telegraphic item shall be sent to the head of the provider of the postal or telecommunications service for execution.
(4) In the course of examination of a postal or telegraphic item, information derived from inspection of the circumstances relating to the subject of proof shall be collected and the item to be used as physical evidence in a criminal proceeding shall be confis-

[183] **§ 89. Kriminaalmenetluse seadustik** Posti- või telegraafisaadetise arest ja läbivaatus
(1) Läbivaatuse toimetamiseks arestitakse posti- või telegraafisaadetis prokuratuuri taotlusel eeluurimiskohtuniku määruse või kohtumääruse alusel.
(2) Posti- või telegraafisaadetise aresti määruses märgitakse:
1) arestitava saadetise saatja või saaja nimi ning elu- või asukoht ja aadress;
2) aresti põhjendus;
3) arestitud posti- või telegraafisaadetisest uurimisasutusele teatamise kord.
(3) Posti- või telegraafisaadetise aresti määruse koopia saadetakse täitmiseks posti- või telekommunikatsiooniteenuse osutaja juhile.
(4) Posti- või telegraafisaadetise läbivaatusel kogutakse tõendamiseseme asjaolude kohta vaatlusandmeid ja võetakse posti- või telekommunikatsiooniteenuse osutajalt ära kriminaalmenetluses asitõendina kasutatav saadetis. Läbivaatusobjekti, mis ei ole kriminaalasjaga seotud, edastab posti- või telekommunikatsiooniteenuse osutaja adressaadile.
(5) Posti- või telegraafisaadetis vabastatakse arestist prokuratuuri määrusega. Arestist vabastamise määruse koopia edastatakse isikule, kes ei ole menetlusosaline, kuid kelle puhul on posti- või telegraafisaadetise aresti ja läbivaatusega rikutud sõnumisaladust.

cated from the provider of the postal or telecommunications service. An object of examination which is not related to the criminal matter shall be sent to the addressee by the provider of the postal or telecommunications service.
(5) A postal or telegraphic item shall be released from seizure by an order of the Prosecutor's Office. A copy of an order on release from seizure shall be sent to the persons who are not participants in the proceeding but in the case of whom the confidentiality of messages has been violated by the seizure and examination of the postal or telegraphic item.

§ 90. CPC[184] **Report on examination of postal or telegraphic items** A report on the examination of a postal or telegraphic item shall set out:
1) a reference to the order or ruling on the seizure of the postal or telegraphic item;
2) the name of the object of seizure;
3) information derived from the examination;
4) the name of the postal or telegraphic item which was confiscated to be used as physical evidence.

46 Proceedings authorities may request **basic subscriber identification data** directly from providers. However, access to more sensitive communication data (as defined in § 111[1] of the Electronic Communications Act) requires an application by the Prosecutor's Office and prior authorisation by a pre-trial investigation judge (or the court at trial stage). Such requests are limited to serious offences listed in § 126[2] CPC, or exceptionally to other offences if strictly necessary and proportionate. Authorisations must specify the type of data, the reasons, and the time period covered. In urgent cases, the Prosecutor's Office may provisionally authorise the request, but judicial approval must follow on the next business day.

47 The **EDP has to ensure** that any request for communications data is properly justified, proportionate, and duly authorised. In urgent cases, document the necessity carefully and secure judicial confirmation without delay.

[184] **§ 90. Kriminaalmenetluse seadustik** Posti- või telegraafisaadetise läbivaatuse protokoll
Posti- või telegraafisaadetise läbivaatuse protokolli kantakse:
1) viide posti- või telegraafisaadetise aresti määrusele;
2) läbivaatusobjekti nimetus;
3) vaatlusandmed;
4) äravõetud asitõendina kasutatava posti- või telegraafisaadetise nimetus.

§ 90[1]. CPC Request to electronic communications undertakings to submit information 48

(1)[185] A proceedings authority may make an enquiry to an electronic communications undertaking concerning the data required to identify an end user linked to certain identification tokens used in a public electronic communications network, except for data relating to the fact of communication of a message.

(2) On an application of the Prosecutor's Office and with the authorisation of the pre-trial investigation judge in pre-trial proceedings – or of the court in judicial proceedings – an investigative authority may make an enquiry to an electronic communications undertaking concerning data that are listed in subparas 2 and 3 of § 111[1] of the Electronic Communications Act and that are not mentioned in subpara 1 of this article.

(3) An enquiry provided for by subpara 2 of this article may be made if the criminal offence is one listed in subpara 2 of § 126[2] of this Code and if it is ineluctably necessary for achieving the purpose of criminal proceedings. In relation to a criminal offence not mentioned in the list, such an enquiry is permitted if it is ineluctably necessary for achieving the purpose of criminal proceedings, justified by the gravity and nature of the offence and does not unjustifiably interfere with personal rights.

(4) An authorisation for an enquiry concerning communication data states:

1) the data that are allowed to be collected by the enquiry;

2) the reason for collecting the data;

3) the period of time concerning which collection of the data is allowed.

---

[185] **§ 90[1]. Kriminaalmenetluse seadustik** Andmete nõudmine sideettevõtjalt

(1) Menetleja võib teha päringu elektroonilise side ettevõtjale üldkasutatava elektroonilise side võrgus kasutatavate identifitseerimistunnustega seotud lõppkasutaja tuvastamiseks vajalike andmete kohta, välja arvatud sõnumi edastamise faktiga seotud andmed.

(2) Uurimisasutus võib teha prokuratuuri taotlusel ja eeluurimiskohtuniku loal kohtueelses menetluses või kohtu loal kohtumenetluses päringu elektroonilise side ettevõtjale elektroonilise side seaduse § 111[1] lõigetes 2 ja 3 loetletud andmete kohta, mida ei ole nimetatud käesoleva paragrahvi lõikes 1.

(3) Käesoleva paragrahvi lõikes 2 ettenähtud päringu võib teha, kui tegemist on käesoleva seadustiku § 126[2] lõikes 2 nimetatud kuriteoga ning kui see on vältimatult vajalik kriminaalmenetluse eesmärgi saavutamiseks. Loetelus nimetamata kuritegude korral on sideandmete päring lubatud siis, kui see on vältimatult vajalik kriminaalmenetluse eesmärgi saavutamiseks ning seda õigustab kuriteo raskus ja laad ning kui päringuga ei riivata põhjendamatult isikuõigusi.

(4) Sideandmete päringu loas märgitakse:

1) andmed, mida päringuga on lubatud koguda;

2) andmete kogumise põhjendus;

3) ajavahemik, mille kohta andmeid on lubatud koguda.

(5) Eeluurimiskohtuniku määrus ja kohtumäärus prokuratuuri taotluse lahendamise kohta võib olla koostatud pealdisena prokuratuuri taotlusel.

(6) Edasilükkamatul juhul, kui eeluurimiskohtuniku või kohtu loa vormistamine ei ole õigel ajal võimalik, võib käesoleva paragrahvi lõikes 2 nimetatud päringu teha prokuratuuri loa alusel, mis on antud taasesitamist võimaldaval viisil ning mis sisaldab vähemalt käesoleva paragrahvi lõike 4 punktides 1 ja 3 sätestatud andmeid. Sellisel juhul tuleb päringu tegemisele järgneva esimese tööpäeva jooksul esitada kohtule põhjendatud taotlus päringu lubatavaks tunnistamiseks. Eeluurimiskohtunik otsustab päringu lubatavaks tunnistamise määrusega, mis võib olla koostatud pealdisena prokuratuuri taotlusel.

[RT I, 22.12.2021, 44 - jõust. 01.01.2022].

(5) An order of the pre-trial investigation judge – or a court order – that disposes of the application of the Prosecutor's Office may be made as a note on the application.
(6) In a situation of urgency where it is not possible to obtain, at the proper time, an authorisation of the pre-trial investigation judge or of the court, an enquiry mentioned in subpara 2 of this article may be made under an authorisation of the Prosecutor's Office which has been given in a form that is reproducible in writing and contains at least the particulars provided for by clauses 1 and 3 of subpara 4 of this article. In such a case, a reasoned application for allowing the enquiry must be filed with the court within the first business day following its making. The pre-trial investigation judge decides on allowing the enquiry by an order that may be made as a note on the application of the Prosecutor's Office.
[RT I, 22.12.2021, 44 – entry into force 01.01.2022]

§ 92. CPC[186] Search report
(1) A search report shall set out:
1) a **proposal to hand over the object** to be found or to show where the body is hidden or the fugitive is hiding;
2) the **names of the objects** which were handed over voluntarily;
3) the conditions, course and **results of the search**;
4) the **names of the objects found** and the characteristics of the objects which are relevant to the adjudication of the criminal matter;
5) the **personal data** of the apprehended fugitive.
(2) If physical examination is performed during a search, the data listed in subpara 88 (4) of this Code may be entered in the search report. In such case a report on physical examination need not be prepared.

[186] **§ 92. Kriminaalmenetluse seadustik** Läbiotsimisprotokoll
(1) Läbiotsimisprotokolli kantakse:
1) ettepanek välja anda otsitav objekt või näidata laiba või tagaotsitava asukoht;
2) vabatahtlikult väljaantud objekti nimetus;
3) otsingute tingimused, käik ja tulemused;
4) leitud objekti nimetus ja objekti tunnused, millel on tähtsust kriminaalasja lahendamiseks;
5) tabatud tagaotsitava isikuandmed.
(2) Kui läbiotsimise käigus tehakse isiku läbivaatus, siis võib kanda käesoleva seadustiku § 88 lõikes 4 loetletud andmed läbiotsimisprotokolli. Sellisel juhul ei ole isiku läbivaatuse protokolli koostamine vajalik.

Chapter 3 1
SURVEILLANCE ACTIVITIES

§ 126[1]. CPC General conditions for conduct of surveillance activities

(1)[187] Surveillance activities denote the processing of personal data for the performance of a duty provided by law with the objective of hiding the fact and content of data processing from the data subject.

(2) Surveillance activities are permitted on the bases provided for in this Code if collection of data by other activities or taking of evidence by other procedural acts is impossible, is impossible on time or is especially complicated or if this may damage the interests of the criminal proceedings.

(3) Surveillance activities shall not endanger the life or health of persons, cause unjustified property and environment damage or unjustified infringement of other personality rights.

(4) Information obtained by surveillance activities is evidence if application for and grant of authorisation for surveillance activities and the conduct of surveillance activities is following the requirements of law.

(5) Surveillance activities are conducted both directly through the institution specified in subpara 126 2 (1) of this Code as well as the institutions, subordinate units and employees administered by them and authorised to conduct surveillance activities, and through police agents, undercover agents and persons recruited for secret co-operation.

(6) A member of the Riigikogu or a rural municipality or city council, a judge, prosecutor, advocate, minister of religion or an official elected or appointed by the Riigikogu with his or her consent and a minor with the consent of his or her legal representative

[187] **3 1. peatükk**
JÄLITUSTOIMINGUD
§ 126[1]. Kriminaalmenetluse seadustik Jälitustoimingu tegemise üldtingimused
(1) Jälitustoiming on isikuandmete töötlemine seaduses sätestatud ülesande täitmiseks eesmärgiga varjata andmete töötlemise fakti ja sisu andmesubjekti eest.
(2) Jälitustoiming on käesolevas seadustikus sätestatud alustel lubatud, kui andmete kogumine muude toimingutega või tõendite kogumine muude menetlustoimingutega ei ole võimalik, ei ole õigel ajal võimalik või on oluliselt raskendatud või kui see võib kahjustada kriminaalmenetluse huve.
(3) Jälitustoiminguga ei või ohustada isiku elu ja tervist, põhjendamatult ohustada vara ja keskkonda ega põhjendamatult riivata muid isikuõigusi.
(4) Jälitustoiminguga saadud teave on tõend, kui jälitustoimingu loa taotlemisel ja andmisel ning jälitustoimingu tegemisel on järgitud seaduse nõudeid.
(5) Jälitustoiminguid tehakse vahetult nii käesoleva seadustiku § 126[2] lõikes 1 nimetatud asutuste kui ka nende hallatavate asutuste ja jälitustoimingute tegemiseks volitatud asutuste, allüksuste ja töötajate kaudu, samuti politseiagentide, variisikute ja salajasele koostööle kaasatud isikute kaudu.
(6) Käesolevas peatükis sätestatud toimingutesse võib kaasata Riigikogu ning valla- ja linnavolikogu liikme, kohtuniku, prokuröri, advokaadi ja vaimuliku, Riigikogu valitava ja nimetatava ametiisiku nende nõusolekul ning alaealise isiku tema seadusliku esindaja nõusolekul eeluurimiskohtuniku loal üksnes juhul, kui nad on samas kriminaalasjas menetlusosalised või tunnistajad või kui kuritegu on suunatud nende või nende lähedase vastu.
(7) Kui jälitustoimingu tegemist taotleb teine uurimisasutus, edastab jälitustoimingu teinud jälitusasutus taotlenud asutusele jälitustoiminguga saadud teabe koos jälitustoimingu käigus tehtud foto, filmi, heli- või videosalvestise või muu teabetalletusega.
(8) Jälitusasutusel on õigus töödelda jälitustoimingu tegemisel ka andmeid, mis pärinevad muudest allikatest kui jälitustoimingud.

may be involved in the activities provided for in this Chapter with the permission of a pre-trial investigation judge only if they are parties to the proceeding or witnesses in the criminal matter concerned or a criminal offence is directed against him or her or a person close to him or her.
(7) If the conduct of surveillance activities is requested by another investigative body, the surveillance agency having conducted the surveillance activities shall send the information obtained by the surveillance activities to the requesting investigative body together with the photographs, films, audio and video recordings and other data recordings made during the surveillance activities.
(8) A surveillance agency has the right to also process, when conducing the surveillance activities, the data available from other sources besides surveillance activities.

49 In EPPO investigations conducted in Estonia, the EDP must respect the special rules of the Code of Criminal Procedure governing access to communications data and the formal documentation of searches.

50

§ 126[2]. CPC Grounds for conduct of surveillance activities
(1)[188] The Police and Border Guard Board, the Security Police Board, the Tax and Customs Board, the Military Police and the Prisons Department of the Ministry of Justice

[188] **§ 126[2]. Kriminaalmenetluse seadustik** Jälitustoimingu tegemise alused
(1) Politsei- ja Piirivalveamet, Kaitsepolitseiamet, Maksu- ja Tolliamet, Sõjaväepolitsei ning Justiitsministeeriumi vanglate osakond ja vangla (edaspidi jälitusasutus) võivad teha jälitustoimingu järgmistel alustel:
1) vajadus koguda teavet kuriteo ettevalmistamise kohta selle avastamise või tõkestamise eesmärgil;
2) tagaotsitavaks kuulutamise määruse täitmine;
3) vajadus koguda teavet konfiskeerimismenetluses vastavalt käesoleva seadustiku 161. peatükis sätestatule;
4) vajadus koguda kriminaalmenetluses teavet kuriteo kohta.
(2) Käesoleva paragrahvi lõike 1 punktides 1 ja 4 nimetatud alusel võib teha jälitustoimingu, kui tegemist on karistusseadustiku §-des 89–93[1], 95–97, 99, 1001, 101–104, 106–108, 110–114, 116, 118 ja 120, § 121 lõikes 2, §-des 133–137, 1381, 141, 141[1], 143 ja 143[2]–145[1], § 151 lõigetes 2 ja 4, §-s 157[3], § 161 lõikes 2, §-des 162, 163, 172–1751, 178–179, 183–185, 187–190, 194, 195, 199 ja 200, § 201 lõigetes 2 ja 3, § 202 lõigetes 2 ja 3, §-des 204, 206–207, 209–214, 2161, 217, 2172, 222, 227, 231–238, 241, 243, 244, 246, 250, 251, 255 ja 256, § 258 lõike 1 punktis 2, §-des 259, 259[1] ja 263, § 266 lõigetes 2 ja 4, §-des 274, 290[1]–291[1], 294, 296, 298–300[1], 302, 303, 310–313 ja 315–316[1], § 321 lõikes 2, §-s 323, §-des 326–328, 331, 331[3], 333–334, 335, 336, 340 ja 347, § 356 lõigetes 1 ja 3, § 357 lõigetes 1 ja 3, § 361 lõigetes 1 ja 3, § 363 lõikes 2, § 364 lõigetes 2–3, §-des 368[1], 375–376[2], 384, 389[1], 391 ja 393–394[1], § 398 lõigetes 2 ja 4, § 398[1] lõigetes 2 ja 4, §-des 400, 402[3]–407, 414–416, 418–418[2], 421[1], 421[2], 434, 435 ja 437–439, § 440 lõikes 3 ning §-des 446 ja 449 nimetatud kuriteoga.
[RT I, 11.03.2023, 2 - jõust. 01.05.2023] (3) Käesoleva seaduse alusel on jälitustoimingut lubatud teha järgmiste isikute suhtes:
1) käesoleva paragrahvi lõike 1 punktis 1 nimetatud alusel isiku suhtes, kelle puhul on põhjendatult alust arvata, et ta paneb toime käesoleva paragrahvi lõikes 2 nimetatud kuriteo;
2) käesoleva paragrahvi lõike 1 punktis 2 nimetatud alusel isiku suhtes, kes on kuulutatud tagaotsitavaks;
3) käesoleva paragrahvi lõike 1 punktis 3 nimetatud alusel isiku suhtes, kellele kuulub konfiskeerimismenetluse objektiks olev vara või kes seda valdab;
4) käesoleva paragrahvi lõike 1 punktis 4 nimetatud alusel isiku suhtes, kes on kriminaalmenetluses kahtlustatav või kelle puhul on põhjendatult alust arvata, et ta pani või paneb toime nimetatud kuriteo.

and prisons (hereinafter surveillance agency) may conduct surveillance activities on the following bases:
1) a need to collect information about the preparation of a criminal offence for the purpose of detection and prevention thereof;
2) the execution of a ruling on declaring a person a fugitive;
3) a need to collect information in confiscation proceedings pursuant to the provisions of Chapter 161 of this Code;
4) a need to collect information in a criminal proceeding about a criminal offence.
(2) A covert operation may be conducted on the grounds mentioned in clauses 1 and 4 of subpara 1 of this article, provided the case concerns a criminal offence mentioned in §§ 89–931, 95–97, 99, 100[1], 101–104, 106–108, 110–114, 116, 118 and 120, in subpara 2 of § 121, in §§ 133–137, 138[1], 141, 141[1], 143 and 143[2]–145[1], in subparas 2 and 4 of § 151, in § 157[3], in subpara 2 of § 161, in §§ 162, 163, 172–175[1], 178–179, 183–185, 187–190, 194, 195, 199 and 200, in subparas 2 and 3 of § 201, in subparas 2 and 3 of § 202, in §§ 204, 206–207, 209–214, 216[1], 217, 2172, 222, 227, 231–238, 241, 243, 244, 246, 250, 251, 255 and 256, in clause 2 of subpara 1 of § 258, in §§ 259, 259[1] and 263, in subparas 2 and 4 of § 266, in §§ 274, 290[1]–291[1], 294, 296, 298–300[1], 302, 303, 310–313 and 315–316[1], in subpara 2 of § 321, in § 323, in §§ 326–328, 331, 331[3], 333–334, 335, 336, 340 and 347, in subparas 1 and 3 of § 356, in subparas 1 and 3 of § 357, in subparas 1 and 3 of § 361, in subpara 2 of § 363, in subparas 2–3 of § 364, in §§ 368[1], 375–376[2], 384, 389[1], 391, 393–394[1], in subparas 2 and 4 of § 398, in subparas 2 and 4 of § 398[1], in §§ 400, 402[3]–407, 414–416, 418–4182, 4211, 4212, 434, 435 and 437–439, in subpara 3 of § 440 and in §§ 446 and 449 of the Penal Code.
(3) On the basis of this Act, surveillance activities may be conducted in respect of the following persons:

(4) Käesoleva paragrahvi lõike 1 punktides 2–4 sätestatud alusel tehtavat jälitustoimingut võib teha ka isiku suhtes, kelle puhul on põhjendatult alust arvata, et ta käesoleva paragrahvi lõike 3 punktides 2–4 nimetatud isikuga suhtleb, vahendab talle teavet, osutab talle kaasabi või võimaldab tal kasutada oma sidevahendit, ning kui jälitustoimingu tegemine selle isiku suhtes võib anda jälitustoimingu eesmärgi saavutamiseks vajalikke andmeid.
(5) Jälitusasutus võib teha jälitustoimingu käesoleva paragrahvi lõikes 1 nimetatud alusel, kui see on seotud kuriteoga, mis on selle jälitusasutuse uurimisalluvuses.
(6) Jälitusasutus võib käesolevas seadustikus sätestatud tingimustel ja korras teha jälitustoimingu oma pädevuse piires teise jälitusasutuse taotlusel.
(7) Politsei- ja Piirivalveamet ning Kaitsepolitseiamet võivad teha jälitustoiminguid ka muu uurimisasutuse taotlusel.
(8) Justiitsministeeriumi vanglate osakond ja vangla võivad teha jälitustoiminguid kinnipidamiskohas ka muu uurimisasutuse taotlusel.
(9) Jälitustoimingu aluse äralangemise korral tuleb jälitustoiming viivitamata lõpetada.
(10) Käesolevas seadustikus sätestamata alusel võib jälitustoiminguid teha üksnes kaitseväe korralduse seaduses, maksukorralduse seaduses, politsei ja piirivalve seaduses, relvaseaduses, strateegilise kauba seaduses, tolliseaduses, tunnistajakaitse seaduses, turvaseaduses, vangistusseaduses, välismaalaste seaduses ning väljasõidukohustuse ja sissesõidukeelu seaduses sätestatud alusel. Jälitustoimingu tegemisel, jälitustoiminguga kogutud andmete töötlemisel, jälitustoimingust teavitamisel ja kogutud andmete tutvustamisel kohaldatakse käesolevas peatükis sätestatut eespool nimetatud seadustes sätestatud erisustega.

1) on the basis specified in clause (1) 1) of this article in respect of the person in the case of whom there are serious reasons to believe that he or she commits the criminal offence specified in subpara (2) of this article;
2) on the basis specified in clause (1) 2) of this article in respect of the person who is declared to be a fugitive;
3) on the basis specified in clause (1) 3) of this article in respect of the person who owns or possesses the assets which are the object of confiscation proceedings;
4) on the basis specified in clause (1) 4) of this article in respect of the person who is a suspect in a criminal proceeding or with respect to whom there is justified reason to believe that he or she has committed or commits the specified criminal offence.
(4) The surveillance activities conducted on the basis provided for in clauses (1) 2)–4) of this article may be also conducted in respect of the person with regard to whom there is good reason to believe that he or she interacts with the person specified in clauses (3) 2)–4) of this article, communicates information to him or her, provides assistance to him or her or allows him or her to use his or her means of communication, and if the conduct of surveillance activities in respect of such person may provide the data required for the achievement of the objective of the surveillance activities.
(5) A surveillance agency may conduct surveillance activities on the basis specified in subpara (1) of this article if this is related to a criminal offence which is in the investigative jurisdiction of such surveillance agency.
(6) A surveillance agency may conduct surveillance activities at the request of another surveillance agency within the limits of its competence under the conditions and pursuant to the procedure provided for in this Code.
(7) The Police and Border Guard Board and the Security Police may also conduct surveillance activities at the request of other investigative bodies.
(8) The Prisons Department of the Ministry of Justice and prisons may also conduct surveillance activities in a custodial institution at the request of other investigative bodies.
(9) Where the bases for surveillance activities cease to exist, the surveillance activities shall be immediately terminated.
(10) Surveillance activities may be conducted on the basis not specified in this Code only on the basis provided for in the Estonian Defence Forces Organisation Act, Taxation Act, Police and Border Guard Act, Weapons Act, Strategic Goods Act, Customs Act, Witness Protection Act, Security Act, Imprisonment Act, Aliens Act and Obligation to Leave and Prohibition on Entry Act. The provisions of this Chapter apply to conduct of surveillance activities, processing of data collected by surveillance activities, giving notification of surveillance activities and submission of information collected for examination with the specifications provided for in the above specified Acts.

§ 126[3]. CPC Surveillance activities

(1)[189] On the basis specified in subpara 126[2] (1) of this Code, a surveillance agency may covertly watch a person, thing or area, covertly take comparative samples and perform initial examinations, covertly examine a thing and covertly replace it.

(2) The Police and Border Guard Board and the Security Police Board may conduct the following surveillance activities on the basis specified in clause 126[2] (1) 1) of this Code upon collection of information concerning the preparation of a criminal offence specified in §§ 244, 246, 248, 255 and 256 of the Penal Code and on the basis specified in clauses 3) and 4):

1) to covertly examine a postal item;

2) to covertly observe or wiretap information;

3) to use a police agent.

(3) The Police and Border Guard Board and the Security Police Board may stage a criminal offence on the basis specified in clause 126[2] (1) 4) of this Code for the purpose of detection of a criminal offence or detention of a criminal.

(4[1]) The Tax and Customs Board may, on the ground mentioned in clause 4 of subpara 1 of § 126[2] of this Code, covertly examine a postal item.

[RT I, 11.03.2023, 2 – entry into force 01.05.2023]

(4) The Prisons Department of the Ministry of Justice and prisons may conduct the following surveillance activities specified in clauses 126[2] (1) 1) and 4) of this Code:

1) to covertly examine a postal item;

2) to covertly observe or wire-tap information.

---

[189] **§ 126[3]. Kriminaalmenetluse seadustik** Jälitustoimingud

(1) Käesoleva seadustiku § 126[2] lõikes 1 nimetatud alusel võib jälitusasutus jälgida varjatult isikut, asja või paikkonda, koguda varjatult võrdlusmaterjali ja teha esmauuringuid, teostada varjatult asja läbivaatust ning asendada selle varjatult.

(2) Politsei- ja Piirivalveamet ning Kaitsepolitseiamet võivad käesoleva seadustiku § 126[2] lõike 1 punktis 1 nimetatud alusel karistusseadustiku §-des 244, 246, 248, 255 ja 256 nimetatud kuriteo ettevalmistamise kohta teabe kogumisel ning punktides 3 ja 4 nimetatud alusel teha järgmisi jälitustoiminguid:

1) vaadata varjatult läbi postisaadetist;

2) vaadata või kuulata salaja pealt teavet;

3) kasutada politseiagenti.

(3) Politsei- ja Piirivalveamet ning Kaitsepolitseiamet võivad käesoleva seadustiku § 126[2] lõike 1 punktis 4 nimetatud alusel kuriteo avastamise või kurjategija kinnipidamise eesmärgil matkida kuritegu.

(4) Justiitsministeeriumi vanglate osakond ja vangla võivad käesoleva seadustiku § 126[2] lõike 1 punktides 1 ja 4 nimetatud alusel teha järgmisi jälitustoiminguid:

1) vaadata varjatult läbi postisaadetist;

2) vaadata või kuulata salaja pealt teavet.

(4[1]) Maksu- ja Tolliamet võib käesoleva seadustiku § 126[2] lõike 1 punktis 4 nimetatud alusel vaadata varjatult läbi postisaadetist.

[RT I, 11.03.2023, 2 - jõust. 01.05.2023]

(5) Käesoleva paragrahvi lõikes 1 ning lõike 2 punktides 2 ja 3 nimetatud jälitustoimingu tegemisel on lubatud varjatult siseneda hoonesse, ruumi, sõidukisse, piirdega alale või arvutisüsteemi juhul, kui see on vältimatult vajalik jälitustoimingu eesmärgi saavutamiseks.

(6) Käesoleva seaduse tähenduses loetakse teise isiku valdusesse sisenemine varjatuks, kui sisenemise fakt jääb valdaja eest varjatuks või kui sisenemisel on pettuse teel loodud teadvalt tegelikest asjaoludest ebaõige ettekujutus ning valdaja ei oleks tegelikke asjaolusid teades nõusolekut sisenemiseks andnud.

(5) Covert entry into a building, premises, vehicle, enclosed area or computer system is permitted upon conduct of the surveillance activities specified in subpara (1) and clauses (2) 2) and 3) of this article in the case this is unavoidably necessary for the achievement of the objectives of the surveillance activities.
(6) For the purposes of this Act, entry into the possessions of other persons is deemed to be covert if the fact of entry is covert for the possessor or if a misconception of existing facts is knowingly caused by fraud upon entry and the possessor, with knowledge of the actual circumstances, would not have given possession for entry.

§ 126[4]. CPC Grant of permission for surveillance activities
(1)[190] A covert operation may be conducted when this is authorised in writing by the Prosecutor's Office or by the pre-trial investigation judge. The pre-trial investigation judge decides the grant of the authorisation by an order based on a reasoned application of the Prosecutor's Office. The pre-trial investigation judge considers the application without delay and grants, or refuses, the authorisation by an order. The court may also issue the authorisation to conduct a covert operation that, under this Chapter, requires the authorisation of the Prosecutor's Office.
[RT I, 11.03.2023, 2 – entry into force 01.05.2023]

[190] **§ 126 [4]. Kriminaalmenetluse seadustik** Jälitustoiminguks loa andmine
(1) Jälitustoimingu võib teha prokuratuuri või eeluurimiskohtuniku kirjalikul loal. Eeluurimiskohtunik otsustab loa andmise määrusega prokuratuuri põhjendatud taotluse alusel. Eeluurimiskohtunik vaatab prokuratuuri põhjendatud taotluse läbi viivitamata ja annab määrusega jälitustoiminguks loa või keeldub selle andmisest. Kohus võib loa anda ka sellise jälitustoimingu tegemiseks, milleks on käesoleva peatüki kohaselt nõutav prokuratuuri luba.
[RT I, 11.03.2023, 2 - jõust. 01.05.2023] (2) Edasilükkamatul juhul võib prokuratuuri luba nõudva jälitustoimingu teha prokuratuuri loal, mis on antud taasesitamist võimaldaval viisil. Kirjalik luba vormistatakse 24 tunni jooksul jälitustoimingu alustamisest arvates.
(3) Kui tegemist on vahetu ohuga isiku elule, kehalisele puutumatusele, füüsilisele vabadusele või suure väärtusega varalisele hüvele ning loa taotlemine või vormistamine ei ole õigel ajal võimalik, võib kohtu luba nõudva jälitustoimingu teha edasilükkamatul juhul kohtu loal, mis on antud taasesitamist võimaldaval viisil. Kirjalik taotlus ning luba vormistatakse 24 tunni jooksul jälitustoimingu alustamisest arvates.
(4) Edasilükkamatul juhul taasesitamist võimaldaval viisil antud luba peab sisaldama järgmisi andmeid:
1) loa andja;
2) loa andmise kuupäev ja kellaaeg;
3) jälitustoiming, milleks luba antakse;
4) kui on teada, siis selle isiku nimi, kelle suhtes jälitustoiming tehakse;
5) jälitustoimingu loa tähtaeg.
(5) Kui jälitustoimingu tegemiseks või selleks vajalike tehniliste abivahendite paigaldamiseks ja eemaldamiseks on vaja varjatult siseneda hoonesse, ruumi, sõidukisse, piirdega alale või arvutisüsteemi, taotleb prokuratuur selleks eraldi eeluurimiskohtuniku loa.
(6) Käesoleva seadustiku § 126[2] lõike 1 punktides 1, 3 ja 4 sätestatud alusel tehtud jälitustoimingute kestus konkreetse isiku suhtes samas kriminaalasjas ei tohi ületada ühte aastat. Kriminaalasja erilise keerukuse või mahukuse korral võib riigi peaprokurör anda loa või taotleda kohtult luba jälitustoimingu tegemiseks isiku suhtes kestusega üle ühe aasta.

(2) In cases of urgency, surveillance activities requiring the permission of a Prosecutor's Office may be conducted with the permission of the Prosecutor's Office issued in a format which can be reproduced in writing. A written permission shall be formalised within 24 hours as of the commencement of surveillance activities.
(3) In the case of immediate danger to the life, physical integrity or physical freedom of a person or to proprietary benefits of high value and requesting a permission or execution thereof on time is impossible, surveillance activities requiring the permission of a court may be conducted, in cases of urgency, with the permission of the court issued in a format which can be reproduced in writing. A written application and permission shall be formalised within 24 hours as of the commencement of surveillance activities.
(4) A permission issued in cases of urgency in a format which can be reproduced in writing shall contain the following information:
1) the issue of the permission;
2) the date and time of issue of the permission;
3) surveillance activities for which the permission is issued;
4) if known, the name of the person regarding whom the surveillance activities are conducted;
5) the term of the permission for surveillance activities.
(5) If covert entry into a building, premises, vehicle, enclosed area or computer system is necessary for conduct of surveillance activities or to install or remove technical appliances necessary for surveillance, a Prosecutor's Office shall apply for a separate permission of a pre-trial investigation judge for such purpose.
(6) The duration of surveillance activities conducted with respect to a specific person on the basis provided for in clauses 126^2 (1) 1), 3) and 4) of this Code in one criminal matter shall not exceed one year. In the case of particular complexity or extent of a criminal matter, the Chief Public Prosecutor may grant permission or apply for a permission to a court for conduct of surveillance activities for a term of more than one year.

§ 126^5. CPC[191] Covert surveillance, covert collection of comparative samples and conduct of initial examinations, covert examination and replacement of things
(1) A Prosecutor's Office shall issue a permission for covert surveillance of persons, things or areas, covert collection of comparative samples and conduct of initial examinations and covert examination or replacement of things for up to two months. The Prosecutor's Office may extend the term of the permission for up to two months at a time.

[191] **§ 126^5. Kriminaalmenetluse seadustik** Varjatud jälgimine, võrdlusmaterjali varjatud kogumine ja esmauuringute tegemine, asja varjatud läbivaatus ja asendamine
(1) Isiku, asja või paikkonna varjatud jälgimiseks, võrdlusmaterjali varjatud kogumiseks ja esmauuringute tegemiseks ning asja varjatud läbivaatamiseks või asendamiseks annab prokuratuur loa kuni kaheks kuuks. Prokuratuur võib loa tähtaega pikendada kuni kahe kuu kaupa.
(2) Käesolevas paragrahvis nimetatud jälitustoimingu käigus vajaduse korral videosalvestatakse, pildistatakse või kopeeritakse või talletatakse kogutud teave muul viisil.

(2) In the course of the surveillance activities specified in this article, the information collected shall be, if necessary, video recorded, photographed or copied or recorded in another way.

§ 126[6]. CPC[192] Covert examination of postal items

(1) Upon covert examination of a postal item, information derived from the inspection of the item is collected.
(2) After the covert examination of a postal item, the item shall be sent to the addressee.
(3) In the course of the activities specified in this article, the information collected shall be, if necessary, video recorded, photographed or copied or recorded in another way.
(4) In the course of covert examination of a postal item, the item may be replaced.
(5) A pre-trial investigation judge grants permission for the surveillance activities specified in this article for up to two months. After expiry of the specified term, the pre-trial investigation judge may extent this term by up to two months.

§ 126[8]. CPC[193] Staging of criminal offence

(1) Staging of a criminal offence is the commission of an act with the elements of a criminal offence with the permission of a court, considering the restrictions prescribed in subpara 126[1] (3) of this Code.
(2) If possible, a staged criminal offence shall be photographed, filmed or audio or video recorded.
(3) A pre-trial investigation judge grants permission for the surveillance activities specified in this article for up to two months. After expiry of the specified term, the pre-trial investigation judge may extent this term by up to two months.

[192] **§ 126[6]. Kriminaalmenetluse seadustik** Postisaadetise varjatud läbivaatus
(1) Postisaadetise varjatud läbivaatusel kogutakse saadetise kohta vaatlusandmeid.
(2) Pärast postisaadetise varjatud läbivaatuse tegemist edastatakse saadetis adressaadile.
(3) Käesolevas paragrahvis nimetatud toimingu käigus vajaduse korral videosalvestatakse, pildistatakse või kopeeritakse või talletatakse kogutud teave muul viisil.
(4) Postisaadetise varjatud läbivaatuse käigus võib saadetise asendada.
(5) Käesolevas paragrahvis nimetatud jälitustoiminguks annab kuni kaheks kuuks loa eeluurimiskohtunik. Nimetatud tähtaja möödumisel võib eeluurimiskohtunik seda pikendada kuni kahe kuu kaupa.
[193] **§ 126[8]**. **Kriminaalmenetluse seadustik** Kuriteo matkimine
(1) Kuriteo matkimine on kohtu loal kuriteotunnustega teo toimepanemine, arvestades käesoleva seadustiku § 126[1] lõikes 3 ettenähtud piiranguid.
(2) Võimaluse korral kuriteo matkimine jäädvustatakse foto, filmi, heli- või videosalvestise vahendusel.
(3) Käesolevas paragrahvis nimetatud jälitustoiminguks annab kuni kaheks kuuks loa eeluurimiskohtunik. Nimetatud tähtaja möödumisel võib eeluurimiskohtunik seda pikendada kuni kahe kuu kaupa.

§ 126[9]. CPC[194] Use of police agents

(1) Police agent for the purposes of this Act is a person who collects evidence in a criminal proceeding by using a false identity.

(2) A Prosecutor's Office shall issue a written permission for the use of police agents. Permission for the use of a police agent is granted for up to six months and this term may be extended by six months at a time.

(3) A police agent has all the obligations of an official of a surveillance agency in so far as the obligations do not require disclosure of the false identity.

(4) The statements of a police agent are used as evidence pursuant to the provisions of this Code concerning witnesses.

(5) Based on an order of a Prosecutor's Office, the fact of using a police agent or the identity of a police agent shall also remain confidential after completion of surveillance activities if disclosure may endanger the life or health, honour and good name or property of the police agent or the persons connected with him or her or his or her further activities as a police agent.

§ 126[10]. CPC[195] Documentation of surveillance activities

(1) On the basis of the information collected by surveillance activities, an official of the body that conducted surveillance activities or applied for surveillance activities shall prepare a report on surveillance activities which shall set out:

1) the name of the body which conducted the surveillance activities;

---

[194] **§ 126[9]. Kriminaalmenetluse seadustik** Politseiagendi kasutamine

(1) Politseiagent käesoleva seaduse tähenduses on isik, kes kogub kriminaalmenetluses tõendeid muudetud identiteeti kasutades.

(2) Politseiagendi kasutamiseks annab kirjaliku loa prokuratuur. Politseiagendi kasutamiseks antakse luba kuni kuueks kuuks ning seda tähtaega võib pikendada korraga kuni kuue kuu võrra.

(3) Politseiagendil, kui ta on jälitusasutuse ametnik, on kõik jälitusasutuse ametniku kohustused niivõrd, kuivõrd see ei too kaasa muudetud identiteedi paljastamist.

(4) Politseiagendi ütlusi tõendina kasutades järgitakse käesoleva seadustiku sätteid tunnistaja kohta.

(5) Prokuratuuri otsusel jäetakse politseiagendi kasutamise fakt või politseiagendi isik salastatuks ka pärast jälitustoimingu lõpetamist, kui avalikustamine võib seada ohtu politseiagendi või tema lähikondsete elu, tervise, au või hea nime või vara või tema edasise tegutsemise politseiagendina.

[195] **§ 126[10]. Kriminaalmenetluse seadustik** Jälitustoimingu dokumenteerimine

(1) Jälitustoiminguga kogutud teabe alusel koostab jälitustoimingu teinud või jälitustoimingut taotlenud asutuse ametnik jälitustoimingu protokolli, kuhu kantakse:

1) jälitustoimingu teinud asutuse nimetus;

2) jälitustoimingu tegemise aeg ja koht;

3) selle isiku nimi, kelle suhtes jälitustoiming tehti;

4) jälitustoimingu aluseks oleva kohtu loa või prokuratuuri loa andmise kuupäev;

5) prokuratuuri taotluse esitamise kuupäev, kui jälitustoimingu aluseks on kohtu luba;

6) jälitustoiminguga kogutud teave, mis on jälitustoimingu eesmärgi täitmiseks või kriminaalasja lahendamiseks vajalik.

(2) Protokollile lisatakse vajaduse korral jälitustoimingu käigus tehtud foto, film, heli- või videosalvestis või muu teabetalletus.

(3) Vajaduse korral vormistab jälitustoimingu teinud jälitusasutus jälitustoiminguga kogutud teabe jälitustoimingu kokkuvõttes. Jälitustoimingu kokkuvõte ja jälitustoimingu käigus tehtud foto, film, heli- või videosalvestis või muu teabetalletus lisatakse jälitustoimikusse.

2) the time and place of conducting the surveillance activities;
3) the name of the person regarding whom the surveillance activities were conducted;
4) the date of issue of a permission of a court or a permission of a Prosecutor's Office which is the basis for surveillance activities;
5) the date of submission of an application of a Prosecutor's Office if the surveillance activities are based on a permission of a court;
6) information collected by surveillance activities which is necessary to achieve the objectives of surveillance activities or to adjudicate a criminal matter.
(2) The photographs, films, audio and video recordings and other data recordings made during surveillance activities shall be appended to a report, if necessary.
(3) If necessary, the surveillance agency that conducted surveillance activities shall record the information collected by surveillance activities in a summary of surveillance activities. The summary of surveillance activities and the photographs, films, audio and video recordings and other data recordings made during surveillance activities shall be appended to a surveillance file.

51 Surveillance data needed for a criminal case are stored with the case file, while other materials remain with surveillance agencies. Files may be kept for long periods (up to until limitation/punishment expiry) and can also be used in other proceedings, vetting, or security checks.

52 Non-essential recordings may be destroyed upon request after a judgment, and destruction must be documented. Sensitive personal data must be redacted before disclosure, and state secret materials follow special rules.

53

§ 126[11]. CPC[196] Keeping of surveillance files
(1) The data collected by surveillance activities, data recordings made in the course of surveillance activities, data obtained in the manner specified in subpara 126[1] (8) of this Code and the data required for comprehension of the integrity of the information collected by surveillance activities concerning an undercover agent and simulated person, structural unit, body and branch of a foreign company shall be stored in a surveillance file.
(2) The procedure for keeping and storage of surveillance files shall be established by a regulation of the Government of the Republic on the proposal of the Minister of Internal Affairs.

[196] **§ 126[11]. Kriminaalmenetluse seadustik** Jälitustoimiku pidamine
(1) Jälitustoimikus säilitatakse jälitustoiminguga kogutud andmed, jälitustoimingu käigus tehtud teabetalletused, käesoleva seadustiku § 1261 lõikes 8 nimetatud viisil saadud andmed ning jälitustoiminguga kogutud teabe tervikliku tajumiseks vajalikud andmed variisiku ning teeseldud isiku, struktuuriüksuse, organi ja välisriigi äriühingu filiaali kohta.
(2) Jälitustoimiku pidamise ja säilitamise korra kehtestab siseministri ettepanekul Vabariigi Valitsus määrusega.

§ 126[12]. CPC Storage, use and destruction of surveillance files and data recordings collected by surveillance activities

(1)[197] The photographs, films, audio and video recordings and other data recordings or any part thereof necessary for the adjudication of a criminal matter and made during surveillance activities shall be stored in the criminal file or together with the criminal matter. The rest of the materials on surveillance activities shall be stored at surveillance agencies pursuant to the procedure specified in subpara 126[11] (2) of this Code.

(2) Surveillance files shall be stored as follows:

1) surveillance files kept on criminal offences under preparation, files on searching persons and confiscation files – until the redundancy of information contained therein, but for not longer than 50 years;

2) files on criminal offences – until the deletion of data concerning punishment from the punishment register or the expiry of the limitation period of the criminal offence.

(3) Information collected by a covert operation may be used:

[197] **§ 126[12]. Kriminaalmenetluse seadustik** Jälitustoimikute ja jälitustoiminguga kogutud teabetalletuste säilitamine, kasutamine ja hävitamine

(1) Jälitustoimingu käigus tehtud fotot, filmi, heli- või videosalvestist või muud teabetalletust või selle osa, mis on vajalik kriminaalasja lahendamiseks, säilitatakse kriminaaltoimikus või kriminaalasja juures. Ülejäänud jälitustoimingu materjale säilitatakse jälitusasutuses vastavalt käesoleva seadustiku § 12611 lõikes 2 nimetatud korrale.

(2) Jälitustoimikuid säilitatakse järgmiselt:

1) ettevalmistatava kuriteo kohta peetud jälitustoimikud, isiku tagaotsimise toimikud ja konfiskeerimistoimikud – kuni neis sisalduva teabe kasutamise vajaduse äralangemiseni, kuid mitte kauem kui 50 aastat;

2) kuriteotoimikud – kuni karistusandmete karistusregistrist kustutamiseni või kuriteo aegumistähtaja möödumiseni.

(3) Jälitustoiminguga saadud andmeid võib kasutada:

1) teises jälitustoimingus;

2) teises kriminaalmenetluses;

3) julgeolekukontrollis;

4) välisinvesteeringu usaldusväärsuse hindamiseks välisinvesteeringu usaldusväärsuse hindamise seaduse tähenduses;

5) seaduses sätestatud juhul rahapesu ja terrorismi rahastamise tõkestamiseks;

6) isiku tööle või teenistusse võtmise ja loa või litsentsi andmise otsustamisel isiku seaduses sätestatud nõuetele vastavuse kontrollimiseks.

[RT I, 10.02.2023, 3 - jõust. 01.09.2023] (4) Jälitustoiminguga saadud andmeid võib säilitada õppe- ja uurimisotstarbeks. Teabes sisalduvad isikuandmed ja vajaduse korral ka olustik peavad olema täielikult muudetud, et vältida jälitustoimingus osalenud või sellesse kaasatud isikute avalikuks tulekut.

(5) Kui kriminaaltoimikusse on lisatud jälitustoimingu käigus tehtud teabetalletus, mida ei ole vaja säilitada, võib isik, kelle põhiõigusi on jälitustoiminguga riivatud, pärast kohtuotsuse jõustumist taotleda selle teabetalletuse hävitamist.

(6) Käesoleva paragrahvi lõikes 5 sätestatud teabetalletuse hävitab kohus. Teabetalletuse hävitamise kohta koostatakse protokoll, mis lisatakse kriminaaltoimikusse.

(7) Kui jälitustoimingu materjale säilitatakse kriminaaltoimikus, siis kriminaaltoimiku avalikustamisel vastavalt avaliku teabe seadusele eemaldatakse neist või kaetakse kinni andmed isikute kohta, kes ei olnud selles kriminaalmenetluses süüdistatavad ning kelle perekonna- või eraelu puutumatust jälitustoiminguga oluliselt riivati ning kelle õigusi või vabadusi võidakse avalikustamisega oluliselt kahjustada.

(8) Riigisaladust või salastatud välisteavet sisaldavad toimikud säilitatakse ja hävitatakse vastavalt riigisaladuse ja salastatud välisteabe seadusele.

(9) Hävitamisele kuuluvad jälitustoimikud ja kogutud teabetalletused hävitab jälitusasutuse juhi moodustatud komisjon prokuröri juuresolekul. Toimiku ja kogutud teabetalletuse hävitamise kohta koostab komisjon akti, kuhu märgitakse hävitatud toimiku number või teave hävitatud teabetalletuse kohta ja hävitamise põhjus.

1) in another covert operation;
2) in other criminal proceedings;
3) in security vetting;
4) for assessment of the reliability of a foreign investment within the meaning of Foreign Investment Reliability Assessment Act;
5) in situations provided for by law, to prevent money laundering or terrorist financing;
6) when deciding the hiring of a person or the granting of an authorisation or licence to a person, to verify whether the person meets the requirements provided by law.
[RT I, 10.02.2023, 3 – entry into force 01.09.2023]
(4) The data obtained by surveillance activities may be stored for study and research purposes. Personal data and, if necessary, the information collected shall be completely altered to prevent disclosure of persons who have been engaged in surveillance activities or recruited therefor.
(5) If preservation of a data recording made during surveillance activities and added to a criminal file is not necessary, the person subject to the surveillance activities whose fundamental rights were violated by such surveillance activities may request destruction of the data recording after the entry into force of the court judgment.
(6) The data recording specified in subpara (5) of this article shall be destroyed by a court. A report shall be prepared on the destruction of a data recording and included in the criminal file.
(7) If the materials on surveillance activities are stored in a criminal file, the information concerning the persons accused in criminal proceedings whose private or family life was significantly violated by the surveillance activities and whose rights or freedoms may be significantly damaged by disclosure shall be removed from or redacted in the criminal file upon disclosure thereof pursuant to the Public Information Act.
(8) Files containing a state secret or classified information of a foreign state shall be stored and destroyed pursuant to the State Secrets and Classified Information of Foreign States Act.
(9) Surveillance files subject to destruction and data recordings collected shall be destroyed by a committee formed by the head of a surveillance agency in the presence of a prosecutor. The committee shall prepare a report concerning the destruction of a file and data recording collected which shall set out the number of the file or information concerning the destructed data recording and the reason for the destruction thereof.

§ 126[13]. CPC Notification of surveillance activities
(1)[198] Upon expiry of the term of a permission for the conduct of surveillance activities and, when several surveillance activities are conducted that coincide at least partly in

[198] **§ 126[13]. Kriminaalmenetluse seadustik** Jälitustoimingust teavitamine

time, upon expiry of the term of the last permission, the surveillance agency shall immediately notify the person with respect to whom the surveillance activities were conducted and the person whose private or family life was significantly violated by the surveillance activities and who was identified in the course of the proceedings. The person shall be notified of the time and type of surveillance activities conducted with respect to him or her.
(2) With the permission of a prosecutor, a surveillance agency need not give notification of conduct of surveillance activities if this may:
1) significantly damage the criminal proceedings;
2) significantly damage the rights and freedoms of another person which are guaranteed by law or endanger another person;
3) endanger the confidentiality of the methods and tactics of a surveillance agency, the equipment or police agent used in conducting surveillance activities, of an undercover agent or person who has been recruited for secret co-operation.
(3) With the permission of a Prosecutor's Office, a person need not be given notification of surveillance activities until the basis specified in subpara (2) of this article cease to exist. The Prosecutor's Office shall verify the basis for non-notification of the criminal matter upon completion of pre-trial proceedings but not later than one year after the expiry of the term of the permission for surveillance activities.
(4) If the basis for non-notification of surveillance activities have not ceased to exist upon expiry of one year as of the expiry of the term of the permission for surveillance

(1) Jälitustoimingu tegemise loa tähtaja lõppemise korral ning mitme ajaliselt vähemalt osaliselt kattuva jälitustoimingu tegemisel neist viimase loa tähtaja lõppemise korral teavitab jälitusasutus viivitamata isikut, kelle suhtes jälitustoiming tehti, ning isikut, kelle perekonna- või eraelu puutumatust jälitustoiminguga oluliselt riivati ja kes on menetluse käigus tuvastatud. Isikut teavitatakse tema suhtes tehtud jälitustoimingu tegemise ajast ja liigist.
(2) Jälitusasutus võib prokuratuuri loal jätta jälitustoimingust teavitamata, kui teavitamine võib:
1) kahjustada oluliselt kriminaalmenetlust;
2) kahjustada oluliselt teise isiku seadusega tagatud õigusi ja vabadusi või seada teise isiku ohtu;
3) seada ohtu jälitusasutuse meetodite, taktika, jälitustoimingu tegemisel kasutatava vahendi või politseiagendi, variisiku või salajasele koostööle kaasatud isiku koostöö salajasuse.
(3) Isiku võib prokuratuuri loal jätta jälitustoimingust teavitamata kuni käesoleva paragrahvi lõikes 2 nimetatud aluse äralangemiseni. Prokuratuur kontrollib teavitamata jätmise aluse olemasolu kriminaalasjas kohtueelse menetluse lõppemisel, kuid mitte hiljem kui üks aasta pärast jälitustoimingu loa tähtaja lõppemist.
(4) Kui ühe aasta möödumisel jälitustoimingu loa tähtaja lõppemisest ei ole jälitustoimingust teavitamata jätmise alus ära langenud, taotleb prokuratuur hiljemalt 15 päeva enne nimetatud tähtaja möödumist eeluurimiskohtunikult loa teavitamata jätmise tähtaja pikendamiseks. Eeluurimiskohtunik annab määrusega loa isiku teavitamata jätmiseks või keeldub loa andmisest. Isiku teavitamata jätmisel märgitakse määruses, kas teavitamata jätmine on tähtajatu või tähtajaline. Tähtajalise teavitamata jätmise korral märgitakse tähtaeg, mille jooksul jäetakse isik teavitamata.
(5) Kui käesoleva paragrahvi lõikes 4 nimetatud eeluurimiskohtuniku antud teavitamata jätmise loa tähtaja lõppemisel ei ole käesoleva paragrahvi lõikes 2 nimetatud alus ära langenud, taotleb prokuratuur hiljemalt 15 päeva enne tähtaja lõppemist eeluurimiskohtunikult loa teavitamata jätmise tähtaja pikendamiseks. Eeluurimiskohtunik annab määrusega loa vastavalt käesoleva paragrahvi lõikes 4 sätestatule.
(6) Teavitamata jätmise loa tähtaja lõppemise või selle pikendamisest keeldumise korral teavitatakse isikut jälitustoimingust viivitamata.
(7) Isiku teavitamisel tema suhtes tehtud jälitustoimingust tuleb isikule selgitada ka edasikaebamise korda.

activities, a Prosecutor's Office applies, at the latest 15 days prior to the expiry of the specified term, for a permission of a pre-trial investigation judge for extension of the non-notification term. The pre-trial investigation judge grants permission by a ruling for non-notification of the person or refuses to grant such permission. Upon non-notification of a person, the ruling shall set out whether the non-notification is granted for an unspecified or specified term. In the case of non-notification during a specified term, the term during which a person is not notified shall be set out.
(5) If the basis specified in subpara (2) of this article have not ceased to exist upon expiry of the term of the permission granted for non-notification by a pre-trial investigation judge specified in subpara (4) of this article, a Prosecutor's Office applies, at the latest 15 days prior to expiry of such term, for a permission from a pre-trial investigation judge for extension of the non-notification term. The pre-trial investigation judge grants permission by a ruling pursuant to the provisions of subpara (4) of this article.
(6) A person shall be immediately notified of surveillance activities upon expiry of the permission for non-notification or refusal to grant permission for the extension thereof.
(7) When a person is notified of surveillance activities conducted with respect to him or her, the procedure for appeal shall be explained to him or her.

§ 126[14]. CPC[199] Submission of information collected by surveillance activities for examination

(1) The person who has been notified pursuant to § 126[13] of this Code shall be permitted at his or her request to examine the data collected with respect to him or her and the photographs, films, audio and video recordings and other data recordings made during the surveillance activities. With the permission of a Prosecutor's Office, the following information need not be submitted until the corresponding bases cease to exist:
1) information concerning the family or private life of other persons;

[199] **§ 126[14]. Kriminaalmenetluse seadustik** Jälitustoiminguga kogutud andmete tutvustamine
(1) Isikul, keda on vastavalt käesoleva seadustiku §-le 126[13] teavitatud, võimaldatakse soovi korral tutvuda tema kohta kogutud andmetega ja jälitustoimingu käigus tehtud foto, filmi, heli- või videosalvestise või muu teabetalletusega. Prokuratuuri loal võib kuni vastava aluse äralangemiseni jätta tutvustamata andmed:
1) teiste isikute perekonna- või eraelu kohta;
2) mille tutvustamine võib kahjustada teise isiku seadusega tagatud õigusi ja vabadusi;
3) mis sisaldavad riigisaladust või salastatud välisteavet või teise isiku seadusega kaitstud saladusi;
4) mille tutvustamine võib seada ohtu jälitusasutuse töötaja, politseiagendi, variisiku, salajasele koostööle kaasatud isiku või jälitustoimingus osalenud muu isiku või nende lähikondsete elu, tervise, au, hea nime või vara;
5) mille tutvustamine võib seada ohtu politseiagendi, variisiku ja salajasele koostööle kaasatud isiku õiguse hoida koostööd saladuses;
6) mille tutvustamise tulemusena võidakse edastada teavet jälitusasutuse meetodite, taktika ja jälitustoimingu tegemisel kasutatava vahendi kohta;
7) mida ei ole võimalik eraldada ja esitada selliselt, et neist ei ilmneks andmed, mis on loetletud käesoleva lõike punktides 1–6.
(2) Isikule jälitustoiminguga kogutud andmete tutvustamisel või tutvustamata jätmisel tuleb talle selgitada ka edasikaebamise korda.
(3) Jälitustoimingust teavitamise ja jälitustoimiku tutvustamise korra kehtestab siseministri ettepanekul Vabariigi Valitsus määrusega.

2) information the submission of which may damages the rights and freedoms of another person which are guaranteed by law;
3) information which contains state secrets, classified information of foreign states or secrets of another person that are protected by law;
4) information the submission of which may endanger the life, health, honour, good name and property of an employee of a surveillance agency, police agent, undercover agent, person who has been recruited for secret co-operation or another person who has been engaged in surveillance activities or of persons connected with them;
5) information the submission of which may endanger the right of a police agent, undercover agent and person who has been recruited for secret co-operation to maintain the confidentiality of co-operation;
6) the submission of which may result in communication of information concerning the methods, tactics of a surveillance agency and the equipment used in conduct of surveillance activities;
7) information which cannot be separated or disclosed without information specified in clauses 1-6) of this subpara becoming evident.
(2) Upon submission of or refusal to submit information collected by surveillance activities for examination to a person, the procedure for appeal shall be explained to him or her.
(3) The procedure for notification of surveillance activities and submission of surveillance files shall be established by a regulation of the Government of the Republic on the proposal of the Minister of Internal Affairs.

§ 126[15]. CPC[200] Supervision over surveillance activities
(1) a Prosecutor's Office shall exercise supervision over the compliance of surveillance activities with the permission provided for in § 126[4] of this Code.
(2) The committee of Riigikogu specified in § 36 of the Security Authorities Act shall exercise supervision over the activities of surveillance agencies. A surveillance agency shall submit a written report to the committee through the appropriate ministry at least once every three months.

[200] **§ 126[15]. Kriminaalmenetluse seadustik** Järelevalve jälitustoimingute üle
(1) Järelevalvet jälitustoimingu vastavuse üle käesoleva seadustiku §-s 126[4] sätestatud loale teostab prokuratuur.
(2) Järelevalvet jälitusasutuste tegevuse üle teostab julgeolekuasutuste seaduse §-s 36 nimetatud Riigikogu komisjon. Jälitusasutus esitab vähemalt üks kord kolme kuu jooksul komisjonile asjaomase ministeeriumi kaudu kirjaliku aruande jälitustoimingute tegemise kohta.
(3) Justiitsministeerium avaldab kord aastas oma veebilehel jälitusasutustelt, prokuratuurilt ja kohtult saadud andmete alusel aruande, mis sisaldab eelmise aasta kohta järgmised andmed:
1) alustatud jälitustoimikute liik ja arv;
2) jälitustoimingute lubade arv jälitustoimingute liikide kaupa;
3) isikute arv, keda jälitustoimingu tegemisest teavitati ning isikute arv, kelle puhul on teavitamine vastavalt käesoleva seadustiku § 126[13] lõikele 4 üle ühe aasta edasi lükatud.

(3) The Ministry of Justice shall publish on its website once a year a report based on the information obtained from surveillance agencies, Prosecutor's Offices and courts, which contains the following information concerning the previous year:
1) number and type of opened surveillance files;
2) number of permissions for surveillance activities by types of surveillance activities;
3) number of persons notified of conduct of surveillance activities and number of persons in the case of whom notification was postponed pursuant to subpara 126[13] (4) of this Code for more than one year.

54 The next provisions apply in EPPO proceedings equally:

55

§ 126[16]. CPC[201] Filing of appeals in connection with surveillance activities
(1) An appeal may be filed pursuant to the procedure provided for in Chapter 15 of this Code against the court ruling that grants permission for surveillance activities on the basis specified in this Code.
(2) An appeal may be filed pursuant to the procedure provided for in Division 5 of Chapter 8 of this Code against the course of surveillance activities conducted on the basis specified in this Code, non-notification thereof and refusal to submit information collected thereby.

§ 126[17]. CPC[202] Surveillance activities information system
(1) The surveillance activities information system (hereinafter information system) is a database belonging to the State Information Systems maintained for processing of the surveillance activities information provided for in this Code, the objective of which is to:

[201] **§ 126[16]. Kriminaalmenetluse seadustik** Kaebuse esitamine seoses jälitustoiminguga
(1) Käesolevas seadustikus nimetatud alusel kohtu poolt jälitustoiminguks antud loa andmise määruse peale võib esitada määruskaebuse käesoleva seadustiku 15. peatükis sätestatud korras.
(2) Käesolevas seadustikus nimetatud alusel tehtud jälitustoimingu käigu, sellest teavitamata jätmise ja sellega kogutud andmete tutvustamata jätmise peale võib esitada kaebuse käesoleva seadustiku 8. peatüki 5. jaos sätestatud korras.

[202] **§ 126[17]. Kriminaalmenetluse seadustik** Jälitustoimingute infosüsteem
(1) Jälitustoimingute infosüsteem (edaspidi infosüsteem) on käesolevas seadustikus sätestatud jälitustoimingute andmete töötlemiseks peetav riigi infosüsteemi kuuluv andmekogu, mille eesmärk on:
1) tagada ülevaade jälitustoimingute tegemisest jälitusasutuste poolt;
2) tagada ülevaade jälitusasutuste ja prokuratuuri jälitustoimingu tegemise taotlustest;
3) tagada ülevaade prokuratuuri ja kohtute poolt antud jälitustoimingu tegemise lubadest;
4) tagada ülevaade jälitustoimingust teavitamistest ja jälitustoiminguga kogutud andmete tutvustamistest;
5) kajastada andmeid tehtud jälitustoimingute kohta;
6) võimaldada jälitusasutuste, prokuratuuri ja kohtute töö korraldamist;
7) tagada kriminaalpoliitiliste otsustuste tegemiseks vajaliku jälitustoimingute statistika kogumine;
8) võimaldada andmete ja dokumentide elektroonilist edastamist.
(2) Infosüsteemi asutab ja selle põhimääruse kehtestab Vabariigi Valitsus.
(3) Infosüsteemi vastutav töötleja on Justiitsministeerium. Infosüsteemi volitatud töötleja on Registrite ja Infosüsteemide Keskus.
(4) Justiitsminister võib infosüsteemi tööd korraldada määrusega.

1) provide an overview of surveillance activities conducted by surveillance agencies;
2) provide an overview of requests of surveillance agencies and Prosecutor's Offices for conduct of surveillance activities;
3) provide an overview of permissions issued by Prosecutor's Offices and courts for conduct of surveillance activities;
4) provide an overview of notification of surveillance activities and submission of information collected by surveillance activities;
5) reflect information concerning the surveillance activities conducted;
6) enable the organisation of the activities of surveillance agencies, Prosecutor's Offices and courts;
7) collect statistics on surveillance activities which are necessary for the making of decisions concerning criminal policy;
8) enable electronic forwarding of data and documents.
(2) The information system shall be established and the statutes of the register shall be approved by the Government of the Republic.
(3) The chief processor of the information system is the Ministry of Justice. The authorised processor of the information system is the Centre of Registers and Information Systems.
(4) The Minister of Justice may organise the activities of the information system by a regulation.

Taxation Act[203]

§ 81[3].[204] **Secret co-operation and covert measures**

(1) In order to ensure the conduct of covert investigation the Tax and Customs Board is entitled to involve persons in secret co-operation and use undercover agents to ensure the conduct of surveillance activities and collection of information, as well as use covert measures under the conditions provided in the Police and Boarder Guard Act.
(2) The head of the Tax and Customs Board or a person appointed by him or her shall give a written permission for the involvement of a person.
(3) The head of the Tax and Customs Board shall give a written permission for involvement of an undercover agent.

[203] Maksukorralduse seadus, Vastu võetud 20.02.2002, RT I 2002, 26, 150, jõustunud vastavalt §-le 170.
[204] **§ 81[3]. Maksukorralduse seadus** Salajane koostöö ja konspiratsioonivõtted
(1) Maksu- ja Tolliametil on õigus jälitustoimingute tegemiseks, nende tegemise tagamiseks või teabe kogumiseks kaasata isikuid salajasele koostööle ja kasutada variisikuid, samuti kasutada konspiratsioonivõtteid politsei ja piirivalve seaduses sätestatud tingimustel.
(2) Isiku kaasamiseks annab kirjaliku loa Maksu- ja Tolliameti juht või tema määratud ametnik.
(3) Variisiku kasutamiseks annab kirjaliku loa Maksu- ja Tolliameti juht.
(4) Konspiratsioonivõtete teostamiseks vajaliku dokumendi annab välja ning vajaliku muudatuse andmekogus või registris teeb Maksu- ja Tolliameti juhi või tema volitatud ametniku põhjendatud taotluse alusel haldusorgan või juriidiline isik, kelle pädevuses on vastavat liiki dokumendi väljaandmine või andmekogus või registris muudatuse tegemine.

(4) The document necessary for performance of covert measures shall be issued and the necessary amendment in the database or register shall be made by an administrative body or legal person whose competence involves the issue of such document or making amendments in the database or register based on the reasoned request of the head of the Tax and Customs Board or an official authorised by him or her.

2. Article 31 Cross-border investigations

1. The European Delegated Prosecutors shall act in close cooperation by assisting and regularly consulting each other in cross-border cases. Where a measure needs to be undertaken in a Member State other than the Member State of the handling European Delegated Prosecutor, the latter European Delegated Prosecutor shall decide on the adoption of the necessary measure and assign it to a European Delegated Prosecutor located in the Member State where the measure needs to be carried out.
2. The handling European Delegated Prosecutor may assign any measures, which are available to him/her in accordance with article 30. **The justification and adoption of such measures shall be governed by the law of the Member State of the handling European Delegated Prosecutor.** Where the handling European Delegated Prosecutor assigns an investigation measure to one or several European Delegated Prosecutors from another Member State, he/she shall at the same time inform his supervising European Prosecutor.
3. If judicial authorisation for the measure is required under the law of the Member State of the assisting European Delegated Prosecutor, the assisting European Delegated Prosecutor shall obtain that authorisation in accordance with the law of that Member State.
If judicial authorisation for the assigned measure is refused, the handling European Delegated Prosecutor shall withdraw the assignment.
However, where the law of the Member State of the assisting European Delegated Prosecutor does not require such a judicial authorisation, but the law of the Member State of the handling European Delegated Prosecutor requires it, the authorisation shall be obtained by the latter European Delegated Prosecutor and submitted together with the assignment.
4. The assisting European Delegated Prosecutor shall undertake the assigned measure or instruct the competent national authority to do so.
5. Where the assisting European Delegated Prosecutor considers that:
(a) the assignment is incomplete or contains a manifest relevant error;
(b) the measure cannot be undertaken within the time limit set out in the assignment for justified and objective reasons;
(c) an alternative but less intrusive measure would achieve the same results as the measure assigned; or
(d) the assigned measure does not exist or would not be available in a similar domestic case under the law of his/her Member State,
he/she shall inform his supervising European Prosecutor and consult with the handling European Delegated Prosecutor to resolve the matter bilaterally.
6. If the assigned measure does not exist in a purely domestic situation but would be available in a cross-border situation covered by legal instruments on mutual recognition or cross-border cooperation, the European Delegated Prosecutors concerned may, in

agreement with the supervising European Prosecutors concerned, have recourse to such instruments.
7. If the European Delegated Prosecutors cannot resolve the matter within 7 working days and the assignment is maintained, the matter shall be referred to the competent Permanent Chamber. The same applies where the assigned measure is not undertaken within the time limit set out in the assignment or within a reasonable time.
8. The competent Permanent Chamber shall to the extent necessary hear the European Delegated Prosecutors concerned by the case and then decide without undue delay, in accordance **with applicable national law** as well as this Regulation, whether and by when the assigned measure needed, or a substitute measure, shall be undertaken by the assisting European Delegated Prosecutor, and communicate this decision to the said European Delegated Prosecutors through the competent European Prosecutor.

1 Article 31 and 32 EPPO Regulation govern the procedures for **cross-border investigative measures** by the EPPO within the EU and are therefore highly important for any EDP as there is (still) a "**lack of common rules on evidence**"[205] despite the rules on **mutual trust in the admissibility** and the "**free circulation of evidence**"[206]. The wording ensures compliance with national laws and aims at protecting procedural rights.[207] Any economic chamber of a national court[208] dealing with PIF charges, indictments and trials will need to closely focus on the admissibility of evidence as e.g. **unlawful evidence cannot provide arguments** within a judgement, see s. 261 German CPC[209].

2 Thus, both articles are a cornerstone for effective investigations in cross-border crimes while maintaining cooperation between Member States and upholding fundamental rights (around mutual trust). On December 21, 2023, the CJEU issued its first clarifying ruling on the EPPO in **Case C-281/22**, addressing cross-border investigative measures by the EPPO.[210]

[205] Allegreza 2024, p 291 using this as an example to request the EU to finally adopt or at least make the „approximation of evidence law" a key priority. Already on this point Satzger and Zimmermann 2018, p 633 with the explanation of *forum regit actum* principle.
[206] Ligeti 2024, p 483 providing a short in-depth analysis on the theme.
[207] Claes and Franssen 2021 highlighting why customs procedures are a good example for the EPPO's potential struggle with procedural safeguards. They call it a clash of enforcement procedures, which is quite fitting the picture; on the EPPO's possibilities see as well Ligeti 2024, pp 460 et seq. summarizing its role in general.
[208] See Niemz 2020, p 50 explaining the German system of court authority in PIF matters. The situation is not the same in the whole EPPO zone, but most states (cf. compare the other volumes) tend to locate charges on a higher or superior court or a specialized chamber in tax, customs or economic crimes.
[209] The situation is nearly the same in most EU Member States, but in the details the rules on exclusion of evidence are presumably highly divergent, see Ligeti 2024, p 483, who uses the example of Italy and partly Croatia, where this (unlawfully gathered) piece of evidence must be excluded even from the (investigation or court) file itself.
[210] ECJ, Case C-281/22, *Criminal proceedings against G. K. and Others*, Judgment of the Court (Grand Chamber) of 21 December 2023, ECLI:EU:C:2023:1018.

In this judgement the court said that when the EPPO conducts cross-border investigative measures, the law of the issuing state (where the investigation originates) applies to the decision authorizing the measure.[211] However, the law of the executing state (where the measure is carried out) governs how the measure is implemented, ensuring compliance with national procedural safeguards and fundamental rights in the executing Member State. The impact of the decision was widely discussed by academia and lawyers.[212] **3**

From our point-of-view, this case clarified that the **assisting Member State can only review procedural aspects of the measures**, while substantive legality falls under the handling Member State's jurisdiction. This delineation is important to understand the Court's interpretation of article 31 of the EPPO Regulation and impacts future EPPO investigations, emphasizing that assisting states have limited judicial review capabilities compared to handling states.[213] **4**

[211] Ibid, para 53 et seq., which is legally based on the mutual trust principle.
[212] Herrnfeld 2024, pp 370–380 pointing out that efficiency (what remembers of the *effet utile* debate) is very important for the ECJ. And see another critical comment Pfister 2024, p 1.
[213] Pfister 2024, passim.

3. Article 32 Enforcement of assigned measures

The assigned measures shall be carried out in accordance with this Regulation and **the law of the Member State of the assisting European Delegated Prosecutor.** Formalities and procedures expressly indicated by the handling European Delegated Prosecutor shall be complied with unless such formalities and procedures are contrary to the fundamental principles of law of the Member State of the assisting European Delegated Prosecutor.

1 Article 32 complements article 31 by allowing EDPs to **assign** investigative measures across different Member States. These measures include actions like **executing** e.g. search orders, seizing evidence, or conducting interrogations. article 32 emphasizes the importance of respecting national legal principles while facilitating cross-border investigations.[214]

2 "During the first months of operation, the Estonian seconded prosecutors also had to deal with almost 20 requests for cooperation from their Italian, German and Lithuanian counterparts."[215]

3 For a more detailed overview see → German Volume.

[214] Cf. the Bulgarian (→ Vol. III) and German Volume, which include specific overviews for all Member States. They can be accessed on the Logos Open Access Platform.
[215] Comment by Kristel Siitam-Nyiri, see Siitam-Nyiri 2021.

4. Article 33 Pre-trial arrest and cross-border surrender

4. Article 33 209
a) General Relation to National Law: Applicable Codes 209
b) Para 1: Provisions for Arrest and Pre-Trial Detention 210
aa. Arrest 210
bb. Pre-Trial Detention 213
cc. Para 2: Cross-Border Surrender 223
c) Fraud-Related Peculiarities 239
d) Relevant Examples and Precedents (from Mutual Legal Assistance) 243

1. The handling European Delegated Prosecutor may order or request the arrest or pre-trial detention of the suspect or accused person **in accordance with the national law applicable in similar domestic cases.**
2. Where it is necessary to arrest and surrender a person who is not present in the Member State in which the handling European Delegated Prosecutor is located, the latter shall issue or request the competent authority of that Member State to issue a European Arrest Order in accordance with Council Framework Decision 2002/584/JHA.

Pre-trial detention **aims at ensuring the person to be present at the EPPO's criminal cases**, which is not only done by seizure of property, but as well arrests and pre-trial detention of suspects.[216] The two following measures are **intrusive investigations measures** and therefore a careful examination is important. Figures show that Estonia has a **lower prison incarceration** nowadays than in the past, but there is still a lot of work to do: **1**

"In 2021, **Estonia's** [not primarily EPPO related**] incarceration rate** was 176 per 100,000 inhabitants. During the period between 2008 and 2021 Estonia's incarceration rate peaked in 2008 when it was 273.3, and was lowest in the most recent year"[217] **2**

a) General Relation to National Law: Applicable Codes

The following Codes contain provisions in relation to Art. 33 EPPO-Regulation: **3**

- Code of Criminal Procedure/*Kriminaalmenetluse seadustik*
- Taxation Act/*Maksukorralduse seadus*

[216] The EPPO must aware of the exceptionality of such measures and the limits, see Criminal Chamber of the Supreme Court, 1-20-8068/85, 11.10.2021: „When extending the pre-trial detention period to six months, the court must demonstrate both a reasonable suspicion of a first-degree criminal offence and the existence of a ground for arrest. If the ground for arrest is the risk of committing new crimes, there must be a legally relevant connection between the said risk and the suspicion of committing a first-degree criminal offence. (paragraphs 14–15)."
[217] D. Clark, Incarceration rate in Estonia from 2008 to 2021(per 100,000 inhabitants), Statista, 2.5.2022.

- Penal Code/*Karistusseadustik*
- Money Laundering and Terrorist Financing Prevention Act/*Rahapesu ja terrorismi rahastamise tõkestamise seadus*
- Customs Act/*Tolliseadus*

b) Para 1: Provisions for Arrest and Pre-Trial Detention

aa. Arrest

4 For arrest the following provisions might apply:

Code of Criminal Procedure[218]
Chapter 4
SECURING OF CRIMINAL PROCEEDINGS
Division 2
Other Means of Securing Criminal Proceedings

§ 138.[219] **Consequences of failure to appear when summoned by body conducting proceedings**

(1) A fine or detention for up to five days preventive measure shall be imposed by a pre-trial investigation judge at the request probability of absconding from criminal proceedings or execution of a Prosecutor's Office or by a court on its own initiative based on a court ruling on a person who failed to appear when summoned by the body conducting the proceedings.

(2) On the basis of a complaint submitted by a person on whom a fine or detention was imposed, a court may annul the fine or detention imposed on the person for failure to appear if the person proves that he or she failed to appear for a good reason provided for in § 170 of this Code.

(3) Compelled attendance may be imposed, pursuant to the provisions of § 139 of this Code, on a suspect, accused, convicted offender, victim, civil defendant or witness who failed to appear when summoned by a body conducting proceedings or such person may be declared a fugitive pursuant to the provisions of § 140 of this Code.

[218] Kriminaalmenetluse seadustik, Vastu võetud 12.02.2003, RT I 2003, 27, 166, jõustumine 01.07.2004.

[219] **2. jagu**
Muud kriminaalmenetluse tagamise vahendid
§ 138. Menetleja kutsel ilmumata jäämise tagajärjed
(1) Menetleja kutsel ilmumata jäänud väljakutsutut trahvib eeluurimiskohtunik prokuratuuri taotlusel või kohus omal algatusel kohtumääruse alusel või kohaldab talle kuni viis päeva aresti.
(2) Trahvitud või arestile määratud isiku kaebuse alusel võib kohus mitteilmumise eest määratud rahatrahvi või aresti tühistada, kui isik tõendab, et jäi ilmumata käesoleva seadustiku §-s 170 nimetatud mõjuval põhjusel.
(3) Menetleja kutsel ilmumata jäänud väljakutsutud kahtlustatava, süüdistatava, süüdimõistetu, kannatanu, tsiviilkostja või tunnistaja suhtes võib kohaldada sundtoomist, järgides käesoleva seadustiku §-s 139 sätestatut, või kuulutada ta tagaotsitavaks, järgides käesoleva seadustiku §-s 140 sätestatut.

Division 3
Detention of Suspect

§ 217.[220] **Detention of suspect**

(1) Detention of a suspect is a procedural act whereby a person is deprived of liberty for up to 48 hours. A report shall be prepared on a detention.

(2) A person shall be detained as a suspect if:

1) he or she is apprehended in the act of committing a criminal offence or immediately thereafter;

2) an eyewitness to a criminal offence or a victim indicates such person as the person who committed the criminal offence;

3) the evidentiary traces of a criminal offence indicate that he or she is the person who committed the criminal offence.

(3) A suspect may be detained based on other information referring to a criminal offence if:

1) he or she attempts to escape;

2) he or she has not been identified;

3) he or she may continue to commit criminal offences;

5

[220] **3. jagu**
Isiku kahtlustatavana kinnipidamine
§ 217. Isiku kahtlustatavana kinnipidamine
(1) Kahtlustatavana kinnipidamine on menetlustoiming, mis seisneb isikult kuni 48 tunniks vabaduse võtmises. Kinnipidamise kohta koostatakse kinnipidamisprotokoll.
(2) Isik peetakse kahtlustatavana kinni, kui:
1) ta on tabatud kuriteo toimepanemiselt või vahetult pärast seda;
2) kuriteo pealtnägija või kannatanu osutab temale kui kuriteo toimepanijale;
3) kuriteojäljed viitavad temale kui kuriteo toimepannud isikule.
(3) Kuriteole viitavate muude andmete põhjal võib isiku kahtlustatavana kinni pidada, kui:
1) ta püüab põgeneda;
2) ei ole tuvastatud tema isikut;
3) ta võib jätkuvalt toime panna kuritegusid;
4) ta võib kriminaalmenetlusest kõrvale hoiduda või seda muul viisil takistada.
(4) Kuriteo toimepanemisel või vahetult pärast seda põgenemiskatselt tabatud isiku võib igaüks toimetada politseisse kahtlustatavana kinnipidamiseks.
(5) Advokaadi võib tema kutsetegevusest tulenevatel asjaoludel kahtlustatavana kinni pidada üksnes prokuratuuri taotlusel eeluurimiskohtuniku määruse või kohtumääruse alusel.
(6) Vabariigi Presidendi, Vabariigi Valitsuse liikme, Riigikogu liikme, riigikontrolöri, õiguskantsleri, Riigikohtu esimehe ja kohtuniku kahtlustatavana kinnipidamisel järgitakse käesoleva seadustiku § 377.
(7) Kahtlustatavana kinnipeetule selgitab uurimisasutuse ametnik tema õigusi ja kohustusi ning kuulab ta viivitamata üle käesoleva seadustiku §-s 75 sätestatud korras.
(8) Kui prokuratuur veendub vahistamise vajaduses, koostab ta vahistamistaotluse ja korraldab kinnipeetu toimetamise selle taotluse lahendamiseks eeluurimiskohtuniku juurde tema kahtlustatavana kinnipidamisest alates neljakümne kaheksa tunni jooksul.
(9) Kui kohtueelses menetluses langeb isiku kahtlustatavana kinnipidamise alus ära, vabastatakse ta viivitamata.
(10) Kahtlustatavana kinnipeetule antakse võimalus teatada kinnipidamisest oma valikul vähemalt ühele oma lähedasele menetleja kaudu. Kui teavitamine kahjustaks kriminaalmenetlust, võib teatamise võimaldamisest prokuratuuri loal keelduda.

4) he or she may abscond criminal proceedings or impede the criminal proceedings in any other manner.
(4) A person who is apprehended in the act of committing a criminal offence, or immediately thereafter while attempting to escape, may be taken to the police by anyone for detention as a suspect.
(5) An advocate may be detained as a suspect under the circumstances relating to his or her professional activities only at the request of a Prosecutor's Office and based on an order of a pre-trial investigation judge or based on a court ruling.
(6) Article 377 of this Code applies to the detention of the President of the Republic, a member of the Government of the Republic, a member of the Riigikogu, the Auditor General, the Chancellor of Justice, or the Chief Justice or a justice of the Supreme Court as a suspect.
(7) An official of an investigative body shall explain the rights and obligations of a person detained as a suspect to the person and shall interrogate the suspect immediately pursuant to the procedure provided for in § 75 of this Code.
(8) If a Prosecutor's Office is convinced of the need to take a person into custody, the Prosecutor's Office shall prepare an application for an arrest order and, within forty-eight hours as of the detention of the person as a suspect, organise the transport of the detained person before a pre-trial investigation judge for the adjudication of the application.
(9) If the basis for the detention of a suspect ceases to exist in pre-trial proceedings, the suspect shall be released immediately.
(10) A person detained as a suspect is given an opportunity to notify at least one person close to him or her at his or her choice of his or her detention through a body conducting proceedings. If the notification prejudices a criminal proceeding, the opportunity to notify may be refused with the permission of a Prosecutor's Office.

§ 218.[221] **Report on detention of suspect**
(1) A report on the detention of a suspect shall set out:
1) the basis for the detention and a reference to subpara 217 (2) or (3) of this Code;
2) the date and time of the detention;

[221] **§ 218.** Isiku kahtlustatavana kinnipidamise protokoll
(1) Isiku kahtlustatavana kinnipidamise protokolli kantakse:
1) kinnipidamise alus viitega käesoleva seadustiku § 217 lõigetele 2 ja 3;
2) kinnipidamise kuupäev ja kellaaeg;
3) selle kuriteo asjaolud, mille toimepanemises isikut kahtlustatakse, ning kuriteo kvalifikatsioon karistusseadustiku vastava paragrahvi, lõike ja punkti järgi;
4) kahtlustatavale käesoleva seadustiku §-s 34 sätestatud õiguste ja kohustuste selgitamine;
5) kinnipidamisel isikult äravõetud objektide nimetused ja tunnused;
6) kinnipeetu riietuse ja tervisekahjustuste kirjeldus;
7) kinnipeetu avaldused ja taotlused;
8) kinnipeetu vabastamise korral vabastamise alus, kuupäev ja kellaaeg.
(2) Isiku kahtlustatavana kinnipidamisest teatatakse viivitamata prokuratuurile.

3) the facts relating to the criminal offence of which the person is suspected and the legal assessment of the criminal offence pursuant to the relevant article, subpara and clause of the Penal Code;
4) explanation of the rights and obligations provided for in § 34 of this Code to the suspect;
5) the names and characteristics of the objects confiscated from the suspect upon detention;
6) a description of the clothing and bodily injuries of the detained person;
7) the petitions and requests of the detained person;
8) in the case the detained person is released, the grounds, date and time of release.
(2) A Prosecutor's Office is immediately informed of the detention of a suspect.

§ 219.[222] Substitution of detention of suspect
(1) If a person has committed a criminal offence in the second degree for which a pecuniary punishment may be imposed and the person does not have a permanent or temporary place of residence in Estonia, an investigative body may, with the consent of the person, substitute the detention of the person as a suspect by a payment covering the procedure expenses, the potential pecuniary punishment and the damage caused by the criminal offence into the public revenues.
(2) A statement, a copy of which is sent to the Prosecutor's Office, shall be prepared on the substitution of the detention of a suspect and on the receipt of a payment into the public revenues.

bb. Pre-Trial Detention

Code of Criminal Procedure[223] **6**

Division 1 Preventive Measure

§ 127. Choice of preventive measure

(1)[224] A preventive measure shall be chosen taking into account the probability of absconding from criminal proceedings or execution of a court judgment, continuing commission of criminal offences, or destruction, alteration or falsification of evidence, the

[222] **§ 219.** Kahtlustatavana kinnipidamise asendamine
(1) Kui isik on toime pannud teise astme kuriteo, mille eest võib mõista rahalise karistuse ja tal ei ole Eestis alalist või ajutist elukohta, võib uurimisasutus kahtlustatavana kinnipidamise isiku nõusolekul asendada menetluskulusid ning võimaliku karistusena mõistetavat rahalist karistust ja kuriteoga tekitatud kahju katva maksega riigituludesse.
(2) Kahtlustatavana kinnipidamise asendamise ja riigituludesse makse vastuvõtmise kohta koostatakse akt, mille koopia edastatakse prokuratuurile.
[223] Kriminaalmenetluse seadustik, Vastu võetud 12.02.2003, RT I 2003, 27, 166, jõustumine 01.07.2004
[224] **4. peatükk**
KRIMINAALMENETLUSE TAGAMINE
1. jagu
Tõkendid

degree of the punishment, the personality of a suspect, accused or convicted offender, his or her state of health and marital status, and other circumstances relevant to the application of preventive measures.
(2) A preventive measure is altered pursuant to the provisions of this Code concerning application of preventive measures.

§ 130.[225] **Grounds for taking into custody and holding in custody**
(1) Taking into custody is a preventive measure which is applied regarding a suspect, accused or convicted offender and which means deprivation of a person of his or her liberty based on a court ruling.
(2) A suspect or accused may be taken into custody at the request of a Prosecutor's Office and based on an order of a pre-trial investigation judge or on the basis of a court ruling if he or she is likely to abscond from the criminal proceeding or continue to commit criminal offences.
(3) In pre-trial procedure, a suspect or accused shall not be held in custody for more than six months. The term shall not include the time spent in provisional custody and in custody for surrender in a foreign country by a person whose extradition has been applied for by the Republic of Estonia or the time a person was held in custody in pre-trial procedure based on a decision of a competent authority of a foreign state prior to assumption of criminal proceedings by the Republic of Estonia.
(3[1]) [Repealed – RT I, 19.03.2015, 1 – entry into force 01.09.2016]

---

§ 127. Tõkendi valimine
(1) Tõkendit valides arvestatakse kriminaalmenetlusest või kohtuotsuse täitmisest kõrvalehoidumise, kuritegude toimepanemise jätkamise või tõendite hävitamise, muutmise ja võltsimise võimalikkust, karistuse raskust, kahtlustatava, süüdistatava või süüdimõistetu isikut, tema tervist, perekonnaseisu ja muid tõkendi kohaldamise seisukohalt tähtsaid asjaolusid.
(2) Tõkendi muutmisel järgitakse käesoleva seadustiku sätteid tõkendi kohaldamise kohta.

[225] **§ 130.** Vahistamine ja vahistamise alused
(1) Vahistamine on kahtlustatavale, süüdistatavale või süüdimõistetule kohaldatav tõkend, mis seisneb isikult kohtumääruse alusel vabaduse võtmises.
(2) Kahtlustatava või süüdistatava võib vahistada prokuratuuri taotlusel ja eeluurimiskohtuniku määruse alusel või kohtumääruse alusel, kui ta võib kriminaalmenetlusest kõrvale hoiduda või jätkuvalt toime panna kuritegusid.
(3) Kohtueelses menetluses ei või kahtlustatav või süüdistatav olla vahistatud üle kuue kuu. Tähtaja hulka ei arvata välisriigi väljaandmis- ja loovutamisvahistuses viibitud aega isikul, kelle väljaandmist Eesti Vabariik on taotlenud, ega välisriigi pädeva asutuse otsusel kohtueelses menetluses vahi all viibitud aega enne kriminaalmenetluse ülevõtmist Eesti Vabariigi poolt.
(3 [1]) [Kehtetu - RT I, 19.03.2015, 1 - jõust. 01.09.2016]
(4) Kohtu alla antud ja vabaduses viibiva süüdistatava võib vahistada linna- või maakohtu või ringkonnakohtu määruse alusel, kui ta ei ole kohtu kutsel ilmunud ja võib kohtumenetlusest jätkuvalt kõrvale hoiduda.
(4 [1]) Kohus võib vahistada vabaduses viibiva süüdistatava, et tagada süüdimõistva kohtuotsusega mõistetud vangistuse täitmine.
(5) Vabaduses viibiva süüdimõistetu võib kohus vahistada süüdimõistva kohtuotsuse täitmise tagamiseks käesoleva seadustiku §-s 429 sätestatud korras.
(6) Kahtlustatava kaitseväelase, kes ei viibi Eesti Vabariigi territooriumil, võib prokuratuuri taotlusel eeluurimiskohtuniku määruse alusel tema toimetamiseks Eesti Vabariiki vahistada käesoleva paragrahvi lõikes 2 sätestatud alustel.

(4) An accused who has been prosecuted and is at large may be taken into custody based on a ruling of a city, county or circuit court if he or she has failed to appear when summoned by a court and may continue absconding from the court proceeding.
(4[1]) An accused who is at large may be taken into custody by a court to ensure execution of imprisonment imposed by a judgment of conviction.
(5) A convicted offender who is at large may be taken into custody by a court pursuant to the procedure provided for in § 429 of this Code to secure execution of the court judgment.
(6) A member of the Defence Forces who is a suspect and does not stay in the territory of the Republic of Estonia may, at the request of a Prosecutor's Office, be taken into custody on the bases provided for in subpara (2) of this article in order to bring him or her to the Republic of Estonia on the basis of an order of a pre-trial investigation judge.

§ 131.[226] **Procedure for taking into custody**
(1) At the request of a suspect or accused, the Prosecutor's Office shall immediately notify his or her counsel of preparation of an application for an arrest order.
(2) On the order of a Prosecutor's Office, an investigative body shall convey a suspect or accused regarding whom an application for an arrest order or an application for extension of the term for holding in custody has been prepared to a pre-trial investigation judge for the hearing of the application.
(3) In order to issue an arrest order, a pre-trial investigation judge shall examine the criminal file and interrogate the person to be taken into custody with a view to ascertaining whether the application for an arrest order is justified. The prosecutor and, at the

[226] **§ 131.** Vahistamiskord
(1) Vahistamistaotluse koostamisest teatab prokuratuur kahtlustatava või süüdistatava soovil kohe kaitsjale.
(2) Kahtlustatav või süüdistatav, kelle kohta on koostatud vahistamistaotlus või vahistamise pikendamise taotlus, toimetatakse prokuratuuri korraldusel uurimisasutuse poolt vahistamistaotluse läbivaatamiseks eeluurimiskohtuniku juurde.
(3) Vahistamismääruse tegemiseks tutvub eeluurimiskohtunik kriminaaltoimikuga ja küsitleb vahistatavat vahistamistaotluse põhjendatuse selgitamiseks. Eeluurimiskohtuniku juurde kutsutakse prokurör ja vahistatava taotlusel kaitsja ning kuulatakse nende arvamust.
(3 [1]) Eeluurimiskohtunik võib korraldada käesoleva paragrahvi lõikes 3 nimetatud isikute osavõtu vahistamistaotluse läbivaatamisest tehnilise lahenduse abil, mis vastab käesoleva seadustiku § 69 lõike 2 punktis 1 nimetatud nõuetele.
(3[2]) Alaealise isiku vahistamise korral võib kohus määrata, et vahistamine asendatakse alaealise kinnisesse lasteasutusse paigutamisega, märkides vahistamismääruses kinnise lasteasutuse, kuhu alaealine vahistatu paigutatakse. Alaealise vahistatu saatmist väljaspool kinnist lasteasutust teostatakse politsei ja piirivalve seaduse §-s 7[41] sätestatud korras.
[RT I, 05.12.2017, 1 - jõust. 01.07.2018]
(3[3]) Alaealise vahistatu, kes rikub kinnises lasteasutuses viibimise tingimusi, võib kinnise lasteasutuse juhi ettekande alusel ja kohtu loal viia üle vanglasse vahistust kandma.
[RT I, 05.12.2017, 1 - jõust. 01.07.2018]
(4) Tagaotsitavaks kuulutatud isiku või väljaspool Eesti Vabariigi territooriumi viibiva kahtlustatava vahistamiseks koostab eeluurimiskohtunik vahistamismääruse teda küsitlemata. Hiljemalt ülejärgmisel päeval pärast tagaotsitava tabamist või kahtlustatava Eestisse toimetamist viiakse vahistatu küsitlemiseks eeluurimiskohtuniku juurde.
(5) Vahistamise aluse puudumise korral vabastatakse isik viivitamata.

request of the person to be taken into custody, his or her counsel shall be summoned before the pre-trial investigation judge and their opinions shall be heard.
(3^1) A pre-trial investigation judge may organise the participation of the persons specified in subpara (3) of this article in the hearing of the request for taking into custody by means of a technical solution which complies with the requirements specified in clause 69 (2) 1) of this Code.
(3^2) Where a minor is committed in custody, the court may order the minor's committal to be substituted by placement in a secure children's institution and state, in the order, the secure children's institution where the minor who has been committed in custody is to be placed. Outside the secure children's institution, the escorting of such a minor is carried out following the rules provided by § 7^{41} of the Police and Border Guard Act.
[RT I, 05.12.2017, 1 – entry into force 01.07.2018]
(3^3) A minor who has been committed in custody and who violates the conditions of their stay in a secure children's institution may, based on a corresponding report of the Head of the institution, and with permission of the court, be transferred to a prison to serve their custody.
[RT I, 05.12.2017, 1 – entry into force 01.07.2018]
(4) For the purposes of taking a person who has been declared a fugitive or a suspect and who stays outside the territory of the Republic of Estonia into custody, a pre-trial investigation judge shall issue an arrest order without interrogating the person. Not later than on the second day following the date of apprehension of a fugitive or bringing a suspect into Estonia, the person held in custody shall be taken before a pre-trial investigation judge for interrogation.
(5) If there are no grounds for holding in custody, the person shall be released immediately.

§ 132.[227] **Arrest order**
(1) An arrest order shall set out:
1) the name and residence of the person to be taken into custody;
2) the facts relating to the criminal offence of which the person is suspected or accused, and the legal assessment of the act;

[227] **§ 132.** Vahistamismäärus
(1) Vahistamismääruses märgitakse:
1) vahistatava isiku nimi ja elukoht;
2) selle kuriteo asjaolud, mille toimepanemises isikut kahtlustatakse või süüdistatakse, ja teo kvalifikatsioon;
3) vahistamise alus viitega käesoleva seadustiku §-le 130 või 429;
4) vahistamise põhjendus.
(2) Vahistamismäärus lisatakse kriminaaltoimikusse ning määruse koopia edastatakse vahistatule.
(3) Kohus võib vahistamismääruse ja vahistamisest keeldumise määruse teha kirjalike põhjendusteta, vormistades põhjendustega määruse 48 tunni jooksul määruse tegemisest. Kirjalike põhjendusteta vormistatud määruse kuulutamisel selgitab kohus suuliselt määruse olulisemaid põhjendusi ning seda, et edasikaebetähtaeg hakkab kulgema päevast, mil põhjendustega kirjalik määrus on kättesaadav.
[RT I, 11.03.2023, 2 - jõust. 01.05.2023].

3) the grounds for taking into custody with a reference to §§ 130 or 429 of this Code;
4) the reason for taking into custody.
(2) An arrest order shall be included in the criminal file and a copy of the order shall be sent to the person in custody.
(3) The court may make the order of committal in custody – or the order by which it refuses to commit the person in custody – without written reasons, issuing the version that includes such reasons within 48 hours of making the order. When it announces the order made without written reasons, the court orally explains its principal reasons as well as the fact that the time limit for appealing the order begins to run from the day on which the version of the order that includes its written reasons becomes available.
[RT I, 11.03.2023, 2 – entry into force 01.05.2023]

§ 133.[228] **Notification of taking into custody**
(1) Where the person committed in custody expresses the corresponding wish, the court notifies their committal in custody without delay to a person close to them, or to their place of work or education. A minor's committal in custody is notified by the court without delay to their parent or statutory representative.
[RT I, 11.03.2023, 2 – entry into force 01.05.2023]
(1^1) The Prosecutor's Office or, where the Prosecutor's Office so directs, the investigative authority notifies the committal in custody to any individual victim in the case and ascertains whether they wish to receive information concerning release of the person held in custody, provided such notification may prevent a threat to such a victim.
[RT I, 06.01.2016, 5 – entry into force 16.01.2016]
(2) Notification of taking into custody may be delayed to prevent a criminal offence or ascertain the truth in a criminal proceeding.
(3) If a foreign citizen is taken into custody, a copy of the arrest order or court judgment shall be sent to the Ministry of Foreign Affairs.

[228] **§ 133.** Vahistamisest teatamine
(1) Kohus teatab isiku soovil tema vahistamisest viivitamata vahistatu lähedasele või töö- või õppimiskohta. Alaealise vahistamisest teatab kohus viivitamata tema vanemale või seaduslikule esindajale.
[RT I, 11.03.2023, 2 - jõust. 01.05.2023]
(1^1) Prokuratuur või prokuratuuri korraldusel uurimisasutus teatab vahistamisest füüsilisest isikust kannatanule ja selgitab välja tema soovi saada teavet vahistatu vabanemise kohta juhul, kui teabe andmine võib ära hoida ohu kannatanule.
[RT I, 06.01.2016, 5 - jõust. 16.01.2016] (2) Vahistamisest teatamisega võib viivitada kuriteo tõkestamise või kriminaalmenetluses tõe selgitamise huvides.
(3) Välisriigi kodaniku vahistamise korral saadetakse vahistamismääruse või kohtuotsuse koopia Välisministeeriumile.

§ 134.[229] **Refusal to take into custody and release of person held in custody**
(1) A pre-trial investigation judge or court shall set out the reasons for a refusal to take a person into custody in a ruling on the refusal of taking into custody.
(2) If the grounds for holding in custody cease to exist before a statement of charges is sent to a court pursuant to the procedure provided for in subpara 226 (3) of this Code, a pre-trial investigation judge or Prosecutor's Office shall release the person held in custody by an order.

§ 135.[230] **Bail**
(1) At the request of a suspect or accused, a pre-trial investigation judge or court may impose bail instead of taking into custody.
(2) Bail is a sum of money paid as a preventive measure by a suspect, accused or another person on behalf of him or her to the deposit account of the court.
(3) A suspect or accused shall be released from custody after the bail has been received into the bank account of a court.
(4) A court shall determine the amount of bail based on the degree of the potential punishment, the extent of the damage caused by the criminal offence, and the financial situation of the suspect or accused. The minimum amount of bail shall be five hundred days' wages.

[229] **§ 134.** Vahistamisest keeldumine ja vahistatu vabastamine
(1) Vahistamisest keeldumise põhjendamiseks teeb eeluurimiskohtunik või kohus vahistamisest keeldumise määruse.
(2) Kui vahistamise alus langeb ära enne süüdistusakti kohtusse saatmist käesoleva seadustiku § 226 lõikes 3 sätestatud korras, vabastab eeluurimiskohtunik või prokuratuur vahistatu määrusega.
[230] **§ 135.** Kautsjon
(1) Kahtlustatava või süüdistatava taotlusel võib eeluurimiskohtunik või kohus asendada vahistamise kautsjoniga.
(2) Kautsjon on tõkendina makstav rahasumma, mille tasub kahtlustatav, süüdistatav või tema eest muu isik kohtu hoiuarvele.
(3) Kahtlustatav või süüdistatav vabastatakse vahi alt, kui kautsjon on laekunud kohtu hoiuarvele.
(4) Kautsjoni suurust määrates lähtub kohus ähvardava karistuse raskusest, kuriteoga põhjustatud kahju suurusest ja kahtlustatava või süüdistatava varalisest seisundist. Kautsjoni miinimumsuurus on viissada päevapalka.
(5) Kautsjon kohaldatakse kohtumäärusega. Kautsjonitaotluse lahendamiseks toimetatakse eeluurimiskohtuniku juurde vahistatu, kutsutakse prokurör ja vahistatu taotlusel ka kaitsja ning kuulatakse ära nende arvamus.
(5 [1]) Kohus võib omal algatusel või prokuratuuri taotlusel koos kautsjoni määramisega kohaldada kahtlustatava või süüdistatava suhtes elukohast lahkumise keeldu käesoleva seadustiku §-des 127 ja 128 sätestatud korras.
(5 [2]) Eeluurimiskohtunik võib korraldada käesoleva paragrahvi lõikes 5 nimetatud isikute osavõtu kautsjonitaotluse lahendamisest tehnilise lahenduse abil, mis vastab käesoleva seadustiku § 69 lõike 2 punktis 1 nimetatud nõuetele.
(6) Kui kahtlustatav või süüdistatav hoidub kriminaalmenetlusest kõrvale või jätkab tahtlike kuritegude toimepanemist või rikub elukohast lahkumise keeldu, kantakse kautsjon pärast kriminaalmenetluse kulude hüvitamiseks vajaliku summa mahaarvamist kohtuotsuse või kriminaalmenetluse lõpetamise määruse alusel riigituludesse.
(6 [1]) Kui vahistamise alus langeb ära enne süüdistusakti kohtusse saatmist käesoleva seadustiku § 226 lõikes 3 sätestatud korras, tühistab eeluurimiskohtunik või prokuratuur kautsjoni määrusega.
(7) Kautsjon tagastatakse, kui:
1) kahtlustatav või süüdistatav ei riku kautsjoni tingimusi;
2) kriminaalmenetlus lõpetatakse;
3) süüdistatav mõistetakse õigeks.

(5) Bail is imposed by a court ruling. For the purposes of adjudication of an application for bail, the person held in custody shall be taken before a pre-trial investigation judge; a prosecutor and, at the request of the person held in custody, his or her counsel shall be summoned to the judge and their opinions shall be heard.
(5^1) At the request of a Prosecutor's Office or on its own initiative, a court may, together with the imposition of bail, apply a prohibition on departure from residence with respect to a suspect or an accused pursuant to the procedure provided for in §§ 127 and 128 of this Code.
(5^2) A pre-trial investigation judge may organise the participation of the persons specified in subpara (5) of this article in the adjudication of an application for bail by means of a technical solution which complies with the requirements specified in clause 69 (2) 1) of this Code.
(6) If a suspect or accused absconds from criminal proceedings or intentionally commits another criminal offence or violates the prohibition on departure from his or her residence, the bail shall be transferred into public revenues on the basis of a court judgment or ruling on termination of the criminal proceeding after deduction of the amount necessary for reimbursement of the expenses relating to the criminal proceeding.
(6^1) If the grounds for taking into custody cease to exist before a statement of charges is sent to a court pursuant to the procedure provided for in subpara 226 (3) of this Code, a pre-trial investigation judge or Prosecutor's Office shall annul the bail by an order.
(7) Bail shall be refunded if:
1) the suspect or accused does not violate the conditions for bail;
2) the criminal proceeding is terminated;
3) the accused is acquitted.

§ 136.[231] **Contestation of taking into custody or refusal to take into custody and of extension of or refusal to extend duration of custody on an application of the Prosecutor General, of a European Prosecutor or of a European Delegated Prosecutor**]
The Prosecutor's Office, the person committed in custody or their defence counsel may file an interim appeal following the rules provided by Chapter 15 of this Code against the decision, or refusal, to commit the person in custody or against an extension, on an application of the Prosecutor General or of a European Prosecutor or a European Delegated Prosecutor, of the duration of such custody, or of a refusal to extend such duration.

[231] **§ 136.** Vahistamise või vahistamisest keeldumise, samuti riigi peaprokuröri või Euroopa prokuröri või Euroopa delegaatprokuröri taotluse alusel vahistamise tähtaja pikendamise või sellest keeldumise vaidlustamine
[RT I, 29.12.2020, 1 - jõust. 08.01.2021]
Vahistamise või vahistamisest keeldumise, samuti riigi peaprokuröri või käesoleva seadustiku § 131^1 lõike 2 kohaselt Euroopa prokuröri või Euroopa delegaatprokuröri taotluse alusel vahistamise tähtaja pikendamise või sellest keeldumise peale võib prokuratuur, vahistatu või tema kaitsja esitada määruskaebuse käesoleva seadustiku 15. peatükis sätestatud korras.
[RT I, 29.12.2020, 1 - jõust. 08.01.2021]

§ 137.[232] **Verification of reasons for holding in custody and bail**

(1) A suspect, accused or counsel may submit a request to a pre-trial investigation judge or court to verify:

1) the reasons for holding in custody after two months have expired from the taking into custody;

2) the reasons for bail after four months have expired from the imposition of bail.

(2) A pre-trial investigation judge shall hear a request within five days as of receipt of the request. A prosecutor, counsel and, if necessary, the person held in custody or the person on whom bail was imposed shall be summoned before the pre-trial investigation judge. A new request may be submitted after expiry of the term provided for in subpara (1) of this article after the review of the previous request.

(2^1) A pre-trial investigation judge or court may organise the participation of the persons specified in subpara (2) of this article in the adjudication of a request by means of a technical solution which complies with the requirements specified in clause 69 (2) 1) of this Code.

(3) In order to adjudicate a request, a pre-trial investigation judge shall examine the criminal file. The request shall be adjudicated by a court ruling which is not subject to appeal.

(3^1) If a pre-trial investigation judge or court finds that further imposition of bail is not justified, the court ruling shall set out whether bail is to be returned or holding of the suspect or accused in custody is applied.

(4) If the term for holding a person in custody has been extended for more than six months pursuant to the procedure provided for in subpara 130 (3^1) of this Code, a pre-trial investigation judge shall verify the reasons for holding in custody at least once a month by examining the criminal file regardless of whether verification of the reasons has been requested and shall appoint a counsel for the person held in custody if he or she does not have a counsel.

---

[232] **§ 137.** Vahistuse ja kautsjoni põhjendatuse kontroll

(1) Kahtlustatav, süüdistatav või kaitsja võib eeluurimiskohtunikule või kohtule esitada taotluse kontrollida:

1) vahistuse põhjendatust vahistamisest kahe kuu möödumisel;

2) kautsjoni põhjendatust kautsjoni kohaldamisest nelja kuu möödumisel.

(2) Eeluurimiskohtunik vaatab taotluse läbi selle saamisest alates viie päeva jooksul. Eeluurimiskohtuniku juurde kutsutakse prokurör ja kaitsja ning vajaduse korral ka vahistatu või isik, kellele kautsjoni kohaldati. Uue taotluse võib esitada pärast käesoleva paragrahvi lõikes 1 sätestatud tähtaja möödumist eelmise taotluse läbivaatamisest.

(2^1) Eeluurimiskohtunik või kohus võib korraldada käesoleva paragrahvi lõikes 2 nimetatud isikute osavõtu taotluse lahendamisest tehnilise lahenduse abil, mis vastab käesoleva seadustiku § 69 lõike 2 punktis 1 nimetatud nõuetele.

(3) Taotluse lahendamiseks tutvub eeluurimiskohtunik kriminaaltoimikuga. Taotlus lahendatakse kohtumäärusega, mida edasi ei kaevata.

(3^1) Kui eeluurimiskohtunik või kohus leiab, et kautsjoni edasine kohaldamine ei ole põhjendatud, tuleb kohtumääruses märkida, kas kautsjon tagastatakse või kohaldatakse kahtlustatava või süüdistatava suhtes vahi all pidamist.

(4) Kui isiku vahi all pidamise tähtaega on käesoleva seadustiku § 130 lõikes 31 sätestatud korras pikendatud üle kuue kuu, kontrollib eeluurimiskohtunik kriminaaltoimikuga tutvudes vahistuse põhjendatust vähemalt ühe korra kuus kontrollimise taotlemisest sõltumata ja määrab vahistatule kaitsja, kui see puudub.

§ 137[1].[233] **Commutation of holding in custody to electronic surveillance**

(1) At the request of a suspect or accused, a pre-trial investigation judge or court may commute holding in custody to the obligation to submit to electronic surveillance provided for in subpara 75[1] (1) of the Penal Code. The time of electronic surveillance shall not be deemed to be custody pending trial or detention and it is not included in the term of punishment.

(1[1]) When the period for which electronic monitoring was imposed or the period provided by § 75[1] of the Penal Code elapses, the pre-trial investigation judge – on an application of the Prosecutor's Office – or the court decides on any further compliance enforcement measures to be imposed.

[RT I, 12.07.2014, 1 – entry into force 01.01.2015]

(1[2]) The period for which electronic monitoring is imposed in pre-trial proceedings is subject to the provisions of subpara 3 of § 75[1] of the Penal Code.

[RT I, 07.07.2017, 1 – entry into force 01.11.2017]

(2) [Repealed]

(3) When a pre-trial investigation judge or court receives a request for commutation of holding in custody, he or she assigns a task to a probation officer of the residence of the suspect or accused to submit an opinion within five working days about the possibility of application of electronic surveillance.

---

[233] **§ 137[1].** Vahistamise asendamine elektroonilise valvega

(1) Kahtlustatava või süüdistatava taotlusel võib eeluurimiskohtunik või kohus asendada vahistamise kohustusega alluda karistusseadustiku § 751 lõikes 1 sätestatud elektroonilisele valvele. Elektroonilise valve all olemise aega ei loeta eelvangistuseks või kinnipidamiseks ning seda ei arvestata karistusaja hulka.

(1[1]) Elektroonilisele valvele määratud tähtaja või karistusseadustiku §-s 75[1] sätestatud tähtaja saabumisel otsustab eeluurimiskohtunik prokuratuuri taotlusel või kohus edasise tõkendi kohaldamise.

[RT I, 12.07.2014, 1 - jõust. 01.01.2015]

(1[2]) Kohtueelses menetluses isiku suhtes elektroonilise valve kohaldamise tähtajale kohaldatakse karistusseadustiku § 75[1] lõikes 3 sätestatut.

[RT I, 07.07.2017, 1 - jõust. 01.11.2017]

(2) [Kehtetu]

(3) Kui eeluurimiskohtunik või kohus saab vahistamise asendamise taotluse, teeb ta kahtlustatava või süüdistatava elukoha järgsele kriminaalhooldusametnikule ülesandeks esitada viie tööpäeva jooksul arvamus elektroonilise valve kohaldamise võimalikkuse kohta.

(4) Elektroonilist valvet kohaldatakse kohtumäärusega. Elektroonilise valve kohaldamise taotluse lahendamiseks toimetatakse eeluurimiskohtuniku juurde või kohtusse vahistatu, kutsutakse prokurör ja vahistatu taotlusel ka kaitsja ning kuulatakse ära nende arvamus.

(5) Eeluurimiskohtunik või kohus võib korraldada käesoleva paragrahvi lõikes 4 nimetatud isikute osavõtu elektroonilise valve kohaldamise taotluse lahendamisest tehnilise lahenduse abil, mis vastab käesoleva seadustiku § 69 lõike 2 punktis 1 nimetatud nõuetele.

(6) Enne elektroonilise valve kohaldamise üle otsustamist tutvustab eeluurimiskohtunik või kohus kriminaalhooldaja arvamust kahtlustatava või süüdistatava elukohas elektroonilise valve kohaldamise võimalikkuse kohta.

(7) Kahtlustatav või süüdistatav vabastatakse vahi alt ning talle kohaldatakse elektroonilist valvet pärast määruskaebuse esitamise tähtaja möödumist või kõrgema astme kohtus tehtud kohtumääruse jõustumist.

(8) Kui kahtlustatav või süüdistatav ei allu elektroonilisele valvele, asendab eeluurimiskohtunik või kohus oma määrusega kriminaalhooldusametniku ettekande alusel elektroonilise valve vahistamisega.

(9) Kohtueelses menetluses elektroonilise valve kohaldamisele või kohaldamisest keeldumisele ja valve kohaldamise põhjendatuse kontrollile kohaldatakse käesolevas seadustikus kautsjoni kohta kehtivaid sätteid.

[RT I, 07.07.2017, 1 - jõust. 01.11.2017]

(4) Electronic surveillance is applied by a court ruling. For the purposes of application of electronic surveillance, the person held in custody shall be taken before a pre-trial investigation judge or court; the prosecutor and, at the request of the person held in custody, his or her counsel shall be summoned to the judge or court and their opinions shall be heard.
(5) A pre-trial investigation judge or court may organise the participation of the persons specified in subpara (4) of this article in the adjudication of a request for application of electronic surveillance by means of a technical solution which complies with the requirements specified in clause 69 (2) 1) of this Code.
(6) Before deciding on application of electronic surveillance, a pre-trial investigation judge or court shall submit the opinion of a probation supervisor about the possibility of application of electronic surveillance at the place of residence of the suspect or accused.
(7) A suspect or accused shall be released from custody and electronic surveillance shall be applied to him or her upon expiry of a term for filing of an appeal against the ruling or entry into force of a court ruling made by a higher court.
(8) If a suspect or accused does not submit to electronic surveillance, a pre-trial investigation judge or court shall commutate electronic surveillance to taking in custody by its ruling based on a report of the probation officer.
(9) The imposition of, or refusal to impose, electronic monitoring in pre-trial proceedings and verification of the justifiability of such monitoring is subject to the provisions of this Code concerning cash bail.
[RT I, 07.07.2017, 1 – entry into force 01.11.2017]

§ 137[2].[234] **Release from custody of persons who committed unlawful act in state of mental incompetence or persons with severe mental disorder**
(1) If it becomes evident as a result of expert assessment that a person held in custody committed an unlawful act in a state of mental incompetence, he or she is mentally ill, feeble-minded or he or she has another severe mental disorder, he or she shall be immediately released from custody by an order of a Prosecutor's Office, unless otherwise provided for in § 395[1] of this Code.
(2) An investigative body shall immediately forward the expert's report specified in subpara (1) of this article to a Prosecutor's Office.

[234] **§ 137[2].** Süüdimatus seisundis õigusvastase teo toime pannud või raske psüühikahäirega isiku vahi alt vabastamine
(1) Kui ekspertiisi tulemusena selgub, et vahistatu on õigusvastase teo toime pannud süüdimatus seisundis, ta on vaimuhaige, nõdrameelne või tal on muu raske psüühikahäire, vabastatakse ta viivitamata prokuratuuri määrusega vahi alt, kui käesoleva seadustiku §-st 395[1] ei tulene teisiti.
(2) Uurimisasutus edastab käesoleva paragrahvi lõikes 1 nimetatud ekspertiisiakti viivitamata prokuratuurile.

Custody is a court-ordered **deprivation of liberty like in the German CPC** as defined in § 130 para 1 CCP of Estonia and may be imposed at the **request** of the Prosecutor's Office or in EPPO cases the European Prosecutor or EDP, where there is a **likelihood of absconding** (*Fluchtgefahr*) or continued offending (§ 130 para 2 CCP). The **maximum duration** of pre-trial custody is six months, § 130 para 3 CCP. Special rules apply to accused persons at large, convicted persons, and members of the Defence Forces abroad (§ 130 para 4 to 6 CCP). **7**

Applications for custody are submitted by the prosecutor/EDP; the investigative authority presents the suspect to the judge as regulated by § 131 para 1 and 2 CCP. **The judge examines the file and hears the suspect**, prosecutor and counsel (§ 131 para 3 CCP). Remote participation is permitted as foreseen by § 131 para 3^1 CCP. For fugitives, temporary custody may be ordered without questioning, but **judicial interrogation** must occur within two days (§ 131 para 4 CCP). Where grounds lapse, the suspect must be released immediately, § 131 para 5 CCP. An arrest order must specify the identity of the person, the alleged offence, legal bases and reasons for detention, § 132 para 1 CCP. A copy is provided to the detainee (§ 132 para 2 CCP). **8**

Written reasons may follow within 48 hours, which is said by § 132 para 3 CCP. Notification obligations apply to close persons and for minors their legal representatives (§ 133 para 1 CCP). Victims may also be informed where necessary (§ 133 para 1^1 CCP). Notification may be delayed to protect the investigation and is further stipulated by § 133 para 2 CCP. Foreign nationals trigger a notification to the Ministry of Foreign Affairs, as regulated in § 133 para 3 CCP. **9**

Instead of detention, the **court may impose bail** (§ 135 para 1 CCP), to be paid into the court's account, see § 135 para 2 and 3 CCP. Interim appeals may challenge decisions on custody or its extension. In EPPO proceedings, such appeals may arise from applications by the European Prosecutor or EDP, who act in place of the national Prosecutor's Office, see in § 136 CCP. **10**

The accused may **request a review of custody after two months**, or bail after four months; the judge must decide within five days, as stipulated by § 137 para 1 and 3 CCP. Where custody extends beyond six months, monthly judicial review is mandatory and counsel must be appointed if absent (§ 137 para 4 CCP). Custody **may be replaced** with **electronic surveillance** following a probation report and a court ruling (§ 137^1 CCP). Persons found mentally incompetent or suffering from severe mental disorders must be **released** unless other legal provisions apply, § 137^2 CCP. **11**

cc. Para 2: Cross-Border Surrender

12 There are several ways for cross-border surrender. One way is the European Arrest Order (EAW), which is *de facto* a simplified cross-border judicial surrender procedure which is applied in all Member States of the European Union – thus as well in Estonia. If the EPPO operates based on the EPPO Regulation Art. 33 para 2 EPPO Regulation may apply. In Estonia the Police and Border Guard Act, the Code of Criminal Procedure and the Estonian Constitution may play an important role. Estonia has signed separate treaties with other states, too.

13 It is important to distinguish the §§ 438–459 KrMS, which stipulate rules on extradition procedure (between Estonia and third countries) and §§ 490–508, which focus on the surrender procedure (between the EU Member States).

14 Some authors[235] have remarked that especially the **Estonian Constitution can limit the extradition and surrender** of a person in a criminal proceeding.[236] The following rules of the CPC should be considered:

15

Surrender
Subdivision 1 General Provisions
§ 490. [237] **European arrest order**
A European arrest order is a request submitted by a competent judicial authority of a Member State of the European Union to another Member State of the European Union for the detention, arrest and surrender of a person to continue criminal proceedings or execute imprisonment imposed by a court judgment which has entered into force.

[235] See Ernits et al. 2019, p 874 (924).
[236] Tallinn Circuit Court Order 17.11.2008, 1-08-13649.
[237] **8. jagu**
Loovutamine
1. jaotis
Üldsätted
§ 490. Kriminaalmenetluse seadustik Euroopa vahistamismäärus
Euroopa vahistamismäärus on Euroopa Liidu liikmesriigi pädeva õigusasutuse tehtud taotlus teisele Euroopa Liidu liikmesriigile isiku kinnipidamiseks, vahi alla võtmiseks ning loovutamiseks kriminaalmenetluse jätkamise või jõustunud kohtuotsusega mõistetud vangistuse täideviimise eesmärgil.

§ 491.[238] **General conditions for surrender**

(1) A person may be surrendered in a requesting state for the continuation of criminal proceedings regarding him or her if the person is suspected or accused of a criminal offence which is punishable by at least one year of imprisonment in the requesting state.

(2) With respect to the criminal offences provided by subpara 1 of § 4896 of this Code, it is permitted to surrender the person regardless of whether the act they have committed is punishable under the Penal Code of Estonia.

(3) Under the conditions provided for by subparas 1 and 2 of this article, it is permitted to surrender a person for the purpose of enforcing a judgment of conviction rendered in their respect provided they still have at least four months of their sentence of imprisonment to serve.

[RT I, 21.06.2014, 11 – entry into force 01.01.2015]

§ 492. Circumstances precluding or restricting surrender of persons

(1)[239] Surrendering the person to a foreign State is not allowed if:

---

[238] **§ 491. Kriminaalmenetluse seadustik** Loovutamise üldtingimused

(1) Isiku loovutamine tema suhtes taotlevas riigis kriminaalmenetluse jätkamiseks on lubatud, kui isikut kahtlustatakse või süüdistatakse kuriteos, mis on taotlevas riigis karistatav vähemalt üheaastase vangistusega.

(2) Isiku loovutamine, sõltumata teo karistatavusest Eesti karistusseadustiku järgi, on lubatud käesoleva seadustiku § 4896 lõikes 1 sätestatud kuritegude puhul.

(3) Isiku loovutamine tema suhtes tehtud süüdimõistva kohtuotsuse täitmiseks on lubatud käesoleva paragrahvi lõigetes 1 ja 2 sätestatud tingimustel, kui tal on kandmata vähemalt neli kuud vangistust.

[RT I, 21.06.2014, 11 - jõust. 01.01.2015]

[239] **§ 492. Kriminaalmenetluse seadustik** Isiku loovutamist välistavad ja piiravad asjaolud

(1) Isiku loovutamine ei ole lubatud, kui:

[RT I, 01.03.2023, 4 - jõust. 11.03.2023]

1) kuriteole võib kohaldada karistusseadustikku ning amnestiaakt välistab vahistamismääruse aluseks olevas kuriteos Eestis karistuse kohaldamise;

2) isik on teises liikmesriigis samas süüdistuses lõplikult süüdi või õigeks mõistetud või süüdimõistva otsuse korral on mõistetud karistus kantud või kandmisel või karistust ei saa täitmisele pöörata otsuse teinud riigi seaduse alusel;

3) isik, kelle suhtes on tehtud vahistamismäärus, on noorem kui neljateistaastane;

4) [kehtetu - RT I, 01.03.2023, 4 - jõust. 11.03.2023]

5) on alust arvata, et abi taotletakse isiku süüdistamiseks või karistamiseks tema rassi, rahvuse, usuliste või poliitiliste tõekspidamiste pärast või kui isiku seisund võib halveneda mõnel nimetatud põhjusel.

[RT I, 01.03.2023, 4 - jõust. 11.03.2023]

(1^1) Eesti Vabariik ei või keelduda rahvusvahelisest koostööst Euroopa Liidu liikmesriigiga põhjusel, et Eestis ei ole kehtestatud sama liiki maksu või lõivu või samasugust maksu-, tolli- või rahavahetuskorraldust kui taotlevas riigis.

[RT I, 01.03.2023, 4 - jõust. 11.03.2023]

(2) Isiku loovutamisest võib keelduda, kui:

1) vahistamismääruse aluseks olev ja käesoleva seadustiku § 4896 lõikes 1 nimetamata tegu ei ole kuritegu Eesti karistusseadustiku kohaselt, välja arvatud käesolevas paragrahvis sätestatud juhul;

[RT I, 01.03.2023, 4 - jõust. 11.03.2023]2) isiku suhtes on seoses vahistamismääruse aluseks oleva kuriteoga alustatud Eestis kriminaalmenetlust;

3) isiku suhtes on seoses vahistamismääruse aluseks oleva kuriteoga jäetud Eestis kriminaalmenetlus alustamata või menetlus on lõpetatud;

4) kuriteole võib kohaldada Eesti karistusseadustikku ja vahistamismääruse aluseks olev kuritegu on Eesti karistusseadustiku järgi aegunud;

[RT I, 01.03.2023, 4 – entry into force 11.03.2023]
1) the criminal offence in question falls under the Penal Code and, for the criminal offence on which the arrest order is based, the imposition of a sentence in Estonia is precluded by an instrument of amnesty;
2) the person has been finally convicted or acquitted on the same charges in another Member State or, if the judgment is one of conviction, the imposed sentence has been, or is being, served according to the laws of the sentencing state, or it is not possible according to such laws to order its enforcement;
3) the person in whose respect the arrest order has been issued is under fourteen years of age;
4) [Repealed – RT I, 01.03.2023, 4 – entry into force 11.03.2023]
5) there is reason to believe that the assistance is requested to prosecute or sentence the person because of their race or ethnic origin or religious or political beliefs or if the person's situation may worsen for any of these reasons.
[RT I, 01.03.2023, 4 – entry into force 11.03.2023]
(1^1) The Republic of Estonia may not refuse international cooperation to a Member State of the European Union since Estonia has not established a tax or statutory fee of the same type as in the requesting State, or that the organisation of taxation, customs or currency exchange established in Estonia is not the same as in the requesting State.
[RT I, 01.03.2023, 4 – entry into force 11.03.2023]
(2) The surrender of the person may be refused if:
1) the act on which the arrest order is based, and which is not mentioned in subpara 1 of § 4896 of this Code is not a criminal offence under the Penal Code of Estonia, except in situations provided for by this article;
[RT I, 01.03.2023, 4 – entry into force 11.03.2023]

---

5) isik on samas süüdistuses lõplikult süüdi või õigeks mõistetud riigis, mis ei ole Euroopa Liidu liige, või süüdimõistva otsuse korral on mõistetud karistus kantud või karistust ei saa täitmisele pöörata otsuse teinud riigi seaduse alusel;
6) vahistamismääruse aluseks olev kuritegu on toime pandud väljaspool taotleva riigi territooriumi ja väljaspool Eesti territooriumi toimepandud kuriteole ei saa samadel asjaoludel kohaldada Eesti karistusseadustikku;
7) [kehtetu - RT I, 01.03.2023, 4 - jõust. 11.03.2023]
8) vahistamismäärus on tehtud vangistuse täitmiseks Eesti kodaniku suhtes või Euroopa Liidu liikmesriigi kodaniku suhtes, kellel on Eestis alaline elamisõigus, ja Eesti kohustub vangistust vastavalt oma riigisisesele õigusele ise täitma.
[RT I, 01.03.2023, 4 - jõust. 11.03.2023]
(3) Eesti kodaniku suhtes, kellel on Eestis alaline elukoht, või Euroopa Liidu liikmesriigi kodaniku suhtes, kellel on Eestis alaline elamisõigus, võib kriminaalmenetluse ajaks loovutamisel seada tingimuseks, et isikule liikmesriigis mõistetav karistus tuleb täita Eesti Vabariigis.
[RT I, 01.03.2023, 4 - jõust. 11.03.2023]
(4) [Kehtetu - RT I, 19.03.2015, 1 - jõust. 29.03.2015] (5) Kui taotlevas riigis võib Euroopa vahistamismääruse aluseks oleva kuriteo eest mõista karistuseks eluaegse vangistuse, võib isiku loovutada tingimusel, et taotleva riigi pädeva asutuse kinnituse kohaselt on võimalik selle isiku ennetähtaegne vabastamine.
(6) Kui isik, kelle loovutamist taotletakse, omab Eesti Vabariigis puutumatust või eelistusi, peatub Euroopa vahistamismääruse täitmine kuni pädevalt asutuselt teate saamiseni, et isikult on puutumatus või eesõigused ära võetud.

2) criminal proceedings concerning a criminal offence which is the basis for the arrest order have been initiated regarding the person in Estonia;
3) criminal proceedings concerning a criminal offence which is the basis for the arrest order have not been initiated or have been terminated regarding the person in Estonia;
4) the Estonian Penal Code may be applied to the criminal offence and the criminal offence which is the basis for the arrest order has expired pursuant to the Estonian Penal Code;
5) the person has been finally convicted or acquitted on the same charges in a non-EU state or, in the case of a judgment of conviction, the imposed punishment has been served or execution of the punishment cannot be ordered pursuant to the legislation of the state which made the judgment;
6) the criminal offence which is the basis for the arrest order was committed outside the territory of the requesting state and the Estonian Penal Code cannot be applied to criminal offences committed outside the territory of the Republic of Estonia under the same circumstances;
7) [Repealed – RT I, 01.03.2023, 4 – entry into force 11.03.2023]
8) the arrest order has been issued to carry out a sentence of imprisonment rendered in respect of an Estonian citizen or a citizen of a Member State of the European Union who holds a permanent right of residence in Estonia, and Estonia undertakes to carry out the sentence in accordance with its domestic law.
[RT I, 01.03.2023, 4 – entry into force 11.03.2023]
(3) When surrendering, for the duration of criminal proceedings, an Estonian citizen or a citizen of a Member State of the European Union who holds a permanent right of residence in Estonia, the surrender may include the condition that the sentence given to the person in the Member State must be carried out in the Republic of Estonia.
[RT I, 01.03.2023, 4 – entry into force 11.03.2023]
(4) [Repealed – RT I, 19.03.2015, 1 – entry into force 29.03.2015]
(5) If life imprisonment may be imposed in a requesting state as punishment for a criminal offence which is the basis for an arrest order, the person may be surrendered on the condition that the competent authority of the requesting state has assured that release of the person before the prescribed time is possible.
(6) If a person whose surrender is requested enjoys immunity or privileges in the Republic of Estonia, execution of the European arrest order shall be suspended until receipt of a notice from a competent authority concerning deprivation of the person of the immunity or privileges.

16 In EPPO cases requiring prosecution of additional offences beyond the scope of the initial surrender, extension proceedings must be initiated promptly and in strict compliance with these rules, ensuring both specialty protection and procedural safeguards

17

§ 493.[240] **Extension of surrender**

(1) In respect of a person surrendered to Estonia, and to a person surrendered by Estonia, criminal proceedings may not be commenced, measures to restrict the person's liberty may not be applied and judgments may not be enforced concerning any criminal offence other than the one in relation to which the person was surrendered.

[RT I, 01.03.2023, 4 – entry into force 11.03.2023]

(2) The provisions of subpara (1) of this article do not apply if:

1) the surrendered person had the opportunity to leave Estonia within forty-five days as of his or her final release, or if he or she has returned to Estonia after leaving;

2) the criminal offence is not punishable by imprisonment;

3) the criminal proceedings do not bring about measures which restrict freedom;

4) punishment does not bring about deprivation of liberty, except substitutive punishment which restricts freedom;

[240] **§ 493. Kriminaalmenetluse seadustik** Loovutamise laiendamine

(1) Eestile loovutatud või Eesti poolt loovutatud isiku suhtes ei või alustada kriminaalmenetlust, kohaldada vabadust piiravaid abinõusid ega täita kohtuotsust muu enne loovutamist toimepandud kuriteo eest, välja arvatud see kuritegu, millega seoses isik loovutati.

[RT I, 01.03.2023, 4 - jõust. 11.03.2023] (2) Käesoleva paragrahvi lõiget 1 ei kohaldata, kui:

1) loovutatud isikul oli võimalus Eestist lahkuda neljakümne viie päeva jooksul, arvates tema lõplikust vabastamisest, või kui ta on pärast lahkumist Eestisse tagasi pöördunud;

2) kuritegu ei ole karistatav vangistusega;

3) kriminaalmenetlusega ei kaasne vabadust piiravaid abinõusid;

4) karistus ei too endaga kaasa vabaduse võtmist, välja arvatud vabadust piirav asenduskaristus;

5) isik nõustub vabatahtlikult loovutamisega ja sellega, et tema suhtes ei kohaldata käesoleva paragrahvi lõiget 1, või pärast loovutusotsuse jõustumist on ta nõustunud sellega, et tema suhtes ei kohaldata käesoleva paragrahvi lõiget 1;

6) isiku loovutanud liikmesriik on andnud oma nõusoleku täiendava süüdistuse esitamiseks.

(3) Loovutamise laiendamise taotlus esitatakse täitva riigi pädevale õigusasutusele.

(4) Eestile esitatud loovutamise laiendamise taotlus rahuldatakse, kui taotluse aluseks on kuritegu, millele saab kohaldada Euroopa vahistamismäärust.

[RT I, 01.03.2023, 4 - jõust. 11.03.2023]

(5) Loovutamise laiendamise taotluse läbivaatamiseks korraldatakse kohtuistung viie päeva jooksul Euroopa vahistamismääruse kohtusse saabumisest arvates. Otsus laiendamise kohta tehakse 30 päeva jooksul taotluse Eestisse saabumisest arvates.

[RT I, 01.03.2023, 4 - jõust. 11.03.2023]

(6) Loovutamise laiendamise kohtuistungist on kohustatud osa võtma:

1) prokurör;

2) isik, kelle loovutamist taotletakse, kui isik ei ole välisriigile üle antud ja ta viibib Eesti Vabariigis;

3) selle isiku kaitsja, kelle loovutamist taotletakse.

(7) Kui loovutamise laiendamist taotlev riik loobub taotlusest või tühistab selle pärast taotluse kohtusse jõudmist, kuid enne loovutamise laiendamise otsustamist, lõpetatakse menetlus kohtumäärusega.

(8) Loovutamise laiendamise määruse või loovutamise laiendamisest keeldumise määruse peale võib esitada määruskaebuse käesoleva seadustiku § 387 lõikes 2 sätestatud korras kolme päeva jooksul määruse kättesaamisest arvates.

[RT I, 21.06.2014, 11 - jõust. 01.01.2015].

5) a person voluntarily consents to surrender and non-application of subpara (1) of this article in respect of him or her or, after entry into force of a surrender decision, has consented to the non-application of subpara (1) of this article in respect of him or her;
6) a Member State which surrenders a person has granted its consent for the bringing of additional charges.
(3) A request for the extension of surrender shall be submitted to the competent judicial authority of the requesting state.
(4) A request presented to Estonia to extend a surrender is granted if it is based on a criminal offence to which the European arrest order applies.
[RT I, 01.03.2023, 4 – entry into force 11.03.2023]
(5) To consider a request to extend a surrender, the court convenes a hearing within five days following arrival, in court, of the relevant European arrest order. The decision on extending the surrender is made within 30 days following arrival of the request in Estonia.
[RT I, 01.03.2023, 4 – entry into force 11.03.2023]
(6) The following persons are required to participate in the hearing held to deal with extending the surrender:
1) the prosecutor;
2) the person whose surrender is requested, provided they have not been transferred to a foreign State and are in the Republic of Estonia;
3) the defence counsel of the person whose surrender is requested.
(7) If the State that has requested an extension of surrender abandons or revokes such a request after it has reached the court but before a decision has been made concerning the extension, the proceedings are terminated by a court order.
(8) An appeal against an order to extend, or refuse to extend, the surrender may be filed following the rules provided by subpara 2 of § 387 of this Code within three days following receipt of the order.
[RT I, 21.06.2014, 11 – entry into force 01.01.2015]

§ 494.[241] **Surrender and extradition to third country**

(1) A person who has been surrendered to Estonia cannot be surrendered further to another Member State of the European Union – or extradited to a non-EU State – in relation to a criminal offence that was committed before the person's surrender, unless:
[RT I, 01.03.2023, 4 – entry into force 11.03.2023]

1) the surrendered person has not used the opportunity to leave Estonia within forty-five days following the person's final discharge, or, after having left, has returned to Estonia;
[RT I, 01.03.2023, 4 – entry into force 11.03.2023]

2) the person has agreed to the surrender in accordance with clause 5 of subpara 2 of § 493 of this Code, or to extradition;
[RT I, 01.03.2023, 4 – entry into force 11.03.2023]

3) the Member State that surrendered the person grants its consent for the further surrender or for extradition.

(2) A citizen of the Republic of Estonia who has been surrendered to a Member State of the European Union may not be surrendered further to another Member State of the European Union without the authorisation of the court or extradited to a non-EU State without the authorisation of the Minister in charge of the policy sector.
[RT I, 21.06.2014, 11 – entry into force 01.01.2015]

(3) A request for the further surrender of a person mentioned in subpara 1 of this article is considered by the court within five days following arrival in the court of the request that meets the requirements. The decision concerning such surrender is made within 30 days following arrival in Estonia of the request that meets the requirements.
[RT I, 01.03.2023, 4 – entry into force 11.03.2023]

[241] **§ 494. Kriminaalmenetluse seadustik** Loovutamine ja väljaandmine kolmandale riigile

(1) Eestile loovutatud isikut ei saa edasi loovutada teisele Euroopa Liidu liikmesriigile või välja anda Euroopa Liitu mittekuuluvale riigile seoses kuriteoga, mis pandi toime enne isiku loovutamist, välja arvatud juhul, kui:
[RT I, 01.03.2023, 4 - jõust. 11.03.2023]

1) loovutatud isik ei ole kasutanud võimalust Eestist lahkuda neljakümne viie päeva jooksul tema lõplikust vabastamisest arvates või ta on pärast lahkumist Eestisse tagasi pöördunud;
[RT I, 01.03.2023, 4 - jõust. 11.03.2023]

2) isik on loovutamisega käesoleva seadustiku § 493 lõike 2 punkti 5 kohaselt või väljaandmisega nõustunud;
[RT I, 01.03.2023, 4 - jõust. 11.03.2023]

3) isiku loovutanud liikmesriik annab edasiloovutamiseks või väljaandmiseks oma nõusoleku.
[RT I, 21.06.2014, 11 - jõust. 01.01.2015]

(2) Euroopa Liidu liikmesriigile loovutatud Eesti Vabariigi kodanikku ei või ilma kohtu loata edasi loovutada teisele Euroopa Liidu liikmesriigile ning ilma valdkonna eest vastutava ministri loata välja anda Euroopa Liitu mittekuuluvale riigile.
[RT I, 21.06.2014, 11 - jõust. 01.01.2015]

(3) Käesoleva paragrahvi lõikes 1 nimetatud isiku edasi loovutamise taotlus vaadatakse kohtu poolt läbi nõuetele vastava taotluse kohtusse saabumisest viie päeva jooksul. Otsus edasi loovutamise kohta tehakse 30 päeva jooksul nõuetele vastava taotluse Eestisse saabumisest arvates.
[RT I, 01.03.2023, 4 - jõust. 11.03.2023].

§ 495.[242] **Plurality of requests**

(1) If several countries request the surrender of a person, a court shall decide which European arrest order is executed. The decision shall be based, primarily, on the seriousness and time and place of commission of the criminal offences committed by the person, the order in which the European arrest orders were submitted and whether the orders have been issued for pre-trial proceedings or for the enforcement of a court judgment which has entered into force.

(2) If necessary, a court may ask the advice of Eurojust.

(3) If a European arrest order and a request for extradition have been submitted in respect of the same person, the Minister of Justice shall decide which request is executed, taking account of the circumstances specified in subpara (1) of this article.

§ 496.[243] **Permission for transit of surrendered person**

(1) Permission for the transit of persons surrendered by other Member States through the territory of the Republic of Estonia shall be granted by the Minister of Justice.

(2) A request for transit shall set out:

1) the personal data and the citizenship of the person concerned;

2) a notation that a European arrest order has been issued regarding the person;

3) information on the facts relating to and the legal assessment of the criminal offence.

§ 497.[244] **Relinquishment of property**

(1) Relinquishment of property located in a requested state may be requested by a European arrest order if the property claimed has been acquired by a criminal offence

[242] **§ 495. Kriminaalmenetluse seadustik** Taotluste paljusus

(1) Kui isiku loovutamist taotleb mitu riiki, otsustab kohus, milline Euroopa vahistamismäärus täidetakse. Otsustamisel lähtutakse eeskätt isiku toimepandud kuritegude raskusest ning toimepanemise ajast ja kohast, Euroopa vahistamismääruse esitamise järjekorrast ning sellest, kas määrus on tehtud kohtueelseks menetluseks või jõustunud kohtuotsuse täitmisele pööramiseks.

(2) Vajaduse korral võib kohus küsida nõu Eurojustilt.

(3) Kui sama isiku suhtes on esitatud Euroopa vahistamismäärus ja väljaandmistaotlus, otsustab justiitsminister, milline nendest täidetakse, arvestades käesoleva paragrahvi lõikes 1 nimetatud asjaolusid.

[243] **§ 496. Kriminaalmenetluse seadustik** Loovutatud isiku läbisõiduluba

(1) Loa teise liikmesriigi poolt loovutatava isiku sõiduks läbi Eesti Vabariigi territooriumi annab justiitsminister.

(2) Läbisõidutaotlus peab sisaldama:

1) asjaomase isiku andmeid ja kodakondsust;

2) märget selle kohta, et isiku suhtes on tehtud Euroopa vahistamismäärus;

3) teavet kuriteo asjaolude ja kvalifikatsiooni kohta.

[244] **§ 497. Kriminaalmenetluse seadustik** Vara loovutamine

(1) Euroopa vahistamismäärusega võib taotleda täitvas riigis asuva vara loovutamist, kui väljanõutav vara on saadud Euroopa vahistamismääruse aluseks oleva kuriteoga või kui see vara on selles kriminaalmenetluses kasutatav asitõendina.

(1[1]) Vara võib loovutada või selle loovutamist võib taotleda ka juhul, kui Euroopa vahistamismäärust ei saa esitada põhjusel, et isik on surnud või taotlevast riigist põgenenud.

(2) Eestis tagatakse kolmanda isiku õigused loovutatavale varale ja loovutatav vara tagastatakse õigustatud menetlusvälisele isikule pärast kohtuotsuse jõustumist.

which is the basis for the European arrest order or the property is required as physical evidence in the criminal proceeding.
(1[1]) Property may be relinquished or relinquishment of property may be requested also if a European arrest order cannot be submitted because the person has died or fled from the requesting state.
(2) In Estonia, third party rights to property to be relinquished shall be preserved and the property to be relinquished shall be returned to the entitled person not subject to the proceedings after the entry into force of the court judgment.

Subdivision 2
Surrender Procedure

§ 498.[245] Authorities competent to execute European arrest order

(1) The following authorities have jurisdiction to conduct proceedings regarding European arrest orders presented to Estonia and the competence to make decisions on surrender:
1) Harju District Court – if the person has been arrested in Tallinn or in the Counties of Harju, Rapla, Lääne-Viru, Ida-Viru, Järva, Lääne, Hiiu, Saare or Pärnu;
[RT I, 01.03.2023, 1 – entry into force 01.05.2023]
2) Tartu District Court – if the person has been arrested in the Counties of Jõgeva, Viljandi, Tartu, Põlva, Võru or Valga.
[RT I, 01.03.2023, 1 – entry into force 01.05.2023]
(2) The central authority for co-operation in surrender procedure is the Ministry of Justice.

§ 499. Arrest for surrender

(1)[246] In order to ensure execution of a European arrest order, a person may be arrested pursuant to the procedure provided for in subpara 217 (8) of this Code. A pre-trial investigation judge shall decide on an arrest for surrender at the request of a Prosecutor's Office.

[245] **2. jaotis**
Loovutamismenetlus
§ 498. Kriminaalmenetluse seadustik Euroopa vahistamismääruse täitmiseks pädevad asutused
(1) Eestile esitatud Euroopa vahistamismäärust on pädev menetlema ja loovutamisotsust vastu võtma:
1) Harju Maakohus, kui isik on kinni peetud Tallinnas või Harju, Rapla, Lääne-Viru, Ida-Viru, Järva, Lääne, Hiiu, Saare või Pärnu maakonnas;
2) Tartu Maakohus, kui isik on kinni peetud Jõgeva, Viljandi, Tartu, Põlva, Võru või Valga maakonnas.
(2) Loovutamismenetlusalase koostöö keskasutus on Justiitsministeerium.
[246] **§ 499. Kriminaalmenetluse seadustik** Loovutamisvahistamine
(1) Isiku võib Euroopa vahistamismääruse täitmise tagamiseks võtta vahi alla käesoleva seadustiku § 217 lõikes 8 sätestatud korras. Loovutamisvahistuse otsustab prokuratuuri taotlusel eeluurimiskohtunik.

(2) A person may be detained pursuant to the procedure provided for in subpara 217 (1) of this Code before the arrival of the European arrest order on the basis of a request for an arrest order submitted through the International Criminal Police Organisation (Interpol) or a notice on a wanted person in the Schengen Information System if the request contains a confirmation on submission of the order.
(3) When the person is arrested, their rights and the grounds for their arrest are explained to them.
[RT I, 01.03.2023, 4 – entry into force 11.03.2023]
(3^1) At the hearing convened in accordance with subpara 1 of this article to decide on committal in surrender custody, the court asks the person to state their opinion concerning consent to the surrender. It is not possible to withdraw the consent once it has been given.
[RT I, 01.03.2023, 4 – entry into force 11.03.2023]
(3^2) Where the person has, in accordance with subpara 3^1 of this article, stated that they consent to the surrendr, the court may, simultaneously with deciding to commit the person in surrender custody, also – following the provisions of § 502 of this Code and based on the arrest order presented through the International Criminal Police Organisation (Interpol) or on the alert entered in the Schengen Information System – decide the person's surrender.
[RT I, 01.03.2023, 4 – entry into force 11.03.2023]
(4) The person is notified that, starting with their arrest, they have a right to receive, free of charge, legal aid and the assistance of an interpreter or translator in the executing as

(2) Isiku võib Rahvusvahelise Kriminaalpolitsei Organisatsiooni (Interpol) kaudu esitatud vahistamistaotluse või Schengeni infosüsteemis oleva tagaotsimisteate alusel kinni pidada käesoleva seadustiku § 217 lõikes 1 sätestatud korras enne Euroopa vahistamismääruse saabumist, kui taotluses on kinnitus selle määruse esitamise kohta.
(3) Isiku kinnipidamisel selgitatakse talle tema õigusi ja kinnipidamise alust.
[RT I, 01.03.2023, 4 - jõust. 11.03.2023]
(3^1) Käesoleva paragrahvi lõike 1 kohaselt loovutamisvahistuse otsustamiseks korraldataval istungil küsib kohus isiku seisukohta loovutamisega nõustumise kohta. Antud nõusolekust ei saa loobuda.
[RT I, 01.03.2023, 4 - jõust. 11.03.2023]
(3^2) Kui isik on käesoleva paragrahvi lõike 31 kohaselt teatanud loovutamisega nõustumisest, võib kohus loovutamisvahistuse otsustamisega samal ajal otsustada Rahvusvahelise Kriminaalpolitsei Organisatsiooni (Interpol) kaudu esitatud vahistamistaotluse või Schengeni infosüsteemis oleva tagaotsimisteate alusel ka käesoleva seadustiku §-s 502 sätestatut järgides loovutamise.
[RT I, 01.03.2023, 4 - jõust. 11.03.2023]
(4) Isikut teavitatakse, et tal on kinnipidamisest alates õigus tasuta õigusabile ja tõlgi abile nii täitvas kui ka taotlevas riigis. Alaealisele isikule kohaldatakse õigusi, mis on alaealisel kahtlustataval või süüdistataval, välja arvatud käesoleva seadustiku § 34 lõike 11 punktis 3 sätestatut.
[RT I, 01.03.2023, 4 - jõust. 11.03.2023]
(4^1) Kui isik soovib kaitsjat taotlevas riigis, kus kaitsjat ei ole veel nimetatud, teavitab prokuratuur sellest soovist kohe taotleva riigi pädevat asutust. Taotleva riigi poolt edastatud teave selles riigis kaitsja nimetamise tingimuste kohta edastatakse kohe isikule.
[RT I, 01.03.2023, 4 - jõust. 11.03.2023]
(5) Kui Euroopa vahistamismäärust ei ole käesoleva seadustiku § 500 lõikes 1 sätestatud tähtaja jooksul saadetud, tuleb isik viivitamata vahi alt vabastada, välja arvatud juhul, kui kohus otsustab loovutamise koos loovutamisvahistuse otsustamisega käesoleva seadustiku § 502 lõike 1 kohaselt.
[RT I, 01.03.2023, 4 - jõust. 11.03.2023]

well as in the requesting State. Minors are treated as having the rights of the underage suspect or accused, except for those provided by clause 3 of subpara 11 of § 34 of this Code.
[RT I, 01.03.2023, 4 – entry into force 11.03.2023]
(4^1) If the person requests a defence counsel in the requesting State where the counsel has not yet been appointed, the Prosecutor's Office notifies such a request immediately to the competent authority of that State. Any information transmitted by the requesting State concerning the conditions relating to the appointment of such counsel in that State is immediately transmitted to the person.
[RT I, 01.03.2023, 4 – entry into force 11.03.2023]
(5) Where the relevant European arrest order has not been sent within the time limit provided by subpara 1 of § 500 of this Code, the person must be released from custody without delay, except where the court, in accordance with subpara 1 of § 502 of this Code, decided the person's surrender together with deciding to commit them in surrender custody.
[RT I, 01.03.2023, 4 – entry into force 11.03.2023]

§ 500.[247] **Channels for communication of European arrest order**
(1) A European arrest order shall be addressed to the Ministry of Justice within three working days after the person is taken into custody in Estonia. The Ministry of Justice shall immediately communicate the European arrest order to a competent court and the Office of the Prosecutor General.
(2) A European arrest order received through the International Criminal Police Organisation (Interpol) or Schengen Information System shall be sent to the Ministry of Justice immediately after the arrest of a person and the Ministry of Justice shall forward it to the competent court and the Office of the Prosecutor General.

[247] **§ 500. Kriminaalmenetluse seadustik** Euroopa vahistamismääruse edastamise kanalid
(1) Euroopa vahistamismäärus adresseeritakse Justiitsministeeriumile kolme tööpäeva jooksul, arvates isiku vahistamisest Eestis. Justiitsministeerium edastab Euroopa vahistamismääruse viivitamata pädevale kohtule ja Riigiprokuratuurile.
(2) Rahvusvahelise Kriminaalpolitsei Organisatsiooni (Interpol) või Schengeni infosüsteemi kaudu saabunud Euroopa vahistamismäärus saadetakse pärast isiku kinnipidamist viivitamata Justiitsministeeriumile, kes edastab selle pädevale kohtule ja Riigiprokuratuurile.

How does the defence lawyer participate and what can he/she do in the (surrender) proceedings? **18**

§ 501.[248] **Participation of counsel in surrender proceedings**
(1) The counsel in a surrender proceeding must be an advocate.
(2) Participation of a counsel in a surrender proceeding is mandatory after review of a request for the arrest of a person.

§ 502.[249] **Surrender proceedings in court**
(1) A judicial hearing is held to consider the European arrest order and to decide on the person's surrender, unless the surrender is decided simultaneously with the person's committal in surrender custody under subpara 32 of § 499 of this Code.
[RT I, 01.03.2023, 4 – entry into force 11.03.2023]
(2) Surrender proceedings shall be conducted by a judge sitting alone.
(3) The following persons are required to participate in a court session:
1) prosecutors;
2) the person claimed;
3) the counsel of the person claimed.
(4) In a court session, the court shall:
1) verify whether the person consents to surrender;
2) acquaints the person with the provisions of §§ 493 and 494 of this Code and asks them to state their opinion on extending the surrender and on any further surrender;

[248] **§ 501. Kriminaalmenetluse seadustik** Kaitsja osavõtt loovutamismenetlusest
(1) Loovutamismenetluses on kaitsjaks advokaat.
(2) Kaitsja osavõtt loovutamismenetlusest on isiku vahi alla võtmise taotluse läbivaatamisest alates kohustuslik.
[249] **§ 502. Kriminaalmenetluse seadustik** Kohtulik loovutamismenetlus
(1) Euroopa vahistamismääruse arutamiseks ja isiku loovutamise otsustamiseks korraldatakse kohtuistung, välja arvatud juhul, kui loovutamine otsustatakse samaaegselt loovutamisvahistusega käesoleva seadustiku § 499 lõike 32 kohaselt.
[RT I, 01.03.2023, 4 - jõust. 11.03.2023] (2) Loovutamismenetlust toimetab kohtunik ainuisikuliselt.
3) Kohtuistungist on kohustatud osa võtma:
1) prokurör;
2) isik, kelle loovutamist taotletakse;
3) selle isiku kaitsja, kelle loovutamist taotletakse.
(4) Kohtuistungil kohus:
1) kontrollib isiku nõusolekut loovutamisega;
2) tutvustab isikule käesoleva seadustiku §-des 493 ja 494 sätestatut ning küsib isiku seisukohta loovutamise laiendamise ja edasi loovutamise kohta;
[RT I, 01.03.2023, 4 - jõust. 11.03.2023] 3) kuulab ära isiku, kelle loovutamist taotletakse, tema kaitsja ja prokuröri arvamuse.
(5) Kohus võib määrata taotleva riigi pädevale õigusasutusele tähtaja lisateabe edastamiseks.
(6) Kohus teeb käesoleva seadustiku §-s 503 sätestatud määruse kümne päeva jooksul pärast isiku loovutamiseks korraldatud kohtuistungit. Kui isik on teatanud loovutamisega nõustumisest, teeb kohus käesoleva seadustiku §-s 503 sätestatud määruse kolme päeva jooksul pärast isiku loovutamiseks korraldatud kohtuistungit.
[RT I, 01.03.2023, 4 - jõust. 11.03.2023]
(7) [Kehtetu - RT I, 01.03.2023, 4 - jõust. 11.03.2023].

[RT I, 01.03.2023, 4 – entry into force 11.03.2023] 3) hear the opinions of the person claimed, his or her counsel and the prosecutor.
(5) A court may grant a term to a competent judicial authority of a requesting state for the submission of additional information.
(6) The court makes the order provided for by § 503 of this Code within ten days following the hearing convened to surrender the person. Where the person has stated that they consent to the surrender, the court makes the order within three days following the hearing.
[RT I, 01.03.2023, 4 – entry into force 11.03.2023]
(7) [Repealed – RT I, 01.03.2023, 4 – entry into force 11.03.2023]

§ 503.[250] **Decisions in surrender proceedings**
(1) Upon deciding on surrender of a person to a foreign state, a court shall make one of the following rulings:
1) to satisfy a European arrest order and consent to the surrender of the person;
2) to refuse to satisfy a European arrest order and refuse to consent to the surrender of the person.
(2) A ruling shall set out:
1) the name, personal identification code or date of birth, and place of birth of the person subject to surrender proceedings;
2) the content of the European arrest order reviewed;

[250] **§ 503. Kriminaalmenetluse seadustik** Kohtulahendid loovutamismenetluses
(1) Välisriigile isiku loovutamise otsustamisel teeb kohus ühe järgmistest määrustest:
1) rahuldab Euroopa vahistamismääruse ja nõustub isiku loovutamisega;
2) ei rahulda Euroopa vahistamismäärust ja keeldub isiku loovutamisest.
(2) Määruses märgitakse:
1) loovutamismenetlusele allutatud isiku nimi ning isikukood või sünniaeg ja sünnikoht;
2) läbivaadatud Euroopa vahistamismääruse sisu;
3) kohtuistungil osalenud loovutamismenetlusele allutatud isiku seisukoht enda loovutamise kohta, muu hulgas isiku nõusolek, kui ta on enda loovutamisega nõus käesoleva seadustiku § 502 lõike 4 punkti 2 kohaselt;
[RT I, 01.03.2023, 4 - jõust. 11.03.2023]
4) kohtu otsustus ja põhjendused loovutamisega nõustumise või mittenõustumise kohta;
5) käesoleva seadustiku § 492 lõigetes 3–5 sätestatud loovutamise tingimused;
6) loovutamismenetlusele allutatud isiku vahi all viibitud aeg;
7) edasikaebamise kord.
(3) Kui Euroopa vahistamismäärus sisaldab vara konfiskeerimise taotlust, otsustab kohus vara konfiskeerimise loovutamismenetluses.
(4) Kui kohus otsustab Euroopa vahistamismääruse rahuldada ja isiku loovutada, kohaldab kohus isiku suhtes loovutamisvahistamist kuni isiku üleandmiseni.
5) käesoleva seadustiku § 492 lõigetes 3 ja 5 ning § 4897 lõikes 1 sätestatud loovutamise tingimused;
[RT I, 19.03.2015, 1 - jõust. 29.03.2015]
5[1]) loovutamise edasilükkamine ja ajutine loovutamine käesoleva seadustiku § 506 lõigete 1 ja 2 alusel;
[RT I, 01.03.2023, 4 - jõust. 11.03.2023] (6) Määruse koopia edastatakse kinnipidamisasutusele, kus loovutatavat isikut loovutamisvahistuses peetakse, ja tehakse loovutatavale isikule allkirja vastu teatavaks.
(7) Loovutamismenetluses tehtud jõustunud määruse koopia saadetakse viivitamata Justiitsministeeriumile, kes teeb selle teatavaks taotlevale riigile.

3) the opinion of the person subjected to surrender proceedings who participated in the hearing concerning their surrender, including, among other things, the person's consent under clause 2 of subpara 4 of § 502 of this Code if they agree to be surrendered;
[RT I, 01.03.2023, 4 – entry into force 11.03.2023]
4) the court judgment and reasons for the consent or refusal to consent to surrender;
5) the conditions of the surrender as provided for by subparas 3 and 5 of § 492 and by subpara 1 of § 489[7] of this Code;
[RT I, 19.03.2015, 1 – entry into force 29.03.2015]5[1]) postponing the surrender, and temporary surrender under subparas 1 and 2 of § 506 of this Code;
[RT I, 01.03.2023, 4 – entry into force 11.03.2023]
6) the period during which a person subject to surrender proceedings was held in custody;
7) the procedure for appeal.
(3) If a European arrest order contains a request for the confiscation of assets, the court shall decide on confiscation of the assets in surrender proceedings.
(4) If a court decides to satisfy a European arrest order and surrender a person, a court applies arrest for surrender to the person until the person is surrendered.
(5) If a court decides to refuse surrender, arrest for surrender is applied to the person until a ruling on surrender or ruling on refusal to surrender enters into force.
(6) A copy of a ruling shall be sent to the custodial institution where the person to be surrendered is held in custody for surrender and the ruling is made known to the person to be surrendered against signature.
(7) A copy of a ruling which has entered into force and is issued in surrender proceedings shall be immediately sent to the Ministry of Justice who shall communicate it to the requesting state.

§ 504.[251] Contestation of ruling made in surrender proceedings
(1) An appeal against a ruling on surrender made in surrender proceedings or an appeal against a ruling on refusal to surrender may be filed pursuant to the procedure provided for in subpara 386 (2) of this Code within three days as of receipt of the ruling.

[251] **§ 504. Kriminaalmenetluse seadustik** Loovutamismenetluses tehtud määruse vaidlustamine
(1) Loovutamismenetluses tehtud loovutamismääruse või loovutamisest keeldumise määruse peale võib esitada määruskaebuse käesoleva seadustiku § 386 lõikes 2 sätestatud korras kolme päeva jooksul, arvates määruse kättesaamisest.
(2) Määruskaebus esitatakse Harju Maakohtu määruse peale Tallinna ringkonnakohtusse ja Tartu Maakohtu määruse peale Tartu ringkonnakohtusse.
(3) Määruskaebus vaadatakse ringkonnakohtus kirjalikus menetluses läbi kümne päeva jooksul arvates asja saabumisest ringkonnakohtusse. Kui isik on teatanud loovutamisega nõustumisest, vaadatakse määruskaebus ringkonnakohtus kirjalikus menetluses läbi kolme päeva jooksul arvates asja saabumisest ringkonnakohtusse.
[RT I, 01.03.2023, 4 - jõust. 11.03.2023] (4) Ringkonnakohtu otsus on lõplik.

(2) An appeal against a ruling of the Harju County Court shall be filed with the Tallinn Circuit Court and an appeal against a ruling of the Tartu County Court shall be filed with the Tartu Circuit Court.
(3) The appeal is considered in the circuit court of appeal by written procedure within ten days following arrival of the case in that court. Where the person has stated that they consent to the surrender, the appeal is considered by written procedure within three days following arrival of the case in the court.
[RT I, 01.03.2023, 4 – entry into force 11.03.2023]
(4) A judgment of a circuit court is final.

§ 505.[252] **Surrender of person**
(1) A copy of a ruling on surrender which has entered into force shall be sent to the Police and Border Guard Board who shall notify the requesting state of the time and place of surrender of the person to be surrendered and organise the surrender of the person.
(2) A surrendered person shall be surrendered within ten days as of entry into force of the ruling on surrender.
(3) If surrender is prevented by circumstances beyond the control of the requested and requesting state, the person shall be surrendered within ten days as of the new agreed date.
(4) The transfer may be temporarily postponed for humanitarian reasons, including a natural calamity, or where there are sufficient grounds to believe that execution of the order may endanger the life or health of the person to be surrendered. Execution of the European arrest order takes place as soon as the reason has ceased to apply, and the person is transferred within ten days from the new agreed due date.
[RT I, 01.03.2023, 4 – entry into force 11.03.2023]
(5) If a person is not surrendered with a term specified in subparas (2)–(4) of this article, he or she shall be released.

[252] **§ 505. Kriminaalmenetluse seadustik** Isiku üleandmine
(1) Jõustunud loovutamismääruse koopia saadetakse Politsei- ja Piirivalveametile, kes teatab taotlevale riigile loovutatud isiku üleandmise aja ja koha ning korraldab isiku üleandmise.
(2) Loovutatud isik antakse üle kümne päeva jooksul, arvates loovutamismääruse jõustumisest.
(3) Kui üleandmist takistavad asjaolud, mis ei olene täitvast ega taotlevast riigist, antakse isik üle kümne päeva jooksul, arvates uuest kokkulepitud tähtpäevast.
(4) Üleandmise võib ajutiselt edasi lükata humanitaarsetel põhjustel, sealhulgas loodusõnnetuse korral, või kui on piisav alus arvata, et määruse täideviimine võib ohustada loovutatava elu või tervist. Euroopa vahistamismäärus täidetakse kohe pärast eelnimetatud põhjuse äralangemist ja isik antakse üle kümne päeva jooksul alates uuest kokkulepitud tähtpäevast.
[RT I, 01.03.2023, 4 - jõust. 11.03.2023] (5) Kui käesoleva paragrahvi lõigetes 2–4 nimetatud tähtaja jooksul ei ole isik üle antud, vabastatakse ta vahi alt.

Competent authorities of the Member States (list of the States which are not identical with the issuing, handling MS + provisions for the EAW [European Arrest Order in accordance with Council Framework Decision 2002/584/JHA])	19

c) Fraud-Related Peculiarities

Money Laundering and Terrorist Financing Prevention Act[253] **20**

§ 84.[254] **Failure to perform duty to identify person and verify person's identity**

(1) The penalty for a breach by an obliged entity, its management board member or employee of the duty provided for by this Act to identify a customer or a person participating in an occasional transaction, or a person's representative, and to verify their identity, is a fine of up to EUR 1,000,000 or of up to twice the amount corresponding to the benefit derived from the misdemeanour or to the harm prevented.

(2) The penalty for the same act, where the obliged entity was subject to financial supervision – mentioned in the Financial Supervision Authority Act – by the Financial Supervision and Resolution Authority is a fine of up to EUR 5,000,000 or of up to twice the amount corresponding to the benefit derived from the misdemeanour or to the harm prevented.

(3) The penalty for the act provided for by subpara 1 of this article, where committed by a legal person, is a fine of up to EUR 1,000,000 or of up to twice the amount corresponding to the benefit derived from the misdemeanour or to the harm prevented.

(4) The penalty for the act provided for by subpara 2 of this article, where committed by a legal person, is a fine of up to EUR 5,000,000 or of up to twice the amount corresponding to the benefit derived from the misdemeanour or to the harm prevented, or of up to 10 per cent of the consolidated turnover of the legal person or of the person's consolidation group.

---

[253] Rahapesu ja terrorismi rahastamise tõkestamise seadus, Vastu võetud 26.10.2017.

[254] **§ 84. Rahapesu ja terrorismi rahastamise tõkestamise seadus** Isikusamasuse tuvastamise ja kontrollimise kohustuse täitmata jätmine

(1) Käesolevas seaduses sätestatud kliendi või juhuti tehingus osaleva isiku või isiku esindaja isikusamasuse tuvastamise ja kontrollimise kohustuse rikkumise eest –
karistatakse rahatrahviga kuni 1 000 000 eurot või kuni kahekordses väärteo tulemusel teenitud kasule või ära hoitud kahjule vastavas summas.

(2) Sama teo eest, kui kohustatud isik oli Finantsinspektsiooni seaduses nimetatud finantsjärelevalve subjekt, –
karistatakse rahatrahviga kuni 5 000 000 eurot või kuni kahekordses väärteo tulemusel teenitud kasule või ära hoitud kahjule vastavas summas.

(3) Käesoleva paragrahvi lõikes 1 sätestatud teo eest, kui selle on toime pannud juriidiline isik, –
karistatakse rahatrahviga kuni 1 000 000 eurot või kuni kahekordses väärteo tulemusel teenitud kasule või ära hoitud kahjule vastavas summas.

(4) Käesoleva paragrahvi lõikes 2 sätestatud teo eest, kui selle on toime pannud juriidiline isik, –
karistatakse rahatrahviga kuni 5 000 000 eurot või kuni kahekordses väärteo tulemusel teenitud kasule või ära hoitud kahjule vastavas summas või kuni 10 protsenti juriidilise isiku või tema konsolideerimisgrupi konsolideeritud käibest.
[RT I, 17.03.2023, 2 - jõust. 01.11.2023].

[RT I, 17.03.2023, 2 – entry into force 01.11.2023]

§ 85.[255] **Breach of duty to identify beneficial owner**

(1) The penalty for a breach by an obliged entity or its management board member or an employee of the duty provided for in this Act to identify the beneficial owner and verify their identity is a fine of up to EUR 1,000,000 or of up to twice the amount corresponding to the benefit derived from the misdemeanour or to the harm prevented.

(2) The penalty for the same act, where the obliged entity was subject to financial supervision – mentioned in the Financial Supervision Authority Act – by the Financial Supervision and Resolution Authority is a fine of up to EUR 5,000,000 or of up to twice the amount corresponding to the benefit derived from the misdemeanour or to the harm prevented.

(3) The penalty for the act provided for by subpara 1 of this article, where committed by a legal person, is a fine of up to EUR 1,000,000 or of up to twice the amount corresponding to the benefit derived from the misdemeanour or to the harm prevented.

(4) The penalty for the act provided for by subpara 2 of this article, where committed by a legal person, is a fine of up to EUR 5,000,000 or of up to twice the amount corresponding to the benefit derived from the misdemeanour or to the harm prevented, or of up to 10 per cent of the consolidated turnover of the legal person or of the person's consolidation group.

[RT I, 17.03.2023, 2 – entry into force 01.11.2023]

[255] **§ 85. Rahapesu ja terrorismi rahastamise tõkestamise seadus** Tegeliku kasusaaja tuvastamise kohustuse rikkumine

(1) Käesolevas seaduses sätestatud tegeliku kasusaaja tuvastamise ja kontrollimise kohustuse rikkumise eest – karistatakse rahatrahviga kuni 1 000 000 eurot või kuni kahekordses väärteo tulemusel teenitud kasule või ära hoitud kahjule vastavas summas.

(2) Sama teo eest, kui kohustatud isik oli Finantsinspektsiooni seaduses nimetatud finantsjärelevalve subjekt, – karistatakse rahatrahviga kuni 5 000 000 eurot või kuni kahekordses väärteo tulemusel teenitud kasule või ära hoitud kahjule vastavas summas.

(3) Käesoleva paragrahvi lõikes 1 sätestatud teo eest, kui selle on toime pannud juriidiline isik, – karistatakse rahatrahviga kuni 1 000 000 eurot või kuni kahekordses väärteo tulemusel teenitud kasule või ära hoitud kahjule vastavas summas.

(4) Käesoleva paragrahvi lõikes 2 sätestatud teo eest, kui selle on toime pannud juriidiline isik, – karistatakse rahatrahviga kuni 5 000 000 eurot või kuni kahekordses väärteo tulemusel teenitud kasule või ära hoitud kahjule vastavas summas või kuni 10 protsenti juriidilise isiku või tema konsolideerimisgrupi konsolideeritud käibest.

[RT I, 17.03.2023, 2 - jõust. 01.11.2023].

§ 92. Breach of duty to report suspicion of money laundering or terrorist financing
(1)[256] The penalty for a breach of the duty to notify the Financial Intelligence Unit of a suspicion of money laundering or terrorist financing, or of a foreign exchange transaction or any other transaction by which a monetary obligation exceeding EUR 32,000 or an equivalent sum in another currency is performed in cash is a fine of up to EUR 1,000,000 or of up to twice the amount corresponding to the benefit derived from the misdemeanour or to the harm prevented.
[RT I, 17.03.2023, 2 – entry into force 01.11.2023]
(1^1) The penalty for the same act, where the obliged entity was subject to financial supervision – mentioned in the Financial Supervision Authority Act – by the Financial Supervision and Resolution Authority is a fine of up to EUR 5,000,000 or of up to twice the amount corresponding to the benefit derived from the misdemeanour or to the harm prevented.
[RT I, 17.03.2023, 2 – entry into force 01.11.2023]
(2) The penalty for the same act, where committed by a legal person, is a fine of up to EUR 1,000,000 or of up to twice the amount corresponding to the benefit derived from the misdemeanour or to the harm prevented.
[RT I, 17.03.2023, 2 – entry into force 01.11.2023]
(3) The penalty for the act provided for by subpara 11 of this article, where committed by a legal person, is a fine of up to EUR 5,000,000 or of up to twice the amount corresponding to the benefit derived from the misdemeanour or to the harm prevented, or of up to 10 per cent of the consolidated turnover of the legal person or of the person's consolidation group.
[RT I, 17.03.2023, 2 – entry into force 01.11.2023]

[256] **§ 92. Rahapesu ja terrorismi rahastamise tõkestamise seadus** Rahapesu ja terrorismi rahastamise kahtlusest teatamise kohustuse rikkumine
(1) Rahapesu või terrorismi rahastamise kahtlusest, valuutavahetusest või muust tehingust, kus rahaline kohustus suurusega üle 32 000 euro või sellega võrdväärne summa muus vääringus täidetakse sularahas, Rahapesu Andmebüroole teatamise kohustuse rikkumise eest –
karistatakse rahatrahviga kuni 1 000 000 eurot või kuni kahekordses väärteo tulemusel teenitud kasule või ära hoitud kahjule vastavas summas või arestiga.
(1^1) Sama teo eest, kui kohustatud isik oli Finantsinspektsiooni seaduses nimetatud finantsjärelevalve subjekt, –
karistatakse rahatrahviga kuni 5 000 000 eurot või kuni kahekordses väärteo tulemusel teenitud kasule või ära hoitud kahjule vastavas summas.
(2) Sama teo eest, kui selle on toime pannud juriidiline isik, –
karistatakse rahatrahviga kuni 1 000 000 eurot või kuni kahekordses väärteo tulemusel teenitud kasule või ära hoitud kahjule vastavas summas.
(3) Käesoleva paragrahvi lõikes 11 sätestatud teo eest, kui selle on toime pannud juriidiline isik, –
karistatakse rahatrahviga kuni 5 000 000 eurot või kuni kahekordses väärteo tulemusel teenitud kasule või ära hoitud kahjule vastavas summas või kuni 10 protsenti juriidilise isiku või tema konsolideerimisgrupi konsolideeritud käibest.

§ 93. Illegal notification of data forwarded to Financial Intelligence Unit

(1)[257] The penalty for illegal notification of a person, their representative, the person's beneficial owner or the public by the obliged entity, its management board member, compliance officer or employee, or by an employee of a supervisory authority, concerning a report or data forwarded to, or a compliance notice issued by, the Financial Intelligence Unit regarding the person, or about the or about the institution of criminal proceedings against the person is a fine of up to EUR 1,000,000 or of up to twice the amount corresponding to the benefit derived from the misdemeanour or to the harm prevented.
[RT I, 17.03.2023, 2 – entry into force 01.11.2023]

(1^1) The penalty for the same act, where the obliged entity was subject to financial supervision – mentioned in the Financial Supervision Authority Act – by the Financial Supervision and Resolution Authority is a fine of up to EUR 5,000,000 or of up to twice the amount corresponding to the benefit derived from the misdemeanour or to the harm prevented.
[RT I, 17.03.2023, 2 – entry into force 01.11.2023]

(2) The penalty for the act provided for by subpara 1 of this article, where committed by a legal person, is a fine of up to EUR 1,000,000 or of up to twice the amount corresponding to the benefit derived from the misdemeanour or to the harm prevented.
[RT I, 17.03.2023, 2 – entry into force 01.11.2023]

(3) The penalty for the act provided for by subpara 11 of this article, where committed by a legal person, is a fine of up to EUR 5,000,000 or of up to twice the amount corresponding to the benefit derived from the misdemeanour or to the harm prevented, or of up to 10 per cent of the consolidated turnover of the legal person or of the person's consolidation group.

---

[257] **§ 93. Rahapesu ja terrorismi rahastamise tõkestamise seadus** Ebaseaduslik teavitamine rahapesu andmebüroole edastatud andmetest

(1) Kohustatud isiku, tema juhatuse liikme, kontaktisiku või töötaja või järelevalveasutuse töötaja poolt isiku, tema esindaja või isiku tegeliku kasusaaja või avalikkuse ebaseadusliku teavitamise eest tema kohta Rahapesu Andmebüroole edastatud teatest või andmetest või tema kohta Rahapesu Andmebüroo tehtud ettekirjutusest või kriminaalmenetluse alustamisest –
karistatakse rahatrahviga kuni 1 000 000 eurot või kuni kahekordses väärteo tulemusel teenitud kasule või ära hoitud kahjule vastavas summas või arestiga.
[RT I, 17.03.2023, 2 - jõust. 01.11.2023]

(1^1) Sama teo eest, kui kohustatud isik oli Finantsinspektsiooni seaduses nimetatud finantsjärelevalve subjekt, –
karistatakse rahatrahviga kuni 5 000 000 eurot või kuni kahekordses väärteo tulemusel teenitud kasule või ära hoitud kahjule vastavas summas.
[RT I, 17.03.2023, 2 - jõust. 01.11.2023]

(2) Sama teo eest, kui selle on toime pannud juriidiline isik, –
karistatakse rahatrahviga kuni 1 000 000 eurot või kuni kahekordses väärteo tulemusel teenitud kasule või ära hoitud kahjule vastavas summas.
[RT I, 17.03.2023, 2 - jõust. 01.11.2023]

(3) Käesoleva paragrahvi lõikes 11 sätestatud teo eest, kui selle on toime pannud juriidiline isik, –
karistatakse rahatrahviga kuni 5 000 000 eurot või kuni kahekordses väärteo tulemusel teenitud kasule või ära hoitud kahjule vastavas summas või kuni 10 protsenti juriidilise isiku või tema konsolideerimisgrupi konsolideeritud käibest.
[RT I, 17.03.2023, 2 - jõust. 01.11.2023]

[RT I, 17.03.2023, 2 – entry into force 01.11.2023]

Custom Act[258]
Chapter 13
Liability for Violation of Customs Legislation
§ 69.[259] **Illegal conveyance of goods to Estonia or out of Estonia**
(1) Conveyance of goods or cash subject to declaration from a non-Union country to Estonia or from Estonia to a non-Union country by evading customs controls, failing to declare the goods or cash, declaring the goods or cash under an incorrect tariff classification or description, or behaving in any other fraudulent manner is punishable by a fine of up to 300 fine units or by detention.
(2) The same act, if committed by a legal person, is punishable by a fine of up to EUR 3,200.
(3) An attempted misdemeanour set out in this article is punishable.

d) Relevant Examples and Precedents (from Mutual Legal Assistance)

In relation to court proceedings Estonia has been aware to fulfil the request of parties for civil claims within the proceedings. Otherwise, the breach of Art. 6 (right to a fair trial/access to a court) may be brought before the ECtHR.[260] **21**

[258] Tolliseadus, Vastu võetud 31.05.2017, RT I, 16.06.2017, 1, jõustumine 01.07.2017.
[259] **13. peatükk**
Vastutus tollialaste õigusaktide rikkumise eest
§ 69. Tolliseadus Kauba ebaseaduslik Eestisse või Eestist välja toimetamine
(1) Deklareeritava kauba või sularaha liiduvälisest riigist Eestisse või Eestist liiduvälisesse riiki toimetamise eest tollikontrollist kõrvale hoides, kaupa või sularaha deklareerimata jättes, seda vale tariifse klassifikatsiooniga või kirjeldusega deklareerides või muul pettuslikul viisil toimides –
karistatakse rahatrahviga kuni 300 trahviühikut või arestiga.
(2) Sama teo eest, kui selle on toime pannud juriidiline isik, –
karistatakse rahatrahviga kuni 3200 eurot.
(3) Käesolevas paragrahvis nimetatud väärteo katse on karistatav.
[260] ECthR, *Leuska and Others v. Estonia* (appl. no 64734/11).

5. Information for Defence Lawyers (Inspecting the Case File/*Juhtumi Toimiku Vaatamine*)

1 First of all, defence in EPPO proceedings is e.g. an act of **controlling the admissibility of evidence**, which relies heavily on national criminal procedural rules[261] is important and therefore it is important to know the relevance of rulings by the Supreme Court, which has been clarified in 2006:

> "In Estonian criminal procedure law, the creation of new law by the implementer of the law is not excluded. According to the provisions of § 2, subsection 4 of the Criminal Procedure Code, in matters that have not been resolved in other laws but that have arisen in the application of the law, the **decisions of the Supreme Court may exceptionally also be sources of criminal procedure law**. The said legislative competence of the Supreme Court is clearly of a subsidiary nature and is based on the inevitable need to move forward in procedural situations arising in criminal proceedings, when there is a genuine legal gap that cannot be filled on the basis of legal analogy."[262]

2 The main principle in the proceedings is the **equality of arms**. The Criminal Chamber of the Supreme Court has ruled that:

> "The parties must have an equal opportunity to examine each other's evidence and positions and to comment on them (RKKKm No. 3-1-1-110-15, p 11). The principle of equality of arms as an element of a fair trial within the meaning of article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) has also been consistently recognised in its practice by the European Court of Human Rights (ECHR) (see, for example, ECHR 23.05.2017, Van Wesenbeeck v. Belgium, p 67; 04.06.2019, *Sigurður Einarsson et al. v. Iceland*, p 85). At the same time, the ECHR has also found that making evidence fully available to the opposing party is not an absolute obligation. In any criminal proceedings, there may be competing interests that must be taken into account as a counterweight to the rights of the accused. **The parties' right to access evidence and the arguments against it must be weighed against each other**. If the restriction is strictly necessary, the interference with the party's right must be effectively balanced against the court's ability to review it. (ECtHR 06.03.2012, Leas v. Estonia, §§ 77-78; cited in *Van Wesenbeeck v. Belgium*, § 68; 25.07.2019, *Rook v. Germany*, §§ 58-59) In the latter case, the court has an obligation, based on the principle of fair and just judicial proceedings, to review the lawfulness of the relevant

[261] See Katsanaki 2022, pp 11 et seq.
[262] Supreme Court, 3-1-1-68-06, 25.10.2006.

actions and to assess whether the restriction of access to the lawyer was necessary. This must be done in a manner that allows the lawyer to object to the court's arguments. (Cited in *Leas v. Estonia*, §§ 84–88; 25.07.2017, *M. v. the Netherlands*, § 66). (§ 48)."[263]

The Code of Criminal Procedure offers – in normal and in criminal tax proceedings – the **right to inspect the case file** of the investigators:

§ 224. Presenting the criminal file to the suspect, defence counsel, victim and civil defendant [RT I, 28.12.2016, 14 – entry into force 01.04.2017] **3**

(1) The Prosecutor's Office presents a copy of the criminal file to the defence counsel on a digital storage medium or, on a substantiated written application of the defence counsel, on paper. The counsel may waive being provided with a copy of the file. The counsel signs an acknowledgement of having received the copy or having waived its provision.

[RT I, 23.02.2011, 1 – entry into force 01.09.2011]

(1^1) Where the participation of defence counsel at presentation of the criminal file is not mandatory under subpara 3 of § 45 of this Code, the file is presented to the suspect on the latter's application using a means chosen by the prosecutor.

[RT I, 28.12.2016, 14 – entry into force 01.04.2017]

(2) The Prosecutor's Office presents the criminal file to the victim or civil defendant on their application.

(3) On an application of the defence counsel, victim or civil defendant – or, in a situation mentioned in subpara 11 of this article, the suspect – any recording made or any item of physical evidence collected in the criminal case is presented to them.

[RT I, 28.12.2016, 14 – entry into force 01.04.2017]

(4) Where it is clear that a person is stalling when acquainting themselves with a criminal file, a recording or an item of physical evidence, the Prosecutor's Office sets a time limit for the person to do so.

(5) The victim and civil defendant have a right to copy, by hand, any materials in the criminal file and to apply to the Prosecutor's Office for copies to be made of such materials for a charge.

(6) A note is made in the criminal file concerning its presentation – or the presentation of any recording made or any item of physical evidence collected in the criminal case – to the suspect, defence counsel, victim or civil defendant.

[RT I, 28.12.2016, 14 – entry into force 01.04.2017]

[263] See the latest decision Criminal Chamber of the Supreme Court, 16.06.2023, Case No. 1-21-5633/135.

(7) On an application of the defence counsel, any storage medium containing a state secret or classified information of a foreign state which is used as evidence in the criminal case and which is not included in the criminal file is presented to that counsel following the rules provided by the State Secrets and Classified Information of Foreign States Act. A note is made in the criminal file concerning such presentation.
[RT I 2007, 16, 77 – entry into force 01.01.2008]
(8) On an application of the defence counsel – or, in a situation mentioned in subpara 11 of this article, of the suspect – any material removed from the file under subpara 2 of § 223 of this Code is presented to the counsel or suspect and arrangements are made to permit them to make copies of the material for a fee.
[RT I, 28.12.2016, 14 – entry into force 01.04.2017]
(9) A statutory fee is paid for the copies mentioned in subparas 5 and 8 of this article at the rate provided by subpara 1 of § 61 of the Statutory Fees Act.
[RT I, 30.12.2014, 1 – entry into force 01.01.2015]
(10) When presenting the criminal file and any material removed from the file to the defence counsel or, in a situation mentioned in subpara 11 of this article, to the suspect, the Prosecutor's Office, having regard to the need to protect personal data, determines whether and to what extent the counsel or suspect are permitted to make additional copies of the file or materials. The Prosecutor's Office notes the prohibition to make copies on the copy of the document or file that is presented to the counsel or suspect.
[RT I, 28.12.2016, 14 – entry into force 01.04.2017]

§ 224[1]. Presenting the file to the suspect or accused
(1) The defence counsel presents the material mentioned in § 224 of this Code to the suspect or accused if the latter so wishes. Materials whose copying the Prosecutor's Office has prohibited are presented by the defence counsel only in the counsel's professional premises or in a custodial institution.
[RT I, 21.06.2014, 11 – entry into force 01.07.2014]
(2) It is prohibited for the defence counsel to hand over any copies of any material mentioned in § 224 of this Code to other persons, except for the suspect or accused in a situation and to the extent permitted by subpara 10 of § 224 of this Code.
[RT I, 23.02.2011, 1 – entry into force 01.09.2011]

4 The person concerned has the **right to appeal**:

"The right to appeal is not an unlimited fundamental right of a person. The legislator has prescribed procedural deadlines for challenging a court decision, after which the legal resolution of the matter ends."[264] And next the person under the radar of EPPO actions in Estonia has the **right to a fair trial**: "The Supreme Court cannot itself reclassify the

[264] Supreme Court, 3-1-1-45-04, 17.05.2004.

conduct of persons accused of abuse of office as embezzlement, since the persons have not been able to defend themselves against the charge of embezzlement. The Supreme Court has explained, relying on the case-law of the European Court of Human Rights (see, for example, *Pélissier and Sassi v. France*, judgment of 25 March 1999), that article 6(3)(a) and (b) of the European Convention on Human Rights guarantees the accused, in addition to the right to be informed of the cause of the accusation, i.e. the acts which the person is alleged to have committed and which form the basis of the accusation, the right to be informed of the legal qualification given to those acts. The accused's full and detailed information about the accusation and thus also about the legal qualification on which the court may base its decision is an essential prerequisite for fair criminal proceedings, which must be viewed in light of the accused's right to prepare for his or her defense (see RKKKo no. 3-1-1-83-05, p 12; RKKKm 3-1-1-139-05, p 24)."[265]

The **right to defence** includes that the indictment of the EPPO needs to clarify each circumstance: **5**

"The indictment must set out the factual circumstances corresponding to each objective and subjective element of the criminal offence for which the person is charged. This ensures the right of defence of the accused, excluding the possibility of someone being found guilty based on such factual circumstances or based on such qualifications for which he has not been able to effectively present objections or evidence to support those allegations in court. (section 12) Despite the absence of such references in the indictment, the courts are entitled to identify certain circumstances as so-called background facts that confirm or refute the occurrence of the circumstances described in the indictment. (p 15)."[266]

In **case of wiretapping** this may relate to the right to defence: **6**

"Although the secret wiretapping of a person after informing him of his status as a suspect may infringe the right of defence, such an act is not entirely excluded. Considerations of public interest cannot speak in favour of implementing measures that essentially render the right of defence – including the right not to incriminate oneself guaranteed by article 6 of the European Convention on Human Rights and Fundamental Freedoms – non-existent. The latter right is not absolute, however, offering protection only against obtaining evidence by force or pressure. (See for more details RKKKm No. 1-24-5013/17, paragraphs 19–21 with references to the case-law of the ECHR.) (paragraph

[265] Supreme Court, 3-1-1-20-07, 11.06.2007.
[266] See the latest decision on this matter Criminal Chamber of the Supreme Court, 22-3897/47, 18.12.2024.

26).”[267] It is EU-wide clear that: “Meetings between a prisoner and his/her defense counsel may not be eavesdropped on but may be monitored. The same is also provided for in § 27(2) of the Imprisonment Act (IPA).”[268]

7 The fruit of the poisonous tree doctrine for the **admissibility of evidence** does not clearly apply in Estonia, but the Criminal Chamber of the Supreme Court sees a certain scope of applicability for this rule: “Although it is not excluded that the inadmissibility of evidence may also lead to the inadmissibility of other evidence collected using the information obtained from it, this is not a generally applicable rule (see RKKKo No. 1-21-1421/182, p 94). (p 45).”[269]

8 One decision of the Estonian Supreme Court[270] could be relevant for the **interpretation and application of article 37 EPPO** Regulation in Estonia, if it would become important, particularly as it concerns the admissibility of evidence obtained across borders, i.e. potentially within the EPPO’s area of operation.

The Estonian Supreme Court held that section 65 para 1 of the Estonian Code of Criminal Procedure allows the use of evidence obtained abroad in Estonian proceedings. Estonian courts may not assess whether the foreign state complied with its own procedural law when collecting that evidence. There exists a presumption of legality for evidence gathered abroad, especially where mutual trust or treaty-based cooperation exists. This presumption can only be rebutted if it is clearly established that the evidence was obtained unlawfully under the foreign law (e.g. based on a foreign court’s finding). However, the use of such evidence remains prohibited if it violates the fundamental principles of Estonian criminal procedure such as the prohibition of torture, degrading treatment, violation of dignity, or the privilege against self-incrimination. If we recall, article 37 para EPPO Regulation provides that evidence presented by the EPPO or the defendant shall not be denied admission in the trial of any participating Member State solely on the ground that it was gathered in another Member State or in accordance with the law of another Member State. This creates a binding EU-law principle of cross-border admissibility, limiting national courts’ ability to exclude evidence only because of its foreign origin. The Estonian ruling aligns with this principle and gives it national procedural expression. Thus, the Estonian judgment operationalises article 37 EPPO Regulation at national level, clarifying how mutual trust and procedural autonomy coexist.

[267] Criminal Chamber of the Supreme Court, 1-24-4770/14, 22.05.2025.
[268] Supreme Court, 3-1-1-29-12, 25.10.2012.
[269] Criminal Chamber of the Supreme Court, 1-21-5115/53, 09.12.2024.
[270] Criminal Chamber of the Supreme Court, 1-21-7384/240, 16.01.2025.

The implications for EPPO proceedings are that EDPs operating in or with Estonia must respect that evidence gathered by the EPPO (or by another EDP in another Member State) must be presumed admissible in Estonian proceedings under both article 37 para 1 and § 65 para 1. Estonian courts may not reject EPPO-collected evidence solely because procedural steps differ from domestic law. But rejection is permissible where clear violation of the foreign law is shown, or the method of evidence collection contravenes the fundamental principles of Estonian criminal procedure (torture, coercion, denial of counsel, etc.). Hence, the decision establishes a doctrine of qualified procedural mutual trust within the EPPO zone, i.e. EPPO evidence circulates freely, but within the boundaries of fundamental rights. This judgment confirms the "principle of functional equivalence" in cross-border criminal evidence within the EPPO area: The originating law governs the collection, unless the act breaches core constitutional or human rights guarantees. The receiving state must presume legality, mirroring the mutual recognition logic in Art. 31–32 EPPO Reg. and the "*locus regit actum*" principle. The burden of proof shifts to the defence or the court to show manifest unlawfulness or fundamental rights violation. This decision positions Estonia among Member States (like Malta, Cyprus, and Italy) that have explicitly embedded EU-level mutual admissibility standards into domestic procedural law. **9**

If the EPPO wants to **order pre-trial detention**, it must respect the Estonian jurisprudence: **10**

> "When detaining a person as a suspect, it must be assessed whether the grounds for deprivation of liberty arising from both § 20 of the Constitution and § 217 of the Criminal Code exist. (paragraph 29)
> Detention under the second alternative of § 20(2)(3) of the Constitution, i.e. to bring a person reasonably suspected of committing an offence before a competent state body, requires the establishment of a reasonable suspicion of a criminal offence. (clause 30)
> When a person is detained as a suspect, reasonable suspicion of a crime must be established at the time of the person's detention and separately for each suspect. Reasonable suspicion of a crime must be established by the court hearing the case based on the materials in the criminal file. (section 31)
> Detaining a person based on § 217 (3) (4) of the Criminal Code with reference to the risk of digital evidence being blocked or altered requires that the person conducting the proceedings substantiates the risk assessment. A mere finding that there was a risk is not sufficient. (p 34)
> The purpose of detaining a person as a suspect is not to create an opportunity to collect all evidence important to the proceedings during the period of detention. (p 34)

> The possibility cannot be completely ruled out that in certain circumstances it may be justified to deprive a person of his or her liberty in connection with the need to question him or her, but above all, the duty of the person conducting the proceedings to question the person must be understood as an obligation to ensure the suspect's right to be heard. (paragraph 34) The investigator must check whether the suspect wishes to give evidence. (p 34)."[271]

11 All in all the collection of main judgements of the Supreme Court has shown that the Estonian criminal procedural law ensures that the suspect and accused persons have the main rights, which are requested by Art. 41 and stipulated by Art. 42 EPPO Regulation for EPPO proceedings before Estonian criminal courts and during pre-trial investigations. New decisions can be traced on the Estonian platform for court decisions as indicated within this volume at the beginning of Part A (see above → A.).[272]

[271] Criminal Chamber of the Supreme Court, 1-22-5272/12, 09.06.2023.
[272] See https://www.riigiteataja.ee/kohtulahendite_liigitus.html?jaotus=juur.206106663&kokkuvotted=false&jaotusedVaikimisiAvatud=, which offers key words to find relevant decisions.

C. OLAF-Regulation

I. General Introduction: Investigation Powers and National Law Related to OLAF in Estonia (Articles 3–8 OLAF Regulation)

OLAF has been often compared to the EPPO in the past, but *de facto* it is clear it has longer lasting reputation and a clearly defined role as it must focus on **administrative investigations** creating investigation files feasible for **recommendations** and internal decisions either in the Member States or the EU institutions. It must hereby ensure that its investigative actions align with the principles of legality, proportionality, and respect for procedural guarantees within the framework established by Regulation (EU) No 883/2013 and 2020/2223 and the "**variable geometry of 27 different national enforcers under a common hat**"[273] as titled recently precisely scholarly writers; i.e. goals are checked by the Supervisory Committee. This special body (see Art. 15 OLAF Regulation for its history) has repeatedly underlined the importance of maintaining OLAF's independence, particularly in complex or politically sensitive cases. As highlighted recently in Opinion No 4/2024, OLAF's authority to investigate members of EU institutions must be carefully exercised in line with the principles of due process and institutional integrity[274]. **1**

1. General Remarks

Equally critical is the **adherence to procedural safeguards** during the investigative process. Opinion No 3/2024 sets out expectations regarding legality checks, internal reviews, and respect for the rights of persons concerned[275]. Investigators are encouraged to refer to these guidelines, especially when planning and executing case actions that might involve interviews, digital forensics, or cooperation with national authorities. Collaboration between OLAF and the EPPO introduces another layer of operational complexity. Complementary roles require clearly delineated boundaries and proactive coordination. Opinion No 1/2024 provides essential insights into how investigators should structure communication and avoid duplication or jurisdictional conflict[276]. **2**

Past experiences demonstrate that inadequate **follow-up to OLAF's recommendations** can undermine the Office's impact. The Supervisory Committee's analysis in Opinion No 1/2021 sheds light on systemic gaps in follow-up by national authorities and the need for stronger legal anchors[277]. This is particularly relevant in cross-border cases or when judicial cooperation proves challenging **3**

[273] See Łazowski 2024, p 515.
[274] Supervisory Committee of OLAF (2024) Opinion No 4/2024.
[275] Supervisory Committee of OLAF (2024) Opinion No 3/2024.
[276] Supervisory Committee of OLAF (2024) Opinion No 1/2024.
[277] Supervisory Committee of OLAF (2021) Opinion No 1/2021.

Furthermore, efficient working arrangements between OLAF and EPPO remain central to operational success. Opinion No 2/2021 proposes practical structures for shared responsibility, especially in pre-trial assessments and evidence handling[278].

4 Finally, the ability to ensure meaningful **oversight of OLAF's investigations** – especially those exceeding 12 months – is essential for maintaining credibility and accountability. Investigators must be aware of the issues raised in Opinion No 3/2021, which stresses the importance of timely and well-documented investigations, as well as internal planning mechanisms[279].

a) OLAF's Task and Role

5 OLAF's task and role as well as it actions are **determined primarily by Union law**. The history of OLAF can be traced back to the early 2000s and its predecessor UCLAF.[280] OLAF has a renewed role within the changed anti-fraud architecture of the Union in the 2020s and is an important actor against fraud within the multi-annual framework legislation and the Union's policies, which depend on the action of the Member States and the agreements concluded on the political levels.

b) OLAF's Work Specifications, Soft Law, Guidelines

6 In addition to that OLAF and its investigators shall follow **internal guidelines**[281], manuals on procedures[282] reports and **working arrangements** with union partners[283] as well as Administrative Cooperation Agreements (ACAs) with national partners, EU external actors[284]. OLAF issues compendia, researches itself, organises meetings and confer-

[278] Supervisory Committee of OLAF (2021) Opinion No 2/2021.
[279] Supervisory Committee of OLAF (2021) Opinion No 3/2021.
[280] See EU Fraud Commentary, Chronology Part 3 and 4 as well as the Commentary on Art. 1 OLAF Regulation.
[281] Supervisory Committee of OLAF (2024) Opinion No 3/2024; OLAF Guidelines on Data Protection for Investigative Activities, Ref(Ares) 2021, 7266396 – 25/11/2021; EU Commission (OLAF), Guidelines on Digital Forensic Procedures for OLAF Staff 15 February 2016, online: https://anti-fraud.ec.europa.eu/system/files/2021-07/guidelines_en_bb84583638.pdf. See all Translations: https://anti-fraud.ec.europa.eu/guidelines-investigations-olaf-staff_en. Accessed 30 June 2025.
[282] Brüner et al. 2009, whereby it is unclear if investigators and the Office staff still use certain Manuals.
[283] OLAF, Working Arrangement between EPPO & OLAF, Point 4: "Exchange of information", 4.5 and 4.6 (cross double check between the databases for a PIF offence action), 5 ("Mutual Reporting and transmission of potential cases"), 5.1, 5.1.1.European Commission – "Agreement establishing the modalities of cooperation between the European Commission and the European Public Prosecutor's Office"18 June 2021, Art 5 para 1, 4, 5 ("Reporting by the Commission") in combination with Annex I Contact points: "information will be transmitted via the head of OLAF to the head of operation at EPPO/central office", Annex III.A ("Information on the Initiation of an Investigation – template")
[284] Prosecution Office of Hungary and OLAF. See State of Play – July 2022 Administrative Cooperation Arrangements (ACAs) with partner authorities in non-EU countries and territories and counterpart ad-ministrative investigative services of International Organisations, online: https://anti-fraud.ec.europa.eu/system/files/2022-07/list_signed_acas_en.pdf. Accessed 30 June 2025.

ences and workshops for its national partners. All of these non-binding guides and handbooks might be useful in the course of investigations.[285] The statistics on latest actions and the past year can be deduced from the OLAF Reports, equal to the new EPPO's annual report and the PIF Report, which is issued by the EU Commission in close cooperation with OLAF, IBOAs and the EPPO as well as the input from ECA and national AFCOS, governments and researchers.

c) OLAF Within the EU's Anti-Fraud Architecture

OLAF is well accommodated in the **Union anti-fraud architecture** these days (see → EU Fraud Commentary, Art. 1 PIF Directive) and the academic research is extensive and long lasting since the 2000s.[286] Last decade's landmark judgement "*Sigma Orionis SA vs European Commission*", decided by the European General Court[287] and clarified the application of national law and Union law[288] in relation to external investigations of OLAF.[289] In the light of this jurisprudence the resistance to the actions of OLAF, in order to awaken national law, might be a defence strategy that economic operators use. If this is the case, OLAF must rely on national homologue investigators and thus as well limitations, thresholds and conditions of national law i.e., investigative powers in various areas of budget spending and structural funds (direct management) and revenue-related obligations (indirect management). **7**

d) OLAF's Changing Role: Current Debates Since 2020

Current debates evolve around the **effectiveness of investigations** regarding **digital evidence in administrative investigations** by virtue of the Regulation 2185/96, which stems in parts from a more analogue society.[290] More and more it becomes clear the analogue society, which is still present in law enforcement and the area of criminal justice in many countries at the beginning of the 2020s is a major concern and a real problem if the digital age crashes in and the analogue structures are obstacles to effective investigations. The access to bank accounts and registers if incredibly important for OLAF investigators as well as their national homologues. The relationship to the EPPO, **8**

[285] See European Commission 2011, onlinehttps://sfc.ec.europa.eu/sites/default/files/DE-TRA-General%20Guidelines%20on%20National%20Anti-Fraud%20Strategies.pdf. Accessed 30 June 2025; EU Commission 2017; EU Commission (OLAF), Detection of forged documents in the field of structural actions A practical guide for managing authorities elaborated by a group of Member States' experts coordinated by OLAF's unit D2- Fraud Prevention, https://iate.europa.eu/entry/result/3643408/en-lv. EU Commission (DG regional Policy) 2009; EU Commission (DG Policy, U 2) 2017.

[286] Brüner 2001, pp 17–26; Brüner 2009; Brüner 2008, pp 859–872; Gellert 2009, pp 85–88.

[287] GC (aka CFI), Case T-48/16, 3.5.2018, *Sigma Orionis SA v. Commission*, paras. 70 et seq., 80–81 published in the electronic Reports of Cases (Court Reports - general) and in the OJ, 01/06/2018.

[288] See De Bellis 2021, pp 431 et seq.; Herrnfeld (n.d.), pp 426 et seq.; recently Wouters 2020, pp 132 et seq.

[289] De Bellis 2021, pp 431 et seq.; see OLAF Website, List of rulings of the Court of Justice of the EU concerning OLAF, https://anti-fraud.ec.europa.eu/about-us/legal-background/list-rulings-court-justice-eu-concerning-olaf_en. Accessed 30 June 2025.

[290] See Carrera et al. 2021.

especially the regional centres of the EDPs in the present country should be close. In addition to that the external investigations require a good coordination, which shall be governed by the relevant AFCOS (see below Art. 12a OLAF Regulation).

e) The Relevance of the OALF Report

9 Another question and debate have ever since existed concerning the reports of OLAF (cf. Art. 11), which can and shall constitute evidence – even – in national criminal trials. They concern EPPO cases (see Art. 23–28 EPPO Regulation) or cases below the thresholds for which the EDPs could exercise their competence and jurisdiction on behalf of the EPPO. This area has been professionally researched by *Luchtman/Vervaele/Ligeti and others* in OLAF studies from the last decade, which we can refer to.[291]

f) Structure of Part C

10 Compendium Part C alike to Part B on the EPPO and its investigative powers, gives a bilingual **collection of the (national) laws relevant to OLAF Units and staff and relevant OLAF laws** – including the recently adopted on-the-spot checks laws (in relation to Regulation (EC) 2185/96) of certain countries – in relation to investigations and investigative powers as well as examples from case law and trials, which relied upon evidence gathered by OLAF.

2. Article 1 Objectives and Tasks

1. In order to step up the fight against fraud, corruption and any other illegal activity affecting the financial interests of the European Union and of the European Atomic Energy Community (hereinafter referred to collectively, when the context so requires, as 'the Union'), the European Anti-Fraud Office established by Decision 1999/352/EC, ECSC, Euratom ('the Office') shall exercise the powers of investigation conferred on the Commission by:
(a) the relevant Union acts; and
(b) the relevant cooperation and mutual assistance agreements concluded by the Union with third countries and international organisations.
2. The Office shall provide the Member States with assistance from the Commission in organising close and regular cooperation between their competent authorities to coordinate their action aimed at protecting the financial interests of the Union against fraud. The Office shall contribute to the design and development of methods of preventing and combating fraud, corruption and any other illegal activity affecting the financial interests of the Union. The Office shall promote and coordinate, with and among the Member States, the sharing of operational experience and best procedural practices in the field of

[291] See Luchtman and Vervaele 2017.

the protection of the financial interests of the Union and shall support joint anti-fraud actions undertaken by Member States on a voluntary basis.
3. This Regulation shall apply without prejudice to:
(a) Protocol No 7 on the privileges and immunities of the European Union attached to the Treaty on European Union and to the Treaty on the Functioning of the European Union;
(b) the Statute for Members of the European Parliament;
I the Staff Regulations;
(d) Regulation (EC) No 45/2001.
4. Within the institutions, bodies, offices and agencies established by, or based on, the Treaties ('institutions, bodies, offices and agencies'), the Office shall conduct administrative investigations for the purpose of fighting fraud, corruption and any other illegal activity affecting the financial interests of the Union. To that end, it shall investigate serious matters relating to the discharge of professional duties constituting a dereliction of the obligations of officials and other servants of the Union liable to result in disciplinary or, as the case may be, criminal proceedings, or an equivalent failure to discharge obligations on the part of members of institutions and bodies, heads of offices and agencies or staff members of institutions, bodies, offices or agencies not subject to the Staff Regulations (hereinafter collectively referred to as 'officials, other servants, members of institutions or bodies, heads of offices or agencies, or staff members').
5. For the application of this Regulation, competent authorities of the Member States and institutions, bodies, offices or agencies may establish administrative arrangements with the Office. Those administrative arrangements may concern, in particular, the transmission of information and the conduct of investigations.

3. Article 2 Definitions

11 The (legal) definitions[292] are regulated by Art. 2 OLAF Regulation:

> For the purposes of this Regulation:
> (1) **'financial interests of the Union'** shall include revenues, expenditures and assets covered by the budget of the European Union and those covered by the budgets of the institutions, bodies, offices and agencies and the budgets managed and monitored by them;
> (2) **'irregularity'** shall mean 'irregularity' as defined in article 1(2) of Regulation (EC, Euratom) No 2988/95;
> (3) 'fraud, corruption and any other illegal activity affecting the financial interests of the Union' shall have the meaning applied to those words in the relevant Union acts and the notion of 'any other illegal activity' shall include irregularity as defined in article 1(2) of Regulation (EC, Euratom) No 2988/95;
> (4) **'administrative investigations'** ('investigations') shall mean any inspection, check or other measure undertaken by the Office in accordance with articles 3 and 4, with a view to achieving the objectives set out in article 1 and to establishing, where necessary, the irregular nature of the activities under investigation; those investigations shall not affect the powers of the EPPO or of the competent authorities of Member States to initiate and conduct criminal proceedings;
> (5) **'person concerned'** shall mean any person or Economic Operator suspected of having committed fraud, corruption or any other illegal activity affecting the financial interests of the Union and who is therefore subject to investigation by the Office;
> (6) **'Economic Operator'** shall have the meaning applied to that term by Regulation (EC, Euratom) No 2988/95 and Regulation (Euratom, EC) No 2185/96;
> (7) **'administrative arrangements'** shall mean arrangements of a technical and/or operational nature concluded by the Office, which may in particular aim at facilitating the cooperation and the exchange of information between the parties thereto, and which do not create additional legal obligations;
> (8) **'member of an institution'** means a member of the European Parliament, a member of the European Council, a representative of a Member State at ministerial level in the Council, a member of the Commission, a member of the Court of Justice of the European Union (CJEU), a member of the Governing Council of the European Central Bank or a member of the Court of Auditors, with respect to the obligations imposed by Union law in the context of the duties they perform in that capacity.

[292] For the important role of "legal definitions" in EU legal frameworks see only Robertson and Aodha 2023, pp 244–270.

4. Article 3 External Investigations

4. Article 3 External Investigations.....257
a) On-the-Spot Checks and Inspections – Renouncing the Applicable National Law – Paras 2, 4 260
b) Assistance Needed, Competent Authorities, and Access to Information in the Member States, Para 5 260
c) Resistance by the Economic Operator vs. Law Enforcement and Effective Investigations, Para 6 or the New Model and the Relevance of Resistance or Conformity of the Economic Operator 261
d) The Basic Principle of Conformity to Regulations 2185/96 and 883/2013 261
aa. Submission: Compliance with Union Law.....261
bb. Resistance: Assistance in Conformity with National Procedural Rules Applicable 261
e) Competent Authorities ..261
f) National Law and "Checks and Inspections" of OLAF....269
aa. Administrative Procedure in General 269
(aa) Area of Customs Duties 273
(bb) Area of VAT Irregularities, Fraud etc. 274
(b) Principle of Investigation (General Tax Code) 277
(c) External Audit (General Tax Code)... 277
(d) Tax and Customs Investigation (Customs Code) 277
(e) Fiscal and Customs Supervision..... 278
(2) Administrative Provisions in the Area of the Common Organisation of the Markets = Expenditure 284
(3) Administrative Provisions in the Area of Direct Expenditure 287
g) A Closer Look at Single Measures..... 343
aa. Interviewing/Questioning of "Persons Concerned" (in Relation to Suspects/Defen dants)..... 343
bb. Taking of Statements from Economic Operators 346
cc. Interviewing/Questioning of Witnesses..... 347
h) Inspections 347
i) Searches 349
aa. Estonia, article 551 et seq. and 59 et seq. Tax Code.... 355
(1) The System of the Search Measure in Estonia's Tax Control 355
(2) Seizure of Weapons and Instruments, Customs

Code/Law Enforcement Act 356
aa. General Remarks 358
bb. Formal Requirements . 358
cc. Substantive Requirements 359
j) Seizure of Other Evidence, Article 65 Tax Act 360
aa. General Remarks 361
bb. Formal Requirements . 361
cc. Substantive Requirements 361
k) Acquisition of Digital Evidence 362
l) Investigative Missions in Third Countries 363
m) National Procedural Rules for "Checks and Inspections" by the Assisting National Authority 363

Article 3 External investigations

[…]

2. The Office shall ***carry out on-the-spot checks and inspections in accordance with this Regulation and, to the extent not covered by this Regulation, in accordance with Regulation (Euratom, EC) No 2185/96.***

4. Where, in accordance with para 3 of this article, the ***Economic Operator concerned submits*** to an on-the-spot check and inspection authorised pursuant to this Regulation, article 2(4) of Regulation (EC, Euratom) No 2988/95, the third subpara of article 6(1) of Regulation (Euratom, EC) No 2185/96 and article 7(1) of Regulation (Euratom, EC) No 2185/96 ***shall not apply insofar as those provisions require compliance with national law*** and are capable of restricting access to information and documentation by the Office to the same conditions as those that apply to national administrative inspectors.

5. At the request of the Office, the ***competent authority of the Member State*** concerned shall, without undue delay, provide the staff of the Office with the assistance needed to carry out their tasks effectively, as specified in the written authorisation referred to in article 7(2).

The ***Member State concerned shall ensure***, in accordance with Regulation (Euratom, EC) No 2185/96, that the ***staff of the Office are allowed access to all information, documents and data relating to the matter under investigation which prove necessary in order for the on-the-spot checks and inspections to be carried out effectively and efficiently, and that the staff are able to assume custody of documents or data to ensure that there is no danger of their disappearance.*** Where privately owned devices are used for work purposes, those devices may be subject to inspection by the Office. The Office shall subject such devices to inspection only under the same conditions and to the same extent that national control authorities are allowed to investigate privately owned devices and where the Office has reasonable grounds for suspecting that their content may be relevant for the investigation.

6. Where the staff of the Office find that an ***Economic Operator resists*** an on-the-spot check and inspection authorised pursuant to this Regulation, namely where the Economic Operator refuses to grant the Office the necessary access to its premises or any other areas used for business purposes, conceals information or prevents the conduct of any of the activities that the Office needs to perform in the course of an on-the-spot check and inspection, the ***competent authorities, including, where appropriate, law enforcement authorities of the Member State concerned shall afford the staff of the Office the necessary assistance so as to enable the Office to conduct its on-the-spot check and inspection effectively and without undue delay.***

Article 2(4) of Regulation (EC, Euratom) No 2988/95

Subject to the Community law applicable, the procedures for the application of Community checks, measures and penalties shall be governed by the laws of the Member States.

the third subpara of article 6(1) of Regulation (Euratom, EC) No 2185/96

Subject to the Community law applicable, they shall be required to comply, with the rules of procedure laid down by the law of the Member State concerned.

Article 7(1) of Regulation (Euratom, EC) No 2185/96

Commission inspectors shall have access, under the same conditions as national administrative inspectors and in compliance with national legislation, to all the information and documentation on the operations concerned which are required for the proper conduct of the on-the-spot checks and inspections. They may avail themselves of the same inspection facilities as national administrative inspectors and in particular copy relevant documents.

On-the-spot checks and inspections may concern, in particular:

—professional books and documents such as invoices, lists of terms and conditions, pay slips, statements of materials used and work done, and bank statements held by Economic Operators,

—computer data,

—production, packaging and dispatching systems and methods,

—physical checks as to the nature and quantity of goods or completed operations,

—the taking and checking of samples,

—the progress of works and investments for which financing has been provided, and the use made of completed investments,

—budgetary and accounting documents,

—the financial and technical implementation of subsidized projects.]

When providing assistance in accordance with this para or with para 5, the competent authorities of Member States ***shall act in accordance with national procedural rules applicable to the competent authority concerned. If such assistance requires authorisation from a judicial authority in accordance with national law***, such authorisation shall be applied for.

10. As part of its investigative function, the Office shall carry out the checks and inspections provided for in article 9(1) of Regulation (EC, Euratom) No 2988/95 and in the sectoral rules referred to in article 9(2) of that Regulation in Member States and, ***in accordance with cooperation and mutual assistance agreements and any other legal instrument in force***, in third countries and on the premises of international organisations.
12. Without prejudice to article 12c(1), where, before a decision has been taken whether or not to open an external investigation, the Office handles information which suggests that there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union, it may inform the competent authorities of the Member States concerned and, where necessary, the institutions, bodies, offices and agencies concerned.
Without prejudice to the sectoral rules referred to in article 9(2) of Regulation (EC, Euratom) No 2988/95, the competent authorities of the Member States concerned shall ensure that appropriate action is taken, in which the Office may take part, ***in accordance with national law***. Upon request, the competent authorities of the Member States concerned shall inform the Office of the action taken and of their findings based on information referred to in the first subpara of this para.

1 On-the-spot checks have been discussed in the last decade quite thoroughly[293], but not enough for all countries. For Estonia, it is worth taking a closer look at the applicable provisions.

a) On-the-Spot Checks and Inspections – Renouncing the Applicable National Law – Paras 2, 4

2 The national law is renounced if the Economic Operator, the beneficiary, the grant recipient etc. submits to the investigation of the Office. In this case Union law applies.

b) Assistance Needed, Competent Authorities, and Access to Information in the Member States, Para 5

3 Even in the case that Union law applies, OLAF may need the help and information from national authorities in the Member States (managing authorities, control bodies, customs and tax offices, etc.).

[293] See Koen Bovend'eerdt 2018.

c) Resistance by the Economic Operator vs. Law Enforcement and Effective Investigations, Para 6 or the New Model and the Relevance of Resistance or Conformity of the Economic Operator

If the **economic operator**, the beneficiary, the grant recipient etc. resists this conduct influences the applicability of law. The ECJ rules in *Sigma Orionis* that national law applies in the case of resistance, which means that the investigations need to be in conformity with the national law applicable in similar national investigations. **4**

d) The Basic Principle of Conformity to Regulations 2185/96 and 883/2013

aa. Submission: Compliance with Union Law

In the case of compliance of an Estonian Economic Operator Union law applies, thus the Regulation allows OLAF officials to conduct on-the-spot checks without prior information of national authorities. **5**

bb. Resistance: Assistance in Conformity with National Procedural Rules Applicable

Does the participant, the personal or **economic operator** concerned resist, the Regulation indicates that OLAF must follow national law and inform national authorities that can help in conformity with national procedural rules applicable.[294] **6**

e) Competent Authorities

The following overviews show non-extensively the most **important competent authorities**, which need to be contacted if the economic Operator resists and thus national law applies if OLAF wants to conduct investigations into irregularities: **7**

Who is responsible **depends on which area is affected** (direct or shared management) and which type of irregularity or fraud is suspected, as well as in which payment (expenditure) or payment (revenue) area. For example, one area of shared management can be presented here: **8**

[294] ECJ, Case T-48/16, *Sigma Orionis v. the Commission*, mn. 112: "Finally, it should be noted that, according to the rules applicable to the actions carried out by OLAF, the requirement to obtain a judicial authorisation, if provided for by national law, only applies in the case of an objection raised by the Economic Operator and that OLAF must then have recourse to national police forces which, according to the rules applicable to them, must comply with national law."

9 *Figure 10: Information on authorities around VAT fraud and non-VAT related revenue fraud in Estonia – article 3 OLAF Regulation*

In the area of VAT-revenue fraud	***In the area of non-VAT related revenue fraud***
§ 3. Customs and customs officials 1) For the purposes of article 5 (1) of the Customs Code, customs are the Tax and Customs Board. 2) A customs official is an official of the Tax and Customs Board. **§ 4. Functions of Tax and Customs Board for customs legislation** Upon the implementation of customs legislation, the task of the Tax and Customs Board is to protect society and the economy by preventing tax fraud and smuggling, to collect taxes payable on the import of goods and to facilitate legal trade between Estonia and non-EU countries. **§ 7. Uniforms of officials of Tax and Customs Board** 1) Officials of the Tax and Customs Board shall wear uniforms in prescribed cases while in service. In prescribed cases, the employees of the Tax and Customs Board and the students of the Academy of Internal Affairs may also wear uniforms. 2) The description of the uniforms and insignia of officials of the Tax and Customs Board shall be established by a regulation of the minister responsible for the field. 3) The Director General of the Tax and Customs Board or an official authorized by him or her shall determine the wearers of uniforms, the procedure for the issue and wearing of uniforms and the terms for wearing them. The old customs code was still much clearer about the authorities and the competent officials: **Customs Code/** ***Chapter 2*** ***TAX AND CUSTOMS BOARD AND CUSTOMS OFFICIALS*** **§ 14. Duties of Tax and Customs Board upon implementation of customs rules** Upon the implementation of the customs rules, the Tax and Customs Board has the duty to protect the society and the economy by combating tax fraud and illicit trafficking, to collect taxes subject to payment upon import of goods, and to facilitate lawful trade between Estonia and non-Union countries. [RT I, 14.01.2014, 2 – entry into force 01.02.2014	

§ 16. Co-operation of Tax and Customs Board with other authorities of executive power
(1) In the performance of its duties, the Tax and Customs Board shall co-operate with other authorities of the executive power pursuant to the customs rules and other legislation.
(2) The Tax and Customs Board shall co-ordinate the co-operation between other authorities of the executive power related to conveyance of goods from a non-Union country to Estonia and from Estonia to a non-Union country.
[RT I, 14.01.2014, 2 – entry into force 01.02.2014]

The Tax and Customs Board is organized by virtue of the Tax and Customs Organization Act/*Maksu- ja Tolliameti põhimäärus:* **10**

The structure reflects a centralised, **hierarchical administrative model** used by Estonian state bodies such as the Tax and Customs Board (*Maksu- ja Tolliamet*) or similar enforcement agencies. The hierarchy is organised around a Director General at the apex, supported by two Deputy Directors General, each responsible for a distinct operational cluster. **11**

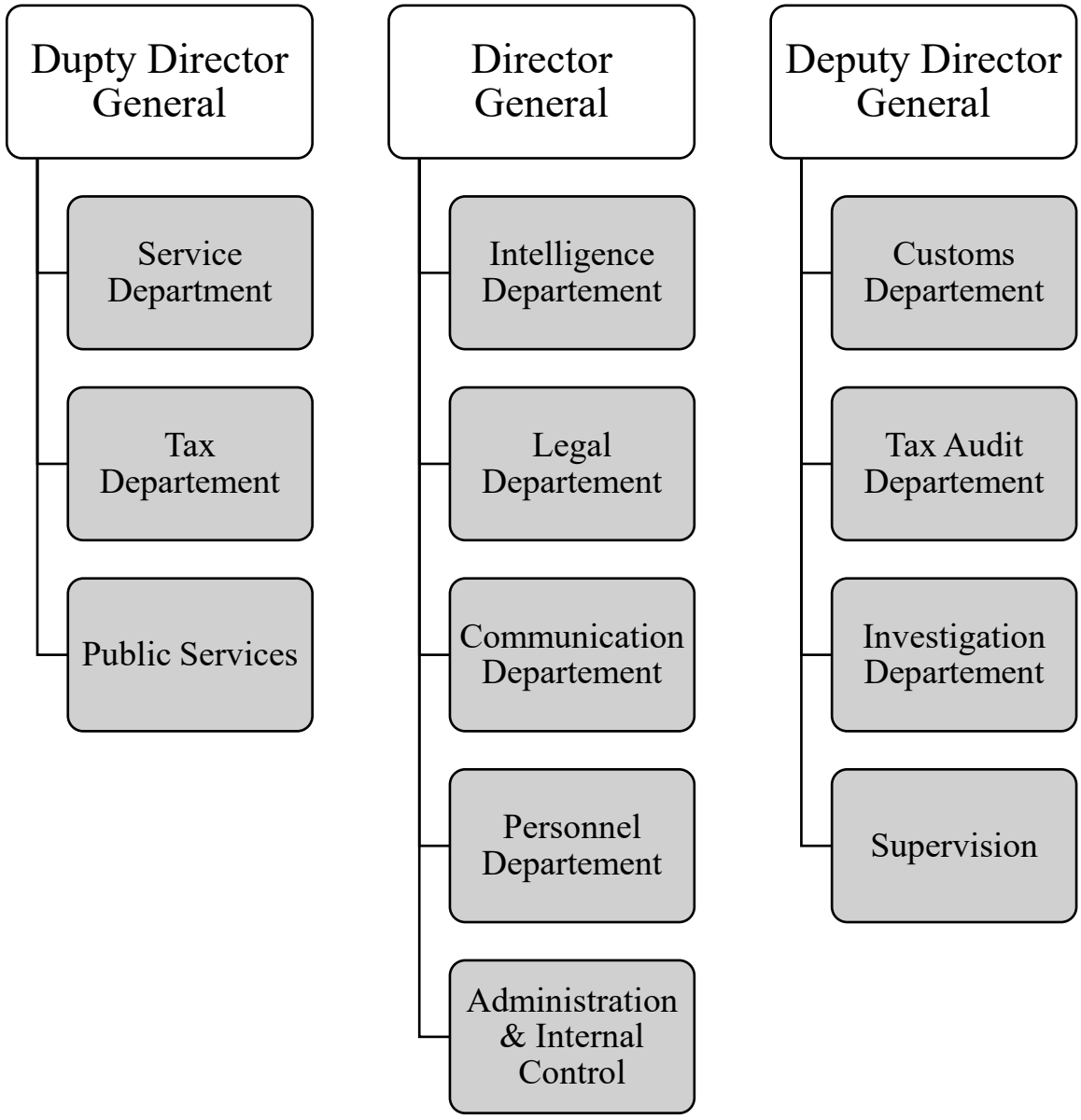
The Director General is the **head of the institution** and holds overarching responsibility for strategic direction, decision-making, and coordination. Directly under the Director General are departments that support the authority's internal functioning and external communication. The support units provide strategic, legal, and organisational support, enabling the Director General to steer the authority effectively. **12**

The first Deputy Director General **oversees the authority's service-oriented and revenue-related areas**. These are primarily focused on providing services to citizens and businesses, processing tax matters, and maintaining customer-facing activities. The second Deputy Director General supervises the authority's control, investigation, and enforcement functions. This is the operational arm that detects, investigates, and prevents tax or customs violations. **13**

The structure separates service provision from control and enforcement, which is typical for modern tax and customs administrations and contributes to transparency, operational clarity, and internal checks and balances. **14**

The following visualization helps to understand the structure: **15**

16 *Figure 11: The Estonian Tax and Customs Board in an Organigram*



17 The Investigation Department (*tolliameti uurimisosakond*) is competent to initiate administrative and even (if seized by the EDP criminal) investigations around tax fraud and customs fraud:

18

Article 22. Investigation Department Tax and Customs Organization Act/*Maksu- ja Tolliameti põhimäärus*

The main tasks of the investigative department are:

1) the prevention, prevention and ***detection of criminal offences related to violations of tax and customs legislation***, if necessary, by conducting surveillance activities on the basis and in accordance with the procedures provided for by law;

[RT I, 01/26/2018, 1 – into force. 02/01/2018]

2) pre-trial investigations into criminal offences related to violations of tax and customs legislation;
[RT I, 01/26/2018, 1 – entry into force. 02/01/2018]
3) Exercising state supervision of compliance with tax and customs legislation.
[RT I, 01/26/2018, 1 – entry into force. 02/01/2018]

A special decree by the Director General of the Tax and Customs Board allows the Investigation Department to conduct investigations: **19**

Synopsis 2: Special investigation letter for investigators by the Tax and Customs Board in Estonia **20**

Tallinn, 30.01.2018 No 20-P as amended by: 28.05.2019 month no 66-P	Tallinn, 30.01.2018 nr 20-P muudetud käskkirjaga: 28.05.2019 kk nr 66-P
Authorization of officials of the investigation department	**Volituste andmine uurimisosakonna ametnikele**
Pursuant to § 29 (1) 3) and (2) of Regulation No 29 of the Minister of Finance of 6 October 2008 "Statutes of the Tax and Customs Board" and in accordance with § 8 (2) of the Administrative Procedure Act, § 46 (5) of the Taxation Act, § 521 (4) of the Alcohol Act § 332 (4), § 10 (2) of the Code of Misdemeanour Procedure and § 31 (1) and (5) of the Code of Criminal Procedure:	Rahandusministri 6. oktoobri 2008. a määruse nr 29 "Maksu- ja Tolliameti põhimäärus" § 29 lg 1 p 3 ja lg 2 alusel ning kooskõlas haldusmenetluse seaduse § 8 lg 2, maksukorralduse seaduse § 46 lg 5, alkoholiseaduse § 521 lg 4, tubakaseaduse § 332 lg 4, väärteomenetluse seadustiku § 10 lg 2 ning kriminaalmenetluse seadustiku § 31 lg 1 ja 5:
1. I authorize the head of the research department and the deputy head of the department to sign all administrative acts, documents and letters issued through the research department, as well as to make the decisions and actions specified in clauses 2, 3 and 4 of the directive.	1. Volitan uurimisosakonna osakonnajuhatajat ja osakonnajuhataja asetäitjat allkirjastama kõiki uurimisosakonna kaudu väljastatavaid haldusakte, dokumente ja kirju, samuti tegema käskkirja p-des 2, 3 ja 4 nimetatud otsuseid ja toiminguid.

2. I authorize the Head of Service, the Chief Inspector, the Inspector General and the Senior Inspector of the Eastern, Southern, Western and Northern II Service to sign the Alcohol Act, the Alcohol, Tobacco, Fuel and Electricity Excise Act, the Road Transport Act, the Traffic Act, the Taxation Act, the Customs Act, the Tobacco Act, the Tobacco Act precepts, warnings, orders, decisions, notices and other documents prepared on the basis of the Special Labelling of Liquid Fuel Act, as well as the Administrative Procedure and Law Enforcement Act, which contain administrative decisions within the competence of the Tax and Customs Board pursuant to the legislation, taking into account the specifications.	2. Volitan Ida, Lõuna, Lääne ja Põhja II talituse talitusejuhatajat, juhtivinspektorit, peainspektorit ja vaneminspektorit allkirjastama alkoholiseaduse, alkoholi-, tubaka-, kütuse- ja elektriaktsiisi seaduse, autoveoseaduse, liiklusseaduse, maksukorralduse seaduse, tolliseaduse, Tolliseadustiku, tubakaseaduse, vedelkütuse seaduse, vedelkütuse erimärgistamise seaduse, samuti haldusmenetluse ja korrakaitseseaduse seaduse alusel koostatud ettekirjutusi, hoiatusi, korraldusi, otsuseid, teatisi ja muid dokumente, mis sisaldavad nende õigusaktide alusel Maksu- ja Tolliameti pädevusse kuuluvaid haldusotsustusi, arvestades käskkirja punktides 3 ja 4 toodud erisustega.
3. I authorize the Head of Service and the Chief Inspector of the Eastern, Southern, Western and Northern II Service to sign notifications of the intention to decide to transfer goods to state ownership (§ 80 (1) of the Customs Act) and decisions to transfer goods to state ownership (§ 81 (2) of the Customs Act).	3. Volitan Ida, Lõuna, Lääne ja Põhja II talituse talitusejuhatajat ja juhtivinspektorit allkirjastama teatisi kauba riigi omandisse ülemineku otsuse tegemise kavatsusest (tolliseaduse § 80 lg 1) ja kauba riigi omandisse ülemineku otsuseid (tolliseaduse § 81 lg 2).
4. I authorize the Head of the Service of the Eastern, Southern, Western and Northern II Service to decide on the performance of a control transaction (§ 521 (4) of the Alcohol Act; § 332 (4) of the Tobacco Act).	4. Volitan Ida, Lõuna, Lääne ja Põhja II talituse talitusejuhatajat otsustama kontrolltehingu tegemise üle (alkoholiseaduse § 521 lg 4; tubakaseaduse § 332 lg 4).
5. I approve the list of positions of the investigation department, the officials of which are competent to participate in	5. Kinnitan loetelu uurimisosakonna ametikohtadest, mida täitvad ametnikud on pädevad osalema väärteomenetluses

misdemeanour proceedings on behalf of the Tax and Customs Board as extra-judicial proceedings:	Maksu- ja Tolliameti kui kohtuvälise menetleja nimel:
5.1. head of department and deputy head of department; 5.2. Head of Service East, South, West and North II, Chief Inspector, Chief Inspector, Senior Inspector; 5.3. Head of Unit of the Coordination and Development Service, Chief Investigator, Special Investigator and Senior Investigator; 5.4. Senior Mason IT Analyst at the South and West Offices.	5.1. osakonnajuhataja ja osakonnajuhataja asetäitja; 5.2. Ida, Lõuna, Lääne ja Põhja II talituse talitusejuhataja, juhtivinspektor, peainspektor, vaneminspektor; 5.3. koordinatsiooni ja arendustalituse talitusejuhataja, juhtivuurija, eriasjade uurija ja vanemuurija; 5.4. Lõuna ja Lääne talituse vanemuurija-IT analüütik.
6. I approve the list of positions of the investigation department, the officials of which are entitled to participate in criminal proceedings within the competence of the Tax and Customs Board:	6. Kinnitan loetelu uurimisosakonna ametikohtadest, mida täitvatel ametnikel on õigus osaleda kriminaalmenetluses Maksu- ja Tolliameti pädevuse piires:
6.1. head of department and deputy head of department; 6.2. Head of the East, South, West, Narcotics, North I and North II Services, Chief Investigator, Special Investigator, Senior Investigator; 6.3. Head of Service, Chief Investigator, Special Investigator, Senior Investigator; 6.4. Head of Service of the International Criminal Cooperation Service, Deputy Head of Service, Chief Investigator, Special Investigator, Senior Investigator; 6.5. Head of Unit of the Coordination and Development Service, Chief Investigator, Special Investigator, Senior Investigator.	6.1. osakonnajuhataja ja osakonnajuhataja asetäitja; 6.2. Ida, Lõuna, Lääne, narko, Põhja I ja Põhja II talituse talitusejuhataja, juhtivuurija, eriasjade uurija, vanemuurija; 6.3. jälitustalituse talitusejuhataja, juhtivuurija, eriasjade uurija, vanemuurija; 6.4. rahvusvahelise kriminaalkoostöö talituse talitusejuhataja, talitusejuhataja asetäitja, juhtivuurija, eriasjade uurija, vanemuurija; 6.5. koordinatsiooni ja arendustalituse talitusejuhataja, juhtivuurija, eriasjade uurija, vanemuurija.

7. I declare invalid the Directive No 194-P of the Director General of the Tax and Customs Board of 31 May 2012 "Approval of the List of Positions for Which Officials Have the Right to Participate in Criminal Proceedings".	7. Tunnistan kehtetuks Maksu- ja Tolliameti peadirektori 31. mai 2012. a käskkirja nr 194-P "Ametikohtade loetelu, mida täitvatel ametnikel on õigus kriminaalmenetluses osaleda, kinnitamine".
8. The directive enters into force on 1 February 2018.	8. Käskkiri jõustub 1. veebruaril 2018. a.
Full text as at 26.10.2021	Terviktekst seisuga 26.10.2021

21 Under the directive of the Director General of the Estonian Tax and Customs Board (TCB), certain officials are expressly authorised to engage in both administrative and criminal proceedings. This authorisation provides the institutional basis for cooperation with OLAF in external investigations affecting the Union's financial interests.

22 Heads of department, deputies, and inspectors across regional services (East, South, West, North I/II) are empowered to sign and issue administrative decisions, notices, warnings, and other documents under tax, customs, excise, and related legislation. They may also make decisions concerning the transfer of goods to state ownership and authorise control transactions (e.g. undercover test purchases under alcohol and tobacco laws).

23 A broader range of senior officials and investigators, including those in specialised services (e.g. narcotics, international criminal cooperation, coordination and development), are competent to act in criminal cases within the jurisdiction of the TCB.

These authorisations ensure that **designated TCB officials** can lawfully participate in OLAF fact-finding missions and joint investigative activities. In practice, they may assist OLAF by conducting inspections, seizing goods, issuing administrative acts, or contributing to criminal investigations into fraud, corruption, excise violations, and cross-border smuggling affecting EU financial interests. **24**

f) National Law and "Checks and Inspections" of OLAF

For most provisions, general administrative law as well as the associated procedural law will apply (which is especially true for the structural fraudulently exploited areas of the Structural Funds). In exceptional areas special administrative law as well as procedural provisions will apply. **25**

aa. Administrative Procedure in General

Administrative Procedure Act/*Haldusmenetluse seadus*
§ 1 Purpose of Act
§ 2 Definition of administrative procedure
2 Principles of Administrative Procedure
§ 3 Protection of rights
§ 4 Right of discretion
§ 6 Principle of investigation
3 Administrative Authority
§ 8 Administrative authority
§ 9 Determining jurisdiction
§ 10 Removal
4 Participants in Proceedings
§ 11 Participants in proceedings
§ 12 Passive legal capacity and active legal capacity in administrative procedure
§ 13 Representation and authorisation in administrative procedure
5 Proceeding with Matter in Administrative Procedure
§ 14 Application
§ 15 Deficiencies in application
§ 16 Approval and opinion
§ 17 Summons
§ 18 Minutes
§ 19 Preservation of documents relevant to administrative proceedings
§ 20 Language of administrative proceedings
§ 21 Translators and interpreters
6 Official Certification
§ 22 Official certification
§ 23 Official certification of authenticity of signature
§ 24 Official certification of copy, extract and print-out
§ 24^1 [Repealed – RT I 2009, 27, 164 – entry into force 01.01.2010]
7 Service of Documents
§ 25 Methods of service
§ 26 Delivery by post
§ 27 Delivery by electronic means
§ 28 Delivery by administrative authority
§ 29 Time of delivery by administrative authority
§ 30 Consequences of refusal to accept document

§ 31 Publication of documents in newspaper
§ 32 Delivery in foreign states
8 Calculation and Restoration of Term for Proceedings
§ 33 Beginning and end of term for proceedings
§ 34 Restoration of terms for proceedings
2 § 42 Failure to appear for conduct of procedural act
§ 43 Termination of proceedings
§ 44 Resumption of proceedings Hearing of matter at session
3 § 46, § 47, § 48 Display of draft of legal act and application for issue thereof
§ 49 Submission of proposals and objections in open proceedings
§ 50 Hearing of matter at public session
2 SPECIAL PART
4 ADMINISTRATIVE ACT
1 General Provisions
§ 51 Definition of administrative act
§ 52 Partial and pre-trial administrative act
§ 53 Secondary condition of administrative act
2 Lawfulness of Administrative Act
§ 54 Prerequisites for lawfulness of administrative act
§ 55 Form of administrative act
§ 56 Reasoning of administrative act
§ 57 Reference to challenge
§ 58 Consequences of violation of procedural requirements and requirements for formal validity
§ 59 Correction of obvious inaccuracies in administrative acts
3 Validity of Administrative Act
Content of validity
§ 61 Prerequisites for validity
§ 62 Notification of administrative act or refusal to issue administrative act
Void administrative act
4 Amendment and Repeal of Administrative Act
§ 64 Admissibility of repeal
§ 65 Repeal in favour of person
§ 66 Repeal to detriment of person
§ 67 Consideration of certainty
§ 68 Application for and resolution of repeal
§ 69 Return and compensation arising from repeal
§ 70 Other requirements
5 CHALLENGE PROCEEDINGS
1 General Provisions
§ 71 Right to commence challenge proceedings
§ 72 Object of challenge proceedings
§ 73 Jurisdiction
2 Commencement of Challenge Proceedings
§ 74 Commencement of challenge proceedings
§ 75 Term for filing of challenge
§ 76 Requirements for challenges
§ 77 Restoration of term for filing of challenge
3 Preparatory Proceedings
§ 78 Deficiencies in challenge
§ 79 Return of challenge
§ 80 Delivery of challenge
§ 81 Suspension of execution of administrative act
§ 82 Preparations for review of challenge
4 Review of challenge

§ 84 Term for review of challenge
§ 85 Authorities of administrative authority upon review of challenge
§ 86 Decision on challenge Right to appeal

6 REGULATION

§ 89 Lawfulness of regulation
§ 90 Provision delegating authority
§ 91 Delegation of authorisation
§ 92 Form of regulation
§ 93 Conditions for validity of regulation
§ 94 Void regulation

7 CONTRACT UNDER PUBLIC LAW

§ 95 Definition of administrative contract
§ 96 Parties to administrative contract
§ 97 Admissibility of entry into administrative contract
§ 98 Entry into administrative contract instead of issue of administrative act
§ 99 Entry into administrative contract
§ 100 Lawfulness of administrative contract
§ 101 Entry into force of administrative contract
§ 102 Amendment and termination of administrative contracts
§ 103 Void administrative contract Unlawful administrative contract
§ 105 Other provisions applied to administrative contracts

8 MEASURE

3 IMPLEMENTING PROVISIONS

§ 112 Entry into force and implementation of Act

26 *Nota bene*: The general provisions of the Administrative Proceedings Act apply in tax matters as well, see s. 45 Tax Act.

> **§ 45. Application of Administrative Procedure Act [Tax Act]**
> The provisions of the Administrative Procedure Act apply in tax proceedings unless otherwise provided by this Act, the Tax Act or customs legislation.
> [RT I, 16.06.2017, 1 – entry into force. 01.07.2017]

bb. Special Administrative Powers and Provisions in Certain Areas of Revenue and Expenditure

27 The following Acts may apply i.e. the VAT Act/*Käibemaksuseadus* has this aim:

> **§ 1. Object of taxation [VAT Act]**
> (1) The following shall be subject to value added tax:
> 1) supply created in Estonia, except supply which is exempt from tax;
> 2) import of goods into Estonia (§ 6), except imports exempt from tax (§ 17);
> 3) provision of service the place of supply of which is not Estonia (subparas 4 and 5 of § 10 and subpara 6 of § 101), except supply exempt from tax;
> [RT I, 26.03.2021, 1 – entry into force 01.07.2021]
> 4) supply of goods or services specified in subpara 3 of § 16 of this Act if the person liable to value added tax (hereinafter taxable person) has added value added tax to the taxable value of such goods or services;
> [RT I, 19.12.2019, 2 – entry into force 01.01.2020]
> 5) intra-Community acquisitions of goods (§ 8), except intra-Community acquisitions of goods which are exempt from tax (§ 18).

28 Value added tax is applied as tax on added value, except for special cases arising from this Act/*Maksukorralduse seadus*

> **§ 1. Scope of application of Act [Taxation Act]**
> [RT I, 31.01.2014, 6 – entry into force 01.04.2014]
> (1) This Act specifies the rights, obligations and liability of tax authorities and taxable persons, the procedure for tax proceedings and the procedure for the resolution of tax disputes.

29 The Anti-corruption Act (*Korruptsioonivastane seadus*) will apply for all areas of administrative investigations.

(1) Administrative Provisions

(a) Administrative Provisions in the Area of Customs Duties and Value Added Tax (VAT) = Revenue

(aa) Area of Customs Duties

An important administrative provision that may stipulate fraud is s. 22 Customs Code: **30**

Excerpt Customs Code

§ 22. Issue of certificate of non-preferential origin of goods Customs Code

(1) A certificate of non-preferential origin of goods shall be issued and approved by the Estonian Chamber of Commerce and Industry. A fee shall be charged for the issue and approval of a certificate of non-preferential origin. Upon the calculation of the fee, all expenses incurred by the Estonian Chamber of Commerce and Industry for the issue and approval of certificates of origin, including the costs of information technology, wages, liability insurance coverage and printing of forms, shall be taken into consideration.

(2) The format of the certificate of non-preferential origin, the procedure for applying for and issuing the certificate and the fee rates shall be approved by and published on the public website of the Estonian Chamber of Commerce and Industry.

Chapter 10 Customs Preferences and Simplification of Customs Formalities

§ 47. Duty exemption for consumption supplies brought on board watercraft or aircraft engaged in intra-Union transport operations

(1) Consumption supplies brought on board a watercraft or aircraft engaged in intra-Union transport operations are exempt from import duties.

(2) Consumption supplies are goods which are necessary for consumption during a journey, and which have been fully or partially consumed when arriving at the destination.

If this certificate (see s. 22) is requested with false data, falsified documents etc. by applicants this may constitute customs fraud and must be investigated if this duty exemption is circumvented this may as well constitute an offence. **31**

(bb) Area of VAT Irregularities, Fraud etc.

32 **§ 24. Rights and obligations of taxable persons**[295] **VAT Act**

(1) As of the date of registration as a taxable person, a person shall perform the obligations of a taxable person, including adding the amount of value added tax to the taxable value of the goods transferred or services provided, calculating the amount of value added tax due pursuant to the procedure provided for in § 29 of this Act, paying value added tax pursuant to the procedure provided for in § 38, preserving documents and maintaining records pursuant to the provisions of § 36, and shall issue invoices in accordance with the requirements of § 37 of this Act.

(2) Subpara 1 of this article applies to foreign persons registered in Estonia as taxable persons who create supply in Estonia, except in cases specified in subpara 31 of § 3 of this Act and in the case the person of a foreign state registered in Estonia has no permanent business establishment in Estonia through which the taxable person engages in business in Estonia.

[RT I, 10.12.2010, 3 – entry into force 01.01.2011]

§ 27. Taxable period and value added tax return

(1) The taxable period is one calendar month. The value added tax return and appendix thereto (hereinafter together value added tax return) shall be submitted to the tax authority by the twentieth day of the month following the taxable period. The first taxable period for a taxable person and taxable person with limited liability is the period from the date of registration as a taxable person or taxable person with limited liability until the end of the same month. If the number of calendar days in the first taxable period is less than fifteen, the taxable person or taxable person with limited liability may declare the supply of the first period together with the supply of the following taxable period and submit one return concerning two taxable periods. The format of the value added tax return shall be established by a regulation of the minister in charge of the policy sector.[RT I, 29.05.2014, 1 – entry into force 01.11.2014]

(11) A value added tax return shall be submitted electronically if the person has been a taxable person for at least 12 months or more than five invoices are included in the appendix to the value added tax return. Based on a reasoned request made by a taxable

[295] **§ 24. Maksukohustuslase õigused ja kohustused Käibemaksuseadus**

1) Maksukohustuslasena registreerimise päevast alates peab isik täitma maksukohustuslase kohustusi, sealhulgas lisama võõrandatava kauba või osutatava teenuse maksustatavale väärtusele käibemaksu, arvutama tasumisele kuuluva käibemaksusumma käesoleva seaduse §-s 29 sätestatud korras, tasuma käibemaksu §-s 38 sätestatud korras, säilitama dokumente ja pidama arvestust §-s 36 sätestatu kohaselt ning esitama § 37 nõuetele vastavaid arveid.

2) Käesoleva paragrahvi lõiget 1 kohaldatakse ka Eestis maksukohustuslasena registreeritud välisriigi isikule, kelle käive tekib Eestis, välja arvatud käesoleva seaduse § 3 lõikes 31 nimetatud juhtudel ning juhul, kui Eestis registreeritud välisriigi isikul puudub Eestis püsiv tegevuskoht, mille kaudu ta tegeleb ettevõtlusega Eestis.

[RT I, 10.12.2010, 3 - jõust. 01.01.2011]

person or a taxable person with limited liability, the tax authority may allow the submission of a value added tax return on paper.
[RT I, 29.05.2014, 1 – entry into force 01.11.2014]
(12) The data of the invoices issued to and received from a legal person, sole proprietor and state, rural municipality and city authority and the registry code issued to a transaction partner in Estonia, the personal identification code in the case of a notary and enforcement agent shall be reflected in the appendix to the value added tax return. The appendix to the value added tax return shall reflect the invoices in which the transferor of the goods or provider of services has marked the supply taxable at the 20 per cent and 9 per cent value added tax rate, except for the invoices submitted under special arrangements provided for in § 40 of this Act if the invoice or the total amount of invoices without value added tax makes up at least EUR 1,000 for one transaction partner during the taxation period. The transaction partner-based threshold shall be calculated separately for purchase and sale invoices. The invoices shall not be summed up in the appendix to the value added tax return.
[RT I, 29.05.2014, 1 – entry into force 01.11.2014]
(13) A person may indicate in the appendix to the value added tax return the data of the invoices specified in subpara 12 of this article the total amount of which is less than EUR 1,000 for a transaction partner without value added tax.
[RT I, 29.05.2014, 1 – entry into force 01.11.2014]
(14) The appendix to the value added tax return shall not reflect the data of invoices issued and received for such transactions and acts on which the obligation to keep professional or official secrecy is extended under the law. The receiver of the service may reflect the data of the invoices received for transactions and acts specified in this subpara in the appendix to the value added tax return.
[RT I, 29.05.2014, 1 – entry into force 01.11.2014]
(2) The following are required to submit value added tax returns:
1) taxable persons;
2) taxable persons with limited liability who have performed acts specified in subpara 5 of § 3 of this Act during the taxable period, without the appendix to the value added tax return;
[RT I, 29.05.2014, 1 – entry into force 01.11.2014]
3) persons specified in clause 2 of subpara 6 of § 3 of this Act in the case of transactions concerning which the person has issued an invoice or other sales document in which the amount of value added tax is indicated.
(3) [Repealed – RT I 2005, 68, 528 – entry into force 1.01.2006]
(4) On the basis of a reasoned request made by a taxable person, the tax authority may, by his or her decision, establish a taxable period longer than one calendar month for the taxable person, which begins on the first day of the calendar month or first taxable period and ends on the last day of one of the following calendar months. Also in this case, value

added tax returns shall still be submitted to the tax authority by the twentieth day of the month following the taxable period.
[RT I, 25.10.2012, 1 – entry into force 01.12.2012]
(5) If a taxable person or taxable person with limited liability amends information submitted in a value added tax return concerning a previous taxable period, the person is required to submit a new value added tax return with the amended information to the tax authority concerning that taxable period.
(6) In the case of the declaration of bankruptcy of a taxable person, two value added tax returns shall be submitted concerning the taxable period: about the period of time preceding and following the declaration of bankruptcy.
[RT I 2009, 56, 376 – entry into force 01.01.2010]

§ 28. Report on intra-Community supply
(1) A taxable person is required to submit a report on intra-Community supply if:
1) it has effected intra-Community supply of goods during a taxable period or it has transferred goods as a reseller in a triangular transaction during a taxable period;
2) it has provided to a taxable person or taxable person with limited liability of another Member State a service specified in 10 (4) 9) of this Act which is subject to taxation except the taxation with 0 per cent taxation rate, in the Member State of the recipient of the service.
[RT I, 10.12.2010, 3 – entry into force 01.01.2011]
(2) A report on intra-Community supply shall be submitted to the tax authority by the twentieth day of the month following each calendar month.
[RT I 2009, 56, 376 – entry into force 01.01.2011]
(3) If a taxable person amends information in a report on intra-Community supply submitted concerning a previous period, the person is required to submit a report on the amendment of intra-Community supply to the tax authority concerning the corresponding period. If a taxable person cancels an invoice concerning goods or services or submits a credit invoice, the corresponding amendments concerning the taxable period during which the invoice was cancelled or the credit invoice was submitted shall be indicated in the report on intra-Community supply.
[RT I, 10.12.2010, 3 – entry into force 01.01.2011]
(4) The standard format of reports on intra-Community supply and the standard format of reports on the amendment of intra-Community supply and the procedure for the completion thereof shall be established by a regulation of the Minister of Finance.
(5) A taxable person that has transferred to a person of another Member State a new means of transport which will be transported to the other Member State shall add the copy of the invoice issued upon the sale of the means of transport to the report on intra-Community supply.
[RT I 2009, 56, 376 – entry into force 01.01.2010]

(6) In the report on intra-Community supply and in the report on the amendment of intra-Community supply the amounts are reflected in full euros.
[RT I, 10.12.2010, 3 – entry into force 01.01.2011]

(b) Principle of Investigation (General Tax Code)

The principle of investigation in normal tax proceedings is enshrined in s. 11 Tax Code. **33**

§ 11. Principle of Investigation Tax Code
1) Upon verification of the correctness of payment of taxes and determination of the amount of taxes, a tax authority is required to consider all relevant circumstances, including both increasing and decreasing tax liability.
2) A tax authority shall decide on the necessity for the performance of acts related to the verification of the correctness of payment of taxes, the type and extent of the acts and collect the evidence necessary for deciding the matter. The tax authority is not bound only by the applications and evidence submitted by a party to the proceedings in determining the circumstances relevant for taxation.

The **principle of investigation** related to tax audits and inspections is stipulated by s. 55^1 et seq. Tax Act. S. 60 Tax Act ensures the flow of information relevant to start investigations and preserve evidence. These audits aim at the establishment of tax crimes, which are enshrined in Chapter 15 Tax Act. **34**

(c) External Audit (General Tax Code)

The former rules on revision and audit in the Tax Code were enshrined in Chapter 7. The have been repealed and instead the general articles of the Tax Code in conjunction with the Administrative Proceedings Act apply nowadays i.e. ss. 10 (function of a tax authority), 46 et seq. Tax Act. **35**

(d) Tax and Customs Investigation (Customs Code)

The investigations by the competent authorities (see above p 261) are stipulated mainly by the Customs Code, which allows for a **handful of intrusive measures**, like covert investigations, ss. 10, 11. The investigators might access an E-customs database, which is established by virtue of s. 13. **36**

In the **area of non-VAT-revenue frauds** customs agents (s. 19 Customs Code) have special powers. The Tax and Customs board may make use of direct coercion (see s. 67 Customs Code). **37**

§ 67. Use of direct coercion
1) The Tax and Customs Board shall use direct coercion on the basis and pursuant to the procedure provided for in the Law Enforcement Act.
2) The special means of the are:
2) special-purpose lighting and sound equipment;
3) a special-purpose painting and marking device;
4) grenades and cartridges which cause a smoke, sound, light or other effect or a sensation of tear flow or pain;
5) service dog.
1) rubber knives and telescopic knives made of cold weapons;
3) firearms.
4) The procedure for the carrying and storage of special equipment of an official of the Tax and Customs Board shall be established by a regulation of the minister responsible for the field
5) The means of self-defence of an official of the Tax and Customs Board are objects used to ensure the physical safety of an official or a service animal upon application of direct coercion.
6) The list of self-defence equipment of an official of the Tax and Customs Board and the requirements for self-defence equipment shall be established by a regulation of the minister responsible for the field.

(e) Fiscal and Customs Supervision

38 The Customs Service is supervised by the State, which is enshrined in s. 60 et seq. Customs Code:

Customs Code 12/State supervision

§ 60. State supervision
The Tax and Customs Board exercises state supervision over compliance with customs legislation.

§ 61. Special measures of state supervision
In order to exercise state supervision provided for in this Act and the Union legislation specified in subpara 1 (4) of this Act, the Tax and Customs Board may apply special state supervision measures specified in §§ 30–34 and 44–52 of the Law Enforcement Act on the basis and pursuant to the Act 4 with the specifications provided for in the legislation of the specified Union.

The Fiscal Supervisory Authority exercises special supervision around the Financial Market and has many powers in this area. **39**

§ 230[3]. Rights of Supervision Authority in obtaining information Securities Market Act
(1) In order to exercise supervision, the Supervision Authority has the right to obtain information, documents and explanations from any natural or legal person and from government agencies, supervisory bodies and state and local government databases free of charge.
(2) In addition to the provisions of subpara 1 of this article, the Supervision Authority has the right to make an inquiry in the case provided for in subpara 3 of § 230 of this Act to obtain the information provided for in subparas 2 and 3 of § 1111 of the Electronic Communications Act.
[RT I, 29.06.2012, 2 – entry into force 01.01.2013]
(2[1]) For the purposes of conducting the review of governance arrangements and evaluation of the competence of managers specified in clause 7 of subpara 5 of § 230 of this Act, an investment firm shall ensure the Supervision Authority full access to agendas, minutes and supporting documents for meetings of the management body and its committees, and the results of the internal or external evaluation of the performance of the management body.
[RT I, 29.03.2022, 3 – entry into force 08.04.2022]
(2[2]) In order to exercise supervision, the Supervision Authority shall have the right to receive information on any type of data media, including books and records, from an investment firm, investment holding company, mixed financial holding company, mixed-activity holding company and a company belonging to the same consolidation group as the investment firm and a third person to whom the company has outsourced activities, and to obtain oral or written explanations from the representatives and staff of the specified companies.
[RT I, 29.03.2022, 3 – entry into force 08.04.2022]
(3) In order to exercise supervision, the Supervision Authority shall be entitled to directly and promptly obtain information from a credit institution and the registrar of the Estonian Register of Securities regarding the turnover and balance of the bank account and securities account of a professional securities market participant, issuer, investor

and insider. Upon the existence of justified doubt of a violation of law, the Supervision Authority shall be entitled to file a motivated petition with a court for restriction of the use of such accounts.
[RT I, 26.06.2017, 1 – entry into force 06.07.2017]
(4) The Supervision Authority has the right to submit an inquiry for information directly to a remote participant of a Contracting State in a market regulated by an Estonian market operator and inform the securities market supervision agency of the Contracting State of such request for information.
(5) If necessary, the Supervision Authority may require that a person appear at the offices of the Supervision Authority at the time designated by the Supervision Authority to provide explanations.
(6) The persons specified in the first sentence of subpara 3 of this article have no right to forward information concerning the Supervision Authority's inquiry provided in subpara 3 of this article to their clients or the persons whom the inquiry concerns.
(7) At the request of a securities market supervision agency of a Contracting State, a person registered in Estonia who is a remote participant in a market regulated by a market operator of a Contracting State is required to provide information to the market supervision agency of that Contracting State if the agency has notified the Supervision Authority thereof.
(8) If necessary, the Supervision Authority may issue an order whereby the Authority designates a term for the performance of obligations provided for in subparas 1, 3 or 5 of this article. [RT I 2007, 58, 380 – entry into force 19.11.2007]

(f) Administrative Provisions in the Area of Structural Funds and Internal Policies = Expenditure

(aa) Structural Funds

40 Ever since Estonia is part of the Union it has intensified its work around structural funds and already in 1997 the Commission stated that Estonia did well in this regard.[296] In the coming years, under the Multi Annual Framework 2021-2027 Estonian authorities need to, once again, provide good cooperation to OLAF investigators in order to discover any irregularity.

41 In the following an example of a structural fund and its implementation in Estonia shall be reproduced:

"**Projects funded from structural support**
Phase IV of the follow-up project on weapons register: background check module

[296] Kuhl 1997, pp 59 et seq.

With the support of the European Regional Development Fund (85%) and national co-funding (15%), phase IV of the development for the register of service and civilian weapons (***projekt SF_Relvaregistri jätkuprojekt-IV etapi taustakontrolli moodul)*** is an important step in the modernisation of the register and the digitisation of its work processes. This project will improve the ability of licence officers to process applications for weapons permits more effectively and to carry out monitoring procedures on weapons owners to maintain a sense of security among residents and visitors in the country."
Project duration: 17.01.2022 – 31.12.2023

The amount of funds allocated: EUR 425,340

End of citation.[297]

The State Budget Act (SBA)/*Riigieelarve seadus* may apply as well: **42**

Chapter 1
General Provisions

§ 1.[298] **Scope of regulation**

(1) This Act provides the conditions and procedure for the drafting and passage of the state budget and the use of the funds in the state budget. In addition, the bases for drafting the state budget are provided, pursuant to which the fiscal policy opportunities arising from the state financial forecasts and strategic development documents are followed when drafting the state budget.
(2) To meet the requirements established for drafting the state budget, this Act provides the conditions for the assumption of obligations and the planning of resources by the central government sub-sector entities of the general government sector.

[297] https://www.politsei.ee/en/instructions/international-cooperation/projects-funded-from-structural-support. Accessed 30 June 2025.
[298] **§ 1. Riigieelarve seadus** Reguleerimisala
(1) Käesolev seadus sätestab riigieelarve koostamise, vastuvõtmise ja riigieelarve vahendite kasutamise tingimused ja korra. Samuti sätestatakse riigieelarve koostamise alused, mille kohaselt lähtutakse riigieelarve koostamisel riigi rahandusprognoosist tulenevatest fiskaalpoliitilistest võimalustest ja strateegilistest arengudokumentidest.
(2) Riigieelarve koostamisele seatud nõuete täitmiseks sätestatakse käesoleva seadusega tingimused valitsussektori keskvalitsuse allsektori üksuste kohustuste võtmisele ja vahendite planeerimisele.

43 Chapter 7 regulates ensuring financial discipline of state authorities, Division 1 Supervision over implementation of state budget:

- Supervision over implementation of state budget, § 75 SBA
- Financial control system, § 76 SBA
- Annual reports of state and auditing thereof, § 77 SBA
- Audit and submission to *Riigikogu* of consolidated annual report of state, § 79 SBA

44 The Public Procurement Act (PPA)/*Riigihangete seadus*

- Scope of regulation, § 1 PPA
- Acc to § 2 para 2 Administrative Procedure Act: "*For the purposes of this Act, the procedure for the grant of legal protection to objects of industrial property, public procurement and adjudication of challenges for the purposes of the Public Procurement Act, misdemeanour procedure and pre-trial investigation of offences are not administrative procedure*."[299]

45 State supervision and administrative supervision is regulated by §§ 203 et seq. PPA.

46 *Table 4: Structural funds and national administrative authorities – Cohesion policy acc. to the CFR Regulation in Estonia (2021–2027)*

The European Regional Development Fund (ERDF) – includes European Territorial Co-	**Just Transition fund**	**European Social Fund Plus (ESF+)**	**European Maritime, Fisheries and Aquaculture Fund (EMFAF)**	**Asylum, Migration and Integration Fund (AMIF)**	**Internal Security Fund (ISF)**	**Instrument for Financial Assistance in the Field of Border Management and Visa (BMVI)**	**European Rural Development Fund (EAFRD)** * Not part of the CFR Regulation anymore (as of 2023)

[299] **§ 2. Haldusmenetluse seadus** Haldusmenetluse mõiste
[...]
(2) Tööstusomandi esemele õiguskaitse andmise menetlus, riigihangete teostamine ja vaidlustuste lahendamine riigihangete seaduse tähenduses ning väärteomenetlus ja süütegude kohtueelne uurimine ei ole haldusmenetlus käesoleva seaduse tähenduses.

operation (Interreg) EU funds for Estonia: EUR 1,692. 6 million	EU funds for Estonia: ca. EUR 353,9 million	EU funds for	EU funds for: EUR 1,12 billion	-	-	-	-
Administrative authority: Ministry of Economic Affairs and Communication Ministry of Rural Affairs	**Administrative authority:**	**Managing Authority:** Ministry of Social Affairs	**Managing Authority:** Head of Fisheries *Department / Kalamajandusosakonna juhataja* Ministry of Rural Affairs	**Administrative authority**: Ministry of Social Affairs Ministry of Foreign Affairs	**Administrative authority**: Ministry of the Interior	**Administrative authority:** Estonian Ministry of the Interior, Internal Audit Department of the Estonian Ministry of the Interior, Estonian Ministry of the Finance [300]	**Managing Authority:** **Ministry of Rural Affairs**

[300] See https://bit.ly/49OA3y2.

(bb) Internal Policies

47 The links offer access to the policy areas:

Table 5 Funding areas in certain policy areas

Funding areas explored by national policies and laws	Provisions and authorities
Agricultural policy	Competent authority: Act on Combating Unfair Trading Practices in the Agricultural and Food Supply Chain, https://www.riigiteataja.ee/en/eli/ee/Riigikogu/act/519112021001/consolide Fishing Act, https://www.riigiteataja.ee/en/eli/ee/Riigikogu/act/518122020004/consolide
	Provisions:
Environment standards	Competent authorities: Estonian Development Fund Act, https://www.riigiteataja.ee/en/eli/ee/Riigikogu/act/510012017005/consolide
	Provision: General Part of the Environmental Code Act, https://www.riigiteataja.ee/en/eli/ee/Riigikogu/act/504122020005/consolide

(2) Administrative Provisions in the Area of the Common Organisation of the Markets = Expenditure

48 The Common Fisheries Market is relevant if financial services are concerned. It is supervised by Organisation Act (FMOA)/*Kalandusturu korraldamise seadus.* The scope of application is enshrined in § 1 FMOA (§ 1 para 2 in connection with the Financial provisions on investigation in the Administrative Procedure Act (§§ 35 et seq. Administrative Procedure Act):

Chapter 1
General Provisions
§ 1. Scope of application of Act
(1) This Act provides the measures for organisation of the fisheries market, the bases and procedure for application thereof, the bases for and extent of exercise of state supervision and liability for infringements of this Act.[301]

[301] **§ 1. Kalandusturu korraldamise seadus** Seaduse reguleerimisala

(2) The provisions of the Administrative Procedure Act apply to the administrative procedure prescribed in the legislation of the European Union and this Act and the legislation established on the basis thereof, taking account of the specifications of the legislation of the European Union and this Act.

Chapter 11 State and Administrative Supervision Authority in Estonia, § 50 et seq. **49**
Specific measures for state supervision, § 51 para 1 FMOA → provisions of Law Enforcement Act

The European Union Common Agricultural Policy Implementation Act/*Euroopa Liidu ühise põllumajanduspoliitika rakendamise seadus* is relevant in this regard: § 1 para 2 in connection with the provisions on investigation in the Administrative Procedure Act (§§ 35 et seq. Administrative Procedure Act) **50**

Chapter 6 SUPERVISION AND LIABILITY

- 24 SUPERVISION
- § 230 Rights and duties of Supervision Authority in exercising supervision
- § 230^1 Supervision over investment firm
- § 230^2 Supervision over market operator
- § 230^3 Rights of Supervision Authority in obtaining information
- § 231 Obtaining information and suspension of use of accounts
- § 231^1 Grounds for refusal to provide explanations
- § 231^2 Long-distance hearing of participant in proceedings and witness
- § 231^3 Rights and obligations of participant in proceedings in supervision proceedings
- § 231^4 Evidence obtained from foreign states
- § 231^5 Restriction on use and disposal of assets
- § 231^6 Right of Supervision Authority to disclose information and give warnings
- § 232 On-site inspection
- § 232^1 Report concerning on-site inspection
- § 233 Assessment and special audit in supervisory proceedings
- § 234 Precepts
- § 234^1 Non-compliance levy
- § 235 Rights upon issue of precepts
- § 236 Calling of and participation in meeting of directing bodies of professional securities market participant

(1) Käesolevas seaduses sätestatakse kalandusturu korraldamise abinõud, nende rakendamise alused ja kord, riikliku ja haldusjärelevalve teostamise alused ja ulatus ning vastutus käesoleva seaduse rikkumise eest.
(2) Euroopa Liidu õigusaktides ning käesolevas seaduses ja selle alusel kehtestatud õigusaktides ettenähtud haldusmenetlusele kohaldatakse haldusmenetluse seaduse sätteid, arvestades Euroopa Liidu õigusaktide ja käesoleva seaduse erisusi.

- § 236[1] Supervision over branches of foreign investment firms entered in Estonian commercial register, and over foreign investment firms and market operators providing services in Estonia
- § 236[2] Supervision over investment firms which have founded branches in foreign states and investment firms providing cross-border services
- § 236[3] Supervision in matters of market abuse
- § 236[4] Supervision over third country issuer and issuer whose host Contracting State is Estonia
- § 236[5] Supervision over issuer whose home Contracting State is Estonia
- § 236[6] Supervision over compliance with requirements of Regulation (EU) 2016/1011 of the European Parliament and of the Council
- § 236[7] Supervision over compliance with requirements of Regulation (EU) 2017/2402 of the European Parliament and of the Council
- § 236[8] Supervision over compliance with requirements of Regulation (EU) 2017/1129 of the European Parliament and of the Council
- § 236[9] Supervision over mixed activity holding companies, financial holding companies and mixed financial holding companies
- § 236[10] Review of permission of investment firm to use internal models
- § 236[11] Additional own funds requirement for investment firms
- § 236[12] Guidance on additional own funds to investment firms
- § 236[13] Specific liquidity requirements for investment firms
- § 237 List

51

1 General Provisions

§ 1.[302] Scope of application of Act

(1) This Act sets out the grounds of and procedure for implementation of the measures of the common agricultural policy of the European Union (hereinafter common agricultural policy), the agencies implementing the measures, the grounds of and procedure for granting transitional national aid, the grounds and extent of exercising state and administrative supervision, and the liability for violation of this Act.

[302] **1. peatükk**
Üldsätted
§ 1. Euroopa Liidu ühise põllumajanduspoliitika rakendamise seadus Seaduse reguleerimisala
(1) Käesolev seadus sätestab Euroopa Liidu ühise põllumajanduspoliitika (edaspidi ühine põllumajanduspoliitika) abinõude rakendamise alused ja korra ning neid rakendavad asutused, üleminekutoetuse saamise nõuded ja korra, riikliku ja haldusjärelevalve teostamise alused ja ulatuse ning vastutuse käesoleva seaduse rikkumise eest.
(2) Euroopa Liidu õigusaktides ning käesolevas seaduses ja selle alusel kehtestatud õigusaktides ettenähtud haldusmenetlusele kohaldatakse haldusmenetluse seaduse sätteid, arvestades Euroopa Liidu õigusaktide ja käesoleva seaduse erisusi.

(2) The provisions of the Administrative Procedure Act apply to the administrative procedure laid down in the EU legislation, this Act and legislation established on the basis thereof, taking account of the specifics of the EU legislation and this Act.

Chapter 11 State and Administrative Supervision, §§ 103 et seq. **52**

- Scope of state and administrative supervision, §. 103
- Ex-post control, § 104
- State supervision authorities, § 105
- Administrative supervision authorities, § 106
- Specifics of administrative supervision upon checking compliance of operations of local action group, § 107
- Special measures of state supervision, § 108 in connection with §§ 30, 32, 49–52 Law Enforcement Act

(3) Administrative Provisions in the Area of Direct Expenditure

The Public Procurement Act/*Riigihangete seadus* applies. **53**

Administrative provisions around direct expenditure we can refer to statistical data that was published by the EU Commission on Estonia.[303] **54**

The Estonian State Budget Act might apply for certain categories of expenditure. **55**

The Ministry of Foreign Affairs (Department for Development Coordination and Humanitarian Aid) has been organizing development coordination and humanitarian aid. An average of 0.16% of the Estonian gross national product from the state budget was allocated to development coordination and humanitarian aid. Estonia has, from an international perspective, committed to the target of 0.33% of its gross national product by 2030.[304] **56**

On 1 January 2022 the organization of development coordination was transferred from the Ministry of Foreign Affairs to the Estonian Centre for International Development by a government regulation.[305] This regulation is named "Conditions and procedures for **57**

[303] See https://ec.europa.eu/info/sites/default/files/food-farming-fisheries/farming/documents/agri-statistical-fact-sheet-ee_en.pdf; https://ec.europa.eu/regional_policy/sources/policy/how/improving-investment/public-procurement/study/country_profile/ee.pdf. Accessed 30 June 2025.
[304] See Activities, Objectives on the website of the Ministry of Foreign Affairs, https://vm.ee/en/activity/development-cooperation-and-humanitarian-aid. Accessed 30 June 2025.
[305] See Activities, Objectives on the website of the Ministry of Foreign Affairs, https://vm.ee/en/activity/development-cooperation-and-humanitarian-aid. Accessed 30 June 2025.

development and humanitarian aid".[306] The Ministry of Foreign Affairs and the Estonian Centre for International Development divided the roles.[307]

(4) Investigative Powers

58 The **legal rationale** or *telos* behind OLAF's investigative powers is grounded in article 325 TFEU, which requests the protection of the EU's budget and obligates Member States to take equivalent measures against EU budget fraud as they would for their own financial interests. The **assimilation principle** plays a crucial role here and in secondary Union law, as OLAF's powers are equated to those of national administrative authorities responsible for fraud investigations in secondary law.[308] *De facto* OLAF's powers depend on the policy area and the investigative context. According to the wording of Art. 3 OLAF **may or can request access** to documents, records, and other relevant materials under the same conditions as national administrative bodies. It can also conduct interviews and **request cooperation** from businesses and individuals. However, it lacks the power to compel access without the **intervention of national authorities**.

(a) Investigative Powers in the Area of Customs Duties and VAT (General Tax Code, Customs Code)

59 The Tax Code grants powers to tax inspectors to conduct tax controls on Estonian territory. Chapter 4^1 Tax Act contains ss. 55^1–55^5 Tax Act. Chapter 6 of the Tax Act will apply in addition. It stipulates the rules on evidence gathering in tax proceedings and included e.g. the right to conduct a search on the premises, etc. The provisions e.g. s. 72 (conducting a search) are presented below in full length (see → A closer look at single measures). In the area of customs, the following (intrusive) provisions may apply:

60

Excerpt from Customs Code
§ 11. Secret cooperation and covert measures
(1) For performing surveillance activities, ensuring the performance of surveillance activities or collecting information, the Tax and Customs Board has the right to recruit persons for secret cooperation and use undercover agents as well as use covert measures on the conditions provided by the Police and Border Guard Act.

[306] Arengu- ja humanitaarabi andmise tingimused ja kord, Vastu võetud 16.12.2021 nr 122, https://www.riigiteataja.ee/akt/118122021002. Accessed 30 June 2025.
[307] See Activities, Objectives on the website of the Ministry of Foreign Affairs, https://vm.ee/en/activity/development-cooperation-and-humanitarian-aid. Accessed 30 June 2025.
[308] Bovend'Eerdt 2024, pp 142, 297, 308 providing a study on Germany with relation to structural funds and hereby he closely identifies all authorities and applicable laws; further on p 386 reasoning his conclusions: "But even then, there were matters which remained, at least at first sight, ambivalent. For example, is OLAF's power to copy documents, or more specifically its power to conduct digital forensic operations, an EU power, or can OLAF only exercise these powers based on the principle of assimilation? These are difficult questions that are not easily answered. Can we then really expect a person concerned to make such a thorough analysis when OLAF comes knocking on the door unexpectedly?"

(2) Written authorisation for recruiting a person shall be granted by the Director General of the Tax and Customs Board or an official appointed thereby.
(3) Written authorisation for using an undercover agent shall be granted by the Director General of the Tax and Customs Board.
(4) The document necessary for taking covert measures shall be issued and the necessary changes in the relevant database or register shall be made, on the basis of a reasoned request of the Director General of the Tax and Customs Board or an official authorised thereby, by an administrative authority or a legal person who is comp**etent to issue such a document or make changes in the database or register.**

§ 12. Enquiry to communications undertaking
(1) The Tax and Customs Board may make an enquiry to an electronic communications undertaking on the basis specified in § 126^2 (1) 1) and 2) of the Code of Criminal Procedure and with respect to the persons specified in § 126^2 (3) 1) and 2) of the Code of Criminal Procedure to obtain the following information:
1) information necessary to identify the end user related to the identifiers used in the electronic communications network, except for information related to the fact of transmission of messages;
2) information specified in § 1111 (2) and (3) of the Electronic Communications Act given to the electronic communications undertaking and not specified in clause (1) of this article.
(2) Making an enquiry concerning information specified in clause (1) 2) of this article shall be authorised by the Prosecutor's Office. The authorisation for making an enquiry shall set out the period of time by dates concerning which it is allowed to require information.

§ 61. Special state supervision measures
In order to exercise the state supervision provided by this Act and Union legislation referred to in § 1 (4) of this Act, the Tax and Customs Board may apply the special state supervision measures provided for in §§ 30–34 and §§ 44–52 of the Law Enforcement Act on the bases and pursuant to the procedure provided by the Law Enforcement Act and with the specifications provided by this Act and Union legislation referred to in § 1 (4) of this Act.

§ 62. Customs seals
(1) A customs seal is a means of identification affixed by a customs official to goods, a packaging or a means of transport to identify the goods or ensure the inviolability thereof. Several customs seals may be affixed to one object.

(2) A customs seal shall be affixed in a manner that prevents access to the goods without breaking the seal or without leaving traces of a break-in on the packaging or means of transport.
(3) If the customs authorities affix or remove a customs seal, the customs official shall make a note to that effect in the summary or customs declaration, examination minutes, misdemeanour report, decision or other relevant document.
(4) The holder of goods shall immediately inform the customs authorities of the breakage or loss of the customs seal, removal thereof in unforeseeable circumstances or of traces of a break-in or other damage.
(5) A customs seal shall be removed by the customs authorities or a relevant person if the customs authorities have granted the person permission in writing or through an electronic data processing system.

§ 63. Examination of goods and means of transport
(1) By way of exception to § 49 (3) of the Law Enforcement Act, for preventing a threat the customs authorities have the right to examine goods or a means of transport without the presence of the possessor thereof if the possessor of the goods or means of transport cannot be identified within a reasonable period of time or if the possessor refuses to be present at the examination of the goods or means of transport.
(2) The examination minutes shall be prepared based on § 31 of this Act.

§ 64. Examination of baggage
(1) A customs official may examine the baggage of a passenger crossing the border between Estonia and a non-Union country or staying in the transit area of a port or airport.
(2) A customs official may examine the baggage of a passenger staying in the transit area of a port or airport if there is a suspicion of a threat.
(3) The person under examination shall present their baggage to the customs official and unpack the baggage.
(4) The examination minutes shall be prepared based on § 31 of this Act.

§ 65. Specifications of examination of passenger
(1) Before an examination of a passenger, a customs official of the same sex may externally feel the passenger and their clothes and scan their clothes to ascertain whether they are carrying goods which are subject to declaration, but which have not been presented to the customs authorities, or goods subject to prohibitions or restrictions.
(2) A customs official may examine a passenger on the bases and pursuant to the procedure provided for in § 48 of the Law Enforcement Act.

§ 66[1].Temporary detention of cash
The customs authorities have the right to temporarily detain cash for up to three business days for implementing article 7(1) of Regulation (EU) 2018/1672 of the European Parliament and of the Council on controls on cash entering or leaving the Union and repealing Regulation (EC) No 1889/2005 (OJ L 284, 12.11.2018, pp 6–21).

§ 67. Use of direct coercion
(1) The Tax and Customs Board shall apply direct coercion on the bases and pursuant to the procedure provided for in the Law Enforcement Act.
(2) The special equipment of the Tax and Customs Board consists of:
1) handcuffs;
2) lighting and audio equipment for special purposes;
3) painting and labelling devices for special purposes;
4) grenades and cartridges evoking smoke, sonic, light or other effect or tears or sensation of pain;
5) service dogs.
(3) The service weapons of the Tax and Customs Board are:
1) a truncheon and a telescope truncheon from the selection of cut-and-thrust weapons;
2) gas weapons;
For performing surveillance activities, ensuring the performance of surveillance activities or collecting information, the Tax and Customs Board has the ***right to recruit persons for secret cooperation and use undercover agents*** as well as use covert measures on the conditions provided by the Police and Border Guard Act.
(2) Written authorisation for recruiting a person shall be granted by the Director General of the Tax and Customs Board or an official appointed thereby.
(3) Written authorisation for using an undercover agent shall be granted by the Director General of the Tax and Customs Board.
(4) The document necessary for taking covert measures shall be issued and the necessary changes in the relevant database or register shall be made, on the basis of a reasoned request of the Director General of the Tax and Customs Board or an official authorised thereby, by an administrative authority or a legal person who is competent to issue such a document or make changes in the database or register.

§ 12. Enquiry to communications undertaking
(1) The Tax and Customs Board may make an enquiry to an electronic communications undertaking on the basis specified in § 126[2] (1) 1) and 2) of the Code of Criminal Procedure and with respect to the persons specified in § 126[2] (3) 1) and 2) of the Code of Criminal Procedure to obtain the following information:

1) information necessary to identify the end user related to the identifiers used in the electronic communications network, except for information related to the fact of transmission of messages;
2) information specified in § 111^1 (2) and (3) of the Electronic Communications Act given to the electronic communications undertaking and not specified in clause (1) of this article.
(2) Making an enquiry concerning information specified in clause (1) 2) of this article shall be authorised by the Prosecutor's Office. The authorisation for making an enquiry shall set out the period of time by dates concerning which it is allowed to require information.
(3) firearms.
(4) The procedure for carrying and storing the special equipment of officials of the Tax and Customs Board shall be established by a regulation of the minister responsible for the field.
(5) The self-defence equipment of officials of the Tax and Customs Board are the objects used for ensuring the physical safety of an official or a service dog upon the application of direct coercion.
(6) The list of the self-defence equipment of officials of the Tax and Customs Board and the requirements set for the self-defence equipment shall be established by a regulation of the minister responsible for the field.

§ 68. Use of firearms
(1) Officials of the Tax and Customs Board have the right to carry and use firearms.
(2) When using a firearm, the officials of the Tax and Customs Board shall adhere to that provided for in § 81 of the Law Enforcement Act.
(3) It is prohibited to use a firearm:
1) against children, the elderly or women who are clearly pregnant, except to counter or obstruct their armed or group attack or to disarm them;
2) in foreign diplomatic missions, consular posts, special missions and representations of international organisations, also against vehicles subject to diplomatic immunity, except with the consent of the heads of the representations or agencies or in the cases specified by international agreements;
3) in buildings where highly flammable or toxic substances or explosives are produced or stored, including substances which, because of the use of special equipment or firearms, may endanger the life or health of persons.
(4) Officials of the Tax and Customs Board are required to immediately inform the head of their structural unit of any instance in which a firearm has been used.

(b) Investigative Powers in the Area of Structural Funds and Internal Policies

What concerns structural funds from 2014-2020 the EU Databases provide a good overview.[309] Estonia offers a website on this matter.[310] Estonia is as well financed by the Norwegian Grants and has seen a lot of unfinished projects, projects that needed to pay back the grant or stop their actions.[311] One can draw conclusions from this information for the sector of the structural funds in the EU. The HMS, Administrative Procedure Code applies in these areas. **61**

As far as the area of the national budget is concerned, article 7 of the National Budget Act applies, which concerns financial control. As far as can be seen, however, this article only concerns national finances.[312] **62**

The State Budget Act (SBA)/*Riigieelarve seadus* **Chapter 7 Ensuring financial discipline of public** state **authorities Subchapter**, Division **1 rules on the supervision of the execution of the State** over implementation of state **budget.** **63**

§ 75 Supervision of the execution over implementation of state budget, § 75 SBA
- Financial control system, § 76 SBA
- Annual reports of state and auditing thereof, § 77 SBA
- Audit and submission to *Riigikogu* of consolidated annual report of state, § 79 SBA

State Budget Act[313]

§ 75.[314] **Supervision over implementation of state budget**

The Ministry of Finance shall supervise monitor the execution implementation of the State budget and provide an overview thereof to the Government of the Republic with an overview thereof at least twice a year.

[309] See https://cohesiondata.ec.europa.eu/countries/ee. Accessed 30 June 2025.
[310] See https://www.rtk.ee/toetuste-ulevaated-oigusaktid/euroopa-liidu-valisvahendid/varasemad-rakendusperioodid.
[311] See Final Report on Closed Fraud and Other Irregularity Cases in the EEA and Norway Grants (Financial Mechanism 2009-14) Prepared by the Financial Mechanism Office.
[312] See https://www.riigiteataja.ee/en/eli/514032022001/consolide#ba17ab0d-f296-4cbf-82bf-52fd314a4586. Accessed 30 June 2025.
[313] Riigieelarve seadus, Vastu võetud 19.02.2014, RT I, 13.03.2014, 2, jõustumine 23.03.2014, osaliselt 01.01.2015 ja 01.01.2017.
[314] 7**. peatükk**
Riigiasutuste finantsdistsipliini tagamine
1. jagu
Riigieelarve täitmise kontroll
§ 75. Riigieelarve seadus Riigieelarve täitmise jälgimine
Rahandusministeerium jälgib riigieelarve täitmist ja annab sellest Vabariigi Valitsusele ülevaate vähemalt kaks korda aastas.

§ 76.[315] **Financial control system**

(1) The financial control system is part of the internal control system, which includes comprises the planning, use and monitoring of the use of budgetary funds of a state authority. The objective of the financial control system shall be to ensure the economical, efficient, effective, lawful & legitimate and transparent use of State budgetary resources i.e. the state budget funds.

(2) The head of a Landstate authority shall be responsible for the implementation and effectiveness of the financial control system.

§ 77. Annual reports of state and auditing thereof

(1)[316] The annual reports of the state shall mean the annual reports of the National Audit Office and the consolidated annual report of the state. The reports shall be prepared according to the Accounting Act.

(2) The National Audit Office shall perform the audit of the annual accounts constituting part of the consolidated annual report of the state. The National Audit Office shall verify the lawfulness of the transactions of the state.

(3) An audit firm appointed by the Riigikogu pursuant to the National Audit Office Act shall audit the annual accounts and verify the lawfulness of the transactions of the National Audit Office.

(4) The National Audit Office may, in the course of an audit or verification of the lawfulness of the transactions specified in subpara (2) of this article, rely on the provisions of the report of a sworn auditor documented for the purposes of § 54 of the Auditors Activities Act in the audit of the annual accounts of the state consolidation group entity or on the basis of the verification of the lawfulness of the transactions.

---

[315] **§ 76**. **Riigieelarve seadus** Finantskontrollisüsteem

(1) Finantskontrollisüsteem on sisekontrollisüsteemi osa, mis hõlmab riigiasutuse eelarvevahendite planeerimist, kasutamist ja kasutamise kontrollimist. Finantskontrollisüsteemi eesmärk on tagada riigieelarve vahendite säästlik, tõhus, mõjus, õiguspärane ja läbipaistev kasutamine.

(2) Finantskontrollisüsteemi rakendamise ja selle tulemuslikkuse eest vastutab riigiasutuse juht.

[316] **2. jagu**

Aruandlus

§ 77. **Riigieelarve seadus** Riigi majandusaasta aruanded ja nende auditeerimine

(1) Riigi majandusaasta aruanded on Riigikontrolli majandusaasta aruanne ja riigi majandusaasta koondaruanne. Aruanded koostatakse vastavalt raamatupidamise seadusele.

(2) Riigi majandusaasta koondaruande osaks oleva raamatupidamise aastaaruande auditi teeb Riigikontroll. Riigi tehingute seaduslikkust kontrollib Riigikontroll.

(3) Riigikontrolli raamatupidamise aastaaruande auditi teeb ja tehingute seaduslikkust kontrollib Riigikogu poolt vastavalt Riigikontrolli seadusele määratud audiitorettevõtja.

(4) Riigikontroll võib käesoleva paragrahvi lõikes 2 nimetatud auditi või tehingute seaduslikkuse kontrolli käigus toetuda riigi konsolideerimisgrupi üksuse raamatupidamise aastaaruande auditis või tehingute seaduslikkuse kontrolli põhjal audiitortegevuse seaduse § 54 tähenduses vormistatud vandeaudiitori aruandes avaldatule.

§ 79.[317] **Audit and submission to Riigikogu of consolidated annual report of state**
(1) The Ministry of Finance shall submit the consolidated annual report of the state to the National Audit Office not later than by 30 June of the year following the accounting year. The report submitted to the National Audit Office shall be published on the website of the Ministry of Finance immediately after the submission of the report. In the course of an audit, the Ministry of Finance may correct and amend the report.
(2) The National Audit Office shall complete the audit of the annual accounts of the consolidated annual report of the state and the verification of the lawfulness of the transactions not later than by 31 August of the year following the accounting year.
(3) The Ministry of Finance shall submit the consolidated annual report of the state together with a draft resolution regarding the distribution of the state unconsolidated cash flow surplus and the audit report of the National Audit Office published with regard to the audit of the annual accounts of the consolidated annual report of the state and the verification of the lawfulness of the transactions to the Government of the Republic for approval within seven working days as of the receipt of the report from the National Audit Office and publish the report on its website immediately after the submission to the Government of the Republic. The Government of the Republic shall submit the approved consolidated annual report of the state to the Riigikogu for approval together with a draft resolution regarding the distribution of the state unconsolidated cash flow surplus. The audit report of the National Audit Office shall be enclosed to the consolidated annual report of the state.
(4) A resolution regarding the distribution of the state unconsolidated cash flow surplus shall be prepared pursuant to the provisions of the Accounting Act.

[317] **§ 79. Riigieelarve seadus** Riigi majandusaasta koondaruande audiitorkontroll ja Riigikogule esitamine
(1) Rahandusministeerium esitab riigi majandusaasta koondaruande Riigikontrollile hiljemalt aruandeaastale järgneva aasta 30. juunil. Riigikontrollile esitatud aruanne avalikustatakse Rahandusministeeriumi kodulehel viivitamata pärast aruande esitamist. Audiitorkontrolli käigus võib Rahandusministeerium teha aruandesse parandusi ja täiendusi.
(2) Riigikontroll lõpetab riigi majandusaasta koondaruande raamatupidamise aastaaruande auditi ja tehingute seaduslikkuse kontrolli hiljemalt aruandeaastale järgneva aasta 31. augustil.
(3) Riigi majandusaasta koondaruande koos otsuse eelnõuga riigi konsolideerimata rahavoolise ülejäägi jaotamise kohta ning riigi majandusaasta koondaruande raamatupidamise aastaaruande auditi ja tehingute seaduslikkuse kontrolli kohta avaldatava Riigikontrolli kontrolliaruande esitab Rahandusministeerium Vabariigi Valitsusele heakskiitmiseks seitsme tööpäeva jooksul pärast Riigikontrollilt aruande saamist ja avalikustab selle oma kodulehel viivitamata pärast Vabariigi Valitsusele esitamist. Vabariigi Valitsus esitab riigi majandusaasta heakskiidetud koondaruande Riigikogule kinnitamiseks koos otsuse eelnõuga riigi konsolideeritama rahavoolise ülejäägi jaotamise kohta. Riigi majandusaasta koondaruandele lisatakse Riigikontrolli kontrolliaruanne.
(4) Otsus riigi konsolideerimata rahavoolise ülejäägi jaotamise kohta koostatakse raamatupidamise seaduses sätestatu kohaselt.

(c) Investigative Powers in the Area of Common Market Organisations

64 In the area of the Securities Fisheries Market following provisions might be applicable:

§ 232. On-site inspection Securities Market Organisation **Act** (FMOA)/*Kalandusturu korraldamise seadus*

65 Chapter 11 State and Administrative Supervision, § 50 et seq.

- Specific measures for state supervision, § 51 para 1 FMOA → in connection with §§ 30, 32, 49–53 Law Enforcement Act

66 The following Acts could apply as well:

67 **European Union Common Agricultural Policy Implementation Act**/*Euroopa Liidu ühise põllumajanduspoliitika rakendamise seadus*

- Chapter 11 State and Administrative Supervision, §§ 103 et seq.
- Scope of state and administrative supervision, §. 103
- Ex-post control, § 104
- State supervision authorities, § 105
- Administrative supervision authorities, § 106
- Specifics of administrative supervision upon checking compliance of operations of local action group, § 107
- Special measures of state supervision, § 108 in connection with §§ 30, 32, 49–52 Law Enforcement Act

68 **Law Enforcement Act** (LEA)/*Korrakaitseseadus*

- Questioning and requiring of documents, § 30 LEA
- Establishment of identity, § 32 LEA
- Examination of movable, § 49 LEA
- Entry into premises, § 50 LEA
- Examination of premises, § 51 LEA
- Taking into storage of movable, § 52 LEA
- Selling or destruction of movable taken into storage, § 53 LEA

Fisheries Market Organisation Act[318]

§ 50.[319] **Authorities exercising state and administrative supervision**

(1) State and administrative supervision over compliance with the requirements provided for in this Act and legislation established on the basis thereof and relevant legislation of the European Union is exercised by the ARIB, unless otherwise provided for in this article.

(2) The Ministry of Rural Affairs exercises state and administrative supervision over compliance with the requirements provided for in this Act and legislation established on the basis thereof and relevant legislation of the European Union:

1) in the case of the measures provided for in articles 67 and 76 to 79 of Regulation (EU) No 508/2014 of the European Parliament and of the Council;

2) in the case of other Fund support to the extent which is necessary for performance of the functions provided for in articles 126 and 127(1) of Regulation (EU) No 1303/2013 of the European Parliament and of the Council.

(3) The Ministry of Rural Affairs exercises state and administrative supervision over compliance with the requirements provided for in this Act and legislation established on the basis thereof and relevant legislation of the European Union, if the state grants state aid to fisheries or de minimis aid to fisheries through the Ministry of Rural Affairs.

(4) The Ministry of Rural Affairs exercises state supervision over compliance with the requirements provided for in this Act and legislation established on the basis thereof and relevant legislation of the European Union for recognised producer organisations and the production and marketing plans thereof.

---

[318] Kalandusturu korraldamise seadus, Vastu võetud 19.11.2014, RT I, 05.12.2014, 1, jõustumine 01.01.2015.

[319] **11. peatükk**

Riiklik ja haldusjärelevalve

§ 50. Kalandusturu korraldamise seadus Riikliku ja haldusjärelevalve teostajad

(1) Käesolevas seaduses ja selle alusel kehtestatud õigusaktides ning asjakohastes Euroopa Liidu õigusaktides sätestatud nõuete täitmise üle teostab riiklikku ja haldusjärelevalvet PRIA, kui käesolevas paragrahvis ei ole sätestatud teisiti.

(2) Maaeluministeerium teostab riiklikku ja haldusjärelevalvet käesolevas seaduses ja selle alusel kehtestatud õigusaktides ning asjakohastes Euroopa Liidu õigusaktides sätestatud nõuete täitmise üle:

1) Euroopa Parlamendi ja nõukogu määruse (EL) nr 508/2014 artiklites 67 ja 76–79 sätestatud meetmete puhul;

2) muu fondi toetuse puhul ulatuses, mis on vajalik Euroopa Parlamendi ja nõukogu määruse (EL) nr 1303/2013 artiklis 126 ja artikli 127 lõikes 1 sätestatud ülesannete täitmiseks.

(3) Maaeluministeerium teostab riiklikku ja haldusjärelevalvet käesolevas seaduses ja selle alusel kehtestatud õigusaktides ning asjakohastes Euroopa Liidu õigusaktides sätestatud nõuete täitmise üle, kui riik annab kalamajanduslikku riigiabi või kalamajanduslikku vähese tähtsusega abi Maaeluministeeriumi kaudu.

(4) Maaeluministeerium teostab riiklikku järelevalvet käesolevas seaduses ja selle alusel kehtestatud õigusaktides ning asjakohastes Euroopa Liidu õigusaktides tunnustatud tootjaorganisatsiooni ning selle tootmis- ja turustamiskava kohta sätestatud nõuete täitmise üle.

(5) Haldusjärelevalvet käesoleva seaduse § 23 lõike 2 kohaselt sõlmitud halduslepingu täitmise üle teostab Maaeluministeerium. Kui halduslepingu lõpetatakse ühepoolselt või kui esineb muu põhjus, mis takistab sihtasutusel jätkata haldusülesande edasist täitmist, lõpetatakse rahastamisvahendi edasine rakendamine.

(6) Käesoleva seaduse 2. peatükis nimetatud turustusnormide ja tarbija teavitamise nõuete täitmise üle teostavad riiklikku järelevalvet:

1) Veterinaar- ja Toiduamet toiduseaduses sätestatud alusel ja korras;

2) Keskkonnainspektsioon kalapüügiseaduses sätestatud alusel ja korras.

(5) Administrative supervision over performance of a contract under public law entered pursuant to subpara 23 (2) of this Act shall be exercised by the Ministry of Rural Affairs. If a contract under public law is terminated unilaterally or any other circumstances arise which prevent further performance of the administrative functions by the foundation, further implementation of the financial instrument shall be terminated.
(6) State supervision over compliance with the marketing standards and requirements for consumer information specified in Chapter 2 of this Act is exercised by:
1) the Veterinary and Food Board on the basis and pursuant to the procedure provided for in the Food Act;
2) the Environmental Inspectorate on the basis and pursuant to the procedure provided for in the Fishing Act.

§ 51.[320] **Specific measures for state supervision**
(1) In order to exercise the state supervision provided for in this Act, a law enforcement authority may apply the special measures for state supervision provided for in §§ 30, 32 and 49 to 53 of the Law Enforcement Act on the basis and pursuant to the procedure provided for in the Law Enforcement Act.
(2) If a dwelling is also used as business premises, a law enforcement authority may examine it during the business or opening hours thereof without the permission of an administrative court provided for in subpara 51 (2) of the Law Enforcement Act.
(3) A law enforcement authority may take samples during the examination of movables at the expense of the person. If a movable examined cannot be used as usual after the examination, the person shall not be compensated for the cost of the movable or the cost of restoring the movable for use as usual.
(4) Measures for state supervision may be applied without giving an advance notice to the person who received support therefrom. An advance notice on application of measures for state supervision may be given only in the case such advance notice does not jeopardise the achievement of the objective of the application of the measure.

[320] **§ 51. Kalandusturu korraldamise seadus** Riikliku järelevalve erimeetmed
(1) Korrakaitseorgan võib käesolevas seaduses sätestatud riikliku järelevalve teostamiseks kohaldada korrakaitseseaduse §-des 30, 32 ja 49–53 sätestatud riikliku järelevalve erimeetmeid korrakaitseseaduses sätestatud alusel ja korras.
(2) Kui eluruumi kasutatakse ka äriruumina, võib korrakaitseorgan selle töö- või lahtioleku ajal läbi vaadata ilma korrakaitseseaduse § 51 lõikes 2 sätestatud halduskohtu loata.
(3) Korrakaitseorgan võib võtta vallasasja läbivaatusel isiku kulul proove. Kui läbivaadatud vallasasja ei ole võimalik pärast läbivaatust tavapäraselt kasutada, ei hüvitata isikule vallasasja või vallasasja tavapäraseks kasutamiseks taastamise maksumust.
(4) Riikliku järelevalve meetmeid võib kohaldada sellest toetust saanud isikule ette teatamata. Riikliku järelevalve meetme kohaldamisest võib ette teatada üksnes siis, kui etteteatamine ei ohusta meetme kohaldamise eesmärgi saavutamist.

European Union Common Agricultural Policy Implementation Act[321]
Chapter 11 State and Administrative Supervision

§ 103.[322] **Scope of state and administrative supervision**
(1) In the course of state supervision, the compliance with the requirements established for the implementation of common agricultural policy measures and the compliance of the activities of the beneficiary following the payment of aid with the requirements provided for in the decision to approve the application, in the relevant regulations of the European Union, this Act and legislation established on the basis of this Act is verified.
(2) In the course of administrative supervision, the compliance with the requirements established for administrative contracts concluded in accordance with this Act and the compliance of the activities of the beneficiary following the payment of aid with the requirements provided for in the decision to approve the application, in the relevant regulations of the European Union, this Act and legislation established on the basis of this Act is verified if the beneficiary is a state authority, a local authority agency, another person or agency authorised to perform public functions or a local action group.

§ 104.
(1) In order to exercise supervision, the Supervision Authority has the right to carry out on-site inspection of a professional securities market participant, and an issuer whose securities are traded on a regulated market or whose securities are subject to a public offer or have been subject to a public offer during the past five years. To exercise supervision, the Supervision Authority has the right to organise on-site inspection at the registered office of a company belonging to the consolidation group of a credit institution or an Estonian branch of a foreign credit institution.
[RT I 2007, 58, 380 – entry into force 19.11.2007]
(2) An on-site inspection shall be carried out if:
1) it is necessary to verify the submitted information;

[321] Euroopa Liidu ühise põllumajanduspoliitika rakendamise seadus, Vastu võetud 19.11.2014, RT I, 04.12.2014, 3, jõustumine 01.01.2015, osaliselt 01.01.2016.
[322] **11. peatükk**
Riiklik ja haldusjärelevalve
§ 103. **Euroopa Liidu ühise põllumajanduspoliitika rakendamise seadus** Riikliku ja haldusjärelevalve ulatus
(1) Riikliku järelevalve käigus kontrollitakse ühise põllumajanduspoliitika abinõude rakendamiseks esitatud nõuete täitmist ja toetuse saaja tegevuse vastavust pärast toetuse maksmist taotluse rahuldamise otsuses, asjakohastes Euroopa Liidu õigusaktides ning käesolevas seaduses ja selle alusel kehtestatud õigusaktides sätestatud nõuetele.
(2) Haldusjärelevalve käigus kontrollitakse käesoleva seaduse kohaselt sõlmitud halduslepingute täitmist ja toetuse saaja tegevuse vastavust pärast toetuse maksmist taotluse rahuldamise otsuses, asjakohastes Euroopa Liidu õigusaktides ning käesolevas seaduses ja selle alusel kehtestatud õigusaktides sätestatud nõuetele, kui toetuse saajaks on riigi või kohaliku omavalitsuse asutus või muu avaliku halduse ülesandeid täitma volitatud isik või asutus või kohalik tegevusgrupp.

2) the Supervision Authority suspects that the provisions of this Act or legislation specified in subparas 1 or 2 of § 2 of the Financial Supervision Authority Act or on the basis thereof have been violated;
3) it is necessary to execute supervisory duties;
4) it is necessary based on a request by a securities market supervision agency of a Contracting State.
[RT I 2007, 58, 380 – entry into force 19.11.2007]
(3) In order to carry out an on-site inspection, the Supervision Authority shall issue an order which sets out the purpose, extent, duration of the period and time of the inspection. The order shall be delivered to the person to be inspected at least three working days before the inspection is commenced, unless giving such notice damages attainment of the objectives of the inspection. An on-site inspection shall be carried out by an employee authorised by the Supervision Authority, unless otherwise prescribed in this Act.
(4) During on-site inspection, the person carrying out the inspection has the right to:
1) enter all premises and take possession of data;
[RT I 2007, 58, 380 – entry into force 19.11.2007]
2) use the conditions and a separate room necessary for their work;
3) study documents and media necessary for exercising supervision, make extracts, transcripts and copies thereof and monitor the work processes without restrictions.

§ 104.[323] **Ex-post control**
(1) In addition to the provisions of § 103 of this Act, state and administrative supervision is exercised over the making and correctness of transactions specified in Chapter III of Title V of Regulation (EU) No 1306/2013 of the European Parliament and of the Council (hereinafter ex-post control) on the grounds and in accordance with the procedure specified in the Regulation.
(2) In the event of ex-post control, the special department is a structural unit designated to that end by the ARIB and the functions of the special department are, within the limits of its competence, performed by a structural unit designated to that end by the Tax and Customs Board.
(3) A more detailed procedure for exercising ex-post control of export support of agricultural products exported from Estonia may be established by a regulation of the minister responsible for the field.

[323] **§ 104. Euroopa Liidu ühise põllumajanduspoliitika rakendamise seadus** Järelkontroll
(1) Lisaks käesoleva seaduse §-s 103 sätestatule teostatakse riiklikku ja haldusjärelevalvet Euroopa Parlamendi ja nõukogu määruse (EL) nr 1306/2013 V jaotise III peatükis sätestatud tehingute teostamise ja nõuetekohasuse üle (edaspidi järelkontroll) nimetatud määruses sätestatud alustel ja korras.
(2) Järelkontrolli korral on eriasutuseks PRIA selleks määratud struktuuriüksus ning eriasutuse ülesandeid täidab Maksu- ja Tolliameti selleks määratud struktuuriüksus oma pädevuse piires.
(3) Valdkonna eest vastutav minister võib määrusega kehtestada Eestist eksporditud põllumajandustoote ekspordi-toetuse järelkontrolli tegemise täpsema korra.

§ 105. State supervision authorities

(1)[324] The authorities that exercise state supervision over the compliance with the requirements established in the legislation of the European Union, this Act and legislation established on the basis of this Act are the ARIB and, within the limits of their competence, the Ministry of Rural Affairs, the Agriculture and Food Board, the Tax and Customs Board, the Environmental Board, and the state foundation.

[324] **§ 105. Euroopa Liidu ühise põllumajanduspoliitika rakendamise seadus** Riikliku järelevalve teostajad
(1) Riikliku järelevalve teostajad asjakohastes Euroopa Liidu õigusaktides ning käesolevas seaduses ja selle alusel kehtestatud õigusaktides sätestatud nõuete täitmise üle on PRIA ning oma pädevuse piires Maaeluministeerium, Põllumajandus- ja Toiduamet, Maksu- ja Tolliamet, Keskkonnaamet ning riigi sihtasutus.
(2) Asjakohastes Euroopa Liidu õigusaktides ning käesolevas seaduses ja selle alusel kehtestatud õigusaktides sätestatud nõuete täitmise üle teostab riiklikku järelevalvet PRIA, kui käesolevas paragrahvis ei ole sätestatud teisiti.
(3) Käesoleva seaduse §-s 32 sätestatud nõuete täitmise üle teostavad riiklikku järelevalvet PRIA ning oma pädevuse piires Põllumajandus- ja Toiduamet ning Keskkonnaamet.
(4) Põllumajandus- ja Toiduamet, Keskkonnaamet ja riigi sihtasutus teostavad riiklikku järelevalvet maaelu arengu toetuste kohta asjakohastes Euroopa Liidu õigusaktides ning käesolevas seaduses ja selle alusel kehtestatud õigusaktides sätestatud nõuete täitmise üle arengukavas ettenähtud ulatuses.
(5) Käesoleva seaduse § 36 lõikes 4 sätestatud turuinfo esitamise kohustuse täitmise ning esitatud andmete õigsuse üle teostavad riiklikku järelevalvet PRIA ja oma pädevuse piires Põllumajandus- ja Toiduamet.
(6) Valdkonna eest vastutav minister võib määrusega kehtestada turuinfo esitamise kohustuse täitmise ja esitatud andmete õigsuse üle järelevalve teostamise korra.
(7) Käesoleva seaduse §-s 39 sätestatud kokkuostetud põllumajandustoodete koostis- ja kvaliteedinõuetele vastavuse üle ning käitleja käitlemisruumi, sealhulgas hoiu- ja säilitusruumi, ja sekkumislao nõuetekohasuse üle teostab riiklikku järelevalvet Põllumajandus- ja Toiduamet.
(8) Käesoleva seaduse § 41 lõikes 2 nimetatud sekkumisvarudest pärit toote või sellest valmistatud toote kasutamise korral teostab Euroopa Liidu õigusaktide kohast järelevalvet:
1) toote koguste vastavuse üle toote ühendusesisese müümise korral Põllumajandus- ja Toiduamet;
2) toote vahelattu paigutamise ja laost väljaviimise üle kolmandasse riiki eksportimise korral, kui toodet ladustatakse enne eksportimist mujal kui sekkumislaos, Maksu- ja Tolliamet.
(9) Käesoleva seaduse § 54 kohaselt antud kasutustoetuse korral teostab Euroopa Liidu õigusaktides sätestatud järelevalvet tarnitud ja tootmisse suunatud toorainekoguste ning saadud toodete nõuetele vastavuse üle oma pädevuse piires Põllumajandus- ja Toiduamet.
(10) Käesoleva seaduse 5. peatüki 2. jao 4. jaotises sätestatud koolikava toetuse andmise üle teostab riiklikku järelevalvet PRIA, teostades järelevalvet ka sellises haridusasutuses, kes ise koolikava toetust ei taotle, kuid osaleb koolikava toetuse rakendamisel.
(11) Käesoleva seaduse §-s 59 nimetatud nõuete täitmise üle teostab riiklikku järelevalvet Põllumajandus- ja Toiduamet toiduseaduses sätestatud alusel ja korras.
(12) Käesoleva seaduse §-s 60 nimetatud veise-, sea- ja lambarümba kvaliteediklassi määramise nõuetekohasuse ja kuni 12 kuu vanuste veiste liha kategooriatesse liigitamise üle teostab riiklikku järelevalvet Põllumajandus- ja Toiduamet.
(13) Käesoleva seaduse §-s 61 nimetatud puu- ja köögivilja turustusstandarditele vastavuse üle teostab riiklikku järelevalvet Põllumajandus- ja Toiduamet.
(14) Puu- ja köögivilja turustusstandarditele vastavuse järelevalve täpsema korra ning turustusstandarditele vastavuse järelevalve erikorra jaemüügi etapil kehtestab valdkonna eest vastutav minister määrusega.
(15) Käesoleva seaduse §-s 62 nimetatud kodulinnumunade ja kodulinnuliha turustusstandarditele vastavuse üle teostab riiklikku järelevalvet Põllumajandus- ja Toiduamet.
(16) Käesoleva seaduse § 63 lõikes 1 nimetatud määruste alusel põllumajandustoote, toidu, piiritusjoogi või veini Euroopa Liidu kvaliteedimärki kandva toote registreeritud spetsifikatsioonile vastavuse ning registreeritud nimetuse nõuetekohase kasutamise üle teostab riiklikku järelevalvet Põllumajandus- ja Toiduamet.
(17) Käesoleva seaduse §-s 92 sätestatud alusel ja korras tunnustatud toidukvaliteedikava täitmise või rakendamise üle teostab riiklikku järelevalvet Põllumajandus- ja Toiduamet.
(18) Vajaduse korral osutab PRIA kontrolli tegemisel Euroopa Komisjonile ametiabi.

(2) The ARIB exercises state supervision over the conformity with the requirements provided for in the relevant regulations of the European Union, this Act and legislation established based on this Act, unless otherwise provided for in this article.
(3) The ARIB and, within the limits of their competence, the Agriculture and Food Board and the Environmental Board exercise state supervision over the compliance with the requirements provided for in § 32 of this Act.
(4) To the extent prescribed by the development plan, the Agriculture and Food Board, the Environmental Board and the state foundation exercise state supervision over the compliance with the requirements provided for in the relevant legislation of the European Union, this Act and legislation established based on this Act regarding rural development support.
(5) The ARIB and, within the limits of its competence, the Agriculture and Food Board exercise state supervision over the compliance with the obligation to submit market information provided for in subpara 36 (4) of this Act and over the correctness of the submitted data.
(6) The procedure for exercising supervision over the compliance with the obligation to submit market information and over the correctness of the submitted data may be established by a regulation of the minister responsible for the field.
(7) The Agriculture and Food Board exercises state supervision over the compliance of bought-in agricultural products with the requirements for their quality and composition, and the compliance of the processing facility, including the storage and preservation facility and the intervention store provided for in § 39 of this Act.
(8) In the event of use of a product originating from the intervention stock specified in subpara 41 (2) of this Act or a product made of it, supervision in accordance with the legislation of the European Union is exercised by:
1) the Agriculture and Food Board over the compliance of product quantities in the event of intra-Community sale;
2) the Tax and Customs Board over the placement of the product in intermediate storage and taking the product out of storage in the event of exporting the product to a third country, provided that the product is stored outside an intervention store before export.
(9) In the event of aid for use granted under § 54 of this Act, the Agriculture and Food Board exercises, within the limits of its competence, supervision provided for in the legislation of the European Union over the compliance of deliveries of raw material and their entry into production and the compliance of the products obtained.
(10) The ARIB exercises state supervision over the granting of school scheme aid provided for in Division 4 of Subchapter 2 of Chapter 5 of this Act, thereby exercising supervision in such educational establishments that do not apply for school scheme aid themselves but participate in the implementation of school scheme aid.

(11) The Agriculture and Food Board exercises state supervision over the compliance with the requirements provided for in § 59 of this Act on the grounds and in accordance with the procedure provided for in the Food Act.
(12) The Agriculture and Food Board exercises state supervision over the compliance of determining the quality classes of bovine, pig and lamb carcasses and over the determining of the categories of carcasses of bovine animals of up to 12 months of age.
(13) The Agriculture and Food Board exercises state supervision over the compliance with the fruit and vegetable marketing standards specified in § 61 of this Act.
(14) A more detailed procedure for supervision over the compliance with the fruit and vegetable marketing standards and for special supervision over the compliance with marketing standards at the retail stage will be established by a regulation of the minister responsible for the field.
(15) The Agriculture and Food Board exercises state supervision over the compliance with the marketing standards for poultry eggs and poultry meat specified in § 62 of this Act.
(16) The Agriculture and Food Board exercises state supervision over the compliance with the registered specification of a product bearing the European Union quality label for agricultural products, food products, spirit drinks or wines based on the regulations provided for in subpara 63 (1) of this Act and over the proper use of the registered name.
(17) The Agriculture and Food Board exercises state supervision over the food quality scheme recognised based on and in accordance with the procedure provided for in § 92 of this Act.
(18) Where necessary, the ARIB provides the European Commission with professional assistance upon exercising control.

§ 106. Administrative supervision authorities

(1)[325] The Ministry of Rural Affairs exercises administrative supervision over the performance of an administrative contract concluded based on subpara 6 (2), clause 36 (2) 2) and subpara 68 (2).

[325] **§ 106**. **Euroopa Liidu ühise põllumajanduspoliitika rakendamise seadus** Haldusjärelevalve teostajad
(1) Käesoleva seaduse § 6 lõike 2, § 36 lõike 2 punkti 2 ja § 68 lõike 2 alusel sõlmitud halduslepingu täitmise üle teostab haldusjärelevalvet Maaeluministeerium.
(2) Käesoleva seaduse § 6 lõike 2, § 36 lõike 2 punkti 2 ja § 68 lõike 2 alusel sõlmitud halduslepingu ühepoolse lõpetamise ning muu sellise asjaolu ilmnemise korral, mis takistab halduslepingu sõlminud isikul halduslepingut edaspidi täita, antakse lepingu täitmisega seotud materjal viivitamata üle Maaeluministeeriumile, kes korraldab haldusülesande edasise täitmise.
(3) Käesoleva seaduse § 65 lõike 7 alusel sõlmitud halduslepingu täitmise üle teostab haldusjärelevalvet PRIA.
(4) Käesoleva seaduse § 65 lõike 7 alusel sõlmitud halduslepingu ühepoolse lõpetamise ning muu sellise asjaolu ilmnemise korral, mis takistab halduslepingu sõlminud isikul halduslepingut edaspidi täita, antakse lepingu täitmisega seotud materjal viivitamata üle PRIA-le, kes korraldab haldusülesande edasise täitmise.
(5) Ühise põllumajanduspoliitika abinõude rakendamiseks vastu võetud asjakohastes Euroopa Liidu õigusaktides ning käesolevas seaduses ja selle alusel kehtestatud õigusaktides sätestatud nõuete täitmise üle teostab haldusjärelevalvet käesoleva seaduse §-s 105 sätestatud isik või asutus, kui toetuse saajaks on riigi või kohaliku omavalitsuse asutus või muu avaliku halduse ülesandeid täitma volitatud isik või asutus või kohalik tegevusgrupp.

(2) In the event of unilateral termination of an administrative contract concluded under subparas 6 (2), clause 36 (2) 2) and subpara 68 (2) of this Act or if other circumstances that hinder the further performance of the administrative contract by the person who concluded it become evident, the materials relating to the performance of the contract will be immediately handed over to the ARIB, which will arrange the continued performance of the administrative function.
(3) The ARIB exercises administrative supervision over the performance of an administrative contract concluded based on subpara 65 (7) of this Act.
(4) In the event of unilateral termination of an administrative contract concluded under subpara 65 (7) of this Act or if other similar circumstances that hinder the further performance of the administrative contract by the person who concluded it become evident, the materials relating to the performance of the contract will be immediately handed over to the ARIB, which will arrange the continued performance of the administrative function.
(5) If the beneficiary is a state or local authority, another person or authority authorised to perform public administrative functions or the local action group, the person or authority specified in § 105 of this Act exercises administrative supervision over the compliance with the requirements provided for in relevant legislation of the European Union adopted for the application of the measures of the common agricultural policy, this Act and legislation established on the basis of this Act.

§ 107. Specifics of administrative supervision upon checking compliance of operations of local action group

(1)[326] The ARIB checks the compliance of the local action group and its activities with the requirements provided for in relevant legislation of the European Union adopted for

[326] **§ 107. Euroopa Liidu ühise põllumajanduspoliitika rakendamise seadus** Haldusjärelevalve erisused kohaliku tegevusgrupi tegevuse nõuetekohasuse kontrollimisel
(1) PRIA kontrollib kohaliku tegevusgrupi ja tema tegevuse vastavust Euroopa Liidu asjakohastes õigusaktides ning käesolevas seaduses ja selle alusel kehtestatud õigusaktides sätestatud nõuetele ja nõuab kohalikult tegevusgrupilt viivitamata kohustuste täitmist, kui:
1) kohalik tegevusgrupp ei vasta asjakohastes õigusaktides sätestatud nõuetele;
2) kohalik tegevusgrupp ei ole PRIA-le esitanud tähtpäevaks rakenduskava;
3) kohalik tegevusgrupp ei järgi kohaliku arengu strateegiat, rakenduskava või enda kehtestatud töökordasid või
4) kohalik tegevusgrupp takistab oma tegevuse üle järelevalve teostamist.
(2) Kui kohalik tegevusgrupp ei täida käesolevast seadusest tulenevaid kohustusi ega vasta käesoleva seaduse § 69 lõike 3 alusel kehtestatud nõuetele või kui esineb muu põhjus, mis takistab kohalikul tegevusgrupil jätkata kohaliku arengu strateegia rakendamist, võib PRIA peatada kohaliku tegevusgrupi õiguse korraldada LEADER-projektitoetuse taotlusvooru ning hinnata nimetatud toetuse taotlusi.
(3) Kohalik tegevusgrupp, kelle puhul PRIA on peatanud LEADER-projektitoetuse taotluste hindamise, võib LEADER-projektitoetuse taotluste hindamist jätkata PRIA sellekohase kirjaliku nõusoleku kättetoimetamisest alates. PRIA annab nõusoleku, kui kohalik tegevusgrupp täidab kõik asjakohased kohustused.
(4) Kui kohalik tegevusgrupp ei ole määratud tähtpäevaks täitnud kohustusi, mille täitmist on PRIA nõudnud käesoleva paragrahvi lõike 1 alusel, võib PRIA kooskõlas Euroopa Parlamendi ja nõukogu määruse (EL) nr 1306/2013 artikli 64 alusel kehtestatud õigusaktiga peatada Euroopa Parlamendi ja nõukogu määruse (EL) nr 1303/2013 artikli 35 lõike 1 punktides d ja e nimetatud toetuse väljamaksmise kohalikule tegevusgrupile.

the application of the measures of the common agricultural policy, this Act and legislation established based on this Act, and will demand that the local action group immediately perform its duties if:
1) the local action group does not comply with the requirements provided for in relevant legislation;
2) the local action group has not submitted the implementation plan to the ARIB by the prescribed date;
3) the local action group disregards the local development strategy, implementation plan or its own work procedures, or
4) the local action group impedes the exercise of administrative supervision over its activities.
(2) If the local action group fails to perform the duties arising from this Act and does not comply with the requirements established on the basis of subpara 69 (3) of this Act or if there is another reason that prevents the local action group from implementing the local development strategy, the ARIB may suspend the local action group's right to organise a LEADER project support application round and evaluate these support applications.
(3) The local action group regarding which the ARIB has suspended the evaluation of LEADER project support applications may continue the evaluation of LEADER project support applications as of the receipt of a respective written consent from the ARIB. The ARIB will grant the consent if the local action group performs all the relevant duties.
(4) If the local action group has not performed by the prescribed date the duties the performance of which has been demanded by the ARIB based on subpara (1) of this article, the ARIB may, in compliance with a legal instrument established on the basis of article 64 of Regulation (EU) No 1306/2013 of the European Parliament and of the Council, suspend the payment of the support specified in articles 35(1)(d) and (e) of Regulation (EU) No 1303/2013 of the European Parliament and of the Council to the local action group.

§ 108. Special measures of state supervision

(1)[327] A law enforcement authority may, for the purpose of exercising the state supervision provided for in this Act, take special measures of state supervision provided for in §§ 30, 32 and 49–52 of the Law Enforcement Act on the grounds and in accordance with the procedure provided for in the Law Enforcement Act.

(2) If residential premises are also used as commercial premises, the law enforcement authority may inspect these during the working or opening hours without the authorisation of an administrative court specified in subpara 51 (2) of the Law Enforcement Act.

(3) The law enforcement authority may take samples at the expense of the person upon inspection of a movable. If the inspected movable is no longer fit for ordinary use following the inspection, the cost of the movable or the cost of restoring the movable for ordinary use will not be compensated to the person.

Law Enforcement Act[328]

Division 3 Special State Supervision Measures

§ 30. Questioning and requiring of documents

(1)[329] The police or, in the cases provided by law, another law enforcement agency may stop a person and question him or her if there is reason to believe that the person has

[327] **§ 108**. **Euroopa Liidu ühise põllumajanduspoliitika rakendamise seadus** Riikliku järelevalve erimeetmed
(1) Korrakaitseorgan võib käesolevas seaduses sätestatud riikliku järelevalve teostamiseks kohaldada korrakaitseseaduse §-des 30, 32 ja 49–52 sätestatud riikliku järelevalve erimeetmeid korrakaitseseaduses sätestatud alusel ja korras.
(2) Kui eluruumi kasutatakse ka äriruumina, võib korrakaitseorgan selle töö- või lahtiolekuajal läbi vaadata ilma korrakaitseseaduse § 51 lõikes 2 sätestatud halduskohtu loata.
(3) Korrakaitseorgan võib võtta vallasasja läbivaatusel isiku kulul proove. Kui läbivaadatud vallasasja ei ole võimalik pärast läbivaatust tavapäraselt kasutada, ei hüvitata isikule vallasasja või vallasasja tavapäraseks kasutamiseks taastamise maksumust.

[328] Korrakaitseseadus, Vastu võetud 23.02.2011, RT I, 22.03.2011, 4, jõustumine 01.07.2014

[329] **3. jagu**
Riikliku järelevalve erimeetmed
1. jaotis
Isikuandmete töötlemisega seonduvad riikliku järelevalve erimeetmed
§ 30. Korrakaitseseadus Küsitlemine ja dokumentide nõudmine
(1) Politsei või seaduses sätestatud juhul muu korrakaitseorgan võib isiku peatada ja teda küsitleda, kui on alust arvata, et isikul on ohu ennetamiseks, väljaselgitamiseks või tõrjumiseks või korrarikkumise kõrvaldamiseks või kaitstava isiku või valvatava objekti ohutuse tagamiseks vajalikke andmeid, ning selle ohu ennetamine, väljaselgitamine, tõrjumine või korrarikkumise kõrvaldamine või isiku kaitsmine või objekti valvamine on küsitleva korrakaitseorgani pädevuses.
(2) Küsitlemine protokollitakse, kui küsitletav isik seda taotleb või kui seda peab vajalikuks korrakaitseorgan. Kui korrakaitseorgan peab seda vajalikuks, võib küsitletav isik anda seletusi kirjalikult omakäeliselt.
(3) Politsei või seaduses sätestatud juhul muu korrakaitseorgan võib nõuda isikult dokumentide esitamist, kui on alust arvata, et isikul on ohu ennetamiseks, väljaselgitamiseks või tõrjumiseks või korrarikkumise kõrvaldamiseks või kaitstava isiku või valvatava objekti ohutuse tagamiseks vajalikke andmeid, ning selle ohu ennetamine, väljaselgitamine, tõrjumine või korrarikkumise kõrvaldamine või isiku kaitsmine või objekti valvamine on dokumente nõudva korrakaitseorgani pädevuses.

information necessary for preventing, ascertaining or countering a threat or for eliminating a disturbance or for guaranteeing the safety of a safeguarded person or object, and preventing, ascertaining and countering that threat and eliminating that disturbance and safeguarding the person or object is in the competence of the law enforcement agency conducting the questioning.
(2) Questioning shall be recorded in a report if the person questioned requests it or if it is deemed necessary by the law enforcement agency. If the law enforcement agency deems it necessary, the person questioned may give explanations in writing autographically.
(3) The police or, in the cases provided by law, another law enforcement agency may require a person to present his or her documents if there is reason to believe that the person has information necessary for preventing, ascertaining or countering a threat or for eliminating a disturbance or for guaranteeing the safety of a safeguarded person or object, and preventing, ascertaining and countering that threat and eliminating that disturbance and safeguarding the person or object is in the competence of the law enforcement agency requiring the presentation of the documents.
(4) Requiring and receipt of documents by a law enforcement agency shall be recorded or documented pursuant to the general administration procedure of the law enforcement agency. If the documents are required and examined on site, the measure shall be recorded at the request of the person subjected to the application thereof.
(5) Questioning and requiring the presentation of documents for the prevention of a threat is not permitted in the case of information and documents which can be obtained from a database established based on the law, except in the case the information cannot be obtained from the database for reasons irrespective of the law enforcement agency. The restriction specified in this article also applies to information which the law enforcement agency can obtain free of charge from the relevant database of another Member State of the European Union or for a charge if the person confirms in a format which can be reproduced in writing that he or she will cover the costs of obtaining the said information.

(4) Dokumentide nõudmine ja vastuvõtmine korrakaitseorgani poolt protokollitakse või fikseeritakse korrakaitseorgani üldise asjaajamiskorra kohaselt. Kui dokumentide nõudmine ja nendega tutvumine toimub kohapeal, protokollitakse meede selle kohaldamisele allutatud isiku taotlusel.
(5) Küsitlemine ja dokumentide nõudmine ohu ennetamiseks ei ole lubatud teabe ja dokumentide korral, mida on võimalik saada seaduse alusel asutatud andmekogust, välja arvatud juhul, kui teabe saamine andmekogust ei ole korrakaitseorganist sõltumatul põhjusel võimalik. Käesolevas lõikes nimetatud piirang kehtib ka teabe kohta, mida korrakaitseorganil on võimalik saada tasuta teise Euroopa Liidu liikmesriigi asjaomasest andmekogust või tasu eest, kui isik kinnitab kirjalikku taasesitamist võimaldavas vormis, et kannab nimetatud teabe hankimise kulud.

69 The investigation measures have a wide range. They can be intrusive if the infringe upon the basic rights of the economic operators:

§ 32.[330] **Establishment of identity**
(1) The police or, in the cases provided by law, another law enforcement agency may, with the knowledge of the person, establish identity on the basis of a valid identity document, that means ascertain the person's name and personal identification code or in the absence of the latter the date of birth, examine the document, compare the photograph and other biometric data in the document with the person, and verify the authenticity of the document, or if this is not possible, establish identity in another legal manner if it is necessary for preventing, ascertaining or countering a threat or for eliminating a disturbance.
(2) For the establishment of identity, the police or, in the cases provided by law, another law enforcement agency shall have the right to stop a person and require him or her to present a document specified in subpara (1) of this article, to obtain statements enabling the establishment of identity, including information on the person's place of residence, and to obtain biometric data for the comparison specified in subpara (1) of this article.

[330] **§ 32. Korrakaitseseadus** Isikusamasuse tuvastamine
(1) Politsei või seaduses sätestatud juhul muu korrakaitseorgan võib isiku teadmisel kehtiva isikut tõendava dokumendi alusel tuvastada isikusamasuse, see tähendab teha kindlaks isiku nime ja isikukoodi või selle puudumisel sünniaja, tutvuda dokumendiga, võrrelda fotot ja teisi dokumendile kantud biomeetrilisi andmeid isikuga ning kontrollida dokumendi ehtsust, või kui see ei ole võimalik, siis tuvastada isikusamasuse muul õiguspärasel viisil, kui see on vajalik ohu ennetamiseks, väljaselgitamiseks, tõrjumiseks või korrarikkumise kõrvaldamiseks.
(2) Politseil või seaduses sätestatud juhul muul korrakaitseorganil on isikusamasuse tuvastamiseks õigus peatada isik ja nõuda temalt käesoleva paragrahvi lõikes 1 nimetatud dokumendi esitamist, saada isikusamasuse tuvastamist võimaldavaid ütlusi, sealhulgas andmeid isiku elukoha kohta, ning saada käesoleva paragrahvi lõikes 1 nimetatud võrdluseks biomeetrilisi andmeid.
(3) Korrakaitseorgan võib isikusamasuse tuvastamisel nõuda isikult eriõigust tõendava dokumendi esitamist, kui õigusakti kohaselt on isik kohustatud sellist dokumenti kaasas kandma.
(4) Korrakaitseorgan võib dokumendile kantud või isiku antud andmete õigsust kontrollida rahvastikuregistrist või muust Euroopa Liidu õigusakti või seaduse alusel loodud andmekogust.
(5) Isikusamasuse tuvastamisel on õigus kasutada vahetut sundi nii kaua, kui see on eesmärgi saavutamiseks vältimatu.
(6) Korrakaitseorganil on õigus toimetada isik isikusamasuse tuvastamiseks ametiruumi, kui see on vajalik vahetu ohu korral või olulise ohu väljaselgitamiseks või tõrjumiseks.
(7) Kui isik toimetatakse isikusamasuse tuvastamiseks ametiruumi, on korrakaitseorgan kohustatud isikusamasuse tuvastamise järel toimetama isiku tema soovil tagasi lähtekohta või tema elu- või ööbimiskohta, kui see on samas omavalitsusüksuses.
(8) Kui isikusamasuse tuvastamiseks toimetatakse korrakaitseorganisse alaealine, on korrakaitseorgan kohustatud sellest viivitamata teavitama vanemat või muud seaduslikku esindajat või kohalikku omavalitsust.
(9) Massilise korratuse käigus kinnipeetud isiku isikusamasuse kohese tuvastamise võimatuse korral on politseil õigus selle hilisema tuvastamise eesmärgil kasutada identifitseerimist võimaldavaid vahendeid koos salvestamisega viisil, mis ei solva inimväärikust.
(10) Politsei- ja Piirivalveamet võib avalikustada massilisest korratusest osavõtnud isiku isikuandmed, kui see on vajalik isikusamasuse tuvastamise eesmärgil ning muul isikut vähem koormaval viisil ei olnud võimalik isikusamasust tuvastada.

(3) Upon the establishment of identity, a law enforcement agency may require from a person the presentation of a document in proof of a special right if pursuant to a legislation the person is required to carry with him or her such a document.
(4) A law enforcement agency may verify the authenticity of the data entered in the document or given by a person from the population register or from another database established under the legislation of the European Union or another Act.
(5) Upon the establishment of identity, direct coercion may be used insofar as it is unavoidable for the achievement of the objective.
(6) A law enforcement agency shall have the right to take a person to its office for the establishment of identity if it is necessary in the case of an immediate threat or for ascertaining or countering a significant threat.
(7) If a person is taken to an office for the establishment of identity, the law enforcement agency shall be required, after the establishment of identity, to take the person at his or her request back to the point of departure or to his or her place of residence or lodging, if it is within the same local government unit.
(8) If for the establishment of identity a minor is taken to a law enforcement agency, the law enforcement agency shall be required to immediately notify thereof a parent or another legal representative or the local government.
(9) If it is impossible to immediately establish the identity of a person detained during a mass disorder, the police have the right, for the purposes of later establishment of identity, to use the means which enable identification together with recording in a manner which does not offend human dignity.

§ 49. Examination of movable Public Order Act
(1)[331] The police or, in the cases provided by law, another law enforcement agency may, without the consent of the possessor, check a movable sensuously or by means of a

[331] **§ 49. Korrakaitseseadus** Vallasasja läbivaatus
(1) Politsei või seaduses sätestatud juhul muu korrakaitseorgan võib valdaja nõusolekuta kontrollida meeleliselt või tehnilise vahendi või teenistuslooma abil vallasasja, sealhulgas avada uksi ja kõrvaldada muid takistusi, kui:
1) seda kannab kaasas isik, kes siseneb avaliku võimu organi ehitisse või territooriumile;
2) seda kannab kaasas isik, kelle suhtes võib seaduse alusel teostada turvakontrolli või keda võib seaduse alusel läbi vaadata;
3) on alust arvata, et vallasasjas viibib isik, kellelt võib seaduse alusel võtta vabaduse või keda võib seaduse alusel läbi vaadata või kes on abitus seisundis;
4) on alust arvata, et selles on asju, mida võib käesoleva seaduse või muu seaduse alusel võtta hoiule, hõivata või konfiskeerida;
5) see on vajalik kõrgendatud ohu väljaselgitamiseks isiku suhtes, kes viibib elutähtsas energia-, side-, signalisatsiooni-, veevarustus- või kanalisatsioonisüsteemis, liikluskorralduse ehitises või seadmes või selle vahetus läheduses;
6) see on vajalik kaitstava isiku või valvatava objekti ohutuse tagamiseks või
7) see on vajalik seadusega või seaduse alusel kehtestatud nõuete täitmise tagamisel ohu ennetamiseks, väljaselgitamiseks või tõrjumiseks või korrarikkumise kõrvaldamiseks, ning selliste nõuete täitmise kontrollimine on vallasasja läbi vaatava korrakaitseorgani pädevuses.

technical device or a service animal, including open doors and eliminate other obstacles if:
1) it is carried by a person entering a building or territory of a public authority;
2) it is carried by a person who may be subjected to a security check pursuant to law or who may be examined pursuant to law;
3) there is reason to believe that a person who may be deprived of liberty pursuant to law or who may be examined pursuant to law or who needs assistance is present in the movable;
4) there is reason to believe that it contains items which may be taken into storage, occupied or confiscated based on this Act or another law;
5) it is necessary for the ascertainment of a serious threat regarding a person who is in a vital energy, communications, signalling, water supply or sewerage system, in a traffic control building or device or in the near vicinity thereof;
6) if it is necessary for ensuring the safety of a safeguarded person or object; or
7) if it is necessary for preventing, ascertaining or countering a threat or for eliminating a disorder upon ensuring the compliance with the requirements established by or based on law, and the verification of the compliance with such requirements lies within the competence of the law enforcement agency examining the moveable.
(2) The owner or the possessor of an item shall have the right to be present at the examination of the item. If the owner or the possessor is not present at the examination of the item, he or she may appoint an adult who shall have the right to be present at the examination of the item.
(3) A law enforcement agency may examine an item without the presence of a person specified in subpara (2) of this article if it is necessary for countering an immediate threat or if the said persons intentionally obstruct the lawful application of the measure provided for in this article.
(4) If the identity of the possessor can be established, he or she shall be notified of the examination of the movable at the first opportunity. If because of the examination of the movable a significant proprietary asset is left unsupervised, the law enforcement agency

(2) Asja omanikul või valdajal on õigus viibida asja läbivaatuse juures. Kui omanik või valdaja ei viibi asja läbivaatuse juures, võib ta määrata täisealise isiku, kellel on õigus viibida asja läbivaatuse juures.
(3) Korrakaitseorgan võib asja läbi vaadata ilma käesoleva paragrahvi lõikes 2 nimetatud isikute juuresolekuta, kui see on vajalik vahetu ohu tõrjumiseks või kui nimetatud isikud tahtlikult takistavad käesolevas paragrahvis sätestatud meetme õiguspärast kohaldamist.
(4) Kui valdaja isik on tuvastatav, tuleb teda esimesel võimalusel teavitada vallasasja läbivaatusest. Kui vallasasja läbivaatuse tagajärjel jääb valveta oluline varaline väärtus, tagab korrakaitseorgan kuni valdaja või muu õigustatud isiku saabumiseni vallasasja valve.
(5) Asja läbivaatusel võib kasutada vahetut sundi nii kaua, kui see on eesmärgi saavutamiseks vältimatu.
(5 1) Korrakaitseorgan võib võtta vallasasja läbivaatusel proove, samuti teostada mõõtmisi ja teha või tellida ekspertiisi ning jäädvustada olukorda pilti või heli salvestava seadmega.
(6) Käesolevas paragrahvis sätestatud meetme protokollimine on kohustuslik, välja arvatud juhul, kui isik siseneb avaliku võimu organi ehitisse või territooriumile vabatahtlikult või kui turvakontrolli kohaldatakse kaitstava isiku või valvatava objekti ohutuse tagamiseks.

shall ensure the supervision of the movable until the arrival of the possessor or another entitled person.
(5) Upon the examination of an item, direct coercion may be used insofar as it is unavoidable for the achievement of the objective.
(5[1]) Upon the examination of a moveable, a law enforcement agency may take samples and measurements and give or commission expert assessments as well as record the situation by means of a device which records images or audio.
(6) It is mandatory to record in a report the measure provided for in this article, except in the case the person enters a building or territory of a public authority of his or her free will or if a security check is applied for ensuring the safety of a safeguarded person or object.

§ 50.[332] **Entry into premises**
(1) The police or, in the cases provided by law, another law enforcement agency may enter without the consent of the possessor a fenced or marked immovable, building, dwelling or room in his or her possession, including open doors and gates or eliminate other obstacles if
1) it is necessary for ascertaining or countering a serious threat;
2) if there is reason to believe that a person who may be deprived of liberty pursuant to law or whose life, health or physical inviolability is in danger due to his or her need of assistance has entered the fenced or marked immovable, building or room;
3) if it is necessary for preventing, ascertaining or countering a threat or for eliminating a disorder upon ensuring the compliance with the requirements established by or based on law, and the verification of the compliance with such requirements lies within the competence of the law enforcement agency entering the premises.
(2) On the conditions provided for in subpara (1) of this article, the police or, in the cases provided by law, another law enforcement agency may enter the premises for ascertaining or countering a threat or for eliminating a disturbance if nuisances significantly disturbing another person are spreading outward from the premises and it is not possible to

[332] **§ 50. Korrakaitseseadus** Valdusesse sisenemine
(1) Politsei või seaduses sätestatud juhul muu korrakaitseorgan võib siseneda valdaja nõusolekuta tema valduses olevale piiratud või tähistatud kinnisasjale, ehitisse, eluruumi või ruumi, sealhulgas avada uksi, väravaid ja kõrvaldada muid takistusi, kui:
1) see on vajalik kõrgendatud ohu väljaselgitamiseks või tõrjumiseks;
2) on alust arvata, et piiratud või tähistatud kinnisasjal, ehitises või ruumis viibib isik, kellelt võib võtta seaduse alusel vabaduse või kelle elu, tervis või kehaline puutumatus on tingituna tema abitust seisundist ohustatud;
3) see on vajalik seadusega või seaduse alusel kehtestatud nõuete täitmise tagamisel ohu ennetamiseks, väljaselgitamiseks või tõrjumiseks või korrarikkumise kõrvaldamiseks, ning selliste nõuete täitmise tagamine on valdusesse siseneva korrakaitseorgani pädevuses.
(2) Politsei või seaduses sätestatud juhul muu korrakaitseorgan võib käesoleva paragrahvi lõikes 1 sätestatud tingimustel siseneda valdusesse ohu väljaselgitamiseks või tõrjumiseks või korrarikkumise kõrvaldamiseks, kui valdusest levivad väljapoole teist isikut oluliselt häirivad mõjutused ning nende kõrvaldamine ei ole muul viisil võimalik. Mõjutuse häirivuse hindamisel lähtutakse keskmisest objektiivsest isikust.

eliminate the nuisances in any other manner. An average objective person shall be the basis for an assessment of the disturbing nature of the nuisances.
(3)[333] The premises shall be entered, if possible, in the presence of the possessor or another entitled person and during the period from 7 a.m. to 11 p.m. Business premises shall be entered, if possible, during their business hours.
(4) A dwelling may only be entered without the knowledge of the possessor if he or she cannot be notified after reasonable efforts and entry is necessary for countering a disturbance or an immediate serious threat. During the period from 11 p.m. to 7 a.m. or without the knowledge of the possessor, a person's dwelling may only be entered if it is necessary:
1) for eliminating a disturbance if constant or recurrent nuisances significantly disturbing another person are spreading outward from the premises and it is not possible to eliminate the nuisances in any other manner;
2) for countering an immediate serious threat.
(5) If the identity of the possessor can be established, he or she shall be notified of the entry into the premises at the first opportunity. If because of the entry into the premises a significant proprietary asset is left unsupervised on the premises, the law enforcement agency shall ensure the supervision of the premises until the arrival of the possessor or another entitled person.
(6) Upon the entry into the premises, direct coercion may be used insofar as it is unavoidable for the achievement of the objective.
(7) It is mandatory to record in a report the measure provided for in this article.
(10) The Police and Border Guard Board may disclose the personal data of a person who has participated in a mass disorder if it is necessary for the purposes of establishing identity and the identity could not be established in another manner which is less burdensome on the person.

[333] (3) Valdusesse tuleb võimaluse korral siseneda valdaja või muu õigustatud isiku juuresolekul ja ajavahemikus kella 7.00-st kuni 23.00-ni. Äriruumidesse tuleb võimaluse korral siseneda nende töö- või lahtiolekuajal.
(4) Eluruumi tohib valdaja teadmiseta siseneda vaid siis, kui teda ei ole mõistlike pingutustega võimalik teavitada ja sisenemine on vajalik korrarikkumise või vahetu kõrgendatud ohu tõrjumiseks. Ajavahemikus kella 23.00-st kuni 7.00-ni või eluruumi valdaja teadmiseta on isiku eluruumi sisenemine lubatud ainult juhul, kui see on vajalik:
1) korrarikkumise kõrvaldamiseks, kui valdusest levivad väljapoole teist isikut oluliselt häirivad kestvad või korduvad mõjutused ja nende kõrvaldamine ei ole muul viisil võimalik;
2) vahetu kõrgendatud ohu tõrjumiseks.
(5) Kui valdaja isik on tuvastatav, tuleb esimesel võimalusel teavitada valdusesse sisenemisest. Kui valdusesse sisenemise tagajärjel jääb valduses valveta oluline varaline väärtus, tagab korrakaitseorgan kuni valdaja või muu õigustatud isiku saabumiseni valduse valve.
(6) Valdusesse sisenemisel võib kasutada vahetut sundi nii kaua, kui see on eesmärgi saavutamiseks vältimatu.
(7) Käesolevas paragrahvis sätestatud meetme protokollimine on kohustuslik.

§ 51.[334] **Examination of premises**

(1) The police or, in the cases provided by law, another law enforcement agency may, without the consent of the possessor, examine a fenced or marked immovable, building or room in the possession of the person, including examine an item therein and open doors and gates or eliminate other obstacles:

1) if there is reason to believe that a person who may be deprived of liberty pursuant to law or whose life, health or physical inviolability is in danger due to his or her need of assistance has entered the fenced or marked immovable, building or room;

2) for ascertaining or countering a serious threat; or

3) if it is necessary for preventing, ascertaining or countering a threat or for eliminating a disorder upon ensuring the compliance with the requirements established by or based on law, and the verification of the compliance with such requirements lies within the competence of the law enforcement agency examining the premises.

(2) The examination of a dwelling in the possession of a person and the examination of business premises outside business hours is only permitted with the prior permission of the administrative court of the location of the dwelling or business premises to be examined. If the permission of the administrative court is not possible to be requested due

[334] **§ 51. Korrakaitseseadus** Valduse läbivaatus

(1) Politsei või seaduses sätestatud juhul muu korrakaitseorgan võib valdaja nõusolekuta isiku valduses oleva piiratud või tähistatud kinnisasja, ehitise või ruumi läbi vaadata, sealhulgas vaadata läbi seal asuva asja ning avada uksi, väravaid või kõrvaldada muid takistusi:

1) kui on alust arvata, et piiratud või tähistatud kinnisasjal, ehitises või ruumis viibib isik, kellelt võib võtta seaduse alusel vabaduse või kelle elu, tervis või kehaline puutumatus on tingituna tema abitust seisundist ohustatud;

2) kõrgendatud ohu väljaselgitamiseks või tõrjumiseks või

3) kui see on vajalik seadusega või seaduse alusel kehtestatud nõuete täitmise tagamisel ohu ennetamiseks, väljaselgitamiseks või tõrjumiseks või korrarikkumise kõrvaldamiseks, ning selliste nõuete täitmise kontrollimine on valdust läbi vaatava korrakaitseorgani pädevuses.

(2) Isiku valduses oleva eluruumi läbivaatus ning äriruumi läbivaatus väljaspool selle töö- või lahtiolekuaega on lubatud ainult läbivaadatava elu- või äriruumi asukohajärgse halduskohtu eelneval loal. Kui halduskohtu luba ei ole võimalik taotleda vahetu kõrgendatud ohu tõrjumise vajaduse tõttu, võib korrakaitseorgan valduse läbi vaadata ilma halduskohtu loata. Sellisel juhul on korrakaitseorgan kohustatud loa taotlema tagantjärele. Kohtunik otsustab valduse läbivaatuseks loa andmise või selle pikendamise halduskohtumenetluse seadustikus haldustoiminguks loa andmiseks ettenähtud korras. Kui kohus keeldub loa andmisest, on korrakaitseorgan kohustatud viivitamata lõpetama valduse läbivaatuse.

(3) Ajavahemikus kella 23.00-st kuni 7.00-ni on isiku eluruumi läbivaatus lubatud ainult juhul, kui see on vajalik vahetu kõrgendatud ohu tõrjumiseks.

(4) Piiratud või tähistatud kinnisasja, ehitise või ruumi valdajal on õigus viibida valduse läbivaatuse juures. Kui valdaja ei viibi läbivaatuse juures, võib ta määrata täisealise isiku, kellel on õigus viibida valduse läbivaatuse juures.

(4 1) Korrakaitseorgan võib valduse läbi vaadata ilma käesoleva paragrahvi lõikes 4 nimetatud isikute juuresolekuta, kui see on vajalik vahetu ohu tõrjumiseks või kui nimetatud isikud tahtlikult takistavad käesolevas paragrahvis sätestatud meetme õiguspärast kohaldamist.

(5) Kui valdaja isik on tuvastatav, tuleb teda esimesel võimalusel teavitada valduse läbivaatusest. Kui valduse läbivaatuse tagajärjel jääb valduses valveta oluline varaline väärtus, tagab korrakaitseorgan kuni valdaja või muu õigustatud isiku saabumiseni valduse valve.

(6) Valduse läbivaatusel võib kasutada vahetut sundi nii kaua, kui see on eesmärgi saavutamiseks vältimatu.

(6 1) Korrakaitseorgan võib võtta valduse läbivaatusel proove, samuti teostada mõõtmisi ja teha või tellida ekspertiisi ning jäädvustada olukorda pilti või heli salvestava seadmega.

(7) Käesolevas paragrahvis sätestatud meetme protokollimine on kohustuslik.

to the need to counter an immediate serious threat, a law enforcement agency may examine the premises without the permission of the administrative court. In such a case, the law enforcement agency shall be required to request the permission afterwards. The judge shall decide on the grant of permission for the examination of the premises or extension thereof pursuant to the procedure provided for in the Code of Administrative Court Procedure for the grant of a permission to take an administrative measure. If the court refuses to grant the permission, the law enforcement agency shall be required to terminate the examination of the premises immediately.
(3) During the period from 11 p.m. to 7 a.m. a person's dwelling may only be examined if it is necessary for countering an immediate serious threat.
(4) The possessor of a fenced or marked immovable, building or room shall have the right to be present at the examination of the premises. If the possessor is not present at the examination of the premises, he or she may appoint an adult who shall have the right to be present at the examination of the premises.
(4^1) A law enforcement agency may examine premises without the presence of the persons specified in subpara (4) of this article if it is necessary for countering an immediate threat or if the said persons intentionally obstruct the lawful application of the measure provided for in this article.
(5) If the identity of the possessor can be established, he or she shall be notified of the examination of the premises at the first opportunity. If because of the examination of the premises a significant proprietary asset is left unsupervised on the premises, the law enforcement agency shall ensure the supervision of the premises until the arrival of the possessor or another entitled person.
(6) Upon the examination of the premises, direct coercion may be used insofar as it is unavoidable for the achievement of the objective.
(6^1) Upon the examination of the premises, a law enforcement agency may take samples and measurements and give or commission expert assessments as well as record the situation by means of a device which records images or audio.
(7) It is mandatory to record in a report the measure provided for in this article.

70 Police and other authorised law enforcement bodies may enter or examine premises without the possessor's consent to counter or prevent serious threats, assist endangered persons, or ensure compliance with the law. Dwellings are subject to stricter safeguards: normally entry or examination requires prior judicial authorisation, except in urgent cases involving immediate threats. Entries and examinations must be documented in a report, and the possessor must be notified as soon as possible.

§ 52.[335] **Taking into storage of movable**

(1) The police or, in the cases provided by law, another law enforcement agency shall have the right to take a movable into storage:

1) for countering an immediate threat or for eliminating a disturbance;

2) for the protection of the owner or possessor of the item against the direct risk of misplacement or loss of or significant damage to the item if at the same time public interests are in danger;

3) if pursuant to law a permit is required for the possession of the item but the person possessing the item lacks such a permit;

4) if the item is possessed by a person who has been deprived of liberty pursuant to law and there is a risk that the person will use the item to kill or injure himself or herself or another person or to damage another person's item or to escape;

5) if the movable is permitted to be examined based on article 49 of this Act and taking it into storage is necessary to take a sample or measurements of the movable or give an expert assessment on the movable; or

6) if during a security check an object which is not prohibited by law but may endanger the person himself or herself or another person is detected.

(2) An item taken into storage shall be stored by a law enforcement agency. If due to the characteristics of the item it is not possible or rational for the law enforcement agency to store the item, the law enforcement agency may give the item to be stored by another person who meets the necessary requirements therefor. The law enforcement agency or

[335] **§ 52. Korrakaitseseadus** Vallasasja hoiulevõtmine

(1) Politseil või seaduses sätestatud juhul muul korrakaitseorganil on õigus võtta vallasasi hoiule:

1) vahetu ohu tõrjumiseks või korrarikkumise kõrvaldamiseks;

2) asja omaniku või valdaja kaitseks asja kaotamise, hävimise või olulise kahjustamise vahetu ohu eest, kui samal ajal on ohus avalik huvi;

3) kui seaduse alusel on asja valdamiseks vaja luba, mis asja valdaval isikul puudub;

4) kui asja valdab isik, kellelt on seaduse alusel võetud vabadus, ning on oht, et isik kasutab asja enda või teise isiku tapmiseks või vigastamiseks või võõra asja kahjustamiseks või põgenemiseks;

5) kui vallasasja on lubatud käesoleva seaduse § 49 alusel läbi vaadata ning hoiulevõtmine on vajalik, et võtta vallasasja kohta proovi, samuti teostada vallasasja mõõtmisi või teha ekspertiisi või

6) kui turvakontrolli käigus on tuvastatud ese, mis ei ole seadusega keelatud, kuid võib ohustada isikut ennast või teist isikut.

(2) Hoiulevõetud asja hoiab korrakaitseorgan. Kui korrakaitseorganil ei ole asja omadustest tulenevalt võimalik või otstarbekas asja hoida, võib korrakaitseorgan anda asja hoiule muule isikule, kellel on täidetud selleks vajalikud tingimused. Korrakaitseorgan või muu isik, kellele asi on hoiule antud, peab hoidma asja selle säilimist tagaval viisil.

(3) Isikule, kellelt asi hoiule võetakse, väljastab korrakaitseorgan viivitamata asja hoiulevõtmise protokolli koopia, milles märgitakse korrakaitseorgan, kes hoiulevõtmist kohaldab, hoiulevõtmise aeg ja põhjus ning hoiulevõetava asja kirjeldus. Kui isik, kellelt asi hoiule võetakse, ei ole asja omanik ega selle seaduslik valdaja või kui asja ei võetud hoiule isikult ning omanik või seaduslik valdaja on tuvastatav, teavitab korrakaitseorgan omanikku või seaduslikku esindajat asja hoiulevõtmisest viivitamata.

(4) Hoiulevõetud asja omanikule või seaduslikule valdajale luuakse viivitamata pärast hoiulevõtmise aluse äralangemist võimalus asi kätte saada.

(5) Vallasasja hoiulevõtmiseks võib kasutada vahetut sundi nii kaua, kui see on eesmärgi saavutamiseks vältimatu.

(6) Käesolevas paragrahvis sätestatud meetme protokollimine on kohustuslik, välja arvatud lõike 1 punktis 6 sätestatud juhul.

another person who is storing the item shall store the item in a manner which ensures the preservation thereof.
(3) A law enforcement agency shall immediately issue to the person from whom an item is taken into storage a copy of the report on the taking into storage of the item, specifying the law enforcement agency applying the taking into storage, the time of and the reason for the taking into storage and the description of the item taken into storage. If the person from whom the item is taken into storage is not the owner of the item or the legal possessor thereof or if the item was not taken into storage from a person and the owner or the legal possessor can be established, the law enforcement agency shall immediately notify the owner or the legal possessor of the taking into storage of the item.
(4) The owner or the legal possessor of an item taken into storage shall be given an opportunity to retrieve the item immediately after the basis for the taking into storage ceases to exist.
(5) For the taking into storage of a movable, direct coercion may be used insofar as it is unavoidable for the achievement of the objective.
(6) It is mandatory to record in a report the measure provided for in this article, except in the case provided for in clause (1) 6).

§ 53. Selling or destruction of movable taken into storage
(1)[336] On the basis of an order of a law enforcement agency, a bailiff shall sell an item taken into storage at a public auction pursuant to the procedure provided for in the Code of Enforcement Procedure for the selling of movables if:

[336] **§ 53. Korrakaitseseadus** Hoiulevõetud vallasasja müümine või hävitamine
(1) Korrakaitseorgani korralduse alusel müüb hoiulevõetud asja kohtutäitur avalikul enampakkumisel täitemenetluse seadustikus vallasasjade müügiks sätestatud korras, kui:
1) tegemist on kiiresti rikneva või muul viisil kiiresti väärtust kaotava asjaga;
2) asja hoidmine ja korrashoid on ebaproportsionaalselt kulukas või raske;
3) asja ei ole võimalik hoida viisil, mis tagaks asjast lähtuvate ohtude tõrjumise;
4) asja ei ole võimalik tagastada selleks õigustatud isikule ühe aasta jooksul hoiulevõtmise päevast arvates, ilma et see tooks samal ajal kaasa uue vajaduse asja hoiulevõtmiseks korrakaitseorgani poolt, või
5) selleks õigustatud isik ei ole asja korrakaitseorganilt pärast asja hoiulevõtmise aluse äralangemist vastu võtnud talle kirjalikult teatavaks tehtud tähtpäevaks, kui teade sisaldas hoiatust, et vastuvõtmata jätmise korral asi müüakse.
(2) Asja hindab kohtutäitur, lähtudes asja harilikust väärtusest. Kui kohtutäituril ei ole võimalik hinda määrata, laseb kohtutäitur hindamise korraldada eksperdil.
(3) Asja müügist saadud tulemist arvatakse maha asja hoidmise kulud ja täitekulud ning ülejäänud summa makstakse välja asja endisele omanikule. Asja hoidmise kuludeks loetakse nii korrakaitseorgani kui ka kohtutäituri kantud kulud. Kui omanik ei võta summat vastu ühe aasta jooksul asja müümisest arvates, kantakse see riigituludesse.
(4) Kui asja müümine avalikul enampakkumisel ei ole võimalik või kui enampakkumise korraldamise kulud ületavad asja väärtuse, võib kohtutäitur asja müüa avaliku enampakkumiseta täitemenetluse seadustikus vallasasjade müügiks sätestatud korras.
(5) Kui võib eeldada, et asja ei ole võimalik müüa avalikul enampakkumisel ega muul viisil, või kui kohtutäituril ei õnnestu vara müüa, korraldab korrakaitseorgan asja hävitamise või pöörab selle riigi omandisse.

1) it is a highly perishable item or an item which quickly loses its value in another manner;
2) the storage and maintenance of the item is disproportionally expensive or complicated;
3) it is not possible to store the item in a manner which would ensure the countering of threats arising from the item;
4) it is not possible to return the item to the entitled person within one year as of the date of the taking into storage without it resulting at the same time in a new need for the item to be taken into storage by the law enforcement agency; or
5) the person entitled therefor has not accepted the item from the law enforcement agency after the basis for the taking into storage of the item ceased to exist by the period of time disclosed to him or her in writing if the notice contained a caution that in the case of non-acceptance, the item shall be sold.
(2) The item shall be valuated by the bailiff based on the usual value thereof. If the bailiff is unable to determine the price, the bailiff shall have the valuation organised by an expert.
(3) The costs of the storing of the item and the enforcement costs shall be deducted from the revenue received from the sale of the item and the remaining amount shall be paid to the former owner of the item. The costs of the storing of the item shall be deemed the costs incurred by both the law enforcement agency and the bailiff. If the owner does not accept the amount within one year as of the sale of the item, it shall be entered into public revenues.
(4) If it is not possible to sell the item at a public auction or if the costs of the organisation of a public auction will exceed the value of the item, the bailiff may sell the item without a public auction pursuant to the procedure provided for in the Code of Enforcement Procedure for the sale of movables.
(5) If it can be presumed that it is not possible to sell the item at a public auction or in another manner or if the bailiff is unable to sell the property, the law enforcement agency shall organise the destruction of the item or shall transfer it to state ownership.
(6) Prior to the sale, destruction or transfer to state ownership of the item, the law enforcement agency shall notify thereof the established owner or legal possessor.
(7) After the sale, destruction or transfer to state ownership of the item, the law enforcement agency shall be required to immediately issue a written notice to that effect to the established owner or legal possessor.

(6) Enne asja müümist, hävitamist või riigi omandisse pööramist teavitab korrakaitseorgan sellest tuvastatud omanikku või seaduslikku valdajat.
(7) Pärast asja müümist, hävitamist või riigi omandisse pööramist on korrakaitseorgan kohustatud viivitamata väljastama tuvastatud omanikule või seaduslikule valdajale selle kohta kirjaliku teatise.
(8) Kohtutäituri tasu müügi korraldamise eest sätestatakse kohtutäituri seaduses.
(9) Käesolevas paragrahvis sätestatud meetme protokollimine on kohustuslik. Vallasasja müümise dokumenteerib kohtutäitur, hävitamise või riigi omandisse pööramise korrakaitseorgan.c

(8) The remuneration of the bailiff for the organisation of the sale shall be provided for in the Bailiffs Act.
(9) It is mandatory to record in a report the measure provided for in this article. The sale of the movable shall be documented by the bailiff, and the destruction or transfer to state ownership of the movable shall be documented by the law enforcement agency.

(d) Powers in the Area of Direct Expenditure

71 The National Audit Office of Estonia may have special powers to conduct investigations into certain conduct.

72 The managing authorities around the Public Procurement Act have special powers to investigate in the procurement sector[337]:

73

Public Procurement Act[338]
Chapter 1 General Provisions Division 1
Scope of Regulation and Principles
§ 1.[339] **Scope of regulation**
(1) This area Act provides for the rules of public procurement, the rights and obligations of persons involved in public procurement, the rules of exercising state supervision and administrative supervision, review procedure, and the liability for violation of this Act.
(2) Public procurement information is mostly restricted, issued and disclosed in accordance with the rules established in the Public Information Act, unless otherwise provided for in this Act.

§ 183. Communication of data to special contracts between Estonian beneficiaries/applicants and e.g. the EU Publications Office of European Union
[340]Where the estimated value of the public procurement equals or exceeds the international threshold or in another event where the contracting authority or entity so requests,

[337] See https://bnn-news.com/vid-uncovers-tax-fraud-scheme-at-dzintari-concert-hall-215158. Accessed 30 June 2025.
[338] Riigihangete seadus, Vastu võetud 14.06.2017
[339] **1. peatükk**
Üldsätted
1. jagu
Reguleerimisala ja põhimõtted
§ 1. Riigihangete seadus Reguleerimisala
(1) Käesolev seadus sätestab riigihanke korraldamise reeglid, riigihankega seotud isikute õigused ja kohustused, riikliku järelevalve ja haldusjärelevalve tegemise, vaidlustuste lahendamise korra ning vastutuse käesoleva seaduse rikkumise eest.
(2) Juurdepääs riigihangete andmetele ning nende andmete väljastamine ja avalikustamine toimub avaliku teabe seaduses sätestatud korras, kui käesolevas seaduses ei ole sätestatud teisiti.
[340] **§ 183. Riigihangete seadus** Andmete edastamine Euroopa Liidu Väljaannete Talitusele

the register communicates the data contained in public procurement notices to the Publications Office of the European Union in accordance with Commission. If the contract Implementing Regulation (EU) No 842/2011 establishing standard forms for the publication of notices in the field of public procurement and repealing Regulation (EC) No 1564/2005 (OJ L 22, 27.08.2011, pp 1–187).

Chapter 9
State Supervision and Administrative Supervision

§ 203.[341] Supervisory competence of Ministry of Finance

(1) The Ministry of Finance exercises state supervision and administrative supervision (hereinafter supervision) only in public interests over compliance with this Act and legislation established on the basis thereof.

(2) The Ministry of Finance acts pursuant to law and is independent upon exercising supervision.

(3) In supervisory proceedings, the lawfulness of the actions of the contracting authority or entity is verified. Supervisory proceedings are not carried out for the purpose of verifying the practicality of the actions of the contracting authority or entity or assessment of the effectiveness of its decisions and steps.

§ 204.[342] Special measures of state supervision

The Ministry of Finance may, for the purpose of exercising state supervision provided for in this Act, take special measures of state supervision provided for in ***§§ 30, 32, 49 and 50 of the Law Enforcement Act*** on the grounds and in accordance with the rules provided for in the Law Enforcement Act.

Register edastab Euroopa Liidu Väljaannete Talitusele riigihangete teadetes sisalduvad andmed vastavalt komisjoni rakendusmäärusele (EL) nr 842/2011, millega kehtestatakse riigihankega seotud teadete avaldamise tüüpvormid ja tunnistatakse kehtetuks määrus (EÜ) nr 1564/2005 (ELT L 22, 27.08.2011, lk 1–187), kui riigihanke eeldatav maksumus on võrdne rahvusvahelise piirmääraga või ületab seda või muul juhul, kui hankija seda soovib.

[341] **9. peatükk**
Riiklik ja haldusjärelevalve
§ 203. **Riigihangete seadus** Rahandusministeeriumi järelevalvepädevus
(1) Rahandusministeerium teeb üksnes avalikes huvides riiklikku ja haldusjärelevalvet (edaspidi järelevalve) käesoleva seaduse ja selle alusel kehtestatud õigusaktide täitmise üle.
(2) Rahandusministeerium tegutseb seaduse alusel ja on järelevalve tegemisel sõltumatu.
(3) Järelevalvemenetluses kontrollitakse hankija tegevuse õiguspärasust. Järelevalvemenetlust ei tehta hankija tegevuse otstarbekuse kontrollimiseks ega tema otsuste ja toimingute tulemuslikkuse hindamiseks.

[342] **§ 204. Riigihangete seadus** Riikliku järelevalve erimeetmed
Rahandusministeerium võib käesolevas seaduses sätestatud riikliku järelevalve tegemiseks kohaldada korrakaitseseaduse §-des 30, 32, 49 ja 50 sätestatud riikliku järelevalve erimeetmeid korrakaitseseaduses sätestatud alusel ja korras.

§ 205. Commencement and termination of supervisory procedure

(1)[343] Supervisory proceedings are carried out on the initiative of the Ministry of Finance solely for the purpose of protecting public interests. The Ministry of Finance may commence supervisory proceedings:

1) where there is a reasonable doubt based on a supervisory notice specified in § 207 of this Act or on some other ground if there is sufficient information that refers to a breach of this Act and the circumstances specified in subpara 1 of § 206 are absent;

2) by way of a sample-based inspection.

(2) Supervisory proceedings commence with written notification of the contracting authority or entity or with the first procedural step where unannounced on-site supervision is exercised. Where necessary, clarifications are asked from the contracting authority or entity and data is gathered to decide whether to commence supervisory proceedings.

(3) In the case of supervisory proceedings initiated in accordance with clause 1 of subpara 1 of this article, the contracting authority or entity cannot grant acceptance to the awarding of a public contract or framework agreement before the supervisory proceedings have been completed or before complying with a precept in the case provided for in subpara 2 of § 208 of this Act. A public contract or framework agreement awarded in breach of the prohibition is ineffective.

(4) Supervisory proceedings terminate with:

1) a written notice on the existence of circumstances precluding supervisory proceedings;

2) communicating a precept to the contracting authority or entity;

3) a written inspection report.

[343] **§ 205. Riigihangete seadus** Järelevalvemenetluse algamine ja lõppemine

(1) Järelevalvemenetlus viiakse läbi Rahandusministeeriumi algatusel üksnes avaliku huvi kaitseks. Rahandusministeerium võib järelevalvemenetluse alustada:

1) põhjendatud kahtluse korral käesoleva seaduse §-s 207 sätestatud järelevalveteate põhjal või mõnel muul ajendil, kui on küllaldaselt andmeid, mis viitavad käesoleva seaduse rikkumisele, ja puuduvad § 206 lõikes 1 nimetatud asjaolud;

2) valimipõhise kontrollina.

(2) Järelevalvemenetlus algab hankija kirjaliku teavitamisega või esimese menetlustoiminguga, kui järelevalvet tehakse ette teatamata kohapeal. Vajaduse korral küsitakse järelevalvemenetluse alustamise otsustamiseks hankijalt selgitusi ja kogutakse lähteandmeid.

(3) Käesoleva paragrahvi lõike 1 punkti 1 kohaselt alustatud järelevalvemenetluse korral ei tohi hankija anda nõustumust hankelepingu või raamlepingu sõlmimiseks enne järelevalvemenetluse lõppemist või enne ettekirjutuse täitmist käesoleva seaduse § 208 lõikes 2 sätestatud juhul. Nimetatud keeldu rikkudes sõlmitud hankeleping või raamleping on tühine.

(4) Järelevalvemenetlus lõpeb:

1) kirjaliku teatega järelevalvemenetlust välistavate asjaolude esinemise kohta;

2) ettekirjutuse hankijale teatavaks tegemisega;

3) kirjaliku kontrolliaktiga.

§ 206.[344] **Circumstances precluding supervisory proceedings**

(1) Supervisory proceedings are not commenced or the commenced supervisory proceedings are terminated where:

1) the submitter of a supervisory notice has the right to file a request for review concerning a breach with the Review Committee;

2) the breach is being adjudicated by the Review Committee or a court, except in the case provided for in subpara 10 of § 195 of this Act or when a decision made by the Review Committee or a court, which gives a legal assessment of the circumstances of the breach and terminates the proceedings, has entered into force;

3) the details referring to a breach are not sufficient for giving rise to a reasonable doubt or if there is no breach;

4) the public procurement has ended.

(2) Supervisory proceedings do not need to be commenced where:

1) the submitter of a supervisory notice has not exercised the right to file a request for review with the Review Committee concerning a breach;

2) taking account of the circumstances of the breach and other factors, there are no overriding public interests to carry out supervisory proceedings.

(3) Where a supervisory notice had been submitted for commencement of supervisory proceedings, the Ministry of Finance informs the submitter of the notice of the non-commencement or termination of the proceedings.

(4) The circumstances specified in subparas 1 and 2 of this article do not prevent the commencement or the carrying out of supervisory proceedings in the case specified in clause 2 of subpara 1 of § 205 of this Act.

[344] **§ 206. Riigihangete seadus** Järelevalvemenetlust välistavad asjaolud

(1) Järelevalvemenetlust ei alustata või alustatud järelevalvemenetlus lõpetatakse, kui:

1) järelevalveteate esitajal on õigus esitada rikkumise peale vaidlustus vaidlustuskomisjonile;

2) rikkumine on vaidlustuskomisjoni või kohtu menetluses, välja arvatud käesoleva seaduse § 195 lõikes 10 sätestatud juhul, samuti siis, kui selle kohta on vaidlustuskomisjoni või kohtu jõustunud menetlust lõpetav lahend, milles on antud õiguslik hinnang rikkumise asjaoludele;

3) rikkumisele viitavad andmed ei ole põhjendatud kahtluse tekkimiseks küllaldased või rikkumist ei esine;

4) riigihange on lõppenud.

(2) Järelevalvemenetluse võib jätta alustamata, kui:

1) järelevalveteate esitaja ei ole kasutanud õigust esitada rikkumise peale vaidlustust vaidlustuskomisjonile;

2) rikkumise asjaolusid ja muid tegureid arvesse võttes puudub järelevalvemenetluse läbiviimiseks oluline avalik huvi.

(3) Kui järelevalvemenetluse alustamiseks oli esitatud järelevalveteade, teavitab Rahandusministeerium teate esitajat menetluse alustamata jätmisest või lõpetamisest.

(4) Käesoleva paragrahvi lõigetes 1 ja 2 nimetatud asjaolud ei takista järelevalvemenetluse alustamist ja läbiviimist käesoleva seaduse § 205 lõike 1 punktis 2 nimetatud juhul.

§ 209.[345] **Inspection report of Ministry of Finance**

(1) A written inspection report is drawn up regarding the results of sample-based inspection carried out by the Ministry of Finance, which is communicated to the contracting authority or entity and published on the public procurement website.

(2) An inspection report sets out the following:

1) the name and registry code of the contracting authority or entity;

2) the date of drawing up the report and the inspection period;

3) the purpose and scope of the supervisory proceedings;

4) the circumstances and breaches established in the supervisory proceedings;

5) assessment of the performance of the contracting authority's or entity's obligations (conclusions);

6) the given name and surname, job title and signature of the supervisory official of the Ministry of Finance who drew up the report.

(3) Before signing the inspection report, the contracting authority or entity is given the opportunity to express an opinion on the draft inspection report. An opinion can be expressed in writing within the time limit set by the Ministry of Finance.

§ 210.[346] **Recommendations and guidelines of the Ministry of Finance**

(1) The Ministry of Finance has the right to give recommendations and guidelines for improved adherence to this Act and for prevention of breaches.

(2) The recommendations and guidelines may be given in the document terminating the supervisory proceedings or separately.

[345] **§ 209. Riigihangete seadus** Rahandusministeeriumi kontrolliakt

(1) Rahandusministeeriumi valimipõhise kontrolli tulemuste kohta koostatakse kirjalik kontrolliakt, mis tehakse teatavaks hankijale ja avalikustatakse riigihangete veebilehel.

(2) Kontrolliaktis märgitakse:

1) hankija nimi ja registrikood;

2) akti koostamise kuupäev ja kontrolliperiood;

3) järelevalvemenetluse eesmärk ja ulatus;

4) järelevalvemenetluses tuvastatud asjaolud ja rikkumised;

5) hinnang hankija kohustuste täitmisele (järeldused);

6) akti koostanud Rahandusministeeriumi järelevalveametniku ees- ja perekonnanimi, ametikoha nimetus ja allkiri.

(3) Enne kontrolliakti allkirjastamist antakse hankijale võimalus avaldada kontrolliakti projekti kohta arvamust. Arvamust saab avaldada kirjalikus vormis ja Rahandusministeeriumi määratud tähtaja jooksul.

[346] **§ 210. Riigihangete seadus** Rahandusministeeriumi soovitused ja juhised

(1) Rahandusministeeriumil on õigus anda soovitusi ja juhiseid käesoleva seaduse paremaks järgimiseks ja rikkumiste ärahoidmiseks.

(2) Soovitused ja juhised võivad sisalduda järelevalvemenetlust lõpetavas dokumendis või need esitatakse eraldi.

§ 211.[347] **Actions of Ministry of Finance in case of suspected offence and corruption case**

(1) If the body of circumstances learned by the Ministry of Finance during supervision may give rise to a suspicion of an offence that does not amount to a misdemeanour provided for in §§ 213–215 of this Act or it has the characteristics of a possible corruption case, the Ministry of Finance will inform an investigative body or the Prosecutor's Office of the circumstances known to the Ministry of Finance.

(2) To prevent corruption cases, the Ministry of Finance may cooperate with an investigative body, the Prosecutor's Office, other governmental authorities and local authorities within the limits of its duties, tasks, functions and authority. The substance of cooperation lies in, above all, communication and exchange of information between authorities and in coordination of activities.

§ 212.[348] **Cooperation with European Commission**

(1) Where the European Commission informs a contracting authority or entity in writing of a clear breach of provisions of the public procurement legislation of the European Union or of national law the Administrative Procedure Act might apply. legislation implementing it upon organisation of public procurement, the contracting authority or entity is required to, within three working days following the receipt of the notice, send to the Ministry of Finance the entire relevant information on the respective public procurement.

(2) The procedure for handling the information specified in subpara 1 of this article and communicating it to the European Commission is established by a regulation of the minister responsible for the field.

[347] **§ 211. Riigihangete seadus** Rahandusministeeriumi tegevus süüteokahtluse ja korruptsioonijuhtumi korral
(1) Kui järelevalve käigus Rahandusministeeriumile teatavaks saanud asjaolude kogum võib anda aluse süüteokahtluseks, mis ei ole käsitatav käesoleva seaduse §-des 213–215 sätestatud väärteona, või sellel on võimaliku korruptsioonijuhtumi tunnused, teavitab Rahandusministeerium talle teadaolevatest asjaoludest pädevat uurimisasutust või prokuratuuri.
(2) Korruptsioonijuhtumite ennetamiseks võib Rahandusministeerium oma ülesannete ja volituste piires teha koostööd uurimisasutuse, prokuratuuri ning teiste valitsusasutuste ja kohaliku omavalitsuse üksustega. Koostöö sisuks on eelkõige ametkondadevaheline teabevahetus ja tegevuste koordineerimine.

[348] **§ 212. Riigihangete seadus** Koostöö Euroopa Komisjoniga
(1) Kui Euroopa Komisjon teavitab hankijat kirjalikult Euroopa Liidu riigihankealaste õigusaktide või neid rakendavate riigisiseste õigusaktide sätete ilmsest rikkumisest riigihanke korraldamisel, on hankija kohustatud kolme tööpäeva jooksul teate saamisest arvates edastama Rahandusministeeriumile kogu asjakohase informatsiooni vastava riigihanke kohta.
(2) Käesoleva paragrahvi lõikes 1 nimetatud informatsiooni käsitlemise ja Euroopa Komisjonile edastamise korra kehtestab valdkonna eest vastutav minister määrusega.

74 **References in § 204 Public Procurement Act:**

Law Enforcement Act[349]

Division 3 Special State Supervision Measures Subdivision 1

Special State Supervision Measures Regarding Processing of Personal Data

§ 30.[350] Questioning and requiring of documents

(1) The police or, in the cases provided by law, another law enforcement agency may stop a person and question him or her if there is reason to believe that the person has information necessary for preventing, ascertaining or countering a threat or for eliminating a disturbance or for guaranteeing the safety of a safeguarded person or object, and preventing, ascertaining and countering that threat and eliminating that disturbance and safeguarding the person or object is in the competence of the law enforcement agency conducting the questioning.

(2) Questioning shall be recorded in a report if the person questioned requests it or if it is deemed necessary by the law enforcement agency. If the law enforcement agency deems it necessary, the person questioned may give explanations in writing autographically.

(3) The police or, in the cases provided by law, another law enforcement agency may require a person to present his or her documents if there is reason to believe that the person has information necessary for preventing, ascertaining or countering a threat or for eliminating a disturbance or for guaranteeing the safety of a safeguarded person or

[349] Korrakaitseseadus, Vastu võetud 23.02.2011, RT I, 22.03.2011, 4, jõustumine 01.07.2014

[350] **3. jagu**
Riikliku järelevalve erimeetmed
1. jaotis
Isikuandmete töötlemisega seonduvad riikliku järelevalve erimeetmed
§ 30. Korrakaitseseadus Küsitlemine ja dokumentide nõudmine
(1) Politsei või seaduses sätestatud juhul muu korrakaitseorgan võib isiku peatada ja teda küsitleda, kui on alust arvata, et isikul on ohu ennetamiseks, väljaselgitamiseks või tõrjumiseks või korrarikkumise kõrvaldamiseks või kaitstava isiku või valvatava objekti ohutuse tagamiseks vajalikke andmeid, ning selle ohu ennetamine, väljaselgitamine, tõrjumine või korrarikkumise kõrvaldamine või isiku kaitsmine või objekti valvamine on küsitleva korrakaitseorgani pädevuses.
(2) Küsitlemine protokollitakse, kui küsitletav isik seda taotleb või kui seda peab vajalikuks korrakaitseorgan. Kui korrakaitseorgan peab seda vajalikuks, võib küsitletav isik anda seletusi kirjalikult omakäeliselt.
(3) Politsei või seaduses sätestatud juhul muu korrakaitseorgan võib nõuda isikult dokumentide esitamist, kui on alust arvata, et isikul on ohu ennetamiseks, väljaselgitamiseks või tõrjumiseks või korrarikkumise kõrvaldamiseks või kaitstava isiku või valvatava objekti ohutuse tagamiseks vajalikke andmeid, ning selle ohu ennetamine, väljaselgitamine, tõrjumine või korrarikkumise kõrvaldamine või isiku kaitsmine või objekti valvamine on dokumente nõudva korrakaitseorgani pädevuses.
(4) Dokumentide nõudmine ja vastuvõtmine korrakaitseorgani poolt protokollitakse või fikseeritakse korrakaitseorgani üldise asjaajamiskorra kohaselt. Kui dokumentide nõudmine ja nendega tutvumine toimub kohapeal, protokollitakse meede selle kohaldamisele allutatud isiku taotlusel.
(5) Küsitlemine ja dokumentide nõudmine ohu ennetamiseks ei ole lubatud teabe ja dokumentide korral, mida on võimalik saada seaduse alusel asutatud andmekogust, välja arvatud juhul, kui teabe saamine andmekogust ei ole korrakaitseorganist sõltumatul põhjusel võimalik. Käesolevas lõikes nimetatud piirang kehtib ka teabe kohta, mida korrakaitseorganil on võimalik saada tasuta teise Euroopa Liidu liikmesriigi asjaomasest andmekogust või tasu eest, kui isik kinnitab kirjalikku taasesitamist võimaldavas vormis, et kannab nimetatud teabe hankimise kulud.

object, and preventing, ascertaining and countering that threat and eliminating that disturbance and safeguarding the person or object is in the competence of the law enforcement agency requiring the presentation of the documents.
(4) Requiring and receipt of documents by a law enforcement agency shall be recorded or documented pursuant to the general administration procedure of the law enforcement agency. If the documents are required and examined on site, the measure shall be recorded at the request of the person subjected to the application thereof.
(5) Questioning and requiring the presentation of documents for the prevention of a threat is not permitted in the case of information and documents which can be obtained from a database established based on the law, except in the case the information cannot be obtained from the database for reasons irrespective of the law enforcement agency. The restriction specified in this article also applies to information which the law enforcement agency can obtain free of charge from the relevant database of another Member State of the European Union or for a charge if the person confirms in a format which can be reproduced in writing that he or she will cover the costs of obtaining the said information.

§ 32. Establishment of identity
(1)[351] The police or, in the cases provided by law, another law enforcement agency may, with the knowledge of the person, establish identity on the basis of a valid identity document, that means ascertain the person's name and personal identification code or in the

[351] **§ 32. Korrakaitseseadus** Isikusamasuse tuvastamine
(1) Politsei või seaduses sätestatud juhul muu korrakaitseorgan võib isiku teadmisel kehtiva isikut tõendava dokumendi alusel tuvastada isikusamasuse, see tähendab teha kindlaks isiku nime ja isikukoodi või selle puudumisel sünniaja, tutvuda dokumendiga, võrrelda fotot ja teisi dokumendile kantud biomeetrilisi andmeid isikuga ning kontrollida dokumendi ehtsust, või kui see ei ole võimalik, siis tuvastada isikusamasuse muul õiguspärasel viisil, kui see on vajalik ohu ennetamiseks, väljaselgitamiseks, tõrjumiseks või korrarikkumise kõrvaldamiseks.
(2) Politseil või seaduses sätestatud juhul muul korrakaitseorganil on isikusamasuse tuvastamiseks õigus peatada isik ja nõuda temalt käesoleva paragrahvi lõikes 1 nimetatud dokumendi esitamist, saada isikusamasuse tuvastamist võimaldavaid ütlusi, sealhulgas andmeid isiku elukoha kohta, ning saada käesoleva paragrahvi lõikes 1 nimetatud võrdluseks biomeetrilisi andmeid.
(3) Korrakaitseorgan võib isikusamasuse tuvastamisel nõuda isikult eriõigust tõendava dokumendi esitamist, kui õigusakti kohaselt on isik kohustatud sellist dokumenti kaasas kandma.
(4) Korrakaitseorgan võib dokumendile kantud või isiku antud andmete õigsust kontrollida rahvastikuregistrist või muust Euroopa Liidu õigusakti või seaduse alusel loodud andmekogust.
(5) Isikusamasuse tuvastamisel on õigus kasutada vahetut sundi nii kaua, kui see on eesmärgi saavutamiseks vältimatu.
(6) Korrakaitseorganil on õigus toimetada isik isikusamasuse tuvastamiseks ametiruumi, kui see on vajalik vahetu ohu korral või olulise ohu väljaselgitamiseks või tõrjumiseks.
(7) Kui isik toimetatakse isikusamasuse tuvastamiseks ametiruumi, on korrakaitseorgan kohustatud isikusamasuse tuvastamise järel toimetama isiku tema soovil tagasi lähtekohta või tema elu- või ööbimiskohta, kui see on samas omavalitsusüksuses.
(8) Kui isikusamasuse tuvastamiseks toimetatakse korrakaitseorganisse alaealine, on korrakaitseorgan kohustatud sellest viivitamata teavitama vanemat või muud seaduslikku esindajat või kohalikku omavalitsust.

absence of the latter the date of birth, examine the document, compare the photograph and other biometric data in the document with the person, and verify the authenticity of the document, or if this is not possible, establish identity in another legal manner if it is necessary for preventing, ascertaining or countering a threat or for eliminating a disturbance.
(2) For the establishment of identity, the police or, in the cases provided by law, another law enforcement agency shall have the right to stop a person and require him or her to present a document specified in subpara (1) of this article, to obtain statements enabling the establishment of identity, including information on the person's place of residence, and to obtain biometric data for the comparison specified in subpara (1) of this article.
(3) Upon the establishment of identity, a law enforcement agency may require from a person the presentation of a document in proof of a special right if pursuant to a legislation the person is required to carry with him or her such a document.
(4) A law enforcement agency may verify the authenticity of the data entered in the document or given by a person from the population register or from another database established under the legislation of the European Union or another Act.
(5) Upon the establishment of identity, direct coercion may be used insofar as it is unavoidable for the achievement of the objective.
(6) A law enforcement agency shall have the right to take a person to its office for the establishment of identity if it is necessary in the case of an immediate threat or for ascertaining or countering a significant threat.
(7) If a person is taken to an office for the establishment of identity, the law enforcement agency shall be required, after the establishment of identity, to take the person at his or her request back to the point of departure or to his or her place of residence or lodging, if it is within the same local government unit.
(8) If for the establishment of identity a minor is taken to a law enforcement agency, the law enforcement agency shall be required to immediately notify thereof a parent or another legal representative or the local government.
(9) If it is impossible to immediately establish the identity of a person detained in the course of a mass disorder, the police have the right, for the purposes of later establishment of identity, to use the means which enable identification together with recording in a manner which does not offend human dignity.

(9) Massilise korratuse käigus kinnipeetud isiku isikusamasuse kohese tuvastamise võimatuse korral on politseil õigus selle hilisema tuvastamise eesmärgil kasutada identifitseerimist võimaldavaid vahendeid koos salvestamisega viisil, mis ei solva inimväärikust.
(10) Politsei- ja Piirivalveamet võib avalikustada massilisest korratusest osavõtnud isiku isikuandmed, kui see on vajalik isikusamasuse tuvastamise eesmärgil ning muul isikut vähem koormaval viisil ei olnud võimalik isikusamasust tuvastada.

§ 49.[352] **Examination of movable**

(1) The police or, in the cases provided by law, another law enforcement agency may, without the consent of the possessor, check a movable sensuously or by means of a technical device or a service animal, including open doors and eliminate other obstacles if:

1) it is carried by a person entering a building or territory of a public authority;

2) it is carried by a person who may be subjected to a security check pursuant to law or who may be examined pursuant to law;

3) there is reason to believe that a person who may be deprived of liberty pursuant to law or who may be examined pursuant to law or who needs assistance is present in the movable;

4) there is reason to believe that it contains items which may be taken into storage, occupied or confiscated based on this Act or another law;

5) it is necessary for the ascertainment of a serious threat regarding a person who is in a vital energy, communications, signalling, water supply or sewerage system, in a traffic control building or device or in the near vicinity thereof;

6) if it is necessary for ensuring the safety of a safeguarded person or object; or

[352] **§ 49. Korrakaitseseadus** Vallasasja läbivaatus

(1) Politsei või seaduses sätestatud juhul muu korrakaitseorgan võib valdaja nõusolekuta kontrollida meeleliselt või tehnilise vahendi või teenistuslooma abil vallasasja, sealhulgas avada uksi ja kõrvaldada muid takistusi, kui:

1) seda kannab kaasas isik, kes siseneb avaliku võimu organi ehitisse või territooriumile;

2) seda kannab kaasas isik, kelle suhtes võib seaduse alusel teostada turvakontrolli või keda võib seaduse alusel läbi vaadata;

3) on alust arvata, et vallasasjas viibib isik, kellelt võib seaduse alusel võtta vabaduse või keda võib seaduse alusel läbi vaadata või kes on abitus seisundis;

4) on alust arvata, et selles on asju, mida võib käesoleva seaduse või muu seaduse alusel võtta hoiule, hõivata või konfiskeerida;

5) see on vajalik kõrgendatud ohu väljaselgitamiseks isiku suhtes, kes viibib elutähtsas energia-, side-, signalisatsiooni-, veevarustus- või kanalisatsioonisüsteemis, liikluskorralduse ehitises või seadmes või selle vahetus läheduses;

6) see on vajalik kaitstava isiku või valvatava objekti ohutuse tagamiseks või

7) see on vajalik seadusega või seaduse alusel kehtestatud nõuete täitmise tagamisel ohu ennetamiseks, väljaselgitamiseks või tõrjumiseks või korrarikkumise kõrvaldamiseks, ning selliste nõuete täitmise kontrollimine on vallasasja läbi vaatava korrakaitseorgani pädevuses.

(2) Asja omanikul või valdajal on õigus viibida asja läbivaatuse juures. Kui omanik või valdaja ei viibi asja läbivaatuse juures, võib ta määrata täisealise isiku, kellel on õigus viibida asja läbivaatuse juures.

(3) Korrakaitseorgan võib asja läbi vaadata ilma käesoleva paragrahvi lõikes 2 nimetatud isikute juuresolekuta, kui see on vajalik vahetu ohu tõrjumiseks või kui nimetatud isikud tahtlikult takistavad käesolevas paragrahvis sätestatud meetme õiguspärast kohaldamist.

(4) Kui valdaja isik on tuvastatav, tuleb teda esimesel võimalusel teavitada vallasasja läbivaatusest. Kui vallasasja läbivaatuse tagajärjel jääb valveta oluline varaline väärtus, tagab korrakaitseorgan kuni valdaja või muu õigustatud isiku saabumiseni vallasasja valve.

(5) Asja läbivaatusel võib kasutada vahetut sundi nii kaua, kui see on eesmärgi saavutamiseks vältimatu.

(5 1) Korrakaitseorgan võib võtta vallasasja läbivaatusel proove, samuti teostada mõõtmisi ja teha või tellida ekspertiisi ning jäädvustada olukorda pilti või heli salvestava seadmega.

(6) Käesolevas paragrahvis sätestatud meetme protokollimine on kohustuslik, välja arvatud juhul, kui isik siseneb avaliku võimu organi ehitisse või territooriumile vabatahtlikult või kui turvakontrolli kohaldatakse kaitstava isiku või valvatava objekti ohutuse tagamiseks.

7) if it is necessary for preventing, ascertaining or countering a threat or for eliminating a disorder upon ensuring the compliance with the requirements established by or based on law, and the verification of the compliance with such requirements lies within the competence of the law enforcement agency examining the moveable.
(2) The owner or the possessor of an item shall have the right to be present at the examination of the item. If the owner or the possessor is not present at the examination of the item, he or she may appoint an adult who shall have the right to be present at the examination of the item.
(3) A law enforcement agency may examine an item without the presence of a person specified in subpara (2) of this article if it is necessary for countering an immediate threat or if the said persons intentionally obstruct the lawful application of the measure provided for in this article.
(4) If the identity of the possessor can be established, he or she shall be notified of the examination of the movable at the first opportunity. If because of the examination of the movable a significant proprietary asset is left unsupervised, the law enforcement agency shall ensure the supervision of the movable until the arrival of the possessor or another entitled person.
(5) Upon the examination of an item, direct coercion may be used insofar as it is unavoidable for the achievement of the objective.
(5^1) Upon the examination of a moveable, a law enforcement agency may take samples and measurements and give or commission expert assessments as well as record the situation by means of a device which records images or audio.
(6) It is mandatory to record in a report the measure provided for in this article, except in the case the person enters a building or territory of a public authority of his or her free will or if a security check is applied for ensuring the safety of a safeguarded person or object.

§ 50.[353] **Entry into premises**

(1) The police or, in the cases provided by law, another law enforcement agency may enter without the consent of the possessor a fenced or marked immovable, building, dwelling or room in his or her possession, including open doors and gates or eliminate other obstacles if

1) it is necessary for ascertaining or countering a serious threat;

2) if there is reason to believe that a person who may be deprived of liberty pursuant to law or whose life, health or physical inviolability is in danger due to his or her need of assistance has entered the fenced or marked immovable, building or room;

3) if it is necessary for preventing, ascertaining or countering a threat or for eliminating a disorder upon ensuring the compliance with the requirements established by or based on law, and the verification of the compliance with such requirements lies within the competence of the law enforcement agency entering the premises.

(2) On the conditions provided for in subpara (1) of this article, the police or, in the cases provided by law, another law enforcement agency may enter the premises for ascertaining or countering a threat or for eliminating a disturbance if nuisances significantly disturbing another person are spreading outward from the premises and it is not possible to eliminate the nuisances in any other manner. An average objective person shall be the basis for an assessment of the disturbing nature of the nuisances.

---

[353] **§ 50. Korrakaitseseadus** Valdusesse sisenemine

(1) Politsei või seaduses sätestatud juhul muu korrakaitseorgan võib siseneda valdaja nõusolekuta tema valduses olevale piiratud või tähistatud kinnisasjale, ehitisse, eluruumi või ruumi, sealhulgas avada uksi, väravaid ja kõrvaldada muid takistusi, kui:

1) see on vajalik kõrgendatud ohu väljaselgitamiseks või tõrjumiseks;

2) on alust arvata, et piiratud või tähistatud kinnisasjal, ehitises või ruumis viibib isik, kellelt võib võtta seaduse alusel vabaduse või kelle elu, tervis või kehaline puutumatus on tingituna tema abitust seisundist ohustatud;

3) see on vajalik seadusega või seaduse alusel kehtestatud nõuete täitmise tagamisel ohu ennetamiseks, väljaselgitamiseks või tõrjumiseks või korrarikkumise kõrvaldamiseks, ning selliste nõuete täitmise tagamine on valdusesse siseneva korrakaitseorgani pädevuses.

(2) Politsei või seaduses sätestatud juhul muu korrakaitseorgan võib käesoleva paragrahvi lõikes 1 sätestatud tingimustel siseneda valdusesse ohu väljaselgitamiseks või tõrjumiseks või korrarikkumise kõrvaldamiseks, kui valdusest levivad väljapoole teist isikut oluliselt häirivad mõjutused ning nende kõrvaldamine ei ole muul viisil võimalik. Mõjutuse häirivuse hindamisel lähtutakse keskmisest objektiivsest isikust.

(3) Valdusesse tuleb võimaluse korral siseneda valdaja või muu õigustatud isiku juuresolekul ja ajavahemikus kella 7.00-st kuni 23.00-ni. Äriruumidesse tuleb võimaluse korral siseneda nende töö- või lahtiolekuajal.

(4) Eluruumi tohib valdaja teadmiseta siseneda vaid siis, kui teda ei ole mõistlike pingutustega võimalik teavitada ja sisenemine on vajalik korrarikkumise või vahetu kõrgendatud ohu tõrjumiseks. Ajavahemikus kella 23.00-st kuni 7.00-ni või eluruumi valdaja teadmiseta on isiku eluruumi sisenemine lubatud ainult juhul, kui see on vajalik:

1) korrarikkumise kõrvaldamiseks, kui valdusest levivad väljapoole teist isikut oluliselt häirivad kestvad või korduvad mõjutused ja nende kõrvaldamine ei ole muul viisil võimalik;

2) vahetu kõrgendatud ohu tõrjumiseks.

(5) Kui valdaja isik on tuvastatav, tuleb esimesel võimalusel teavitada valdusesse sisenemisest. Kui valdusesse sisenemise tagajärjel jääb valduses valveta oluline varaline väärtus, tagab korrakaitseorgan kuni valdaja või muu õigustatud isiku saabumiseni valduse valve.

(6) Valdusesse sisenemisel võib kasutada vahetut sundi nii kaua, kui see on eesmärgi saavutamiseks vältimatu.

(7) Käesolevas paragrahvis sätestatud meetme protokollimine on kohustuslik.

(3) The premises shall be entered, if possible, in the presence of the possessor or another entitled person and during the period from 7 a.m. to 11 p.m. Business premises shall be entered, if possible, during their business hours.
(4) A dwelling may only be entered without the knowledge of the possessor if he or she cannot be notified after reasonable efforts and entry is necessary for countering a disturbance or an immediate serious threat. During the period from 11 p.m. to 7 a.m. or without the knowledge of the possessor, a person's dwelling may only be entered if it is necessary:
1) for eliminating a disturbance if constant or recurrent nuisances significantly disturbing another person are spreading outward from the premises and it is not possible to eliminate the nuisances in any other manner;
2) for countering an immediate serious threat.
(5) If the identity of the possessor can be established, he or she shall be notified of the entry into the premises at the first opportunity. If because of the entry into the premises a significant proprietary asset is left unsupervised on the premises, the law enforcement agency shall ensure the supervision of the premises until the arrival of the possessor or another entitled person.
(6) Upon the entry into the premises, direct coercion may be used insofar as it is unavoidable for the achievement of the objective.
(7) It is mandatory to record in a report the measure provided for in this article. […]
(10) The Police and Border Guard Board may disclose the personal data of a person who has participated in a mass disorder if it is necessary for the purposes of establishing identity and the identity could not be established in another manner which is less burdensome on the person.

(5) Protection of Information

Investigative actions into irregularities can be very intrusive. National law protects the information of the persons concerned as well as the participants in the inspections (civil servants etc.). In some cases, a secrecy may be disclosed (sometimes even without prior notification of the person concerned, see ss. 29, 29, 30 Tax Act). A person concerned may challenge the decisions taken by virtue of Chapter 14 Tax Act. **75**

(a) Tax Secrecy (General Tax Code)

The main provisions for the tax secrecy that may apply in favour for the person concerned is enshrined in s. 26 Tax Act: **76**

Subchapter 4
Tax Secrecy

§ 26. Protection of tax secrecy[354]

(1) The tax authorities and officials and other staff thereof are required to maintain the confidentiality of information concerning taxable persons, including all media (decisions, acts, notices and other documents) concerning the taxable persons, information concerning the existence of media, business secrets and information subject to banking secrecy, which is obtained by the authorities, officials or other staff in the course of verifying the correctness of taxes paid, making an assessment of taxes, collecting tax arrears, conducting proceedings concerning violations of tax law or performing of other official or employment duties (hereinafter tax secrecy). The obligation to maintain tax secrecy continues after the termination of the service or employment relationship.
[RT I, 06.07.2012, 1 – entry into force 01.04.2013]
(2) Information subject to tax secrecy may only be disclosed with the written permission of the taxable person or in the cases specified in §§ 27–30 of this Act.
(2^1) The employees of a state authority, who are engaged in the maintenance and development of the information and communication systems, shall have access to the tax secrecy to the extent which necessary for maintenance and development of the information and communication systems of the state authority.
[RT I, 23.03.2017, 1 – entry into force 01.04.2017]
(2^2) A person that is auditing the activities of the tax authority shall have the access to tax secrecy.
[RT I, 25.10.2012, 1 – entry into force 01.12.2012]
(2^3) The State Shared Service Centre, the court and the prosecutor's office shall have the right of access to tax secrecy to take account of the monetary obligations specified

[354] See here for the Estonian wording https://www.riigiteataja.ee/akt/117032015010?leiaKehtiv. Accessed 30 June 2025.

in subpara 6 of § 1 of this Act and arrange the performance thereof to the extent necessary.
[RT I, 07.12.2018, 1 – entry into force 17.12.2018]
(3) Unless otherwise provided by law, the officials and employees who receive information concerning tax secrecy pursuant to §§ 28–30 of this Act or in the performance of their official or employment duties and persons performing public law functions are required to maintain the confidentiality of any information concerning taxable persons which became known to them. The obligation to maintain tax secrecy continues after the termination of the service or employment relationship.
[RT I, 06.07.2012, 1 – entry into force 01.04.2013]

77 See as well § 151[32] Tax Act.

(b) Administrative Secrecy (Administrative Laws)

78 The Administrative Procedure Act provides for s. 7:

§ 7. Accessibility and data protection[355]
1) Administrative proceedings shall be public.
2) An administrative authority shall display essential information on the administrative procedure (instructions for submitting documents, instructions for completing samples, forms, explanatory notes under article 36 of this Act, etc.) at its site and publish it on its official website.
3) ***An administrative authority shall be obliged to maintain state and business secrets as well as to keep confidential classified information and foreign information admitted for internal use.***
[RT I 2007, 24, 127 – entered into force. 01.01.2008]

[355] **§ 7. Avalikkus ja andmekaitse Haldusmenetluse seadus (lühend - HMS)**
1) Haldusmenetlus on avalik.
2) Haldusorgan hoolitseb haldusmenetlust käsitleva olulise teabe (dokumentide esitamise juhendid, näidisvormide täitmise juhendid, blanketid, käesoleva seaduse §-s 36 sätestatud selgitused jms) väljapaneku eest oma asukohas ning avaldab selle teabe oma ametlikul veebilehel, kui see on haldusorganil olemas.
3) Haldusorgan on kohustatud hoidma riigi- ja ärisaladust ning hoidma saladuses salastatud välisteabe ja asutusesiseseks kasutamiseks tunnistatud andmed.
[RT I 2007, 24, 127 - jõust. 01.01.2008]
4) Haldusmenetluses tuleb järgida Euroopa Parlamendi ja nõukogu määrusest (EL) 2016/679 füüsiliste isikute kaitse kohta isikuandmete töötlemisel ja selliste andmete vaba liikumise ning direktiivi 95/46/EÜ kehtetuks tunnistamise kohta (isikuandmete kaitse üldmäärus) (ELT L 119, 04.05.2016, lk 1–88) ja isikuandmete kaitse seadusest tulenevat isikuandmete töötlemise korda, arvestades seaduses sätestatud erisusi.
[RT I, 13.03.2019, 2 - jõust. 15.03.2019]
5) Haldusorgan võib haldusmenetluses haldusakti andmise, toimingu tegemise või halduslepingu sõlmimise eesmärgil töödelda isikuandmeid menetletavas asjas vajalike asjaolude kohta, kui seadusega või selle alusel antud õigusaktidega ei ole ette nähtud teisiti.
[RT I, 13.03.2019, 2 - jõust. 15.03.2019].

The administrative procedure must comply with Regulation (EU) 2016/679 of the European Parliament and of the Council on the protection of individuals regarding the processing of personal data, on the free movement of such data and repealing Directive 95/46/EC (OJ L 119, 4.5.2005. 2016, p 1-88) and the procedure for processing personal data arising from the Data Protection Act, considering the legal requirements.
[RT I, 13.03.2019, 2 – Entry into force. 15.03.2019]
5) An administrative authority may, during administrative proceedings, process personal data relating to the circumstances required in the matter to be dealt with for the purpose of issuing an administrative act, performing an act or concluding an administrative contract, unless otherwise provided by law or statutory instrument the basis of which is.
[RT I, 13.03.2019, 2 – Entry into force. 15.03.2019]

(c) Data Secrecy (Credit Institutions Act – Financial Investigations)

Credit Institutions Act[356] **79**

§ 88. Information subject to banking secrecy

(1)[357] All data and assessments which are known to a credit institution concerning a client of the credit institution or other credit institution are deemed to be information subject to banking secrecy.

[356] Krediidiasutuste seadus, Vastu võetud 09.02.1999, RT I 1999, 23, 349, jõustunud vastavalt §-le 142.

[357] **§ 88. Krediidiasutuste seadus** Pangasaladus
(1) Pangasaladusena käsitatakse kõiki andmeid ja hinnanguid, mis on krediidiasutusele teatavaks saanud tema või teise krediidiasutuse kliendi kohta.
(2) Pangasaladusena ei käsitata:
1) andmeid, mis on avalikud või õigustatud huvi korral muudest allikatest kättesaadavad;
2) koondandmeid ega muid sarnaseid andmeid, mille põhjal ei saa kindlaks teha üksikkliendi andmeid ega koondandmetega iseloomustatavasse kogumisse kuuluvaid isikuid;
3) krediidiasutuste asutajate ja aktsionäride või liikmete nimekirja ning andmeid nende osa suuruse kohta krediidiasutuse aktsia- või osakapitalis, sõltumata kliendiks olemisest;
4) teavet kliendi kohustuste täitmise korrektsuse kohta krediidiasutuse ees.
(3) Krediidiasutusel on õigus avaldada klienti puudutav pangasaladus kolmandatele isikutele, kui klient on andnud selleks kirjalikku taasesitamist võimaldavas vormis nõusoleku või kui pangasaladuse avaldamise kohustus või õigus tuleneb käesolevas paragrahvis sätestatust.
(3 1) Krediidiasutusel on õigus avaldada teavet kliendisuhte loomise kohta Politsei- ja Piirivalveametile, kui ta kasutab isikusamasuse tuvastamiseks ja kontrollimiseks riiklikesse andmekogudesse, sealhulgas isikut tõendavate dokumentide andmekogusse, kantud andmeid.
(4) Krediidiasutuse aktsionärid, liikmed, juhid, töötajad ja muud isikud, kellel on juurdepääs pangasaladusele, on kohustatud hoidma neile teada olevat pangasaladust tähtajatult, kui käesolevas paragrahvis ei ole sätestatud teisiti. Käesoleva paragrahvi lõigetes 41–51 sätestatud pangasaladuse avaldamisega seotud krediidiasutuse õiguste või kohustuste täitmist krediidiasutuse juhtide või töötajate poolt ei käsitata seaduse või lepinguga pandud konfidentsiaalsusnõude rikkumisena.
(4 1) Krediidiasutus on kohustatud avaldama pangasaladuse Eesti Pangale, Finantsinspektsioonile ja Finantsinspektsiooni kaudu välisriigi finantsjärelevalve asutusele, samuti Euroopa Keskpangale õigusaktidest tulenevate ülesannete täitmiseks, sealhulgas väärteomenetluse või muu sellesarnase menetluse läbiviimiseks.
(4 2) Krediidiasutusel on õigus avaldada ja ta on kohustatud seoses oma seadusest tulenevate ülesannete täitmisega avaldama pangasaladust sisaldavaid andmeid:

1) rahapesu andmebüroole ja Kaitsepolitseiametile Rahapesu ja terrorismi rahastamise tõkestamise seaduses ja rahvusvahelise sanktsiooni seaduses ettenähtud juhtudel ja ulatuses;
2) Maksu- ja Tolliametile maksukorralduse seaduses, maksualase teabevahetuse seaduses ja ettevõtlustulu lihtsustatud maksustamise seaduses sätestatud juhtudel ja ulatuses;
3) Politsei- ja Piirivalveametile isikut tõendavate dokumentide seaduse § 208 lõikes 3 sätestatud juhtudel ja ulatuses.
(5) Kirjalikus või elektroonilises vormis või täitemenetluse seadustiku §-s 631 sätestatud elektroonilise arestimissüsteemi (edaspidi elektrooniline arestimissüsteem) kaudu esitatud järelepärimise vastusena peab krediidiasutus avaldama pangasaladuse:
1) kohtule kohtumenetlust reguleerivates seadustes ettenähtud juhtudel ja korras;
2) kohtueelse uurimise asutusele ja prokuratuurile alustatud kriminaalmenetluses, sealhulgas välislepingus sätestatud korras välisriigist saabunud õigusabi taotluse alusel või Euroopa Liidu õiguses sätestatud kohustuse täitmiseks rahvusvahelise konventsiooni või muu välislepingu või politsei või muu sellesarnase pädeva asutuse koostöölepingu täitmiseks;
3) julgeolekuasutusele julgeolekuasutuste seaduses sätestatud ülesannete täitmiseks ning riigisaladuse ja salastatud välisteabe seaduses nimetatud julgeolekukontrolli teostamiseks;
4) Maksu- ja Tolliametile vastavalt maksukorralduse seaduses sätestatule, sealhulgas alustatud väärteomenetluses põhistatud määruse alusel või riikliku järelevalve teostamisel hasartmänguseaduses sätestatud ülesannete täitmiseks;
5) kohtutäiturile täitemenetluse seadustikus sätestatud ülesannete täitmiseks;
5 1) Kohtutäiturite ja Pankrotihaldurite Kojale Euroopa Parlamendi ja nõukogu määruse (EL) nr 655/2014, millega luuakse pangakontode Euroopa arestimismääruse menetlus, et hõlbustada võlgade piiriülest sissenõudmist tsiviil- ja kaubandusasjades (ELT L 189, 27.06.2014, lk 59–92), artiklis 14 sätestatud teabeasutuse ülesannete täitmiseks;
6) ajutisele haldurile ja pankrotihaldurile pankrotiseaduses sätestatud ülesannete täitmiseks;
7) Riigikontrollile Riigikontrolli seaduses sätestatud ülesannete täitmiseks;
8) Tagatisfondi määratud isikule Tagatisfondi seaduse alusel;
9) pärima õigustatud isikule või tema volitatud isikule, notarile ja notari määratud pärandvara inventuuri tegijale ning kohtu määratud pärandvara hooldajale, samuti välisriigi konsulaaresindusele seoses pärandvaraga ja sellega seotud andmetega vastavate kirjalike dokumentide esitamisel;
10) korruptsioonivastase seaduse alusel huvide deklaratsiooni kontrollijale deklaratsioonis esitatud andmete õigsuse kontrollimiseks.
(5 1) Krediidiasutus võib kirjalikus või kirjalikku taasesitamist võimaldavas vormis esitatud järelepärimise vastusena avaldada pangasaladuse järgmistele isikutele:
1) oma emaettevõtjale, kes vajab pangasaladuseks olevaid andmeid konsolideeritud aruannete koostamiseks;
2) krediidiasutusega samasse konsolideerimisgruppi kuuluvale finantseerimisasutusele või teisele krediidiasutusele, kes vajab andmeid kliendi maksekohustuste täitmise ajaloo kohta krediidiriski kapitalinõuete arvutamiseks ja vastutustundliku laenamise põhimõtte rakendamiseks;
3) krediidiasutusega samasse konsolideerimisgruppi kuuluvale ettevõtjale, kes vajab pangasaladuseks olevaid andmeid Rahapesu ja terrorismi rahastamise tõkestamise seaduses sätestatud hoolsusmeetmete kohaldamiseks, ning teisele isikule Rahapesu ja terrorismi rahastamise tõkestamise seaduse § 51 rakendamiseks vajalikus ulatuses.
(5 2) Käesoleva paragrahvi lõike 51 punktis 2 nimetatud isikutele on lubatud edastada kliendi kohustuse rikkumisega seotud andmeid, kui rikkumise lõppemisest ei ole möödunud rohkem kui seitse aastat, ja kliendi kohustuse rikkumisega seotud isikuandmeid, kui rikkumise lõppemisest ei ole möödunud rohkem kui viis aastat.
(6) Käesoleva paragrahvi lõikes 5 sätestatud järelepärimises tuleb märkida:
1) järelepärimise esitaja nimi, ametinimetus või viide tema pädevuse muule õiguslikule alusele, aadress ja sidevahendite andmed;
2) kliendi, kelle suhtes järelepärimine on esitatud, nimi või ärinimi koos isikukoodi või sünniaja või registrikoodiga;
3) taotletavate andmete kasutamise eesmärk ja nende ammendav loetelu või kirjeldus;
4) järelepärimise esitamise õiguslik alus;
5) järelepärimise esitaja allkiri.
(6 1) Krediidiasutus avaldab käesoleva paragrahvi lõike 5 punktides 1–4 nimetatud järelepärimise vastusena pangasaladuse, kui järelepärimises märgitud kliendi kohta on esitatud vähemalt:
1) andmed kliendi maksekonto, maksekaardi või muu maksevahendi või makseinstrumendi tunnuse või lepingu kohta või

(2) The following data are not deemed to be information subject to banking secrecy:
1) data which are public or available from other sources to persons with a legitimate interest;
2) consolidated data or other similar data based on which data relating to a single client or the identities of persons included in the set of persons referred to in the consolidated data cannot be ascertained;
3) a list of the founders and shareholders or members of a credit institution and data relating to the sizes of their holdings in the share capital of the credit institution, regardless of whether they are clients of the credit institution.
4) information on the accuracy of the performance of obligations by a client to a credit institution.
(3) Details of a client which are subject to banking secrecy may be disclosed by a credit institution to third persons if the client has granted consent therefor in a format which can be reproduced in writing or if the obligation or right to disclose information subject to banking secrecy arises from the provisions of this article.
(3[1]) A credit institution has the right to disclose information about the creation of a client relationship to the Police and Border Guard Board when using data entered in the national databases, including the identity documents database, for establishment and verification of identity documents.
(4) The shareholders, members, managers, members of staff of a credit institution and other persons who have access to information subject to banking secrecy are required to

2) muud andmed, mis võimaldavad identifitseerida kliendi isiku.
(6 2) Krediidiasutus avaldab käesoleva paragrahvi lõike 5 punktides 1–4 nimetatud järelepärimise vastusena pangasaladuse:
1) järelepärimises märgitud kliendi maksekonto suhtes esindusõigust omava isiku kohta;
2) kliendi kohta, kelle maksekonto suhtes järelepärimises märgitud isik esindusõigust omab.
(6 3) Käesoleva paragrahvi lõikes 5 nimetatud järelepärimises, mis on esitatud elektroonilise arestimissüsteemi kaudu, tuleb märkida:
1) järelepärimise edastanud isiku identifitseerimist võimaldavad andmed;
2) puudutatud isiku identifitseerimist võimaldavad andmed;
3) taotletavate andmete loetelu või kirjeldus;
4) järelepärimise esitamise õiguslik alus.
(6 4) Krediidiasutus ei ole kohustatud kontrollima elektroonilise arestimissüsteemi kaudu esitatud järelepärimise andmeväljadele sisestatud andmete õigsust.
(7) Isikud, kellele on avaldatud pangasaladus, võivad seda kasutada ainult õigusaktidest tulenevate ülesannete täitmiseks ja järelepärimises nimetatud eesmärgil ning neile laieneb pangasaladuse tähtajatu hoidmise kohustus ja vastutus, kui seadusest ei tulene teisiti.
(8) [Kehtetu - RT I, 09.05.2014, 2 - jõust. 19.05.2014]
(9) Krediidiasutusel on õigus avaldada pangasaladust uurijale, prokurörile ja kohtule seoses oma rikutud või vaidlustatud õiguse või vabaduse kaitsmisega seadusega kindlaksmääratud korras.
(10) [Kehtetu - RT I, 09.05.2014, 2 - jõust. 19.05.2014]
(11) Krediidiasutusel on õigus avaldada maksetehingu asjaolusid puudutav pangasaladus oma kliendile või maksetehingu täitmisega seotud makseteenuse pakkujale:
1) kui see on vajalik täitmata jäetud või valesti täidetud maksega seotud uurimise tulemustest teavitamiseks või
2) selleks, et krediidiasutuse enda või maksetehingu täitmisega seotud teise makseteenuse pakkuja klient saaks esitada vale saaja vastu õigusliku nõude rahaliste vahendite tagasinõudmiseks, kui vastavat klienti teenindava makseteenuse pakkuja kaudu rahaliste vahendite tagasisaamine ei õnnestunud.

maintain the confidentiality of such information indefinitely unless otherwise provided for in this Act. The compliance with the rights and obligations of a credit institution related to the disclosure of the information subject to banking secrecy provided for in subparas (4 1) – (5 1) of this article by managers or members of staff of a credit institution shall not be deemed violation of confidentiality requirements imposed by law or agreement.

(4^1) A credit institution is required to disclose the information subject to banking secrecy to Eesti Pank, the Financial Supervision Authority and to the financial supervision authority of a foreign state through the Financial Supervision Authority, as well as to the European Central Bank for the performance of the duties assigned thereto by law, including for the conduct of misdemeanour procedures or other similar proceedings.

(4^2) A credit institution shall have the right and obligation to disclose information subject to banking secrecy for the performance of duties, assigned thereto by law, to:

1) the Financial Intelligence Unit and the Estonian Internal Security Service in the cases and to the extent prescribed in the Money Laundering and Terrorist Financing Prevention Act and the International Sanctions Act;

2) the Tax and Customs Board in the cases and to the extent provided for in the Taxation Act, Tax Information Exchange Act and the Simplified Business Income Taxation Act;

3) to the Police and Border Guard Board in the cases and to the extent provided for in subpara 20 8 (3) of the Identity Documents Act.

(5) In response to a written inquiry or an inquiry in an electronic format or an inquiry submitted through the electronic seizure system provided for in § 63 1 of the Code of Enforcement Act (hereinafter electronic seizure system) a credit institution shall disclose information subject to banking secrecy to:

1) a court in the cases and in the procedure prescribed by laws governing court proceedings;

2) a pre-trial investigation authority and the Prosecutor's Office if a criminal proceeding is commenced, including on the basis of a request for legal assistance received from a foreign state pursuant to the procedure provided for in a treaty or for the performance of a duty provided for in the European Union law, for the performance of the cooperation agreement of an international convention or other treaty or the police or other similar competent authority;

3) a security authority for the performance of the duties provided by the Security Authorities Act and for the conduct of the security vetting specified in the State Secrets and Classified Information of Foreign States Act

4) the Tax and Customs Board pursuant to the provisions of the Taxation Act, including in the commenced misdemeanour proceedings based on the substantiated ruling or upon the conduct of state supervision for the performance of the duties provided for in the Gambling Act;

5) a bailiff for the performance of duties provided for in the Code of Enforcement Procedure;
5[1]) the Estonian Chamber of Bailiffs and Trustees in Bankruptcy for the performance of the duties of an information authority provided for in article 14 of Regulation (EU) No 655/2014 of the European Parliament and of the Council establishing a European Account Preservation Order procedure to facilitate cross-border debt recovery in civil and commercial matters (OJ L 189, 27.06.2014, pp 59–92);
6) temporary trustee and trustee in bankruptcy for the performance of duties provided for in the Bankruptcy Act;
7) the National Audit Office for the performance of the duties provided for in the National Audit Office Act;
8) a person appointed by the Guarantee Fund based on the Guarantee Fund Act;
9) a person entitled to succeed or a person authorised by the latter, to a notary, to a person making the inventory of an estate at the appointment of a notary and to the administrator of an estate appointed by a court, and to a consular representation of a foreign state in connection with estates and data relating thereto, upon submission of relevant written documents;
10) a depositary of declarations of economic interests for the verification of the correctness of the data submitted in the declaration of economic interests of a person based on Anti-Corruption Act.
(5[1]) In response to a written inquiry or an inquiry in a format which can be reproduced in writing, a credit institution may disclose information subject to banking secrecy to the following persons:
1) its parent undertaking that needs the data subject to banking secrecy for the preparation of consolidated reports;
2) a financial institution in the same consolidation group with the credit institution or another credit institution, who needs the data concerning the history of performance of payment obligations of a client for calculation of the capital requirement for credit risk and implementation of the principle of responsible lending;
3) an undertaking in the same consolidation group with the credit institution, who needs the data subject to banking secrecy for the application of the diligence measures provided for in the Money Laundering and Terrorist Financing Prevention Act, and other person to the extent which is necessary for implementation of § 51 of the Money Laundering and Terrorist Financing Prevention Act.
(5[2]) The persons specified in clause (5 1) 2) of this article are allowed to forward the data of the client related to the violation of obligation if no more than seven years has passed as of the end of the violation and the personal data of the client related to the violation if no more than five years has passed from the termination of the violation.
(6) An inquiry specified in subpara (5) of this article shall set out:

1) the name of the person submitting the inquiry, his or her official title or a reference to any other legal basis for his or her competence, and his or her address and information of the means of communication;
2) the name or business name of the client regarding whom the inquiry is submitted and the personal identification code or date of birth or the registry code of the client;
3) the purpose of use of the requested data and an exhaustive list or description of the data;
4) the legal grounds for the inquiry;
5) the signature of the person submitting the inquiry.
(6^1) A credit institution shall disclose information subject to banking secrecy in response to an inquiry specified in clauses (5) 1)-4) of this article if at least the following is set out in the inquiry:
1) the data on the identifier or contract concerning the payment account, payment card or other means of payment or payment instrument or
2) other data which would enable identification of the client.
(6^2) A credit institution shall disclose information subject to banking secrecy in response to an inquiry specified in clauses (5) 1)-4) of this article:
1) on a person holding the right of representation regarding the payment account of a client specified in the inquiry;
2) on a client regarding whose payment account the person specified in the inquiry has the right of representation.
(6^3) The inquiry specified in subpara (5) of this article, which has been submitted through the electronic seizure system, shall set out:
1) data allowing identification of the person who forwarded the inquiry;
2) data allowing identification of the person concerned;
3) a list or description of the requested data;
4) the legal basis for submission of inquiry.
(6^4) A credit institution is not required to verify the accuracy of the data entered the data fields of the inquiry submitted through the electronic seizure system.
(7) Persons to whom information subject to banking secrecy is disclosed may use such information only for the performance of duties arising from legislation and for the purpose of specified in the inquiry and the obligation to maintain the confidentiality of such information indefinitely and the liability therefor shall extend to such persons unless otherwise provided by law.
(8) [Repealed - RT I, 09.05.2014, 2 – entry into force 19.05.2014]
(9) A credit institution has the right to disclose information subject to banking secrecy to a pre-trial investigator, the public prosecutor and the courts to protect its violated or contested rights or freedoms pursuant to the procedure determined by law.
(10) [Repealed - RT I, 09.05.2014, 2 – entry into force 19.05.2014]

(11) A credit institution shall have the right to disclose information, which is subject to banking secrecy concerning the circumstances related to making a payment transaction, to the client thereof or to the provider of payment service related to the execution of payment transaction:
1) if this is necessary for notification of the results of the investigation related to outstanding or incorrectly executed payment or
2) in order that the client of the credit institution or of the provider of another payment service connected to the execution of payment transaction could file a legal claim against the wrong beneficiary to recover funds if the recovery of funds failed through the payment service provider serving the corresponding client.

(d) Official Secrecy (Customs Code, General Tax Code)

The Civil Servants Act stipulates obligations and duties of official servants, which includes the obligation to hold and preserve secrets: **80**

81

Chapter 5
Liabilities

§ 50. Legality of activities of officials[358]

The activities of an official must comply with the Constitution of the Republic of Estonia and other laws and legislation.

§ 51. General obligations[359]

1) An official shall perform his or her official duties honestly, professionally and diligently.
2) An official shall perform his or her official duties impartially, including choosing a solution that considers the rights and freedoms of everyone and the public interest in the best possible way.

[358] **§ 50. Ametniku tegevuse seaduslikkus Avaliku teenistuse seadus**
Ametniku tegevus peab vastama Eesti Vabariigi põhiseadusele ning muudele seadustele ja õigusaktidele.

[359] **§ 51. Üldised kohustused Avaliku teenistuse seadus**
1) Ametnik peab oma teenistusülesandeid täitma ausalt, asjatundlikult ja hoolikalt.
2) Ametnik peab oma teenistusülesandeid täitma erapooletult, sealhulgas valima teenistusülesandeid täites igaühe õigusi ja vabadusi ning avalikku huvi parimal võimalikul viisil arvestava lahenduse.
3) Ametnik peab juhinduma vahetu ja kõrgemalseisva juhi seadusega kooskõlas olevatest teenistusalastest juhistest ja korraldustest, samuti ametijuhendist. Kõrgemalseisva juhi juhistest ja korraldustest peab ametnik teavitama vahetut juhti.
kaalud4) Ametnik peab käituma väärikalt nii teenistuses olles kui ka väljaspool teenistust, sealhulgas hoiduma tegevusest, mis diskrediteeriks teda ametnikuna või kahjustaks ametiasutuse mainet.
5) Ametnik peab kasutama ametiasutuse ning ametniku kasutusse antud vara ja vahendeid heaperemehelikult ja sihipäraselt.
6) Ametnik peab teenistus- ja usaldussuhte raames aitama kaasa ametiasutuse seadusest tulenevate ülesannete täitmisele.
7) Ametiasutus peab teenistus- ja usaldussuhte raames seisma hea ametniku teenistusalaste huvide eest, sealhulgas tagama teenistusülesannete täitmiseks sobivad tingimused.

3) An official shall be guided by service-related instructions and orders in accordance with the law of direct and superior managers, as well as by job descriptions. The official shall inform the immediate superior of the instructions and instructions of the superior.
Scales
4) An official shall behave with dignity both in the service and outside the service, including refraining from activities that would discredit him or her as an official or damage the reputation of an administrative agency.
5) An official shall use the property and resources provided for the use of an administrative agency and an official prudently and purposefully.
Scales
6) An official shall, within the framework of an employment and trust relationship, assist in the performance of the duties of an administrative agency arising from law.
Scales
7) Within the framework of an employment and trust relationship, an administrative agency shall stand for the official interests of an official, including ensuring appropriate conditions for the performance of official duties.

§ 55. Retention of information not subject to disclosure Civil Servants Act[360]
An official shall not, during or after his employment, disclose public or business secrets, classified foreign information, data concerning the family and private life of other persons and other information declared for internal use which he has become aware of because of his service.

(6) Investigation Reports (Customs Code, General Tax Code)

82 In the area of tax irregularities and tax inspections the national bodies that might help OLAF conduct the on-the-spot checks are obliged to draw an investigation report. This report is a particularly important document for lawyers as they can deduce from it the legality of the inspection and it is also important for the internal legality check of the authorities which are obliged to apply the law.

[360] **§ 55. Avaldamisele mittekuuluva teabe hoidmine Avaliku teenistuse seadus**
Ametnik ei tohi nii teenistussuhte ajal kui ka pärast teenistusest vabastamist avaldada talle teenistuse tõttu teatavaks saanud riigi- ja ärisaladust, salastatud välisteavet, teiste inimeste perekonna- ja eraellu puutuvaid andmeid ning muud asutusesiseseks kasutamiseks tunnistatud teavet.

§ 55[5]. Obligation of tax authority to provide explanation Tax Act **83**

(1)[361] During tax control, the tax authority shall ensure the right of the taxable person to be heard. The taxable person shall be informed of the possibility of providing explanations on the facts ascertained throughout the proceedings and of providing further evidence.

(2) The tax authority shall inform the taxable person of the outcome of the proceedings before the end of the tax control. Before that, the tax authority may conduct a final interview during which the tax authority will be able to ask additional and clarifying questions and the taxable person will give explanations on the circumstances of the proceedings.

(3) Subject to this Act, the tax authority shall prepare a control report for the determination of the results of tax control. The control document sets out all the legal and legal circumstances that are relevant for the purposes of tax control. If an expert or specialist was involved in tax control, his / her participation is noted in the control report. The taxable person shall be informed of the possibility of objecting to the facts set out in the inspection report.

(4) If no changes in the tax liability were made during tax control, or if the taxable person agrees with the conclusions and explanations provided by the tax authority during proceedings, the tax authority does not have to prepare a control report. In such a case, the tax authority shall notify the taxable person of the termination of the tax inspection by written notice. An application for drawing up a control report must be submitted in writing within ten calendar days as of receipt of the notice of termination of the tax inspection.

[361] **§ 55[5]. Maksuhalduri selgitamiskohustus Maksukorralduse seadus**

1) Maksukontrolli vältel tagab maksuhaldur maksukohustuslase õiguse olla ära kuulatud. Maksukohustuslast teavitatakse võimalusest anda kogu menetluse vältel tuvastatud asjaolude kohta seletusi ning esitada täiendavaid tõendeid.

2) Maksuhaldur teavitab enne maksukontrolli lõppemist maksukohustuslast menetluse tulemustest. Enne seda võib maksuhaldur läbi viia lõppvestluse, mille käigus on maksuhalduril võimalik esitada täiendavaid ja täpsustavaid küsimusi ning maksukohustuslasel anda seletusi menetlust puudutavate asjaolude kohta.

3) Kui käesolevast seadusest ei tulene teisiti, koostab maksuhaldur maksukontrolli tulemuste kindlaksmääramiseks kontrolliakti. Kontrolliaktis tuuakse välja kõik maksukontrolli käigus tuvastatud maksustamise seisukohast tähendust omavad ja õiguslikud asjaolud. Kui maksukontrolli kaasati ekspert või spetsialist, märgitakse kontrolliakti tema osavõtt. Maksukohustuslast teavitatakse võimalusest esitada kontrolliaktis toodud asjaolude kohta vastuväiteid.

4) Kui maksukontrolli käigus ei tuvastatud maksukohustust muutvaid asjaolusid või kui maksukohustuslane on nõus maksuhalduri menetluse käigus tehtud järelduste ja antud selgitustega, ei pea maksuhaldur kontrolliakti koostama. Sellisel juhul teavitab maksuhaldur maksukohustuslast maksukontrolli lõpetamisest kirjaliku teatega. Kontrolliakti koostamise taotlus tuleb esitada kirjalikus vormis kümne kalendripäeva jooksul maksukontrolli lõpetamise teate kättesaamisest arvates.

5) Maksukontrolli lõpetamise teadet peetakse võrdväärseks käesoleva seaduse § 95 kohase maksuotsusega ja selle muutmisel või kehtetuks tunnistamisel kohaldatakse käesoleva seaduse §-des 101–103 sätestatut.

[RT I, 07.12.2018, 1 - jõust. 01.01.2019]

(5) A notice of termination of tax control shall be deemed to be equivalent to a tax decision pursuant to § 95 of this Act and the provisions of §§ 101–103 of this Act apply to amendment or revocation thereof.
[RT I, 07.12.2018, 1 – entry into force 01.01.2019]

84 For another special obligation to draw a report see. s. 65 para 3 Tax Act.

(7) Support to the Inspectors (Customs Code, General Tax Code)

85

§ 55[4]. Rights and obligations of taxable persons in case of tax inspection Tax Act
(1)[362] A taxable person has the right to:
1) provide explanations concerning the circumstances related to the tax liability;
2) apply for the removal of an official of a tax authority on the bases provided for in § 49 of this Act;
3) receive explanations as to how the circumstances established during tax inspection affect his or her tax liability;
4) exercise other rights prescribed by this Act.
(2) A taxable person is required to:
1) ensure that the tax authority has access to information related to tax control;
2) submit relevant documents and matters to the tax authority;
3) provide explanations at the request of the tax authority;
4) introduce the accounting system to its accounting system and other financial accounting and information systems.
[RT I, 07.12.2018, 1 – entry into force. 01.01.2019]

(8) Preservation of Evidence (Administrative Proceedings)

86 For most areas attached to administrative proceedings in Estonia, ss. 35–45 but especially ss. 36, 37, 38 and 39 Administrative Procedure Act provide paras that focus on the preservation of evidence.

[362] **§ 55[4]. Maksukohustuslase õigused ja kohustused maksukontrolli korral**
Maksukorralduse seadus
1) Maksukohustuslasel on õigus:
1) anda seletusi maksukohustusega seotud asjaolude kohta;
2) taotleda maksuhalduri ametniku taandamist käesoleva seaduse §-s 49 sätestatud alustel;
3) saada selgitusi, kuidas maksukontrolli käigus tuvastatud asjaolud mõjutavad tema maksukohustust;
4) kasutada teisi käesoleva seadusega ettenähtud õigusi.
2) Maksukohustuslane on kohustatud:
1) tagama maksuhaldurile juurdepääsu maksukontrolliga seotud andmetele;
2) esitama maksuhaldurile asjasse puutuvaid dokumente ja asju;
3) andma maksuhalduri nõudel seletusi;
4) tutvustama maksuhaldurile oma raamatupidamissüsteemi ning muid majandusarvestus- ja infosüsteeme.
[RT I, 07.12.2018, 1 - jõust. 01.01.2019]

g) A Closer Look at Single Measures

aa. Interviewing/Questioning of "Persons Concerned" (in Relation to Suspects/Defendants)

§ 39. Expert and witness in administrative proceedings Administrative Procedure Act 87

(1) The administrative authority shall involve an expert or witness in the administrative proceedings with his or her consent, unless the law prescribes an obligation to participate in the proceedings. Persons who are prohibited from being heard as witnesses under the Code of Civil Procedure may not participate in the proceedings as witnesses.
(2) If the participation of an expert witness in administrative proceedings is prescribed by law, the expert witness may refuse to give his or her opinion on the bases provided for in the Code of Civil Procedure.
(3) A witness shall be examined in accordance with the procedure provided for in the Code of Civil Procedure.
(4) An expert and a witness shall be entitled to remuneration or compensation for the performance of their duties on the bases provided for in the Code of Civil Procedure.
(5) The procedure for the payment of money to witnesses and experts shall be determined by the Government of the Republic. The expert or witness who participates in administrative proceedings outside his or her place of residence shall be paid travel, accommodation and daily allowances in the amount determined by decree of the Government of the Republic.
(6) The costs of calling an expert or witness shall be borne by the person or authority at whose request the witness or expert was called.
[RT I 2005, 39, 308 – Entry into force. 01.01.2006]

Law Enforcement Act[363] 88

Division 3 Special State Supervision Measures Subdivision 1

Special State Supervision Measures Regarding Processing of Personal Data

§ 30. Questioning and requiring of documents

(1)[364] The police or, in the cases provided by law, another law enforcement agency may stop a person and question him or her if there is reason to believe that the person has

[363] Korrakaitseseadus, Vastu võetud 23.02.2011, RT I, 22.03.2011, 4, jõustumine 01.07.2014
[364] **3. jagu**
Riikliku järelevalve erimeetmed
1. jaotis
Isikuandmete töötlemisega seonduvad riikliku järelevalve erimeetmed
§ 30. Korrakaitseseadus Küsitlemine ja dokumentide nõudmine
(1) Politsei või seaduses sätestatud juhul muu korrakaitseorgan võib isiku peatada ja teda küsitleda, kui on alust arvata, et isikul on ohu ennetamiseks, väljaselgitamiseks või tõrjumiseks või korrarikkumise kõrvaldamiseks või

information necessary for preventing, ascertaining or countering a threat or for eliminating a disturbance or for guaranteeing the safety of a safeguarded person or object, and preventing, ascertaining and countering that threat and eliminating that disturbance and safeguarding the person or object is in the competence of the law enforcement agency conducting the questioning.
(2) Questioning shall be recorded in a report if the person questioned requests it or if it is deemed necessary by the law enforcement agency. If the law enforcement agency deems it necessary, the person questioned may give explanations in writing autographically.
(3) The police or, in the cases provided by law, another law enforcement agency may require a person to present his or her documents if there is reason to believe that the person has information necessary for preventing, ascertaining or countering a threat or for eliminating a disturbance or for guaranteeing the safety of a safeguarded person or object, and preventing, ascertaining and countering that threat and eliminating that disturbance and safeguarding the person or object is in the competence of the law enforcement agency requiring the presentation of the documents.
(4) Requiring and receipt of documents by a law enforcement agency shall be recorded or documented pursuant to the general administration procedure of the law enforcement agency. If the documents are required and examined on site, the measure shall be recorded at the request of the person subjected to the application thereof.
(5) Questioning and requiring the presentation of documents for the prevention of a threat is not permitted in the case of information and documents which can be obtained from a database established based on the law, except in the case the information cannot be obtained from the database for reasons irrespective of the law enforcement agency. The restriction specified in this article also applies to information which the law enforcement agency can obtain free of charge from the relevant database of another Member State of the European Union or for a charge if the person confirms in a format which

---

kaitstava isiku või valvatava objekti ohutuse tagamiseks vajalikke andmeid, ning selle ohu ennetamine, väljaselgitamine, tõrjumine või korrarikkumise kõrvaldamine või isiku kaitsmine või objekti valvamine on küsitleva korrakaitseorgani pädevuses.
(2) Küsitlemine protokollitakse, kui küsitletav isik seda taotleb või kui seda peab vajalikuks korrakaitseorgan. Kui korrakaitseorgan peab seda vajalikuks, võib küsitletav isik anda seletusi kirjalikult omakäeliselt.
(3) Politsei või seaduses sätestatud juhul muu korrakaitseorgan võib nõuda isikult dokumentide esitamist, kui on alust arvata, et isikul on ohu ennetamiseks, väljaselgitamiseks või tõrjumiseks või korrarikkumise kõrvaldamiseks või kaitstava isiku või valvatava objekti ohutuse tagamiseks vajalikke andmeid, ning selle ohu ennetamine, väljaselgitamine, tõrjumine või korrarikkumise kõrvaldamine või isiku kaitsmine või objekti valvamine on dokumente nõudva korrakaitseorgani pädevuses.
(4) Dokumentide nõudmine ja vastuvõtmine korrakaitseorgani poolt protokollitakse või fikseeritakse korrakaitseorgani üldise asjaajamiskorra kohaselt. Kui dokumentide nõudmine ja nendega tutvumine toimub kohapeal, protokollitakse meede selle kohaldamisele allutatud isiku taotlusel.
(5) Küsitlemine ja dokumentide nõudmine ohu ennetamiseks ei ole lubatud teabe ja dokumentide korral, mida on võimalik saada seaduse alusel asutatud andmekogust, välja arvatud juhul, kui teabe saamine andmekogust ei ole korrakaitseorganist sõltumatul põhjusel võimalik. Käesolevas lõikes nimetatud piirang kehtib ka teabe kohta, mida korrakaitseorganil on võimalik saada tasuta teise Euroopa Liidu liikmesriigi asjaomasest andmekogust või tasu eest, kui isik kinnitab kirjalikku taasesitamist võimaldavas vormis, et kannab nimetatud teabe hankimise kulud.

can be reproduced in writing that he or she will cover the costs of obtaining the said information.

§ 32. Establishment of identity

(1)[365] The police or, in the cases provided by law, another law enforcement agency may, with the knowledge of the person, establish identity on the basis of a valid identity document, that means ascertain the person's name and personal identification code or in the absence of the latter the date of birth, examine the document, compare the photograph and other biometric data in the document with the person, and verify the authenticity of the document, or if this is not possible, establish identity in another legal manner if it is necessary for preventing, ascertaining or countering a threat or for eliminating a disturbance.

(2) For the establishment of identity, the police or, in the cases provided by law, another law enforcement agency shall have the right to stop a person and require him or her to present a document specified in subpara (1) of this article, to obtain statements enabling the establishment of identity, including information on the person's place of residence, and to obtain biometric data for the comparison specified in subpara (1) of this article.

[365] **§ 32. Korrakaitseseadus** Isikusamasuse tuvastamine

(1) Politsei või seaduses sätestatud juhul muu korrakaitseorgan võib isiku teadmisel kehtiva isikut tõendava dokumendi alusel tuvastada isikusamasuse, see tähendab teha kindlaks isiku nime ja isikukoodi või selle puudumisel sünniaja, tutvuda dokumendiga, võrrelda fotot ja teisi dokumendile kantud biomeetrilisi andmeid isikuga ning kontrollida dokumendi ehtsust, või kui see ei ole võimalik, siis tuvastada isikusamasuse muul õiguspärasel viisil, kui see on vajalik ohu ennetamiseks, väljaselgitamiseks, tõrjumiseks või korrarikkumise kõrvaldamiseks.

(2) Politseil või seaduses sätestatud juhul muul korrakaitseorganil on isikusamasuse tuvastamiseks õigus peatada isik ja nõuda temalt käesoleva paragrahvi lõikes 1 nimetatud dokumendi esitamist, saada isikusamasuse tuvastamist võimaldavaid ütlusi, sealhulgas andmeid isiku elukoha kohta, ning saada käesoleva paragrahvi lõikes 1 nimetatud võrdluseks biomeetrilisi andmeid.

(3) Korrakaitseorgan võib isikusamasuse tuvastamisel nõuda isikult eriõigust tõendava dokumendi esitamist, kui õigusakti kohaselt on isik kohustatud sellist dokumenti kaasas kandma.

(4) Korrakaitseorgan võib dokumendile kantud või isiku antud andmete õigsust kontrollida rahvastikuregistrist või muust Euroopa Liidu õigusakti või seaduse alusel loodud andmekogust.

(5) Isikusamasuse tuvastamisel on õigus kasutada vahetut sundi nii kaua, kui see on eesmärgi saavutamiseks vältimatu.

(6) Korrakaitseorganil on õigus toimetada isik isikusamasuse tuvastamiseks ametiruumi, kui see on vajalik vahetu ohu korral või olulise ohu väljaselgitamiseks või tõrjumiseks.

(7) Kui isik toimetatakse isikusamasuse tuvastamiseks ametiruumi, on korrakaitseorgan kohustatud isikusamasuse tuvastamise järel toimetama isiku tema soovil tagasi lähtekohta või tema elu- või ööbimiskohta, kui see on samas omavalitsusüksuses.

(8) Kui isikusamasuse tuvastamiseks toimetatakse korrakaitseorganisse alaealine, on korrakaitseorgan kohustatud sellest viivitamata teavitama vanemat või muud seaduslikku esindajat või kohalikku omavalitsust.

(9) Massilise korratuse käigus kinnipeetud isiku isikusamasuse kohese tuvastamise võimatuse korral on politseil õigus selle hilisema tuvastamise eesmärgil kasutada identifitseerimist võimaldavaid vahendeid koos salvestamisega viisil, mis ei solva inimväärikust.

(10) Politsei- ja Piirivalveamet võib avalikustada massilisest korratusest osavõtnud isiku isikuandmed, kui see on vajalik isikusamasuse tuvastamise eesmärgil ning muul isikut vähem koormaval viisil ei olnud võimalik isikusamasust tuvastada.

(3) Upon the establishment of identity, a law enforcement agency may require from a person the presentation of a document in proof of a special right if pursuant to a legislation the person is required to carry with him or her such a document.
(4) A law enforcement agency may verify the authenticity of the data entered in the document or given by a person from the population register or from another database established under the legislation of the European Union or another Act.
(5) Upon the establishment of identity, direct coercion may be used insofar as it is unavoidable for the achievement of the objective.
(6) A law enforcement agency shall have the right to take a person to its office for the establishment of identity if it is necessary in the case of an immediate threat or for ascertaining or countering a significant threat.
(7) If a person is taken to an office for the establishment of identity, the law enforcement agency shall be required, after the establishment of identity, to take the person at his or her request back to the point of departure or to his or her place of residence or lodging, if it is within the same local government unit.
(8) If for the establishment of identity a minor is taken to a law enforcement agency, the law enforcement agency shall be required to immediately notify thereof a parent or another legal representative or the local government.
(9) If it is impossible to immediately establish the identity of a person detained during a mass disorder, the police have the right, for the purposes of later establishment of identity, to use the means which enable identification together with recording in a manner which does not offend human dignity.

bb. Taking of Statements from Economic Operators

89 **§ 40. Hearing of opinions and objections of the parties to the proceedings Administrative Procedure Act**
(1) Before issuing an administrative act, an administrative authority shall give the party to the proceedings the opportunity to submit comments in writing, orally or in another appropriate form and to raise objections to the matter.
(2) Before taking any action against a party to proceedings which may affect his or her rights, the administrative authority shall give him or her the opportunity to comment and to raise objections.
(3) Administrative proceedings may be conducted without a party to the proceedings being heard and raising objections if
1) immediate action is necessary to avert damage caused by delay or to protect public interests;
2) there is no deviation from the information provided by the participant in the application or declaration and there is no need to obtain additional information;
3) the matter is not decided to the disadvantage of the party to the proceedings;

4) the service of the administrative act or administrative measure associated with the statement or opposition does not enable the purpose of the administrative act or measure to be achieved;
5) the party to the proceedings is unknown or if the act to be performed concerns an indeterminate number of persons and it is not possible to identify them within a reasonable period of time;
6) the administrative act is issued as a general order or the number of parties to the proceedings exceeds 50;
7) in other cases provided for by law.

cc. Interviewing/Questioning of Witnesses

See already s. 39 Administrative Procedure Act two sub-headings above. **90**

h) Inspections

In tax control proceedings s. 55^1 para 2 Tax Act obliges the control authorities to notify the persons concerned of their rights. **91**

§ 55^2. Notification of tax control Tax Act **92**
(1) A tax audit begins with notifying the taxable person of the commencement of the tax audit and the extent thereof, unless otherwise provided by this Act.
(2) Upon commencing a tax audit, a taxable person shall be notified of his or her rights, obligations, the circumstances to be verified and the period to be verified.
(3) Upon change of the scope of tax control, the taxable person shall be notified thereof pursuant to the same procedure as upon commencement of tax control.
(4) If there is a significant reason arising from law not to notify a taxable person in advance of the commencement of tax inspection, the taxable person shall be notified thereof as soon as possible after the first procedural act.
(5) Failure to notify of the commencement of tax control is justified in particular if there is a suspicion that, upon notice of tax control, a taxable person may impede or impede tax control, access to or falsify, damage or destroy premises, data, documents or objects related to his or her economic or professional activities.
[RT I, 07.12.2018, 1 – entry into force. 01.01.2019]

93 Generally speaking, in administrative proceedings, investigators can rely on s. 38 Administrative Procedure Act.

> **§ 38. Evidence Administrative Procedure Act**
> (1) In administrative proceedings, an administrative authority shall have the right to require the parties to the proceedings and other persons to produce the evidence and information available to them, based on which the administrative authority shall determine the circumstances material to the decision.
> (2) Evidence may include a statement by a party to proceedings, documentary evidence, physical evidence, ***site visits***, witness statements and expert reports.
> […]

94 The State Budget Act allows for inspections as well. The Minister in charge of the policy sector is competent to request information:

> **§ 13. Receipt of additional information from central government legal person State Budget Act**
> (1)[366] The minister in charge of the policy sector and the minister exercising the rights of a founder or the minister in the corresponding field shall be entitled, for the assessment of the compliance with the budgetary rules provided for in this Chapter, to receive from a central government legal person the relevant information.
> (2) The minister exercising the rights of a founder or the minister in the corresponding field shall be entitled, for the assessment of an application for the receipt of support from the state budget and the inspection of the use of the support, to receive from a central government legal person the relevant information.
> (3) The minister in charge of the policy sector shall receive the information with the intermediation of the minister exercising the rights of a founder or the minister in the corresponding field.

[366] **§ 13. Keskvalitsuse juriidiliselt isikult lisaandmete saamine Riigieelarve seadus**
1) Valdkonna eest vastutaval ministril ja asutajaõigusi teostaval või valdkonna ministril on õigus käesolevas peatükis sätestatud eelarvereeglite täitmise hindamiseks saada keskvalitsuse juriidiliselt isikult asjakohaseid andmeid.
2) Asutajaõigusi teostaval või valdkonna ministril on riigieelarvest toetuse saamise taotluse hindamiseks ning toetuse kasutamise kontrollimiseks õigus saada keskvalitsuse juriidiliselt isikult asjakohaseid andmeid.
3) Valdkonna eest vastutav minister saab andmeid asutajaõigusi teostava või valdkonna ministeeriumi vahendusel.

i) Searches

Law Enforcement Act[367] **95**

§ 50. Entry into premises

(1)[368] The police or, in the cases provided by law, another law enforcement agency may enter without the consent of the possessor a fenced or marked immovable, building, dwelling or room in his or her possession, including open doors and gates or eliminate other obstacles if

1) it is necessary for ascertaining or countering a serious threat;

2) if there is reason to believe that a person who may be deprived of liberty pursuant to law or whose life, health or physical inviolability is in danger due to his or her need of assistance has entered the fenced or marked immovable, building or room;

3) if it is necessary for preventing, ascertaining or countering a threat or for eliminating a disorder upon ensuring the compliance with the requirements established by or based on law, and the verification of the compliance with such requirements lies within the competence of the law enforcement agency entering the premises.

(2) On the conditions provided for in subpara (1) of this article, the police or, in the cases provided by law, another law enforcement agency may enter the premises for ascertaining or countering a threat or for eliminating a disturbance if nuisances significantly disturbing another person are spreading outward from the premises and it is not possible to

[367] Korrakaitseseadus, Vastu võetud 23.02.2011, RT I, 22.03.2011, 4, jõustumine 01.07.2014

[368] **§ 50. Korrakaitseseadus** Valdusesse sisenemine

(1) Politsei või seaduses sätestatud juhul muu korrakaitseorgan võib siseneda valdaja nõusolekuta tema valduses olevale piiratud või tähistatud kinnisasjale, ehitisse, eluruumi või ruumi, sealhulgas avada uksi, väravaid ja kõrvaldada muid takistusi, kui:

1) see on vajalik kõrgendatud ohu väljaselgitamiseks või tõrjumiseks;

2) on alust arvata, et piiratud või tähistatud kinnisasjal, ehitises või ruumis viibib isik, kellelt võib võtta seaduse alusel vabaduse või kelle elu, tervis või kehaline puutumatus on tingituna tema abitust seisundist ohustatud;

3) see on vajalik seadusega või seaduse alusel kehtestatud nõuete täitmise tagamisel ohu ennetamiseks, väljaselgitamiseks või tõrjumiseks või korrarikkumise kõrvaldamiseks, ning selliste nõuete täitmise tagamine on valdusesse siseneva korrakaitseorgani pädevuses.

(2) Politsei või seaduses sätestatud juhul muu korrakaitseorgan võib käesoleva paragrahvi lõikes 1 sätestatud tingimustel siseneda valdusesse ohu väljaselgitamiseks või tõrjumiseks või korrarikkumise kõrvaldamiseks, kui valdusest levivad väljapoole teist isikut oluliselt häirivad mõjutused ning nende kõrvaldamine ei ole muul viisil võimalik. Mõjutuse häirivuse hindamisel lähtutakse keskmisest objektiivsest isikust.

(3) Valdusesse tuleb võimaluse korral siseneda valdaja või muu õigustatud isiku juuresolekul ja ajavahemikus kella 7.00-st kuni 23.00-ni. Äriruumidesse tuleb võimaluse korral siseneda nende töö- või lahtiolekuajal.

(4) Eluruumi tohib valdaja teadmiseta siseneda vaid siis, kui teda ei ole mõistlike pingutustega võimalik teavitada ja sisenemine on vajalik korrarikkumise või vahetu kõrgendatud ohu tõrjumiseks. Ajavahemikus kella 23.00-st kuni 7.00-ni või eluruumi valdaja teadmiseta on isiku eluruumi sisenemine lubatud ainult juhul, kui see on vajalik:

1) korrarikkumise kõrvaldamiseks, kui valdusest levivad väljapoole teist isikut oluliselt häirivad kestvad või korduvad mõjutused ja nende kõrvaldamine ei ole muul viisil võimalik;

2) vahetu kõrgendatud ohu tõrjumiseks.

(5) Kui valdaja isik on tuvastatav, tuleb esimesel võimalusel teavitada valdusesse sisenemisest. Kui valdusesse sisenemise tagajärjel jääb valduses valveta oluline varaline väärtus, tagab korrakaitseorgan kuni valdaja või muu õigustatud isiku saabumiseni valduse valve.

(6) Valdusesse sisenemisel võib kasutada vahetut sundi nii kaua, kui see on eesmärgi saavutamiseks vältimatu.

(7) Käesolevas paragrahvis sätestatud meetme protokollimine on kohustuslik.

eliminate the nuisances in any other manner. An average objective person shall be the basis for an assessment of the disturbing nature of the nuisances.
(3) The premises shall be entered, if possible, in the presence of the possessor or another entitled person and during the period from 7 a.m. to 11 p.m. Business premises shall be entered, if possible, during their business hours.
(4) A dwelling may only be entered without the knowledge of the possessor if he or she cannot be notified after reasonable efforts, and entry is necessary for countering a disturbance or an immediate serious threat. During the period from 11 p.m. to 7 a.m. or without the knowledge of the possessor, a person's dwelling may only be entered if it is necessary:
1) for eliminating a disturbance if constant or recurrent nuisances significantly disturbing another person are spreading outward from the premises and it is not possible to eliminate the nuisances in any other manner;
2) for countering an immediate serious threat.
(5) If the identity of the possessor can be established, he or she shall be notified of the entry into the premises at the first opportunity. If because of the entry into the premises a significant proprietary asset is left unsupervised on the premises, the law enforcement agency shall ensure the supervision of the premises until the arrival of the possessor or another entitled person.
(6) Upon the entry into the premises, direct coercion may be used insofar as it is unavoidable for the achievement of the objective.
(7) It is mandatory to record in a report the measure provided for in this article.
(10) The Police and Border Guard Board may disclose the personal data of a person who has participated in a mass disorder if it is necessary for the purposes of establishing identity and the identity could not be established in another manner which is less burdensome on the person.

§ 51. Examination of premises
(1)[369] The police or, in the cases provided by law, another law enforcement agency may, without the consent of the possessor, examine a fenced or marked immovable, building

[369] **§ 51. Korrakaitseseadus** Valduse läbivaatus
(1) Politsei või seaduses sätestatud juhul muu korrakaitseorgan võib valdaja nõusolekuta isiku valduses oleva piiratud või tähistatud kinnisasja, ehitise või ruumi läbi vaadata, sealhulgas vaadata läbi seal asuva asja ning avada uksi, väravaid või kõrvaldada muid takistusi:
1) kui on alust arvata, et piiratud või tähistatud kinnisasjal, ehitises või ruumis viibib isik, kellelt võib võtta seaduse alusel vabaduse või kelle elu, tervis või kehaline puutumatus on tingituna tema abitust seisundist ohustatud;
2) kõrgendatud ohu väljaselgitamiseks või tõrjumiseks või
3) kui see on vajalik seadusega või seaduse alusel kehtestatud nõuete täitmise tagamisel ohu ennetamiseks, väljaselgitamiseks või tõrjumiseks või korrarikkumise kõrvaldamiseks, ning selliste nõuete täitmise kontrollimine on valdust läbi vaatava korrakaitseorgani pädevuses.

or room in the possession of the person, including examine an item therein and open doors and gates or eliminate other obstacles:
1) if there is reason to believe that a person who may be deprived of liberty pursuant to law or whose life, health or physical inviolability is in danger due to his or her need of assistance has entered the fenced or marked immovable, building or room;
2) for ascertaining or countering a serious threat; or
3) if it is necessary for preventing, ascertaining or countering a threat or for eliminating a disorder upon ensuring the compliance with the requirements established by or based on law, and the verification of the compliance with such requirements lies within the competence of the law enforcement agency examining the premises.
(2) The examination of a dwelling in the possession of a person and the examination of business premises outside business hours is only permitted with the prior permission of the administrative court of the location of the dwelling or business premises to be examined. If the permission of the administrative court is not possible to be requested due to the need to counter an immediate serious threat, a law enforcement agency may examine the premises without the permission of the administrative court. In such a case, the law enforcement agency shall be required to request the permission afterwards. The judge shall decide on the grant of permission for the examination of the premises or extension thereof pursuant to the procedure provided for in the Code of Administrative Court Procedure for the grant of a permission to take an administrative measure. If the court refuses to grant the permission, the law enforcement agency shall be required to terminate the examination of the premises immediately.
(3) During the period from 11 p.m. to 7 a.m. a person's dwelling may only be examined if it is necessary for countering an immediate serious threat.

---

(2) Isiku valduses oleva eluruumi läbivaatus ning äriruumi läbivaatus väljaspool selle töö- või lahtiolekuaega on lubatud ainult läbivaadatava elu- või äriruumi asukohajärgse halduskohtu eelneval loal. Kui halduskohtu luba ei ole võimalik taotleda vahetu kõrgendatud ohu tõrjumise vajaduse tõttu, võib korrakaitseorgan valduse läbi vaadata ilma halduskohtu loata. Sellisel juhul on korrakaitseorgan kohustatud loa taotlema tagantjärele. Kohtunik otsustab valduse läbivaatuseks loa andmise või selle pikendamise halduskohtumenetluse seadustikus haldustoiminguks loa andmiseks ettenähtud korras. Kui kohus keeldub loa andmisest, on korrakaitseorgan kohustatud viivitamata lõpetama valduse läbivaatuse.
(3) Ajavahemikus kella 23.00-st kuni 7.00-ni on isiku eluruumi läbivaatus lubatud ainult juhul, kui see on vajalik vahetu kõrgendatud ohu tõrjumiseks.
(4) Piiratud või tähistatud kinnisasja, ehitise või ruumi valdajal on õigus viibida valduse läbivaatuse juures. Kui valdaja ei viibi läbivaatuse juures, võib ta määrata täisealise isiku, kellel on õigus viibida valduse läbivaatuse juures.
(4 1) Korrakaitseorgan võib valduse läbi vaadata ilma käesoleva paragrahvi lõikes 4 nimetatud isikute juuresolekuta, kui see on vajalik vahetu ohu tõrjumiseks või kui nimetatud isikud tahtlikult takistavad käesolevas paragrahvis sätestatud meetme õiguspärast kohaldamist.
(5) Kui valdaja isik on tuvastatav, tuleb teda esimesel võimalusel teavitada valduse läbivaatusest. Kui valduse läbivaatuse tagajärjel jääb valduses valveta oluline varaline väärtus, tagab korrakaitseorgan kuni valdaja või muu õigustatud isiku saabumiseni valduse valve.
(6) Valduse läbivaatusel võib kasutada vahetut sundi nii kaua, kui see on eesmärgi saavutamiseks vältimatu.
(6 1) Korrakaitseorgan võib võtta valduse läbivaatusel proove, samuti teostada mõõtmisi ja teha või tellida ekspertiisi ning jäädvustada olukorda pilti või heli salvestava seadmega.
(7) Käesolevas paragrahvis sätestatud meetme protokollimine on kohustuslik.

(4) The possessor of a fenced or marked immovable, building or room shall have the right to be present at the examination of the premises. If the possessor is not present at the examination of the premises, he or she may appoint an adult who shall have the right to be present at the examination of the premises.
(4[1]) A law enforcement agency may examine premises without the presence of the persons specified in subpara (4) of this article if it is necessary for countering an immediate threat or if the said persons intentionally obstruct the lawful application of the measure provided for in this article.
(5) If the identity of the possessor can be established, he or she shall be notified of the examination of the premises at the first opportunity. If because of the examination of the premises a significant proprietary asset is left unsupervised on the premises, the law enforcement agency shall ensure the supervision of the premises until the arrival of the possessor or another entitled person.
(6) Upon the examination of the premises, direct coercion may be used insofar as it is unavoidable for the achievement of the objective.
(6[1]) Upon the examination of the premises, a law enforcement agency may take samples and measurements and give or commission expert assessments as well as record the situation by means of a device which records images or audio.
(7) It is mandatory to record in a report the measure provided for in this article.

§ 52. Taking into storage of movable
(1)[370] The police or, in the cases provided by law, another law enforcement agency shall have the right to take a movable into storage:

[370] **§ 52. Korrakaitseseadus** Vallasasja hoiulevõtmine
(1) Politseil või seaduses sätestatud juhul muul korrakaitseorganil on õigus võtta vallasasi hoiule:
1) vahetu ohu tõrjumiseks või korrarikkumise kõrvaldamiseks;
2) asja omaniku või valdaja kaitseks asja kaotamise, hävimise või olulise kahjustamise vahetu ohu eest, kui samal ajal on ohus avalik huvi;
3) kui seaduse alusel on asja valdamiseks vaja luba, mis asja valdaval isikul puudub;
4) kui asja valdab isik, kellelt on seaduse alusel võetud vabadus, ning on oht, et isik kasutab asja enda või teise isiku tapmiseks või vigastamiseks või võõra asja kahjustamiseks või põgenemiseks;
5) kui vallasasja on lubatud käesoleva seaduse § 49 alusel läbi vaadata ning hoiulevõtmine on vajalik, et võtta vallasasja kohta proovi, samuti teostada vallasasja mõõtmisi või teha ekspertiisi või
6) kui turvakontrolli käigus on tuvastatud ese, mis ei ole seadusega keelatud, kuid võib ohustada isikut ennast või teist isikut.
(2) Hoiulevõetud asja hoiab korrakaitseorgan. Kui korrakaitseorganil ei ole asja omadustest tulenevalt võimalik või otstarbekas asja hoida, võib korrakaitseorgan anda asja hoiule muule isikule, kellel on täidetud selleks vajalikud tingimused. Korrakaitseorgan või muu isik, kellele asi on hoiule antud, peab hoidma asja selle säilimist tagaval viisil.
(3) Isikule, kellelt asi hoiule võetakse, väljastab korrakaitseorgan viivitamata asja hoiulevõtmise protokolli koopia, milles märgitakse korrakaitseorgan, kes hoiulevõtmist kohaldab, hoiulevõtmise aeg ja põhjus ning hoiulevõetava asja kirjeldus. Kui isik, kellelt asi hoiule võetakse, ei ole asja omanik ega selle seaduslik valdaja või kui asja ei võetud hoiule isikult ning omanik või seaduslik valdaja on tuvastatav, teavitab korrakaitseorgan omanikku või seaduslikku esindajat asja hoiulevõtmisest viivitamata.

1) for countering an immediate threat or for eliminating a disturbance;
2) for the protection of the owner or possessor of the item against the direct risk of misplacement or loss of or significant damage to the item if at the same time public interests are in danger;
3) if pursuant to law a permit is required for the possession of the item but the person possessing the item lacks such a permit;
4) if the item is possessed by a person who has been deprived of liberty pursuant to law and there is a risk that the person will use the item to kill or injure himself or herself or another person or to damage another person's item or to escape;
5) if the movable is permitted to be examined based on article 49 of this Act and taking it into storage is necessary to take a sample or measurements of the movable or give an expert assessment on the movable; or
6) if during a security check an object which is not prohibited by law but may endanger the person himself or herself or another person is detected.
(2) An item taken into storage shall be stored by a law enforcement agency. If due to the characteristics of the item it is not possible or rational for the law enforcement agency to store the item, the law enforcement agency may give the item to be stored by another person who meets the necessary requirements therefor. The law enforcement agency or another person who is storing the item shall store the item in a manner which ensures the preservation thereof.
(3) A law enforcement agency shall immediately issue to the person from whom an item is taken into storage a copy of the report on the taking into storage of the item, specifying the law enforcement agency applying the taking into storage, the time of and the reason for the taking into storage and the description of the item taken into storage. If the person from whom the item is taken into storage is not the owner of the item or the legal possessor thereof or if the item was not taken into storage from a person and the owner or the legal possessor can be established, the law enforcement agency shall immediately notify the owner or the legal possessor of the taking into storage of the item.
(4) The owner or the legal possessor of an item taken into storage shall be given an opportunity to retrieve the item immediately after the basis for the taking into storage ceases to exist.
(5) For the taking into storage of a movable, direct coercion may be used insofar as it is unavoidable for the achievement of the objective.
(6) It is mandatory to record in a report the measure provided for in this article, except in the case provided for in clause (1) 6).

(4) Hoiulevõetud asja omanikule või seaduslikule valdajale luuakse viivitamata pärast hoiulevõtmise aluse äralangemist võimalus asi kätte saada.
(5) Vallasasja hoiulevõtmiseks võib kasutada vahetut sundi nii kaua, kui see on eesmärgi saavutamiseks vältimatu.
(6) Käesolevas paragrahvis sätestatud meetme protokollimine on kohustuslik, välja arvatud lõike 1 punktis 6 sätestatud juhul.

§ 53. Selling or destruction of movable taken into storage

(1)[371] On the basis of an order of a law enforcement agency, a bailiff shall sell an item taken into storage at a public auction pursuant to the procedure provided for in the Code of Enforcement Procedure for the selling of movables if:

1) it is a highly perishable item or an item which quickly loses its value in another manner;

2) the storage and maintenance of the item is disproportionally expensive or complicated;

3) it is not possible to store the item in a manner which would ensure the countering of threats arising from the item;

4) it is not possible to return the item to the entitled person within one year as of the date of the taking into storage without it resulting at the same time in a new need for the item to be taken into storage by the law enforcement agency; or

5) the person entitled therefor has not accepted the item from the law enforcement agency after the basis for the taking into storage of the item ceased to exist by the period of time disclosed to him or her in writing if the notice contained a caution that in the case of non-acceptance, the item shall be sold.

[371] **§ 53. Korrakaitseseadus** Hoiulevõetud vallasasja müümine või hävitamine

(1) Korrakaitseorgani korralduse alusel müüb hoiulevõetud asja kohtutäitur avalikul enampakkumisel täitemenetluse seadustikus vallasasjade müügiks sätestatud korras, kui:

1) tegemist on kiiresti rikneva või muul viisil kiiresti väärtust kaotava asjaga;

2) asja hoidmine ja korrashoid on ebaproportsionaalselt kulukas või raske;

3) asja ei ole võimalik hoida viisil, mis tagaks asjast lähtuvate ohtude tõrjumise;

4) asja ei ole võimalik tagastada selleks õigustatud isikule ühe aasta jooksul hoiulevõtmise päevast arvates, ilma et see tooks samal ajal kaasa uue vajaduse asja hoiulevõtmiseks korrakaitseorgani poolt, või

5) selleks õigustatud isik ei ole asja korrakaitseorganilt pärast asja hoiulevõtmise aluse äralangemist vastu võtnud talle kirjalikult teatavaks tehtud tähtpäevaks, kui teade sisaldas hoiatust, et vastuvõtmata jätmise korral asi müüakse.

(2) Asja hindab kohtutäitur, lähtudes asja harilikust väärtusest. Kui kohtutäituril ei ole võimalik hinda määrata, laseb kohtutäitur hindamise korraldada eksperdil.

(3) Asja müügist saadud tulemist arvatakse maha asja hoidmise kulud ja täitekulud ning ülejäänud summa makstakse välja asja endisele omanikule. Asja hoidmise kuludeks loetakse nii korrakaitseorgani kui ka kohtutäituri kantud kulud. Kui omanik ei võta summat vastu ühe aasta jooksul asja müümisest arvates, kantakse see riigituludesse.

(4) Kui asja müümine avalikul enampakkumisel ei ole võimalik või kui enampakkumise korraldamise kulud ületavad asja väärtuse, võib kohtutäitur asja müüa avaliku enampakkumiseta täitemenetluse seadustikus vallasasjade müügiks sätestatud korras.

(5) Kui võib eeldada, et asja ei ole võimalik müüa avalikul enampakkumisel ega muul viisil, või kui kohtutäituril ei õnnestu vara müüa, korraldab korrakaitseorgan asja hävitamise või pöörab selle riigi omandisse.

(6) Enne asja müümist, hävitamist või riigi omandisse pööramist teavitab korrakaitseorgan sellest tuvastatud omanikku või seaduslikku valdajat.

(7) Pärast asja müümist, hävitamist või riigi omandisse pööramist on korrakaitseorgan kohustatud viivitamata väljastama tuvastatud omanikule või seaduslikule valdajale selle kohta kirjaliku teatise.

(8) Kohtutäituri tasu müügi korraldamise eest sätestatakse kohtutäituri seaduses.

(9) Käesolevas paragrahvis sätestatud meetme protokollimine on kohustuslik. Vallasasja müümise dokumenteerib kohtutäitur, hävitamise või riigi omandisse pööramise korrakaitseorgan.c

(2) The item shall be valuated by the bailiff based on the usual value thereof. If the bailiff is unable to determine the price, the bailiff shall have the valuation organised by an expert.
(3) The costs of the storing of the item and the enforcement costs shall be deducted from the revenue received from the sale of the item and the remaining amount shall be paid to the former owner of the item. The costs of the storing of the item shall be deemed the costs incurred by both the law enforcement agency and the bailiff. If the owner does not accept the amount within one year as of the sale of the item, it shall be entered into public revenues.
(4) If it is not possible to sell the item at a public auction or if the costs of the organisation of a public auction will exceed the value of the item, the bailiff may sell the item without a public auction pursuant to the procedure provided for in the Code of Enforcement Procedure for the sale of movables.
(5) If it can be presumed that it is not possible to sell the item at a public auction or in another manner or if the bailiff is unable to sell the property, the law enforcement agency shall organise the destruction of the item or shall transfer it to state ownership.
(6) Prior to the sale, destruction or transfer to state ownership of the item, the law enforcement agency shall notify thereof the established owner or legal possessor.
(7) After the sale, destruction or transfer to state ownership of the item, the law enforcement agency shall be required to immediately issue a written notice to that effect to the established owner or legal possessor.
(8) The remuneration of the bailiff for the organisation of the sale shall be provided for in the Bailiffs Act.
(9) It is mandatory to record in a report the measure provided for in this article. The sale of the movable shall be documented by the bailiff, and the destruction or transfer to state ownership of the movable shall be documented by the law enforcement agency.

aa. Estonia, article 551 et seq. and 59 et seq. Tax Code

For the complete text of the provisions see above in the section of investigation powers already. **96**

(1) The System of the Search Measure in Estonia's Tax Control

Tax controls need to produce evidence. Chapter 4^1 Tax Code provides for certain powers (see above → 4. f) (1) (d)) and Chapter 6 provides for special provisions on the gathering of evidence. **97**

98 **§ 72. Inspection and other procedural acts Tax Act**[372]

(1) Officials of tax authorities have the right, to conduct inspections, to have access to plots of land, buildings and premises where the business or professional activities of a taxable person are carried out. An official of the tax authority shall also have right to inspect a movable related to the business or professional activities of the taxable person, which is not at the location of the business or professional activities of the taxable person. During an inspection the officials of tax authorities do not have the right to conduct searches, open locked spaces or storage rooms or enter a dwelling against the will of the persons residing therein even if the business or professional activities of a person are carried out therein.

[RT I, 23.03.2017, 1 – entry into force 01.04.2017]

(2) Officials of tax authorities have the right to inspect property owned or possessed by a third party, including immovable property, buildings, ships and vehicles and other movable property, provided that the inspection does not involve entry into and search of the dwelling or premises of the person against the person's will.

[RT I, 23.03.2017, 1 – entry into force 01.04.2017]

(2) Seizure of Weapons and Instruments, Customs Code/Law Enforcement Act

99 **Law Enforcement Act**[373]

§ 49. Examination of movable objects

(1)[374] The police or, in the cases provided by law, another law enforcement agency may, without the consent of the possessor, check a movable sensuously or by means of a

[372] **§ 72. Vaatlus ja muud menetlustoimingud**

1) Maksuhalduri ametnikul on õigus vaatluse läbiviimiseks siseneda maatükile, ehitisse ja ruumi, kus toimub maksukohustuslase majandus- või kutsetegevus. Maksuhalduri ametnikul on õigus vaadelda ka maksukohustuslase majandus- või kutsetegevusega seotud vallasasja, mis ei asu maksukohustuslase majandus- või kutsetegevuse toimumise kohas. Maksuhalduri ametnikul ei ole õigust teha vaatluse käigus läbiotsimist, avada lukustatud ruume või panipaiku ega siseneda eluruumi selles elavate isikute tahte vastaselt, seda ka juhul, kui neis toimub isiku majandus- või kutsetegevus.

[RT I, 23.03.2017, 1 - jõust. 01.04.2017]

2) Maksuhalduri ametnikul on õigus vaadelda kolmanda isiku omandis või valduses olevat vara, sealhulgas kinnisasju, ehitisi, laevu ja sõidukeid ning vallasvara, kui vaatlus ei kujuta endast selle isiku tahte vastast eluruumi või valdusesse sisenemist ja selle läbiotsimist.

[RT I, 23.03.2017, 1 - jõust. 01.04.2017]

[373] Korrakaitseseadus, Vastu võetud 23.02.2011, RT I, 22.03.2011, 4, jõustumine 01.07.2014.

[374] **§ 49. Korrakaitseseadus** Vallasasja läbivaatus

(1) Politsei või seaduses sätestatud juhul muu korrakaitseorgan võib valdaja nõusolekuta kontrollida meeleliselt või tehnilise vahendi või teenistuslooma abil vallasasja, sealhulgas avada uksi ja kõrvaldada muid takistusi, kui:

1) seda kannab kaasas isik, kes siseneb avaliku võimu organi ehitisse või territooriumile;

2) seda kannab kaasas isik, kelle suhtes võib seaduse alusel teostada turvakontrolli või keda võib seaduse alusel läbi vaadata;

3) on alust arvata, et vallasasjas viibib isik, kellelt võib seaduse alusel võtta vabaduse või keda võib seaduse alusel läbi vaadata või kes on abitus seisundis;

4) on alust arvata, et selles on asju, mida võib käesoleva seaduse või muu seaduse alusel võtta hoiule, hõivata või konfiskeerida;

technical device or a service animal, including open doors and eliminate other obstacles if:
1) it is carried by a person entering a building or territory of a public authority;
2) it is carried by a person who may be subjected to a security check pursuant to law or who may be examined pursuant to law;
3) there is reason to believe that a person who may be deprived of liberty pursuant to law or who may be examined pursuant to law or who needs assistance is present in the movable;
4) there is reason to believe that it contains items which may be taken into storage, occupied or confiscated based on this Act or another law;
5) it is necessary for the ascertainment of a serious threat regarding a person who is in a vital energy, communications, signalling, water supply or sewerage system, in a traffic control building or device or in the near vicinity thereof;
6) if it is necessary for ensuring the safety of a safeguarded person or object; or
7) if it is necessary for preventing, ascertaining or countering a threat or for eliminating a disorder upon ensuring the compliance with the requirements established by or based on law, and the verification of the compliance with such requirements lies within the competence of the law enforcement agency examining the moveable.
(2) The owner or the possessor of an item shall have the right to be present at the examination of the item. If the owner or the possessor is not present at the examination of the item, he or she may appoint an adult who shall have the right to be present at the examination of the item.
(3) A law enforcement agency may examine an item without the presence of a person specified in subpara (2) of this article if it is necessary for countering an immediate

5) see on vajalik kõrgendatud ohu väljaselgitamiseks isiku suhtes, kes viibib elutähtsas energia-, side-, signalisatsiooni-, veevarustus- või kanalisatsioonisüsteemis, liikluskorralduse ehitises või seadmes või selle vahetus läheduses;
6) see on vajalik kaitstava isiku või valvatava objekti ohutuse tagamiseks või
7) see on vajalik seadusega või seaduse alusel kehtestatud nõuete täitmise tagamisel ohu ennetamiseks, väljaselgitamiseks või tõrjumiseks või korrarikkumise kõrvaldamiseks, ning selliste nõuete täitmise kontrollimine on vallasasja läbi vaatava korrakaitseorgani pädevuses.
(2) Asja omanikul või valdajal on õigus viibida asja läbivaatuse juures. Kui omanik või valdaja ei viibi asja läbivaatuse juures, võib ta määrata täisealise isiku, kellel on õigus viibida asja läbivaatuse juures.
(3) Korrakaitseorgan võib asja läbi vaadata ilma käesoleva paragrahvi lõikes 2 nimetatud isikute juuresolekuta, kui see on vajalik vahetu ohu tõrjumiseks või kui nimetatud isikud tahtlikult takistavad käesolevas paragrahvis sätestatud meetme õiguspärast kohaldamist.
(4) Kui valdaja isik on tuvastatav, tuleb teda esimesel võimalusel teavitada vallasasja läbivaatusest. Kui vallasasja läbivaatuse tagajärjel jääb valveta oluline varaline väärtus, tagab korrakaitseorgan kuni valdaja või muu õigustatud isiku saabumiseni vallasasja valve.
(5) Asja läbivaatusel võib kasutada vahetut sundi nii kaua, kui see on eesmärgi saavutamiseks vältimatu.
(5 1) Korrakaitseorgan võib võtta vallasasja läbivaatusel proove, samuti teostada mõõtmisi ja teha või tellida ekspertiisi ning jäädvustada olukorda pilti või heli salvestava seadmega.
(6) Käesolevas paragrahvis sätestatud meetme protokollimine on kohustuslik, välja arvatud juhul, kui isik siseneb avaliku võimu organi ehitisse või territooriumile vabatahtlikult või kui turvakontrolli kohaldatakse kaitstava isiku või valvatava objekti ohutuse tagamiseks.

threat or if the said persons intentionally obstruct the lawful application of the measure provided for in this article.
(4) If the identity of the possessor can be established, he or she shall be notified of the examination of the movable at the first opportunity. If because of the examination of the movable a significant proprietary asset is left unsupervised, the law enforcement agency shall ensure the supervision of the movable until the arrival of the possessor or another entitled person.
(5) Upon the examination of an item, direct coercion may be used insofar as it is unavoidable for the achievement of the objective.
(5^1) Upon the examination of a moveable, a law enforcement agency may take samples and measurements and give or commission expert assessments as well as record the situation by means of a device which records images or audio.
(6) It is mandatory to record in a report the measure provided for in this article, except in the case the person enters a building or territory of a public authority of his or her free will or if a security check is applied for ensuring the safety of a safeguarded person or object.

bb. General Remarks

100 Conducting a search is described in detail by s. 72 Tax Code. National inspectors need to make OLAF aware of these powers in all cases an Economic Operator resists, and supranational law is dismissed.

cc. Formal Requirements

101 S. 72 para 3 and 4 Tax Act[375] stipulate the main formal requirements for a search by virtue of the Tax Act:

102 (3) Advance notice of the conduct of an inspection specified in subparas 1 and 2 of this article shall be given within a period of time which enables the taxable person to form an opinion on the planned act. In urgent cases or if advance notice may endanger the

[375] 3) Käesoleva paragrahvi lõigetes 1 ja 2 nimetatud vaatluse läbiviimisest teatatakse ette sellise aja jooksul, mis võimaldab maksukohustuslasel kavandatava toimingu suhtes seisukohta võtta. Vaatluse läbiviimisest ei teatata ette kiireloomulistel juhtudel või kui ette teatamine võib ohustada vaatluse eesmärgi täitmist. Vaatluse läbiviimisest ei teatata ette ka juhul, kui maksuhalduril ei õnnestunud vara omaniku või valdaja elu- või asukohta kindlaks teha. Vaatluse läbiviimiseks esitatakse maksukohustuslasele või tema esindajale kirjalik korraldus, kuhu on märgitud ka vaatluse eesmärk. Kui vaatluse läbiviimiseks ei esitatud kirjalikku korraldust, on maksukohustuslasel õigus nõuda tagantjärele vaatluse kirjalikku põhjendamist. [RT I, 10.12.2010, 4 - jõust. 01.01.2011]
4) Vaatlus maksukohustuslase majandus- või kutsetegevuse toimumise kohas viiakse läbi ettevõtte tööajal või üldisel tööajal. Vaatluse käik ja vaatlusega tuvastatud asjaolud protokollitakse. [RT I, 23.03.2017, 1 - jõust. 01.04.2017]
4^1) Vaatluse juures viibivale menetlusosalisele tutvustatakse viivitamata tema õigusi ja kohustusi suuliselt või kirjalikult lihtsas ja arusaadavas keeles. Õiguste ja kohustuste selgitamise kohta võetakse protokolli menetlusosalise allkiri. [RT I, 23.03.2017, 1 - jõust. 01.04.2017].

attainment of the purpose of the inspection, advance notice of the conduct of an inspection need not be given. Advance notice of the conduct of an inspection also need not be given if the tax authority is unable to ascertain the residence or seat of the owner or possessor of the property. To conduct an inspection a written order, which among other things sets out the purpose of the inspection, shall be presented to the taxable person or a representative thereof. If no written order is presented to conduct an inspection, the taxable person has the right to request that the taxable person be subsequently informed in writing of the grounds for the inspection.
[RT I, 10.12.2010, 4 – entry into force 01.01.2011]
(4) An inspection at the location of business or professional activities of the taxable person shall be conducted during the working time of the enterprise or during general working time. Minutes shall be taken of the course of the inspection and the facts established by the inspection. [RT I, 23.03.2017, 1 – entry into force 01.04.2017]
(4^1) The party to the proceedings who is present at the inspection shall be immediately introduced his or her rights and obligation orally or in written form in a simple and understandable language. The signature of the party to the proceedings concerning the clarification of the rights and obligations shall be taken in the minutes.
[RT I, 23.03.2017, 1 – entry into force 01.04.2017]

dd. Substantive Requirements

It is important to obey the law, i.e. s. 72 para 5 et seq. Tax Act[376] and carry out the measures as described by the legislator. If this is not done as described the whole search can be contested and challenged as unlawful, what can be disastrous, as the entire investigation into a potential suspect would nullify many parts of the detection of irregularities against EU finances: **103**

[…] (5) In order to conduct an inspection, an official of a tax authority has the right to: **104**
1) involve specialists and experts;
2) make extracts or copies of documents pursuant to the procedure provided in § 65 of this Act;

[376] 5) Vaatluse läbiviimiseks on maksuhalduri ametnikul õigus: 1) kaasata spetsialiste ja eksperte; 2) teha käesoleva seaduse §-s 65 sätestatud korras dokumentidest väljavõtteid või ärakirju; 3) fotografeerida või muul viisil jäädvustada vaadeldavat territooriumi või asju; 4) teha kaupade, materjalide ja muu vara inventuure ja ülemõõtmisi, samuti koostada vaadeldavate territooriumide või ehitiste plaane või skeeme; 5) võtta ära dokumente ja asju vastavalt käesoleva seaduse §-s 65 sätestatule; 6) nõuda vaadeldaval maatükil või vaadeldavas ehitises või ruumis viibivatelt isikutelt teavet maksukohustuslase majandus- või kutsetegevuse kohta vaatluse eesmärgiga piiratud ulatuses. Ütlused protokollitakse käesoleva seaduse § 60 lõikes 4 sätestatud korras. [RT I 2007, 23, 121 - jõust. 01.07.2007]
6) Maksuhalduri ametnikul on õigus võtta mootorikütusena kasutatava kütuse erimärgistatuse kindlakstegemiseks sõidukite kütusepaakidest ja mujalt kütusesüsteemist proove. Toimingu tulemused protokollitakse.
7) Maksuhalduril on õigus kaasata spetsialiste vaatlusesse ja muudesse menetlustoimingutesse, kui nende läbiviimiseks on vaja eriteadmistega isiku abi. Spetsialisti osavõtu kohta tehakse märge menetlustoimingu protokolli. Spetsialistile laieneb käesoleva seaduse § 68 lõikes 4 sätestatu.

3) take photographs of or record in another manner the inspected territory or things;
4) take inventory or control measurements of goods, materials and other property and prepare plans or sketch maps of inspected territories or buildings;
5) remove documents and things pursuant to the provisions of § 65 of this Act;
6) request information concerning the economic or professional activities of the taxable person to a limited extent for inspection purposes from persons on the plot of land or in the buildings or on the premises which are being inspected. The testimony shall be recorded pursuant to the procedure provided in subpara 4 of § 60 of this Act.
[RT I 2007, 23, 121 – entry into force 01.07.2007]
(6) Officials of tax authorities have the right to take samples from the fuel tanks and elsewhere in the fuel system of motor vehicles to ascertain whether fuel used as motor fuel is fiscally marked. The results of the procedural act shall be recorded.
(7) The tax authorities have the right to involve specialists in inspections and other procedural acts if the assistance of a person who has specific expertise is required to conduct the inspections or procedural acts. A notation concerning the involvement of a specialist shall be made in the report of the procedural act. The provisions of subpara 4 of § 68 of this Act apply to specialists.

j) Seizure of Other Evidence, article 65 Tax Act

105 **§ 65. Making copies of documents, confiscation of documents and things**[377] **Tax Act**
(1) A tax authority may make copies of and extracts from documents submitted to it by a participant in the proceedings and officially certify the accuracy thereof. Official approval is provided in accordance with the provisions of the Administrative Procedure Act.

[377] **§ 65. Dokumentidest ärakirjade tegemine, dokumentide ja asjade äravõtmine**
1) Maksuhaldur võib teha talle menetlusosalise poolt esitatud dokumentidest ärakirju ja väljavõtteid ning nende õigsust ametlikult kinnitada. Ametlik kinnitamine toimub vastavalt haldusmenetluse seaduses sätestatule.
2) Maksuhaldur võib talle esitatud dokumendid ja asjad ära võtta, kui:
1) neid on vaja maksuasja lahendamiseks ning maksuhalduril on põhjendatult alus kahtlustada, et hiljem ei ole need tõendid talle kättesaadavad või
2) see on vajalik dokumentidest väljavõtete või ärakirjade tegemiseks või
3) dokumendid ja asjad viitavad arvatavalt toimepandud õigusrikkumisele.
3) Dokumentide äravõtmise kohta koostatakse protokoll, kuhu märgitakse dokumentide nimetused ja arv, toimikute äravõtmise korral ka lehekülgede arv. Asjade äravõtmise kohta koostatakse protokoll, kuhu märgitakse äravõetud asjade tunnused ja arv. Protokolli allkirjastavad protokolli koostaja ning toimingus osalenud isikud. Kui menetlusosaline keeldub protokollile alla kirjutamast, tehakse protokolli selle kohta märge. Protokoll koostatakse kahes eksemplaris, millest üks antakse menetlusosalisele, kellelt asjad või dokumendid ära võeti.
4) Dokumente ei võeta ära käesoleva paragrahvi lõike 2 punktides 1 ja 2 sätestatud juhtudel, kui menetlusosaline vaidleb sellele vastu ning kannab dokumentidest ärakirjade või väljavõtete tegemise kulud. Ärakirjade ja väljavõtete õigsust kinnitatakse vastavalt käesoleva paragrahvi lõikes 1 sätestatule ning kinnitusmärke juurde võetakse menetlusosalise allkiri. Kui kinnitatud ärakirjade või väljavõtete maht on suur, koostatakse protokoll, kuhu märgitakse dokumentide loetelu, millest tehti ärakirju või väljavõtteid. Protokolli allkirjastavad maksuhalduri ametnik ja menetlusosaline.

aa. General Remarks

It is essential for tax inspector to be able to **make copies and confiscate extracts** and whole documents as it needs time to verify irregularities, and this is even more complicated if documents are only available in a foreign language and contain e.g. a lot of budget calculations. One should take a close look at the formal and substantive requirements: **106**

bb. Formal Requirements

> […] 3) A report shall be prepared concerning the seizure of documents, which shall set out the names and number of the documents and, in the case of seizure of files, also the number of pages. A report shall be prepared on the seizure of items, indicating the characteristics and number of seized items. The minutes shall be signed by the person who prepared the minutes and the persons who participated in the operation. If a party to the proceedings refuses to sign the minutes, a note to that effect shall be made. The minutes shall be drawn up in two copies, one of which shall be given to the party to the proceedings from whom the things or documents were confiscated.
> 4) Documents shall not be confiscated in the cases provided for in clauses (2) 1) and 2) of this article if the participant in the proceedings disputes the costs thereof and bears the costs of making copies of or extracts from the documents. The authenticity of transcripts and extracts shall be certified in accordance with the provisions of subpara (1) of this article and the signature of the participant in the proceeding shall be attached to the endorsement marks. If the volume of certified copies or extracts is large, a report shall be drawn up listing the documents from which the copies or extracts were made. The minutes shall be signed by an official of the tax authority and a participant in the proceedings. **107**

cc. Substantive Requirements

The main requirements and thresholds are stipulated by s. 65 para 2 Tax Act[378]: **108**

> (2) A tax authority **may confiscate documents and things** submitted to it if:
> 1) they are necessary for the resolution of a tax matter and the tax authority has reasonable grounds to suspect that the evidence will not be available to him or her later, or
> 2) it is necessary for making extracts or copies of documents, or
> 3) the documents and things refer to the alleged offence.

[378] **§ 65 [...]**
2) Maksuhaldur võib talle esitatud dokumendid ja asjad ära võtta, kui:
1) neid on vaja maksuasja lahendamiseks ning maksuhalduril on põhjendatult alus kahtlustada, et hiljem ei ole need tõendid talle kättesaadavad või
2) see on vajalik dokumentidest väljavõtete või ärakirjade tegemiseks või
3) dokumendid ja asjad viitavad arvatavalt toimepandud õigusrikkumisele.

k) Acquisition of Digital Evidence

109 The Customs Code provides for special acquisition measures related to digital evidence (especially surveillance methods, see ss. 11, 12 Customs Code above) around customs duties fraud etc.

110 The Acquisition of digital evidence is partly possible by virtue of the Tax Act. Chapter 7^1 Tax Act enables the Tax and Customs Board to make inquiries to telecommunications service providers. The inquiries are based on the same provisions that apply for the access and inspection of telecommunications (surveillance) pursuant to the CPC.

111

7^1. Chapter Tax Act
INQUIRY FOR TELECOMMUNICATIONS, SURVEILLANCE AND SECRET COOPERATION

§ 81^1. Making an inquiry to a telecommunications operator

(1) The Tax and Customs Board may make an inquiry to an electronic communications undertaking on the basis specified in clauses 126^2 (1) 1) and 2) of the Code of Criminal Procedure and persons specified in clauses 126^2 (3) 1) and 2) of the Code of Criminal Procedure: data necessary to identify the end-user in relation to the identifiers used, with the exception of data relating to the fact that the message was transmitted; 2) information specified in subparas 111 1 (2) and (3) of the Electronic Communications Act which is not specified in clause 1) of this subpara.

(2) The Prosecutor's Office shall issue a permit for making the inquiry specified in clause (1) 2) of this article. The request for authorization shall specify the period to which the request for data is permitted, to the nearest date.

[RT I, 29.06.2012, 2 – entry into force. 01.01.2013]

§ 81^2. Collection of data to decide on access to and recruitment of personal intelligence

(1) The Tax and Customs Board may, with the written consent of a person, collect personal data concerning him or her by means of surveillance specified in subpara 126^3 (1) of the Code of Criminal Procedure and by inquiry into the information provided in subparas 111 1 (2) and (3) of the Electronic Communications Act. access to intelligence or recruitment to the Tax and Customs Board.

(2) A person shall be notified of the performance of an act prescribed in subpara (1) of this article after the making of the decision and shall be introduced to the information collected by the act at his or her request.

[RT I, 29.06.2012, 2 – entry into force. 01.01.2013]

§ 81[3]. Covert cooperation and conspiracy techniques
(1) The Tax and Customs Board has the r**ight to involve persons in secret co-operation and use undercover agents**, as well as to use conspiracy techniques under the conditions provided for in the Police and Border Guard Act, to perform surveillance activities, ensure the performance thereof or collect information.
(2) The head of the Tax and Customs Board or an official appointed by him or her shall issue a written permit for the involvement of a person.
(3) The head of the Tax and Customs Board shall issue a written permit for the use of a person.
(4) An administrative body or legal person competent to issue a corresponding type of document or make an amendment to a database or register shall issue a document necessary for the performance of conspiracy and make the necessary amendment to the database or register based on a reasoned request of the head of the Tax and Customs Board or an authorized official.
[RT I, 29.06.2012, 2 – entry into force. 01.01.2013]

l) Investigative Missions in Third Countries

There are no special national rules on investigation missions of OLAF in third countries (e.g. Russia, etc.).

m) National Procedural Rules for "Checks and Inspections" by the Assisting National Authority

See above. The national procedural rules that apply are enshrined in the detailed provisions that enable a certain investigation power or they can be found in the surrounding provisions of the relevant Code (Tax, Customs or Administrative Proceedings Code). **112**

2. Article 4 Internal Investigations

1. Investigations within the institutions, bodies, offices and agencies in the areas referred to in article 1 shall be conducted ***in accordance with this Regulation and with the decisions adopted by the relevant institution, body, office or agency*** ('internal investigations').
8. Without prejudice to article 12c(1), where, before a decision has been taken whether to open an internal investigation, the Office handles information which suggests that there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union, it may inform the institution, body, office or agency concerned. Upon request, the institution, body, office or agency concerned shall inform the Office of any action taken and of its findings based on such information.
Where necessary, the Office shall also inform the ***competent authorities of the Member State concerned***. In this case, the procedural requirements laid down in the second and third subparas of article 9(4) shall apply. If the competent authorities decide to ***take any action based on the information transmitted to them, in accordance with national law***, they shall, upon request, inform the Office thereof.

a) References to National Law, Para 8

1 If investigations at EU level lead to the conclusion that a person is involved who has Estonian nationality and is additionally subject to Estonian law because the person is only seconded to work at EU level or the like, the disciplinary law of the Civil Servants Act of Estonia (Avaliku teenistuse seadus) may apply.

2 Disciplinary law for civil servants in Estonia is enshrined in Chapter 8 of the Civil Servants Act and it means an offence, expressis verbis a "tortious breach of duty" (*Distsiplinaarsüütegu on teenistuskohustuse süüline rikkumine*).

3 According to para 2 of the Estonian Civil Servants Act, Estonian civil servants include the following persons: civil servants of state and local administrative authorities. In addition, according to para 2 of § 2, civil servants of the police, penitentiary, rescue, foreign and public prosecution services, soldiers and civil servants of other special categories of the civil service are covered with the stipulations provided for in special laws.
It is important to note that this Act does not apply under para 3:

"3) Except as otherwise provided by law, to:
1) a member of the Riigikogu;
2) a Member of the European Parliament;
3) the President of the Republic;
4) a member of the Government of the Republic;
5) a judge;
6) the Chancellor of the Judiciary;
7) the Court of Auditors;
8) the State Arbitrator;
9) a member of the council of a local government;
10) a member of a rural community or town council;
11) the elder of a rural community or urban district."

4

Pursuant to § 4. of the Civil Service Act and disputes under civil service law, the Administrative Procedure Act applies to the administrative procedures prescribed in the Civil Servants Act (unless more specific rules are made). The most important national provisions in this regard are ss. 71–74 Civil Servants Act:

§ 71. Purpose of the disciplinary procedure[379] Civil Servants Act
The purpose of the disciplinary procedure is to determine quickly and completely the circumstances indicating the commission of a disciplinary offence, to identify a possible offender and to impose a disciplinary sanction justly.

§ 72. Initiation of disciplinary proceeding Civil Servants Act
(1)[380] Disciplinary proceedings may be instituted by a person who has the right to be appointed to an office by order or direction if sufficient factual circumstances are known to indicate the commission of a service offence.

[379] **§ 71. Distsiplinaarmenetluse eesmärk [Avaliku teenistuse seadus]**
Distsiplinaarmenetluse eesmärk on distsiplinaarsüüteo toimepanemisele viitavate asjaolude kiire ja täielik väljaselgitamine, võimaliku süüdlase tuvastamine ning distsiplinaarkaristuse õiglane määramine.
[380] **§ 72. Distsiplinaarmenetluse algatamine [Avaliku teenistuse seadus]**
1) Distsiplinaarmenetluse võib algatada ametisse nimetamise õigust omav isik käskkirjaga või korraldusega, kui on teada piisavalt faktilisi asjaolusid distsiplinaarsüüteo toimepanemise kohta.
2) Distsiplinaarmenetluse algatab ametisse nimetamise õigust omav isik käskkirja või korraldusega, kui on teada piisavalt faktilisi asjaolusid distsiplinaarsüüteo toimepanemise kohta ja kui on põhjendatud alus arvata, et distsiplinaarsüüteo aluseks olev teenistuskohustuse rikkumine on oluline.
3) Distsiplinaarmenetluse algatamise käskkirjas või korralduses määratakse distsiplinaarmenetluse läbiviija ja läbiviimise tähtaeg, kirjeldatakse teadaolevaid asjaolusid ning nimetatakse distsiplinaarsüüteo toimepanemises kahtlustatav ametnik.
4) Distsiplinaarmenetluse algatamise käskkiri või korraldus toimetatakse distsiplinaarsüüteo toimepanemises kahtlustatavale ametnikule kätte distsiplinaarmenetluse algatamise päevale järgneva viie tööpäeva jooksul.

(2) Disciplinary proceedings shall be instituted by a person having the right to be appointed to an office by order or direction if sufficient factual circumstances are known for the commission of a disciplinary offence and there are reasonable grounds for believing that the breach of duty is of significance.
(3) An order or direction to initiate disciplinary proceedings shall specify the person conducting the disciplinary proceedings and the time limit for conducting the disciplinary proceedings, describe the known circumstances and appoint an officer suspected of committing a disciplinary offence.
(4) An order or direction to commence disciplinary proceedings shall be served on an officer suspected of committing a disciplinary offence within five working days of the date of commencement of the disciplinary proceedings.
(5) Where the circumstances underlying the finding of an official suspected of committing a disciplinary offence are not sufficient, that official may be temporarily exempted from the order or direction to initiate disciplinary proceedings. In such a case, the order or directive to initiate disciplinary proceedings shall be served on the official suspected of having committed the disciplinary offence within five working days of the day on which the official was identified.

§ 73. Conduct of the disciplinary proceedings Civil Servants Act
(1)[381] The director of disciplinary proceedings or a person authorised by him shall be entitled to conduct the disciplinary proceedings.

5) Kui distsiplinaarsüüteo toimepanemises kahtlustatava ametniku tuvastamise aluseks olevad asjaolud ei ole piisavad, võib sellise ametniku distsiplinaarmenetluse algatamise käskkirjas või korralduses jätta ajutiselt nimetamata. Sellisel juhul toimetatakse distsiplinaarmenetluse algatamise käskkiri või korraldus distsiplinaarsüüteo toimepanemises kahtlustatavale ametnikule kätte nimetatud ametniku tuvastamise päevale järgneva viie tööpäeva jooksul.

[381] **§ 73. Distsiplinaarmenetluse läbiviimine[Avaliku teenistuse seadus]**
1) Distsiplinaarmenetluse läbiviimise õigus on distsiplinaarmenetluse algatajal või tema poolt selleks volitatud isikul.
2) Distsiplinaarmenetluse läbiviija kogub distsiplinaarsüüteo kohta tõendeid.
3) Ametnikule, keda kahtlustatakse distsiplinaarsüüteo toimepanemises, peab andma võimaluse esitada kirjalik seletus distsiplinaarsüüteo kohta. Selleks antakse ametnikule aega vähemalt viis tööpäeva käesoleva seaduse § 72 lõikes 3 nimetatud käskkirja või korralduse kättetoimetamise päevast arvates.
4) Distsiplinaarmenetluse läbiviija võib nõuda sama ametiasutuse ametnikult või töötajalt, kes viibis distsiplinaarsüüteo toimepanemise juures või kellele on teada distsiplinaarsüüteo asjaolud (edaspidi tunnistaja), kirjalikku taasesitamist võimaldavas vormis seletust distsiplinaarsüüteo kohta ja tunnistaja on kohustatud niisuguse seletuse andma. Seletuse andmisest keeldumine on kohustuse rikkumine, välja arvatud juhul, kui distsiplinaarsüüteo toimepanemises kahtlustatavalt isikult nõutakse teda kahjustavat seletust või tunnistajalt nõutakse seletust tema abikaasa, elukaaslase või vanavanema kohta või tunnistaja või tema abikaasa või elukaaslase vanema või vanema alaneja sugulase kohta. Vanemaks loetakse ka lapsendaja ja kasuvanem ning alanejaks sugulaseks ka lapsendatu ja kasulaps.
5) Distsiplinaarmenetluse läbiviija koostab distsiplinaarmenetluse kokkuvõtte, allkirjastab selle ja esitab distsiplinaarkaristuse määramise õigust omavale isikule otsustamiseks.
6) Distsiplinaarmenetluse kokkuvõte sisaldab vähemalt järgmisi andmeid:
1) distsiplinaarsüüteo toimepannud ametniku ees- ja perekonnanimi ning ametikoht;
2) distsiplinaarsüüteo aluseks olev rikutud teenistuskohustus;

(2) A person conducting disciplinary proceedings shall take evidence of a disciplinary offence.
(3) An official suspected of a misconduct shall be given the opportunity to comment in writing on the misconduct. For this purpose, the public servant shall be given at least five working days from the service of the order or direction under article 72(3) of this Act.
(4) A person conducting disciplinary proceedings may demand from a civil servant or employee of the same administrative authority who was present at the commission of the disciplinary offence or has knowledge thereof, an explanation of a disciplinary offence in written comprehensible form the circumstances of the disciplinary offence. Refusal to make a statement shall be a breach of duty unless a person suspected of a disciplinary offence makes a statement to his or her detriment or a witness makes a statement to the detriment of his or her spouse, parent or relative. The adoptive parent and the foster parent shall also be deemed to be parents, and the adopted child and the foster child shall also be deemed to be descendant relatives.
(5) The person conducting the disciplinary proceedings shall prepare and sign a summary of the disciplinary proceedings and submit it to the person authorised to impose a disciplinary measure.
(6) The summary of the disciplinary proceedings shall contain at least the following information:
1) the first name, surname and function of the official who committed the disciplinary offence;
2) a breached official duty which forms the basis for a disciplinary offence;
3) evidence collected in the case;
4) a description of the disciplinary offence and the time and place of its commission;
5) a proposal for punishment, including the nature of the punishment, or non-punishment together with the reasons for it.

3) asjas kogutud tõendid;
4) distsiplinaarsüüteo kirjeldus ning toimepanemise aeg ja koht;
5) ettepanek karistamise, sealhulgas karistuse liigi kohta, või karistamata jätmise kohta koos põhjendusega.
7) Enne distsiplinaarkaristuse määramise otsustamist peab distsiplinaarmenetluse läbiviija või distsiplinaarkaristuse määraja andma distsiplinaarmenetluse kokkuvõtte ametnikule kätte allkirja vastu või kui see ei ole võimalik, siis toimetama kokkuvõtte kätte posti teel tähtkirjaga ametniku elukoha aadressil või ametniku nõusolekul elektrooniliselt ning andma ametnikule võimaluse esitada viie tööpäeva jooksul kirjalikku taasesitamist võimaldavas vormis oma arvamus ja vastuväited distsiplinaarmenetluse kokkuvõtte kohta.
8) Kui distsiplinaarkaristuse määraja ei olnud distsiplinaarmenetluse läbiviija, siis on tal õigus ametnikku enne karistuse määramist isiklikult küsitleda. Selline vestlus protokollitakse.
9) Ametnikul, keda distsiplinaarsüüteo toimepanemises kahtlustatakse, ja tema esindajal on õigus tutvuda distsiplinaarmenetluse materjalidega menetluse igas etapis ja esitada menetluse jooksul asjassepuutuvaid taotlusi.

b) Competent Authorities

5 This includes the authority assigning staff to the Union, disciplinary boards and Estonian authorities employing Union officials on behalf of the Union.

3. Article 5 Opening of Investigations

[…] 5. If the Director-General decides not to open an investigation, he or she may without delay send any relevant information, as appropriate, to the ***competent authorities of the Member State concerned*** for appropriate ***action to be taken in accordance with Union and national law*** or to the institution, body, office or agency concerned for appropriate action to be taken in accordance with the rules applicable to that institution, body, office or agency. The Office shall agree with that institution, body, office or agency, if appropriate, on suitable measures to protect the confidentiality of the source of that information and shall, if necessary, ask to be informed of the action taken.

When the Director-General of OLAF decides **not to open** an investigation, the office can refer relevant information to the competent national authorities of the Member State concerned or to the relevant EU institution, body, office, or agency for further action. This referral is intended to ensure that any issues identified are addressed appropriately according to Union and national laws or the internal rules of the relevant institution.

a) Competent Authorities

1
- Administrative authority acc. to § 8 Administrative Procedure Act
- Tax and Customs Board
- Tax authority for the state tax
- Tax authority for the local tax
- Financial Supervision Authority
- Agricultural Registers and Information Board (ARIB)

b) National Rules

2

Administrative Procedure Act[382]

§ 6.[383] **Principle of investigation**

During proceedings in a matter, an administrative authority is required to establish the facts relevant to the matter and, if necessary, collect evidence on its own initiative for such purpose.

[382] Haldusmenetluse seadus, Vastu võetud 06.06.2001, RT I 2001, 58, 354, jõustumine 01.01.2002.

[383] **§ 6. Haldusmenetluse seadus** Uurimispõhimõte
Haldusorgan on kohustatud välja selgitama menetletavas asjas olulise tähendusega asjaolud ja vajaduse korral koguma selleks tõendeid oma algatusel.

Chapter 2
Conducting Of Administrative Proceedings
§ 35.[384] Commencement of proceeding

(1) Administrative proceedings for issue of an administrative act or taking a measure shall commence as follows:
1) by submission of an application to an administrative authority;
2) in administrative proceedings commenced on the initiative of an administrative authority, by notifying a participant in the proceedings of the proceedings;
3) in administrative proceedings commenced on the initiative of an administrative authority, by the performance of the first procedural act regarding a participant in the proceedings.
(2) An administrative authority shall notify participants in proceedings of submission of an application for issue of an administrative act or taking a measure.
(3) Administrative proceedings for entry into an administrative contract shall commence by a proposal for entry into the administrative contract.
(4) The term for administrative proceedings which commence by submission of an application shall be calculated from the moment the received document is registered.

§ 38.[385] Evidence

(1) In administrative proceedings, an administrative authority has the right to require participants in proceedings and other persons to provide evidence and information which is known to them and based on which the administrative authority establishes the facts relevant for adjudication of the matter

[384] **2. peatükk**
HALDUSMENETLUSE LÄBIVIIMINE
§ 35. Haldusmenetluse seadus Menetluse algus
(1) Haldusmenetlus haldusakti andmiseks või toimingu sooritamiseks algab:
1) taotluse esitamisega haldusorganile;
2) haldusorgani initsiatiivil algatatud haldusmenetluses menetlusosalise teavitamisega menetlusest;
3) haldusorgani initsiatiivil algatatud haldusmenetluses menetlusosalise suhtes esimese menetlustoimingu sooritamisega.
(2) Haldusorgan teatab menetlusosalistele haldusakti andmiseks või toimingu sooritamiseks taotluse esitamisest.
(3) Haldusmenetlus halduslepingu sõlmimiseks algab halduslepingu sõlmimise ettepaneku tegemisega.
(4) Menetlustähtaja arvutamine taotluse esitamisega algavas haldusmenetluses toimub saabunud dokumendi registreerimise hetkest alates.

[385] **§ 38. Haldusmenetluse seadus** Tõendid
(1) Haldusorganil on õigus nõuda haldusmenetluse käigus menetlusosalistelt ning muudelt isikutelt nende käsutuses olevate tõendite ja andmete esitamist, mille alusel haldusorgan teeb kindlaks asja lahendamiseks olulised asjaolud.
(2) Tõendiks võib olla menetlusosalise seletus, dokumentaalne tõend, asitõend, paikvaatlus, tunnistaja ütlus ning eksperdi arvamus.
(3) Menetlusosaline on kohustatud haldusorganile esitama ja teatavaks tegema talle teada olevad menetluses tähtsust omavad asjaolud ja tõendid. Selle kohustuse täitmata jätmisel võib haldusorgan soodustava haldusakti andmisel jätta taotluse läbi vaatamata.

(2) Explanations of participants in proceedings, documentary evidence, physical evidence, on-the-spot visit of inspections, testimonies of witnesses and opinions of experts may serve as evidence
(3) A participant in proceedings is required to present evidence to an administrative authority and notify it of facts which are known to him or her and are relevant to the proceedings. Upon failure by a participant in proceedings to perform this duty, the administrative authority may refuse to review the application upon issue of an alleviating administrative act.

Chapter 3 Open Proceedings

§ 46.[386] Conducting of open proceedings

(1) In the cases provided by law, administrative proceedings for the issue of a legal act shall be conducted as open proceedings. If this is necessary for the adjudication of a matter and does not damage the rights of participants in the proceedings, an administrative authority may conduct open proceedings also in other cases.
(2) If conducting of open proceedings is mandatory for the issue of a legal act, open proceedings shall also be conducted to amend and repeal the legal act.
(3) An administrative authority may refuse to satisfy a clearly unfounded application without conducting open proceedings. In such case, the opinion and objections of the applicant shall be heard.
(4) In addition to the provisions of this Chapter, other provisions regulating administrative proceedings also apply to open proceedings according to the purpose and nature of the open proceedings.

§ 47. Commencement of open proceedings and notification thereof

(1)[387] An application for issue of a legal act by way of open proceedings shall be submitted in writing.

---

[386] **3. peatükk**
AVATUD MENETLUS
§ 46. Haldusmenetluse seadus Avatud menetluse läbiviimine
(1) Seaduses sätestatud juhtudel viiakse haldusmenetlus õigusakti andmiseks läbi avatud menetlusena. Kui see on vajalik asja lahendamiseks ega kahjusta oluliselt menetlusosaliste huve, võib haldusorgan viia avatud menetluse läbi ka muudel juhtudel.
(2) Kui avatud menetluse läbiviimine on kohustuslik õigusakti andmiseks, viiakse avatud menetlus läbi ka õigusakti muutmiseks ja kehtetuks tunnistamiseks.
(3) Ilmselgelt põhjendamatu taotluse võib haldusorgan jätta rahuldamata avatud menetlust läbi viimata. Taotluse esitaja arvamus ja vastuväited tuleb sel juhul ära kuulata.
(4) Peale käesoleva peatüki sätete kohaldatakse avatud menetluse suhtes ka muid haldusmenetlust reguleerivaid sätteid vastavalt avatud menetluse eesmärgile ja olemusele.
[387] **§ 47. Haldusmenetluse seadus** Avatud menetluse algatamine ja sellest teatamine
(1) Taotlus avatud menetluses antava õigusakti andmiseks esitatakse kirjalikult.
(2) Avatud menetluse algatamisest teatab haldusorgan:
1) avatud menetluses antava haldusakti adressaadile;

(2) An administrative authority shall notify the following persons of the commencement of open proceedings:
1) the addressee of the administrative act to be issued by way of open procedure;
2) persons whose rights may be restricted by the administrative act;
3) the administrative authority which is required to approve the issue of the administrative act or provide its opinion on the draft thereof, and to the administrative authority the issue of whose administrative act is required for the issue of the legal act by way of open procedure.
(3) An administrative authority shall publish a notice concerning commencement of open proceedings in at least one national newspaper. A notice on commencement of open proceedings which concern only local matters may be published in a local or county newspaper.
(4) A notice shall briefly set out the content of the application, the date and place of displaying the draft of the legal act to be issued by way of open proceedings and the application, and the term for submission of proposals and objections.
(5) The applicant shall bear the costs of publishing the notice.

Taxation Act[388]

§ 11.[389] **Principle of investigation**

(1) When verifying the correctness of the payment of taxes and assessing tax, a tax authority is required to take into consideration all facts relevant to the matter, including facts which increase and facts which decrease the tax liability.
(2) A tax authority shall decide on the need to perform acts to verify the correctness of the payment of a tax and on the type and extent of the acts and shall collect evidence which is necessary to decide in the matter. When ascertaining facts relevant from the point of view of taxation, a tax authority is not only restricted to the requests and evidence submitted by participants in the proceedings.

2) isikule, kelle õigusi haldusakt võib piirata;
3) haldusorganile, kes peab õigusakti andmise kooskõlastama või selle eelnõu kohta arvamust avaldama, samuti haldusorganile, kelle haldusakti eeldab avatud menetluse korras õigusakti andmine.
(3) Haldusorgan avaldab menetluse algatamise kohta teate vähemalt ühes üleriigilise levikuga ajalehes. Kohalikku elu puudutavas küsimuses avatud menetluse algatamise teate võib avaldada kohalikus või maakondlikus ajalehes.
(4) Teates märgitakse lühidalt taotluse sisu, avatud menetluse korras antava õigusakti eelnõu ja taotluse väljapaneku aeg ja koht ning ettepanekute ja vastuväidete esitamise tähtaeg.
(5) Teate avaldamise kulud kannab taotleja.

[388] Maksukorralduse seadus, Vastu võetud 20.02.2002, RT I 2002, 26, 150, jõustunud vastavalt § -le 170.

[389] **§ 11. Maksukorralduse seadus** Uurimispõhimõte
(1) Maksuhaldur on maksude tasumise õigsuse kontrollimisel ja maksusumma määramisel kohustatud arvestama kõiki asjas tähendust omavaid, sealhulgas nii maksukohustust suurendavaid kui ka vähendavaid asjaolusid.
(2) Maksuhaldur otsustab maksude tasumise õigsuse kontrollimisega seotud toimingute sooritamise vajaduse, toimingute liigi ja ulatuse ning kogub asja otsustamiseks vajalikke tõendeid. Maksuhaldur ei ole maksustamise seisukohast tähendust omavate asjaolude väljaselgitamisel seotud ainult menetlusosalise esitatud taotluste ja tõenditega.

Chapter 3
General Provisions of Tax Proceedings

§ 45.[390] Application of Administrative Procedure Act

The provisions of the Administrative Procedure Act apply to tax proceedings unless otherwise prescribed by this Act, an Act concerning a tax or the customs legislation.

Chapter 4[1]
Tax Control

§ 55[55] [391] The purpose of tax control

(1) The purpose of tax control is to verify compliance with this Act and acts concerning tax to ascertain all circumstances relating to tax liability which may increase or decrease the tax liability.

(2) Fiscal control may:

1) include one or more taxes;

2) include one or more taxation periods;

3) be limited to identifying or controlling a particular circumstance.

§ 55[3]. Tax authority's actions upon carrying out tax control

(1)[392] The tax authority shall have the right to:

---

[390] **3. peatükk**
MAKSUMENETLUSE ÜLDSÄTTED
[…]
§ 45. Maksukorralduse seadus Haldusmenetluse seaduse kohaldamine
Maksumenetluses kohaldatakse haldusmenetluse seaduses sätestatut, kui käesolevas seaduses, maksuseaduses või tollialastes õigusaktides ei ole ette nähtud teisiti.

[391] **4 1. peatükk**
MAKSUKONTROLL
§ 55 1. Maksukorralduse seadus Maksukontrolli eesmärk
(1) Maksukontrolli eesmärk on käesoleva seaduse ja maksuseaduste täitmise kontrollimine, et selgitada välja kõik maksukohustusega seotud asjaolud, mis võivad maksukohustust suurendada või vähendada.
(2) Maksukontroll võib:
1) hõlmata üht või mitut maksu;
2) hõlmata üht või mitut maksustamisperioodi;
3) olla piiritletud konkreetse asjaolu väljaselgitamise või kontrolliga.

[392] **§ 55 3**. **Maksukorralduse seadus** Maksuhalduri toimingud maksukontrolli läbiviimisel
(1) Maksuhalduril on õigus:
1) kontrollida kõiki maksustamise seisukohalt tähendust omavaid asjaolusid;
2) kontrollida maksude tasumise ja arvestamisega seotud dokumente;
3) teha kaupade, materjalide ja muu vara ning tehtud tööde ja osutatud teenuste inventuure ja ülemõõtmisi käesoleva seaduse §-s 72 sätestatud korras;
4) saada maksukontrolli läbiviimisel maksukohustuslaselt või tema määratud isikult, teistelt isikutelt ning asutustelt teavet ja seletusi;
5) teha muid käesoleva seaduse 6. peatükis sätestatud toiminguid.
(2) Kui käesolevast seadusest ei tulene teisiti, võib toiminguid teha suulise korralduse alusel.
(3) Maksuhaldur kasutab maksusumma määramise, maksude tasumise õigsuse kontrollimise või õigusrikkumise tõkestamise eesmärgil kõiki tollieeskirjade rakendamiseks seadusega antud õigusi. Euroopa Liidu liikmesriikide (edaspidi liikmesriik) vahelise kaubandusega, rahvusvaheliste postisaadetistega ja ühest liikmesriigist teise siirduvate isikutega seoses kasutab maksuhaldur nimetatud õigusi juhul, kui on alust arvata, et maksuseadust ei täideta.

1) examine all the circumstances relevant to taxation;
2) verify documents related to payment and calculation of taxes;
3) to make inventories and perform re-measurements of goods, materials and other property and work performed and services rendered in accordance with the procedure provided for in § 72 of this Act;
4) receive information and explanations from a taxable person or a person designated by him or her, other persons and agencies upon carrying out tax control;
5) perform other acts provided for in Chapter 6 of this Act.
(2) Acts may be performed based on an oral order unless otherwise arises from this Act.
(3) For the purpose of determining the amount of tax, verifying the correctness of the payment of taxes or preventing an offence, the tax authority shall exercise all the rights granted by law for the implementation of the customs rules. In the case of trade between Member States of the European Union (hereinafter Member State), international postal items and persons moving from one Member State to another, the tax authority shall use the specified rights if there is reason to believe that the tax law is not being complied with.

Customs Act[393]

§ 4.[394] **Duties of Tax and Customs Board upon implementation of customs legislation**

Upon the implementation of the customs legislation, the Tax and Customs Board has the duty to protect society and the economy by combating tax fraud and illicit trafficking, to collect taxes subject to payment upon import of goods and to facilitate lawful trade between Estonia and non-Union countries.

[393] Tolliseadus, Vastu võetud 31.05.2017, RT I, 16.06.2017, 1, jõustumine 01.07.2017
[394] **§ 4. Tolliseadus** Maksu- ja Tolliameti ülesanded tollialaste õigusaktide rakendamisel
Tollialaste õigusaktide rakendamisel on Maksu- ja Tolliameti ülesanne kaitsta ühiskonda ja majandust maksupettuste ja salakaubaveo tõkestamisega, koguda kauba importimisel tasumisele kuuluvaid makse ning hõlbustada Eesti ja liiduväliste riikide vahelist seaduslikku kaubandust.

Chapter 12
State Supervision

§ 60.[395] **State supervision**
State supervision over the compliance with the customs legislation shall be exercised by the Tax and Customs Board.

3 State supervision needs special powers:

§ 61.[396] **Special state supervision measures**
In order to exercise the state supervision provided by this Act and Union legislation referred to in § 1 (4) of this Act, the Tax and Customs Board may apply the special state supervision measures provided for in §§ 30–34 and §§ 44–52 of the Law Enforcement Act on the bases and pursuant to the procedure provided by the Law Enforcement Act and with the specifications provided by this Act and Union legislation referred to in § 1 (4) of this Act.

Law Enforcement Act
Division 3 Special State Supervision Measures Subdivision 1
Special State Supervision Measures Regarding Processing of Personal
§ 30. Questioning and requiring of documents
§ 31. Summons and compelled attendance
§ 32. Establishment of identity
§ 33. Establishment of identity by way of special establishment measure
§ 34. Processing of personal data by using monitoring equipment
Subdivision 3
Other Special State Supervision Measures
§ 44. Prohibition on stay
§ 45. Stopping of vehicle
§ 46. Detention of person
§ 47. Security check
§ 48. Examination of person
§ 49. Examination of movable
§ 50. Entry into premises

[395] **12. peatükk**
Riiklik järelevalve
§ 60. Tolliseadus Riiklik järelevalve
Riiklikku järelevalvet tollialaste õigusaktide täitmise üle teostab Maksu- ja Tolliamet.
[396] **§ 61. Tolliseadus** Riikliku järelevalve erimeetmed
Maksu- ja Tolliamet võib käesolevas seaduses ja käesoleva seaduse § 1 lõikes 4 nimetatud liidu õigusaktides sätestatud riikliku järelevalve teostamiseks kohaldada korrakaitseseaduse §-des 30–34 ja 44–52 nimetatud riikliku järelevalve erimeetmeid korrakaitseseaduses sätestatud alusel ja korras käesolevas seaduses ning käesoleva seaduse § 1 lõikes 4 nimetatud liidu õigusaktides sätestatud erisustega.

§ 51. Examination of premises
§ 52. Taking into storage of movable

§ 62. Customs seals

(1)[397] A customs seal is a means of identification affixed by a customs official to goods, a packaging or a means of transport to identify the goods or ensure the inviolability thereof. Several customs seals may be affixed to one object.

(2) A customs seal shall be affixed in a manner that prevents access to the goods without breaking the seal or without leaving traces of a break-in on the packaging or means of transport.

(3) If the customs authorities affix or remove a customs seal, the customs official shall make a note to that effect in the summary or customs declaration, examination minutes, misdemeanour report, decision or other relevant document.

(4) The holder of goods shall immediately inform the customs authorities of the breakage or loss of the customs seal, removal thereof in unforeseeable circumstances or of traces of a break-in or other damage.

(5) A customs seal shall be removed by the customs authorities or a relevant person if the customs authorities have granted the person permission in writing or through an electronic data processing system.

§ 63.[398] Examination of goods and means of transport

(1) By way of exception to § 49 (3) of the Law Enforcement Act, for preventing a threat the customs authorities have the right to examine goods or a means of transport without the presence of the possessor thereof if the possessor of the goods or means of transport cannot be identified within a reasonable period of time or if the possessor refuses to be present at the examination of the goods or means of transport.

(2) The examination minutes shall be prepared based on § 31 of this Act.

[397] **§ 62. Tolliseadus** Tollitõkendid
(1) Tollitõkend on identifitseerimisvahend, mille tolliametnik paigaldab kaubale, pakendile või transpordivahendile kauba identifitseerimiseks või puutumatuse tagamiseks. Ühele objektile võib panna mitu tollitõkendit.
(2) Tollitõkend peab olema paigaldatud nii, et seda rikkumata ega pakendile või transpordivahendile sissemurdmisjälgi jätmata ei ole kaubale juurdepääs võimalik.
(3) Kui toll paigaldab või eemaldab tollitõkendi, teeb tolliametnik selle kohta märke üld- või tollideklaratsioonile, läbivaatuse aktile, väärteoprotokollile, otsusele või muule asjakohasele dokumendile.
(4) Tollitõkendi purunemisest, kaotsiminekust või ettenägematus olukorras eemaldamisest, samuti sissemurdmisjälgedest või muudest kahjustustest peab kauba valdaja viivitamata tolli teavitama.
(5) Tollitõkendi eemaldab toll või asjaomane isik, kui toll on andnud isikule selleks loa kirjalikult või elektroonilise andmetöötlussüsteemi vahendusel.

[398] **§ 63. Tolliseadus** Kauba ja transpordivahendi läbivaatus
(1) Erandina korrakaitseseaduse § 49 lõikest 3 on tollil õigus ohu ennetamiseks kaup või transpordivahend läbi vaadata ka valdaja juuresolekuta, kui kauba või transpordivahendi valdajat ei ole võimalik mõistliku aja jooksul tuvastada või kui valdaja keeldub kauba või transpordivahendi läbivaatuse juures viibimast.
(2) Läbivaatuse akti koostamisel lähtutakse käesoleva seaduse §-s 31 sätestatust.

§ 64. Examination of baggage

(1)[399] A customs official may examine the baggage of a passenger crossing the border between Estonia and a non-Union country or staying in the transit area of a port or airport.

(2) A customs official may examine the baggage of a passenger staying in the transit area of a port or airport if there is a suspicion of a threat.

(3) The person under examination shall present their baggage to the customs official and unpack the baggage.

(4) The examination minutes shall be prepared based on § 31 of this Act.

§ 65.[400] Specifications of examination of passenger

(1) Before an examination of a passenger, a customs official of the same sex may externally feel the passenger and their clothes and scan their clothes to ascertain whether they are carrying goods which are subject to declaration, but which have not been presented to the customs authorities, or goods subject to prohibitions or restrictions.

(2) A customs official may examine a passenger on the bases and pursuant to the procedure provided for in § 48 of the Law Enforcement Act.

[399] **§ 64. Tolliseadus** Pagasi läbivaatus

(1) Tolliametnik võib läbi vaadata Eesti ja liiduvälise riigi vahelist piiri ületava, samuti sadama või lennujaama transiitreisijate alal viibiva reisija pagasi.

(2) Sadama või lennujaama transiitreisijate alal viibiva reisija pagasi võib tolliametnik läbi vaadata ohukahtluse korral.

(3) Kontrollitav isik peab tolliametnikule oma pagasi ette näitama ja lahti pakkima.

(4) Läbivaatuse akti koostamisel lähtutakse käesoleva seaduse §-s 31 sätestatust.

[400] **§ 65. Tolliseadus** Reisija läbivaatuse erisused

(1) Enne reisija läbivaatust võib temaga samast soost tolliametnik reisijat ja tema riideid väliselt kombata ning tema riided läbi valgustada, et teha kindlaks deklareerimisele kuuluva, kuid tollile esitamata, samuti keeldude või piirangutega seotud kauba olemasolu.

(2) Tolliametnik võib reisija läbi vaadata korrakaitseseaduse §-s 48 sätestatud alusel ja korras.

§ 66.[401] **Examination of postal consignment**

(1) An international postal consignment containing goods which arrives from a non-Union country shall be examined in the temporary storage facility of the postal service provider before the delivery of the postal consignment to the addressee, and a consignment to be sent to a non-Union country shall be examined after or upon the receipt thereof from the consignor.

(2) For the examination of a postal consignment the customs authorities may require the postal service provider to open the consignment. The consignment shall be opened and closed by the accountable employee of the postal service provider in the presence of a customs official.

(3) If a postal consignment contains goods which are subject to sanitary, veterinary, plant health or other controls upon import or export, the postal operator shall present to the customs authorities the corresponding document that proves said controls.

§ 67.[402] **Use of direct coercion**

(1) The Tax and Customs Board shall apply direct coercion on the bases and pursuant to the procedure provided for in the Law Enforcement Act.

(2) The special equipment of the Tax and Customs Board consists of:

1) handcuffs;

2) lighting and audio equipment for special purposes;

3) painting and labelling devices for special purposes;

---

[401] **§ 66. Tolliseadus** Postisaadetise läbivaatus

(1) Kaupa sisaldav liiduvälisest riigist saabunud rahvusvaheline postisaadetis vaadatakse läbi postiteenuse osutaja ajutise ladustamise kohas enne postisaadetise väljastamist saajale, liiduvälisesse riiki lähetatav saadetis vaadatakse läbi pärast selle saatjalt vastuvõtmist või vastuvõtmise ajal.

(2) Postisaadetise läbivaatuseks võib toll nõuda postiteenuse osutajalt saadetise avamist. Saadetise avab ja sulgeb postiteenuse osutaja vastutav töötaja tolliametniku juuresolekul.

(3) Kui postisaadetis sisaldab kaupa, mille importimisel või eksportimisel on nõutav sanitaar-, veterinaar-, taimetervise või muu kontroll, esitab postiettevõtja tollile vastava kontrolli läbimist tõendava dokumendi.

[402] **§ 67. Tolliseadus** Vahetu sunni kasutamine

(1) Maksu- ja Tolliamet kasutab vahetut sundi korrakaitseseaduses sätestatud alusel ja korras.

(2) Maksu- ja Tolliameti erivahendid on:

1) käerauad;

2) eriotstarbeline valgus- ja heliseadeldis;

3) eriotstarbeline värvimis- ja märgistusvahend;

4) suitsu-, heli-, valgus- või muud efekti või pisaravoolust või valuaistingut esile kutsuvad granaadid ja padrunid;

5) teenistuskoer.

(3) Maksu- ja Tolliameti teenistusrelvad on:

1) külmrelvadest kumminui ja teleskoopnui;

2) gaasirelvad;

3) tulirelvad.

(4) Maksu- ja Tolliameti ametniku erivahendite kandmise ja hoidmise korra kehtestab valdkonna eest vastutav minister määrusega.

(5) Maksu- ja Tolliameti ametniku enesekaitsevahendid on vahetu sunni kohaldamisel ametniku või teenistuslooma füüsilise ohutuse tagamiseks kasutatavad esemed.

(6) Maksu- ja Tolliameti ametniku enesekaitsevahendite loetelu ja enesekaitsevahenditele esitatavad nõuded kehtestab valdkonna eest vastutav minister määrusega.

4) grenades and cartridges evoking smoke, sonic, light or other effect or tears or sensation of pain;
5) service dogs.
(3) The service weapons of the Tax and Customs Board are:
1) a truncheon and a telescope truncheon from the selection of cut-and-thrust weapons;
2) gas weapons;
3) firearms.
(4) The procedure for carrying and storing the special equipment of officials of the Tax and Customs Board shall be established by a regulation of the minister responsible for the field.
(5) The self-defence equipment of officials of the Tax and Customs Board are the objects used for ensuring the physical safety of an official or a service dog upon the application of direct coercion.
(6) The list of the self-defence equipment of officials of the Tax and Customs Board and the requirements set for the self-defence equipment shall be established by a regulation of the minister responsible for the field.

4 The right to carry firearms is not mere self-protection. The use is limited to necessary occasions:

§ 68. Use of firearms
(1)[403] Officials of the Tax and Customs Board have the right to carry and use firearms.
(2) When using a firearm, the officials of the Tax and Customs Board shall adhere to that provided for in § 81 of the Law Enforcement Act.
(3) It is prohibited to use a firearm:
1) against children, the elderly or women who are clearly pregnant, except to counter or obstruct their armed or group attack or to disarm them;

[403] **§ 68. Tolliseadus** Tulirelva kasutamine
(1) Maksu- ja Tolliameti ametnikul on õigus kanda ja kasutada tulirelva.
(2) Tulirelva kasutamisel järgib Maksu- ja Tolliameti ametnik korrakaitseseaduse §-s 81 sätestatut.
(3) Tulirelva on keelatud kasutada:
1) laste, vanurite ja ilmsete rasedustunnustega naiste vastu, välja arvatud nendepoolse relvastatud ründe või grupiviisilise ründe tõrjumiseks või tõkestamiseks või nende relvitustamiseks;
2) välisriikide diplomaatilistes esindustes, konsulaarasutustes, erimissioonides ja rahvusvaheliste organisatsioonide esindustes, samuti diplomaatilist puutumatust omavate sõidukite suhtes, välja arvatud nende esinduste või asutuste juhtide nõusolekul või välislepingutega reguleeritud juhtudel;
3) ehitistes, kus toodetakse või hoitakse kergesti süttivaid või mürgiseid aineid või lõhkeaineid või aineid, mis erivahendite ja relvastuse kasutamise mõjul võivad ohustada inimeste elu või tervist.
(4) Maksu- ja Tolliameti ametnik on kohustatud tulirelva kasutamise juhtudest viivitamata teatama oma struktuuriüksuse juhile.

2) in foreign diplomatic missions, consular posts, special missions and representations of international organisations, also against vehicles subject to diplomatic immunity, except with the consent of the heads of the representations or agencies or in the cases specified by international agreements;
3) in buildings where highly flammable or toxic substances or explosives are produced or stored, including substances which, because of the use of special equipment or firearms, may endanger the life or health of persons.
(4) Officials of the Tax and Customs Board are required to immediately inform the head of their structural unit of any instance in which a firearm has been used.

Code of Administrative Court Procedure[404]

§ 2. Purpose and general principles of procedure in administrative courts

(1)[405] The primary purpose of the procedure in administrative courts is to protect the rights of individuals against unlawful actions performed during the exercise of executive authority.
(2) An administrative matter (hereinafter, also 'the matter') must be dealt with justly, fairly, within reasonable time and with the least possible cost.
(3) The court may only adjudicate a matter to the extent requested in the action or other declaration provided in the law. The filing of such declarations is in the discretion of participants of the proceedings.
(4) The court must, of its own motion, make sure that facts material to the matter dealt with are ascertained, where necessary by gathering evidence itself, or by imposing the obligation of presenting evidence on participants of the proceedings. The court interprets and deals with declarations of participants of the proceedings according to the actual intention of the participant who made the declaration.

[404] Halduskohtumenetluse seadustik, Vastu võetud 27.01.2011, RT I, 23.02.2011, 3, jõustumine 01.01.2012
[405] **§ 2. Halduskohtumenetluse seadustik** Halduskohtumenetluse ülesanne ja üldpõhimõtted
(1) Halduskohtumenetluse ülesanne on eelkõige isikute õiguste kaitse õigusvastase tegevuse eest täidesaatva võimu teostamisel.
(2) Haldusasja (edaspidi ka asi) peab lahendama sõltumatu ja erapooletu kohus õigesti, ausalt, mõistliku aja jooksul ja võimalikult väikeste kuludega.
(3) Kohus lahendab asja üksnes kaebuses või seaduses sätestatud muus avalduses nõutud ulatuses. Avalduse esitamise otsustab menetlusosaline omal äranägemisel.
(4) Kohus tagab omal algatusel asja lahendamiseks oluliste asjaolude väljaselgitamise, kogudes vajaduse korral tõendeid ise või tehes nende esitamise kohustuseks menetlusosalistele. Kohus tõlgendab menetlusosaliste avaldusi ja lähtub nende lahendamisel esitaja tegelikust tahtest.
(5) Kohus tagab igas menetlusstaadiumis oma selgitustega, et menetlusosalise huvide kaitseks vajalik avaldus ega tõend ei jääks esitamata õigusliku kogenematuse tõttu ning avalduse läbivaatamist takistavad vormivead kõrvaldatakse.
(6) Kohus tagab kõigis asja lahendamiseks olulistes küsimustes menetlusosalistele tõhusa ja võrdse võimaluse esitada ja põhjendada oma seisukohti ning vaielda vastu teiste menetlusosaliste seisukohtadele või toetada neid.
(7) Halduskohtumenetlus on avalik, kui seadus ei sätesta teisiti.

(5) At every stage of the proceedings, the court must provide sufficient explanation to participants of the proceedings to guarantee that no declaration or evidentiary item necessary to protect a participant's interests remains unrecognised because of the participant's lack of experience in legal matters and that any defects of form that would prevent a declaration from being heard are cured.
(6) In relation to every issue material to determining the matter, the courts must guarantee participants of the proceedings an effective and equal opportunity to present their views and the grounds for those views, and to contest the other participants' views or to support the same.
(7) Proceedings in administrative courts are public unless the law provides otherwise.

§ 129.[406] **Procedure in court session**
(1) In the court session the matter is heard in accordance with the following procedure:
1) the applicant states whether he or she maintains the action;
2) if the court permits it, participants of the proceedings present evidentiary items which were not presented in pre-trial proceedings;
3) the other participants of the proceedings state whether they admit or oppose the action;
4) the participants of the proceedings provide their explanations, giving reasons for their positions and presenting objections concerning those of the adverse party;
5) the court investigates the evidence taken in the matter and examines the witnesses;
6) the court, together with participants of the proceedings, discusses points of fact, law and procedure which have significance in relation to determining the matter;
7) the participants of the proceedings are given the floor for summations.
(2) As a rule, the court session is held in the courthouse in whose service area the place lies in accordance with which jurisdiction is determined. Having regard to the interests of participants of the proceedings, the court may hold the court session elsewhere.
(3) The court session is also subject to articles 347–351 and 400–402 of the Code of Civil Procedure.

[406] **§ 129. Halduskohtumenetluse seadusti** Kohtuistungi kord
(1) Kohtuistungil vaadatakse asi läbi järgmises korras:
1) kaebaja teatab, kas ta jääb kaebuse juurde;
2) menetlusosalised esitavad eelmenetluses esitamata tõendid, kui kohus seda lubab;
3) teised menetlusosalised teatavad, kas nad nõustuvad kaebusega või vaidlevad sellele vastu;
4) menetlusosalised annavad seletused, põhjendades oma seisukohti ja esitades oma vastuväited vastaspoole omade kohta;
5) kohus uurib kogutud tõendeid ja kuulab üle tunnistajad;
6) kohus arutab menetlusosalistega läbi asja lahendamiseks olulised faktilised, õigus- ja menetlusküsimused;
7) menetlusosalised saavad sõna kohtuvaidluseks.
(2) Kohtuistung toimub üldjuhul kohtumajas, mille teeninduspiirkonda jääb koht, millest lähtudes määratakse kohtualluvus. Menetlusosaliste huve arvestades võib kohus pidada istungi mujal.
(3) Kohtuistungi suhtes kohaldatakse ka tsiviilkohtumenetluse seadustiku § 347–351 ja 400–402.

Payment Institutions and E-money Institutions Act[407]

§ 97. On-site inspection

(1)[408] In order to exercise supervision, the Financial Supervision Authority has the right to carry out on-site inspections at the seat or place of business of the following persons (hereinafter in this Chapter person being inspected):

1) payment institutions and e-money institutions;

2) companies belonging to the same consolidation group as the payment institution or e-money institution;

3) paying agents;

4) persons to whom duties or activities have been transferred according to § 62 of this Act.

(2) An on-site inspection shall be carried out if:

1) it is necessary to verify the submitted information;

2) the Financial Supervision Authority suspects that the provisions provided by or based on other legislation specified in this Act or subpara 2 (1) of the Financial Supervision Authority Act have been violated;

---

[407] Makseasutuste ja e-raha asutuste seadus, Vastu võetud 17.12.2009, RT I 2010, 2, 3, jõustumine 22.01.2010

[408] **§ 97. Makseasutuste ja e-raha asutuste seadus** Kohapealne kontroll

(1) Finantsinspektsioonil on järelevalve teostamiseks õigus teostada kohapealset kontrolli järgmiste isikute (edaspidi käesolevas peatükis kontrollitav) asu- ja tegevuskohas:

1) makseasutus ja e-raha asutus;

2) makseasutuse või e-raha asutuse konsolideerimisgruppi kuuluv äriühing;

3) makseagent;

4) isik, kellele on vastavalt käesoleva seaduse §-le 62 edasi antud tööülesandeid või tegevusi.

(2) Kohapealne kontroll tehakse, kui:

1) on vaja kontrollida esitatud andmeid;

2) Finantsinspektsioonil on kahtlus, et on rikutud käesolevas seaduses või muudes Finantsinspektsiooni seaduse § 2 lõikes 1 nimetatud õigusaktides või nende alusel sätestatut;

3) see on lepinguriigi finantsjärelevalve asutuse vastava taotluse alusel vajalik;

4) see on vajalik muude järelevalveülesannete täitmiseks.

(3) Finantsinspektsioon annab kohapealse kontrolli teostamiseks korralduse, kuhu märgitakse kontrolli eesmärk, ulatus, perioodi pikkus ning kontrollimise aeg. Korraldus toimetatakse kontrollitavale kätte hiljemalt kolm tööpäeva enne kohapealse kontrolli algust, välja arvatud juhul, kui korraldusest etteteatamine ohustaks kontrolli eesmärgi saavutamist. Kohapealset kontrolli teostab Finantsinspektsiooni volitatud töötaja (edaspidi käesolevas peatükis kontrollija), kui käesolevas seaduses ei ole ette nähtud teisiti.

(4) Kohapealse kontrollimise käigus on kontrollijal õigus:

1) siseneda kõikidesse ruumidesse ja võtta oma valdusse andmeid, järgides seejuures kõiki kontrollitava suhtes kehtivaid turvaeeskirju;

2) nõuda tööks vajalike tingimuste tagamist ja kasutada eraldi ruumi;

3) piiranguteta uurida järelevalve teostamisel vajalikke dokumente ja andmekandjaid, teha nendest väljavõtteid, ärakirju ja koopiaid ning jälgida tööprotsesse;

4) saada suulisi ja kirjalikke selgitusi kontrollitava juhtidelt ja töötajatelt. Vajaduse korral või selgituste andja nõudmisel selgitused protokollitakse.

(5) Kontrollitava juhatus on kohustatud määrama kompetentse esindaja, kelle juuresolekul kontrollimine toimub ning kes esitab kontrollijale tema ülesannete täitmiseks vajalikke dokumente ja muud teavet, kaasa arvatud vandeaudiitori aruanded kontrollitava aruannete kohta ja audiitori eriotstarbelised raportid, ning annab nende kohta vajalikke selgitusi.

(6) Käesoleva paragrahvi lõike 2 punktis 3 nimetatud juhul võib Finantsinspektsioon volitada kohapealset kontrolli teostama teise lepinguriigi finantsjärelevalve asutuse või tema nimetatud audiitori või eksperdi.

3) it is necessary based on a request by a financial supervision authority of a Contracting State;
4) it is necessary to execute supervisory duties.
(3) In order to carry out an on-site inspection, the Financial Supervision Authority shall issue an order which sets out the purpose, extent, duration of the period and time of the inspection. The order shall be delivered to the person being inspected at least three working days before the on-site inspection is commenced, unless giving such notice damages attainment of the objectives of the inspection. An on-site inspection shall be carried out by an employee authorised by the Financial Supervision Authority (hereinafter in this Chapter inspector), unless otherwise prescribed in this Act.
(4) In the course of an on-site inspection, inspectors have the right to:
1) enter all premises and take possession of data, in compliance with the security requirements in force regarding the person being inspected;
2) request existence of necessary working conditions and use a separate room necessary for their work;
3) study documents and media necessary for exercising supervision, make excerpts and copies thereof and monitor the work processes without restrictions;
4) obtain oral and written explanations from the managers and employees of the person being inspected. Minutes shall be taken of the explanations when necessary or at the request of the person providing the explanations.
(5) The management board of a person being inspected is required to appoint a competent representative in whose presence the inspection is carried out and who shall provide the inspector with documents and other information necessary for the performance of his or her duties, including the sworn auditor's report concerning the reports of the person being inspected and the special reports of the auditor, and provide necessary explanations with regard to such documents and information.
(6) In the case specified in clause (2) 3) of this article, the Financial Supervision Authority may authorise a financial supervision authority of a Contracting State or ***an auditor or expert appointed by it to perform on-site inspections.***

[Article 6 Access to Information in Databases Prior to the Opening of an Investigation]

4. Article 7 Investigations Procedure

[…] 3. The competent authorities of Member States shall give the necessary assistance to enable the staff of the Office to fulfil their tasks in accordance with this Regulation effectively and without undue delay. When providing such assistance, the competent authorities of Member States shall ***act in accordance with any national procedural rules applicable to them***.

3a. At the request of the Office, which shall be explained in writing, in relation to matters under investigation, the relevant competent authorities of the Member States shall***, under the same conditions as those that apply to the national competent authorities***, provide the Office with the following:

(a) information available in the centralised automated mechanisms referred to in article 32a(3) of Directive (EU) 2015/849 of the European Parliament and of the Council (4);

(b) where strictly necessary for the purposes of the investigation, the record of transactions.

The request of the Office shall include a justification of the appropriateness and proportionality of the measure regarding the nature and gravity of the matters under investigation. Such request shall refer only to information referred to in points (a) and (b) of the first subpara.

Member States shall notify to the Commission the relevant competent authorities for the purposes of points (a) and (b) of the first subpara.

6. Where investigations show that it might be appropriate to take precautionary administrative measures to protect the financial interests of the Union, the Office shall without delay inform the institution, body, office or agency concerned of the investigation in progress. The information supplied shall include the following:

(a) the identity of the official, other servant, member of an institution or body, head of office or agency, or staff member concerned and a summary of the facts in question;

(b) any information that could assist the institution, body, office or agency concerned in deciding on the appropriate precautionary administrative measures to be taken to protect the financial interests of the Union;

(c) any special measures of confidentiality recommended, in cases entailing the use of investigative measures falling within the competence of a national judicial authority or, in the case of an external investigation, within the competence of a national authority, ***in accordance with the national rules applicable to investigations***.

The institution, body, office or agency concerned may at any time consult the Office with a view to taking, in close cooperation with the Office, any appropriate precautionary measures, including measures for the safeguarding of evidence. The institution, body, office or agency concerned shall inform the Office without delay about any precautionary measures taken.

7. Where necessary, it shall be for the competent authorities of the Member States, at the Office's request, to take the ***appropriate precautionary measures under their national law***, in particular measures for the safeguarding of evidence.

1 Focusing on the highlighted references to national law, it should be clear that national authorities cannot help beyond what is **permissible under local laws**. For example, if national law restricts certain investigative measures (such as house searches or access to banking information) to judicial authorization, OLAF's request for such measures must respect these limitations.

2 The reference to **national procedural rules** ensures that assistance provided to OLAF does not violate fundamental rights (see below → Art. 9), such as the right to a fair trial or data protection laws (see above → Art. 3 enumerates those rights applicable during on-the-spot checks), which might impose constraints on information-sharing.

3 article 7 para 6 highlights the need for special **confidentiality measures,** particularly when OLAF's investigation overlaps with national judicial proceedings. As an OLAF investigator or SNE one should be aware that investigative measures that fall within the exclusive competence of a national judicial authority (such as coercive measures in the customs area) cannot be conducted by OLAF independently and must be **coordinated with national authorities**.

4 According to para 7 the authorities (should) have the competence to adopt **precautionary measures**, such as securing evidence, in accordance with their national law. OLAF itself does not have the authority to take measures such as freezing assets or preventing the destruction of evidence; these actions must comply with the following legal procedures.

a) References to National Law

5 *Sources & national article 2: Article 3 OLAF Regulation – Overview for Estonia*

Para 3	Civil Servants Act, s. 4 (the Administrative Procedure Act: **Chapter 2 Conducting of administrative proceedings** § 35 Commencement of proceedings § 36 Duty of administrative authority to give explanations § 37 Examination of documents § 38 Evidence § 39 Experts and witnesses in administrative proceedings § 40 Hearing of opinions and objections of participants in proceedings § 41 Term for conducting of administrative proceedings

Proceedings § 43 Termination of proceedings

Chapter 3 Open proceedings
§ 46 Conducting of open proceedings
§ 47 Commencement of open proceedings and notification thereof
et seq.

Taxation Act:
Chapter 3 General provisions of tax proceedings
§ 45 Application of Administrative procedure Act
et. seq.

Chapter 3 1 International professional assistance
§ 51 1 international professional assistance
§ 51 2 exchange of information
§ 51 3 recovery
§ 51 4 compulsory enforcement
§ 51 5 involvement of official of foreign state in tax proceeding
§ 51 6 reimbursement of costs
§ 51 7 use of information

Chapter 4 1 Tax control
§ 55 1 purpose of tax control
§ 55 3 tax authority's actions upon carrying out tax control
§ 55 4 rights and obligations of taxable person in case of tax control
§ 55 5 obligation of tax authority to provide information

Chapter 5 obligation of taxable person to cooperate in tax proceedings
§ 56 obligation of taxable person to cooperate
Et seq.

Chapter 6 Evidence
§ 59 collection of evidence
§ 60 requesting information from taxable persons
§ 61 requesting information from third parties
§ 62 submission of things and documents
§ 63 requesting information from state etc.
§ 64 right to refuse to provide information or submit evidence

	§ 65 making copies of documents and removal of documents and things § 66 reimbursement of expenses to third party § 68 involvement of experts § 72 Inspection and other procedural acts Customs Act: § 4 Duties of Tax and Customs Board upon implementation of customs legislation § 5 premises needed for activities of customs authorities **Chapter 2 Obtaining Data for Assessment of Threat** § 8 Obtaining data from state database for assessment of threat § 9 Obtaining data from Economic Operator for assessment of threat **Chapter 3 Surveillance Activities, Secret Cooperation and Enquiry to Communications Undertaking** § 10 et seq. § 34 Goods placed under customs controls § 60 applies) State supervision § 61 Special state supervision measures Code of Administrative Court Procedure: § 2 Purpose and general principles of procedure in administrative courts **Chapter 6 Presentation of evidence** § 56 Evidence et seq. Payment Institutions and E-money Institutions Act: Chapter 12 Supervision § 97 on-site inspection
Para 3a (a) (b)	Administrative Procedure Act: § 5 Choice of form and purposefulness Division 7 Service of Documents § 25 Methods of Service § 27 Delivery by electronic means § 28 Delivery by administrative authority § 32 Delivery in foreign states

	Taxation Act: § 131 Seizure of bank account Customs Act: **Chapter 2 Obtaining Data for Assessment of Threat** § 8 Obtaining data from state database for assessment of threat § 9 Obtaining data from Economic Operator for assessment of threat Chapter 4 Data bases and processing of Personal Data § 13 et seq. Estonian Central register if Securities Act: § 7 Access to register Credit Institutions Act: § 18 Publication § 88 Information subject to banking secrecy
Para 6 (c)	Administrative Procedure Act: § 7 Accessibility and data protection Taxation Act: **Subchapter 4 Tax Secrecy** § 26 Protection of tax secrecy § 27 Public information § 28 Disclosure of information to other tax authorities or recipient of tax § 29 Disclosure of information containing tax secret § 30 Disclosure of information by way of international professional assistance Courts Act: § 71 Duty of confidentiality § 72 Duty of confidentiality of deliberations Credit Institutions Act: § 18 Publication § 88 Information subject to banking secrecy
Para 7	Administrative Procedure Act: **Chapter 8 Measure**

	§ 106 Definition of measure § 107 Legally binding effect of measure and right of discretion § 108 Reasoning of measure § 109 Protection of rights Taxation Act: **Chapter 6 Evidence** § 70 meters and preventive measures **Chapter 7 1 Enquiry to communications undertaking, surveillance activities and secret co-operation** § 81 1 enquiry to communications undertaking § 81 2 collection of data for decision on access to surveillance information and employment in service of person § 81 3 Secret co-operation and covert measures § 131 seizure of bank account Customs Act: Chapter 12 State supervision § 61 special state supervision measures § 62 Customs seals § 63 Examination of goods and means of transport § 64 Examination of baggage § 65 Specifications of examination of passenger § 66. Examination of postal consignment § 67 use of direct coercion § 68 use of firearms

Source: The authors.

b) References to National Authorities

- Administrative authority acc. to § 8 Administrative Procedure Act **6**
- Tax and Customs Board
- Tax authority for the state tax
- Tax authority for the local tax
- Financial Supervision Authority
- Agricultural Registers and Information Board (ARIB)

5. Article 8 Duty to Inform the Office

[…] 2. The institutions, bodies, offices and agencies and, unless ***prevented by national law***, the competent authorities of the Member States shall, at the request of the Office or on their own initiative, transmit without delay to the Office any document or information they hold which relates to an ongoing investigation by the Office. […]
3. The institutions, bodies, offices and agencies and, unless ***prevented by national law***, the competent authorities of Member States shall transmit without delay to the Office, at the request of the Office or on their own initiative, any other information, documents or data considered pertinent which they hold, relating to the fight against fraud, corruption and any other illegal activity affecting the financial interests of the Union.

1 Art. 8 relates to the transfer of information. It is commonly known that without information and channels used to submit information, fewer investigations would be started and opened. This obligation is therefore surprisingly not regulated in an earlier article of the regulation, but in Art. 8.

2 We focus on Art. 8 para 2 and 3 as they refer to national law. To illustrate the need for the transfer of information and the problems that come with it to establish an effective (transmission) system, it is worth to consider a statement:

3 Special rules in this regard are not enshrined in the law.

4 The competent authorities of the Member States are those that were named for Estonia in Art. 3 OLAF Regulation above. They might be prevented by national law **through the conflict with data and privacy protection rules** (see above → Protection of information, Art. 3 OLAF). As already analysed in Part B on the EPPO, the preventions from Art. 29 may function, e.g. advocates have a strict confidentiality obligation and authorities cannot compel disclosure of privileged communication between lawyers and clients unless the lawyer is suspected of a crime personally. This means LLP may "prevent" Estonian authorities from transmitting certain materials to OLAF if they are subject to legal privilege. Next, the Personal Data Protection Act (*Isikuandmete kaitse seadus*), aligned with the GDPR may limit the transfer of sensitive or personal data unless legally justified and proportionate. If OLAF's request is too broad or lacks a legal basis under Estonian or EU law, it could be denied. Last but not least the constitutional guarantees may apply, such as right to a fair trial (Art. 24), right to privacy and family life (Art. 26) and the right of protection of communications (Art. 43).

II. Procedural Rules of the OLAF Regulation and the References to National Law

As OLAF investigations can have elements of both national punitive, **administrative and EU administrative law**, and their findings may lead to criminal proceedings at the national level, fair proceedings that are compliant with procedural guarantees need to be installed and respected.[409] Hereby it is ensured that the acceptance of OLAF's final reports as evidence in national courts is made stronger. Without adequate safeguards, courts may refuse to admit these reports, leading to inefficiencies and requiring national authorities to repeat investigative steps.[410] 1

Bovend'Eerdt rightly points at the fact that there is a **two-folded situation** with regard to procedural guarantees: a) the rights established and codified by Art. 9 – *Ligeti* pointed out that these are *de facto* general europeanised defence rights – must be respected in any OLAF investigation b) during on-the-spot checks OLAF must according to the "**yield-rule**" in Art. 3 para 3 respect as well national procedural rights ("in compliance with the rules and practices of the Member State concerned").[411] Only in the absence of Europeanised defence rights, the national rights will apply and then then need to meet the requirements of the assimilation rule. *Bovend'Eerdt*[412] discusses the use of "will-dependent" evidence, such as a witness statement offered to an OLAF investigator as an example of an evidence gathering action of OLAF during on-the-spot checks, which is a good example for the present discussion of the applicable laws, which will now follow: 2

1. Article 9 Procedural Guarantees

[…] 3. As soon as an investigation reveals that an official, other servant, member of an institution or body, head of office or agency, or staff member may be a person concerned, that official, other servant, member of an institution or body, head of office or agency, or staff member shall be informed to that effect, provided that this does not prejudice the conduct of the investigation or of any investigative proceedings ***falling within the remit of a national judicial authority.***
4. […] In duly justified cases where necessary to preserve the confidentiality of the investigation or an ongoing or future criminal investigation by the EPPO or a national judicial authority, the Director-General may, where appropriate after consulting the

[409] See in-depth with further references only precisely Ligeti 2017, 27 et seq.
[410] Bovend'Eerdt 2024, 140 et seq.
[411] Ibid, p 141.
[412] Ibid, p 144: "Is this an EU power or can OLAF only exercise these powers on the basis of the principle of assimilation? For the person concerned, even if he has familiarised himself with the 'yield rule', this is problematic. He must be able to know what it is that Union law regulates to get a sense of the role left to be played by national law. How can a person know the scope of his private sphere or how interferences therewith may take place if he cannot know whether it is Union or national law that applies in a specific instance?"

EPPO or ***the national judicial authority concerned***, decide to defer the fulfilment of the obligation to invite the person concerned to comment. […]

1 The procedural guarantees are related to the effectiveness of the procedure on the one hand and the protection of the rights of the affected persons on the other.[413]

2 The Guidelines for OLAF investigators provide the following:

3

Article 9 Pre-trial Actions OLAF Guidelines
Actions 9.1 The investigation unit shall conduct a pre-trial examination of the information collected or obtained during the selection process to establish which investigative or coordination activities are required and outline an initial work plan.
9.2 The investigation unit shall inform Members, officials or other servants of the EU institutions, bodies, offices and agencies at the earliest opportunity of their possible implication in an open investigation. This notification shall be deferred where it would be harmful to the investigation to provide such information.
9.3 The investigation unit shall inform the EU institution, body, office or agency concerned as soon as it becomes apparent that Members, officials or other servants may be involved in an investigation. Where an investigation concerns a Member, President or high-ranking office holder of an EU institution, body, office or agency, the notification of the EU institution, body, office or agency concerned should be made at the appropriate level or, where necessary to ensure confidentiality, by alternative channels. In exceptional cases the Director-General may decide to defer the notification to the EU institution, body, office or agency concerned.
9.4 The investigation unit shall, where necessary, inform the responsible EU institution, body, office or agency concerned of the Director-General's decision to open an investigation or coordination case.

[413] See ECJ Case T-110/15, *International Management Group v. the Commission*, Mn. 2: "In the context of the OLAF investigation, at the stage of the summary of the facts referred to in article 9(4) of Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by [OLAF] and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ 2013 L 248, p 1), an interview took place between OLAF and a representative of the applicant, followed by exchanges of correspondence and a request for access to certain documents listed in that summary of the facts, access which OLAF refused on the basis of the abovementioned regulation." and Mn. 38: "However, that general presumption [of non-disclosure of documents in ordert to fulfill the protection of the objectives of OLAF's investigation activities] does not exclude the right of those interested parties to demonstrate that a given document, disclosure of which has been requested, is not covered by that presumption, or that there is a higher public interest justifying the disclosure of the document concerned by virtue of article 4(2) of Regulation No 1049/2001 (judgments of 29 June 2010 in Commission v Technische Glaswerke Ilmenau, C-139/07 P, EU:C:2010:376, para 62, and 27 February 2014 in Commission v EnBW, C-365/12 P, EU:C:2014:112, para 100)."

a) Article 9 Para 3 – Remit of a National Judicial Authority

The Administrative Court Proceedings Act/*Halduskohtumenetluse seadustik* may apply. A national investigation procedure can be a disciplinary procedure under the Civil Service Act (see already Art. 4 above). Pursuant to s. 4 Civil Servants Act the Administrative Proceedings Act shall apply ("*§ 4. Haldusmenetluse seaduse kohaldamine Käesolevas seaduses ettenähtud haldusmenetlusele kohaldatakse haldusmenetluse seaduse sätteid, arvestades käesoleva seaduse erisusi.*"). **4**

The Administrative Courts, which are determined by the Courts Act may decide in the following jurisdiction matters: **5**

§ 4. Jurisdiction Administrative Court Proceedings Act **6**
(1) An administrative court is responsible for deciding disputes arising from a relationship under public law, unless otherwise provided by law.
(2) The jurisdiction of an administrative court can also be assigned other tasks by law.
(3) An appeal against the activity of a foreign authority, an international organization or a body thereof may not be lodged with an Estonian court.
(4) Within the framework of an administrative matter, the court shall independently and definitively determine all circumstances that are important for its decision,

§ 5. Powers of administrative court Administrative Court Proceedings Act
(1) Upon satisfaction of an appeal, a court has the right to:
1) annul the administrative act in part or in full;
2) oblige to issue an administrative act or perform an act;
3) prohibit the issuance of an administrative act or the performance of an act;
4) order compensation for damage caused in a public law relationship;
5) issue a precept concerning the elimination of the consequences of an administrative act or act;
6) determine the invalidity of an administrative act, the illegality of an administrative act or act or a factual circumstance which is important in a matter of public law.
(2) If an administrative act contains or a statement of the private law of the respondent has been made based on an administrative act, the court may together with the annulment of the administrative act determine the invalidity of the transaction to which the statement of intent was directed.
(3) A court shall exercise the powers listed in clauses (1) 1)–5) of this article, considering the provisions of the State Liability Act.
(4) A court may exercise the powers provided for in subpara (1) of this article both together and separately.

b) Article 9 Para 4 – National Judicial Authorities

7 The Estonian Court Act (*Kohtute seadus*) applies. According to Chapter 2 of the Courts Act, the district court is the court of first instance in civil, criminal and administrative cases. According to para (2), the district courts are in Harju, Viru, Pärnu, and Tartu. § 18 Estonian Court Act determines when an administrative court decides.

8

§ 18. Administrative court[414]
(1) An administrative court shall decide on administrative cases assigned to it by law as a court of first instance. The administrative court shall also perform other acts assigned to it by law.
(2) Administrative courts are:
1) Tallinn Administrative Court;
2) Tartu Administrative Court.
2^{1}) An administrative court has one or more courtrooms.
(3) Court buildings are located within the area of operation of an administrative court designated by the minister responsible for the subject matter. The exact locations of the court buildings and the service area shall be determined by the Minister responsible for the area. The location of each courthouse shall also be the location of the administrative court.
(4) The structure of an administrative court and the composition of the court staff shall be approved by the Director of Courts, except for the part concerning the exercise of the judicial function. In this context, the structure and composition of the court staff shall be approved by the President of the Court. In approving the structure and composition of court staff, the provisions of article 43 of this Act shall be observed.
[RT I 2005, 15, 85 – Entry into force. 01.01.2006

9 Pursuant to s. 28 para 1 the Supreme Court decided with an administrative chamber as the highest court: Supreme Court, administrative chamber.

[414] **§ 18. Halduskohus Kohtute seadus**
1) Halduskohus arutab esimese astme kohtuna seadusega tema pädevusse antud haldusasju. Halduskohus teeb ka muid toiminguid, mis on seadusega antud tema pädevusse.
2) Halduskohtud on:
1) Tallinna Halduskohus;
2) Tartu Halduskohus.
21) Halduskohtul on üks või mitu kohtumaja.
3) Kohtumajad asuvad halduskohtu tööpiirkonnas, mille määrab valdkonna eest vastutav minister. Kohtumajade täpsed asukohad ning teeninduspiirkonna määrab valdkonna eest vastutav minister. Iga kohtumaja asukoht on ka halduskohtu asukoht.
4) Halduskohtu struktuuri ja kohtuteenistujate koosseisu kinnitab kohtudirektor, välja arvatud õigusemõistmise funktsiooni teostamisega seotud osas. Selles osas kinnitab struktuuri ja kohtuteenistujate koosseisu kohtu esimees. Struktuuri ja kohtuteenistujate koosseisu kinnitamisel lähtutakse käesoleva seaduse §-s 43 sätestatust.
[RT I 2005, 15, 85 - jõust. 01.01.2006]

2. Article 10 Confidentiality and Data Protection

[…] 3. The institutions, bodies, offices or agencies concerned shall ensure that the confidentiality of the investigations conducted by the Office is respected, together with the legitimate rights of the persons concerned, and, where judicial proceedings have been initiated, that ***all national rules applicable to such proceedings*** have been adhered to. […]

a) National Rules Applicable to Judicial Proceedings in the Member State

The Administrative Court Proceedings Act/*Halduskohtumenetluse seadustik* and the Court Act may apply. According to s. 8 Court Act the Civil Service Act shall apply to court employees, unless this Act provides otherwise, and thus also official secrecy. **1**

§ 27. Rights of participants in proceedings Administrative Court Proceedings Act[415] **2**

(1) In addition to other rights provided in this Code, a participant in proceedings also has the right to:
1) inspect the court file and to obtain copies of the court file;
2) participate in court sessions;
3) know the composition of panel hearing the matter;
4) file petitions of challenge and applications;
5) submit to the court explanations and reasons regarding any issue which has arisen while hearing the matter;
6) submit evidence and participate in the examination of evidence;
7) make objections to the applications and reasoning of other participants in proceedings;
8) put questions to other participants in proceedings, to witnesses and to experts;
9) obtain a certified copy of the court decision when the decision has been drawn up as a document.
(2) In addition to other rights provided in this Code, the applicant also has the right to:
1) amend the action and the amount of the claim made in the action;

[415] **§ 27. Elektrooniline kättetoimetamine Haldusmenetluse seadus**
1) Dokumendi elektroonilise kättetoimetamise korral tehakse dokument kättesaadavaks asjakohases infosüsteemis või Eesti teabeväravas või saadetakse menetlusosalise elektronposti aadressil. Dokumendile peab olema lisatud digitaalallkiri ja vajaduse korral e-tempel või põhjendatud juhul üksnes e-tempel.
2) Elektrooniliselt kättesaadavaks tehtud või edastatud dokument loetakse kättetoimetatuks järgmistel juhtudel:
1) asjakohane infosüsteem on registreerinud dokumendi avamise või vastuvõtmise;
2) adressaat on kinnitanud elektrooniliselt edastatud dokumendi kättesaamist;
3) dokument või teade dokumendi kättesaadavaks tegemise kohta on edastatud äriühingu äriregistrisse kantud elektronposti aadressil;
4) dokument või teade dokumendi kättesaadavaks tegemise kohta on edastatud avalik-õigusliku juriidilise isiku, advokaadi, audiitori, notari, kohtutäituri, pankrotihalduri, patendivoliniku või vandetõlgi äriregistrisse kantud või nimetatud isiku poolt avaldatud elektronposti aadressil.
[RT I, 28.12.2017, 2 - jõust. 01.02.2018]

2) discontinue the action.
(3) In addition to other rights provided in this Code, the respondent also has the right to admit the action.

3 The Examination of documents in administrative proceedings may contradict the data protection but is a legitimate right of the person concerned.

§ 37. Examination of documents[416]
(1) Everyone has the right to inspect relevant documents and files stored in an administrative authority at any stage of the proceedings if they exist.
(2) An administrative authority shall prohibit inspection of a file, document or part thereof if disclosure of the information contained therein is prohibited by law or on the basis thereof.
(3) Examination of files and documents shall generally take place in the premises of the administrative authority in the presence of an official. The administrative authority may derogate from this procedure.
(4) Extracts or copies of documents and reimbursement of expenses shall be made pursuant to the procedure provided for in the Public Information Act.

4 The rules on evidence in administrative court proceedings apply, cf. ss. 56 et seq. (Chapter 6) Administrative Court Proceedings Act. Evidence under Estonian law is legally defined as "any information which appears in a format which the law requires in legal proceedings, and on whose basis, in accordance with the rules provided by law, the court ascertains the presence or absence of facts that serve as foundation for any claims or objections made by participants in proceedings, as well as any other facts material for resolving the matter justly", cf. s. 56 Administrative Court Proceedings Act.

5 The presentation of evidence may conflict with confidentiality by virtue of Art. 10 OLAF Regulation. The admissibility of evidence shall be governed by the provisions of the Code of Civil Procedure, namely articles 251–305 of the Code of Civil Procedure and the evidence admissible under this Code. S. 56 Administrative Court Proceedings Act clearly indicates that "[u]nless otherwise provided in th[e] Code of Civil Procedure, the provisions of articles 236–243 of the Code of Civil Procedure shall apply to the production, taking and examination of evidence [even] in administrative matters".

[416] **§ 37. Dokumentidega tutvumine Haldusmenetluse seadus**
1) Igaühel on õigus igas menetlusstaadiumis tutvuda haldusorganis säilitatavate asjas tähtsust omavate dokumentide ja toimikuga, kui see on olemas.
2) Haldusorgan keelab toimiku, dokumendi või selle osaga tutvumise, kui selles sisalduvate andmete avaldamine on seadusega või selle alusel keelatud.
3) Toimikuga ja dokumentidega tutvumine toimub üldjuhul haldusorgani tööruumides ametiisiku juuresolekul. Haldusorgan võib teha sellest korrast erandeid.
4) Dokumentidest väljavõtete või koopiate tegemine ning kulude hüvitamine toimub avaliku teabe seaduses sätestatud korras.

OLAF can even be obliged to provide professional assistance under s. 57 Administrative Court Proceedings Act. The burden of proof, which is stipulated by s. 59 of the same Act requires to open information and may even interfere with data secrecy. However, OLAF should also be aware that all parties involved in proceedings are bound by confidentiality under Estonian law (so are judges, see next para). Appeals against decisions also exist, see § 90. Objection to court's actions. **6**

In proceedings the rights of the persons concerned need to be obeyed: **7**

§ 88. Perusal of the file by participants in proceedings Administrative Court Proceedings Act

(1) A participant in proceedings has the right to peruse the corresponding file and to obtain copies of any procedural document kept in the file, as well as of any such document which belongs to the file but is kept elsewhere.

(2) The right specified in subpara 1 of this article may be limited on the grounds listed in subpara 1 of article 79 of this Code. ***A participant in proceedings may only be refused permission to peruse the file if the interest for maintaining secrecy of the file overrides the right of the participant in proceedings to peruse the file and to obtain copies of procedural documents which are in the file or which belong to the file***.

(3) A participant in proceedings is allowed to peruse any procedural documents in the file and belonging to the file to the maximum extent possible and such a participant is refused permission to peruse to the minimum extent possible without prejudicing the aim of the right to peruse the file. When the ground on which permission to peruse was refused becomes inoperative, permission to peruse is granted. A note is made in the file concerning any perusal of the file or of an information carrier which is not kept in the file but which is used as evidence in the matter.

(4) Perusal of an electronic procedural document or a document stored on a digital or other information carrier may only be effected such that the integrity of the information carrier is guaranteed. A copy of a procedural document may be made electronically, as a printout or as an excerpt.

(5) Refusal of permission to peruse is decided by an order, as is grant of permission to peruse, in the case that a party or third party has applied to have permission to peruse refused. An interlocutory appeal may be lodged against the order, while the order entered by the circuit court in respect of the appeal is subject to interlocutory appeal to the Supreme Court only if the application to be granted permission to peruse was made by a person extraneous to the proceedings or if the application has been filed after the conclusion of judicial proceedings. The court does not disclose the information to the participants in proceedings before the order has become final.

07.12.2017

Rectification – based on subpara 4 of article 10 of the State Gazette Act, an obvious error was corrected by reinstating the text of the third sentence of the subpara.
[RT I, 28.11.2017, 1 – entry into force 01.01.2018]
(6) As a rule, a participant in proceedings is provided an opportunity to peruse the file in the courthouse whose district encompasses the location which serves as the basis for determining jurisdiction in the matter. Having regard to the interests of participants in proceedings, the court may permit perusal of the file also elsewhere. Perusal of the file is granted within three business days as of receipt by the court of the declaration which contains the corresponding application.
(7) Any applications made by a representative of a participant in proceedings to peruse the file are also resolved by the court in accordance with the grounds and the rules provided in this article.

8 The provisions of the Civil Service Act shall apply to judges only if the more specific law does not provide otherwise. Chapter 9 applies, which describes the duties of the judge. This includes the duty of confidentiality in s. 71 and the secrecy of deliberations from s. 72 Courts Act.

b) Specifications

9

Article 79. Exclusion of the party to the proceedings
(1) In proceedings that have been declared settled, a party to the proceedings may be relieved of a procedural act, including a court hearing or a part thereof,
1) to ensure national security or public order, to preserve or protect state secrets or classified foreign internal information;
2) to protect the life, health or liberty of a party to the proceeding, witness or other person;
3) to protect the privacy of a litigant, witness or other person;
4) to maintain the secrecy of adoption;
5) to protect a business, author or similar secret.
(2) The removal of a party to the proceedings based on para 1 of this article is only possible if the interest in secrecy obviously outweighs the right of the party to the proceedings to be present in the proceedings.
(3) The court decides on the dismissal of a party to the proceedings without the participation of the party to the proceedings to be dismissed after hearing the party to the proceedings in whose interests the other party to the proceedings is removed.
(4) A party to the proceedings shall be withdrawn from a procedural act as little as possible. The court communicates the substance of the procedural act to the deported party to the procedure as far as possible without prejudice to the purpose of the deportation. If the reason for removal no longer applies, the content of the procedural act must be disclosed to the party involved in the procedure in full.

(5) The dismissal of a party to the proceedings is decided by resolution. A decision may be appealed, while a district court decision may be appealed against a Supreme Court decision. Until the judgment comes into force, the court will not disclose the information to any party to the proceeding.
(6) If necessary, the court shall also rule on the question of dismissing a representative or counsel of a party to the proceedings on the basis and according to the procedure provided for in this article.

3. Article 11 Investigation Report and Action to Be Taken Following Investigations

1. On completion of an investigation by the Office, a report shall be drawn up, under the authority of the Director-General. That report shall give an account of the legal basis for the investigation, the procedural steps followed, the facts established and their pre-trial classification in law, the estimated financial impact of the facts established, the respect of the procedural guarantees in accordance with article 9 and the conclusions of the investigation.
2. In drawing up the reports and recommendations referred to in para 1, account shall be taken of the relevant provisions of Union law and, in so far as it is applicable, ***of the national law of the Member State concerned***.
Reports drawn up based on the first subpara, together with all evidence in support and annexed thereto, shall constitute admissible evidence:
(a) in judicial proceedings of a non-criminal nature before national courts and in administrative proceedings in the Member States;
(b) in ***criminal proceedings of the Member State*** in which their use proves necessary in the ***same way and under the same conditions*** as administrative reports drawn up by ***national administrative inspectors*** and shall be subject to the ***same evaluation rules as those applicable to administrative reports drawn up by national administrative inspectors*** and shall have the same evidentiary value as such reports;
(c) in judicial proceedings before the CJEU and in administrative proceedings in the institutions, bodies, offices and agencies.
Member States shall notify to the Office ***any rules of national law relevant*** for the purposes of point (b) of the second subpara.
Regarding point (b) of the second subpara, Member States shall, upon request of the Office, send to the Office the ***final decision of the national courts*** once the ***relevant judicial proceedings*** have been finally ***determined*** and the final court decision has become ***public***.
The power of the CJEU and national courts and competent bodies ***in administrative and criminal proceedings to freely assess the evidential value*** of the reports drawn up by the Office shall not be affected by this Regulation. […]
3. Reports and recommendations drawn up following an external investigation and any relevant related documents shall be sent to the ***competent authorities of the Member States*** concerned in accordance with the rules relating to external investigations and, if necessary, to the institution, body, office or agency concerned. The competent authorities of the Member State concerned and, if applicable, the institution, body, office or agency shall take such action as the results of the external investigation order and shall

report thereon to the Office within a time limit laid down in the recommendations accompanying the report and, in addition, at the request of the Office. Member States may notify to the Office the relevant national authorities competent to deal with such reports, recommendations and documents.
4. Reports and recommendations drawn up following an internal investigation and any relevant related documents shall be sent to the institution, body, office or agency concerned. That institution, body, office or agency shall take such action, in particular of a disciplinary or legal nature, as the results of the internal investigation order, and shall report thereon to the Office, within a time-limit laid down in the recommendations accompanying the report, and, in addition, at the request of the Office.
5. Where the report drawn up following an internal investigation reveals the existence of facts which could give rise to criminal proceedings, that information, together with the recommendations, shall be transmitted without delay to the judicial authorities of the Member State concerned, without prejudice to articles 12c and 12d.
At the request of the Office, the competent authorities of the Member States concerned shall, within a time limit laid down in the recommendations, send to the Office information on the action taken, if any, and the reasons for non-implementation of the recommendations, where applicable, following the transmission by the Office of any information in accordance with the first subpara of this para.
7. Without prejudice to para 4, if, on completion of an investigation, no evidence has been found against the person concerned, the Director-General shall close the investigation regarding that person and inform that person within 10 working days.
8. Where an informant provided the Office with information which led to the investigation, the Office shall notify that informant that the investigation has been closed, unless it considers that this information is such as to prejudice the legitimate interests of the person concerned and the effectiveness of the investigation and of the action to be taken subsequent thereto, or any confidentiality requirements.

OLAF investigations may lead to an OLAF report suggesting further actions i.e. punitive proceedings, national follow-up, criminal investigation and so on. **1**

a) References to National Law

Sources and national articles – Overview 1 for Estonia – article 11 OLAF Regulation **2**

Para 2	Estonian Civil Servants Act, ss. 4, 75 para 4 ("(4) A disciplinary offence may be dismissed from service if the offence is significant." And § 94. dismissal from service for disciplinary offence 1) A civil servant may be dismissed from service as a disciplinary offence under article 70(3) of this Act subject to the condition provided for in article 75(4) of this Act.

	2) The last day of a civil servant's service shall be the day of dismissal from service specified in the administrative act.)
Para 2 (a)	Administrative Proceedings are governed by the Administrative Proceedings Act. The Code of Misdemeanour Procedure will apply in proceedings of a non-criminal nature.
Para 2 (b)	For criminal proceedings the provisions of the Estonian CPC (*Kriminaalmenetluse seadustik (lühend - KrMS)*) apply. S. 10 para 3 and 4 describes the thresholds: "(3) All documents which are requested to be included in a criminal and court file shall be in the Estonian language or translated into Estonian. Documents in other languages prepared by investigative bodies and prosecutors' office in terminated criminal proceedings shall be translated into Estonian by the order of the prosecutor's office or at the request of a participant in the proceeding. [RT I, 23.02.2011, 1 – entry into force 01.09.2011] (4) A text in a language other than Estonian may be entered in the minutes of a court session at the request of a party to a court proceeding. In such case, a translation of the text into Estonian shall be appended to the minutes." S. 32 para 2 CPC may apply. S. 63 clearly states that: "(1) [e]vidence means the statements of a suspect, accused, victim, the testimony of a witness, ***an expert's report***, the statements given by an expert upon provision of explanations concerning the expert's report, physical evidence, reports on investigative activities, minutes of court sessions and reports on surveillance activities, ***and other documents, photographs, films or other data recordings***. [RT I, 29.06.2012, 2 – entry into force 01.01.2013] It remains questionable for what alternative the OLAF report could be subsumed." S. 66 stipulates the possibility to be head as a witness but as OLAF itself is not a natural person this may only be useful if OLAF itself would send persons who comment the case as natural persons. It is questionable whether OLAF is an expert by virtue of s. 95 et seq. CPC. To be an expert normally requires non-legal expertise. Thus, this provision does not really cover the status of OLAF.
Para 2 (c)	The "*Halduskohtumenetluse seadustik (lühend - HKMS)*", Administrative Court Procedure Act will apply. Chapter 17 deals with judgement. OLAF will be in possession of a notification by Estonian authorities.

b) National Authorities, Para 3

This may be the Tax and Customs Board, the State Police and in corruption cases even- **3**
tually the Parliament as well as other Disciplinary organs for civil servants.

4. Article 12 Exchange of Information Between the Office and the Competent Authorities of the Member States

1. Without prejudice to articles 10 and 11 of this Regulation and to the provisions of Regulation (Euratom, EC) No 2185/96, the Office may transmit to the **competent authorities of the Member States** concerned information obtained during external investigations in due time to enable them to take appropriate action ***in accordance with their national law***. It may also transmit such information to the institution, body, office or agency concerned.
2. Without prejudice to articles 10 and 11, the Director-General shall transmit to the ***judicial authorities of the Member State concerned*** information obtained by the Office, during internal investigations, concerning facts which fall within the ***jurisdiction of a national judicial authority***. […]
3. The ***competent authorities of the Member State concerned*** shall, unless ***prevented by national law***, inform the Office without delay, and in any event within 12 months of receipt of the information transmitted to them in accordance with this article, of the action taken based on that information.
In accordance with article 4 and without prejudice to article 10, the Director-General shall also transmit to the institution, body, office or agency concerned the information referred to in the first subpara of this para, including the identity of the person concerned, a summary of the facts established, their pre-trial classification in law and the estimated impact on the financial interests of the Union. article 9(4) shall apply.
4. The Office may ***provide evidence*** in proceedings before national courts and tribunals ***in conformity with national law*** and the Staff Regulations. […]
5. The Office may provide relevant information to the Eurofisc network established by Regulation (EU) No 904/2010. Eurofisc working field coordinators may transmit relevant information from the Eurofisc network to the Office under the conditions laid down in Regulation (EU) No 904/2010.

a) Article 12 Para 1 OLAF Regulation

1 Competent authorities

- Prosecutor's Office
- Prosecutor General
- Financial Intelligence Unit
- Agriculture and Food Board
- ARIB

Investigative bodies:

- Police and Border Guard Board,
- Internal Security Service,
- Tax and Customs Board,

Customs offices:
- Customs Department *Tolliosakond (TOLL)*
- Airport Customs Control Unit *Lennujaama tollikontrolli üksus (Lennujaama tollikontroll)*
- Harbours Customs Control Unit *Sadamate tollikontrolli üksus (Sadamate tollikontroll)*
- Customs Declarations Control Unit *Tollideklaratsioonide kontrolli üksus (Tollideklaratsioonid)*
- Investigation Department *Uurimisosakond (UO)*

Tax offices:
- Tax Department *Maksude osakond (MO)*
- Estonian Tax and Customs Board
- Competition Authority,
- Military Police,
- Environment Inspectorate,
- Department of Prisons of the Ministry of Justice,
- Prisons, which perform the functions of an investigative authority directly or through an institution administered by them or through a local office

Appropriate action acc. to national law **2**
- National follow-up acc. to the Administrative Procedure Act.
- National follow-up acc. to the special administrative laws e.g. Customs Act, Taxation Act, Fisheries Markets Organization Act, Law Enforcement Act

b) Article 12 Para 2 OLAF Regulation (Judicial Authorities of the Member State Concerned)

Which are these national authorities? **3**

For all offences:
- Pre-trial investigation judge
- Police and Border Guard Board
- Tax and Customs Board

Customs offices:
- Customs Department *Tolliosakond (TOLL)*
- Airport Customs Control Unit *Lennujaama tollikontrolli üksus (Lennujaama tollikontroll)*
- Harbours Customs Control Unit *Sadamate tollikontrolli üksus (Sadamate tollikontroll)*
- Customs Declarations Control Unit *Tollideklaratsioonide kontrolli üksus (Tollideklaratsioonid)*

- Investigation Department *Uurimisosakond (UO)*

Tax offices:

- Tax Department *Maksude osakond (MO)*
- Estonian Tax and Customs Board
- Competition Authority,
- Environment Inspectorate,

Especially for corruption offences:

- Military Police for disciplinary investigations
- Police and Border Guard Board → Corruption Crime Office

c) Article 12 Para 3 OLAF Regulation (Information to the Office by Competent Authorities of the Member State Concerned)

4 These are the authorities, which were presented under a) and b) above. They are obliged to fulfil the time-limit by virtue of Art. 12 para 3 OLAF Regulation.

5 **Prevention by national law:** The right to withhold information (for a certain time) may result from provisions, which ensure the secrecy of an action under national law.

d) Article 12 Para 4 OLAF Regulation (Providing Evidence in Court Proceedings Before National Courts and Tribunals in Conformity with National Law)

6 The Code of Administrative Court Procedure (*Halduskohtumenetluse seadustik*) will apply if providing evidence in court proceedings before national administrative courts and tribunals. And the Code of Criminal Procedure (*Kriminaalmenetluse seadustik*) might apply if providing evidence in national court proceedings before criminal courts and tribunals.

7

Chapter 6 Presentation of evidence
§ 56. Evidence
(1) Evidence means any information which appears in a format that the law foresees in relation to proceedings, and on whose basis, in accordance with the procedure provided in the law, the court ascertains the presence or absence of facts that serve as foundation for any claims or objections made by participants of proceedings, as well as any other facts material in order to determine the matter justly.[417]

[417] **6. peatükk**
Tõendamine
§ 56. Halduskohtumenetluse seadustik Tõendid

(2) The evidence admissible in administrative court proceedings is any evidence permitted by virtue of articles 251–305 of the Code of Civil Procedure and the evidence permitted by this Code. Unless this Code provides otherwise, the presentation, taking and examination of evidence in administrative matters is subject to the provisions of articles 236–243 of the Code of Civil Procedure.
(3) Where a participant of the proceedings so requests, the court may, where this is necessary, employ the procedure of pre-trial taking of evidence provided in articles 244–250 of the Code of Civil Procedure.
(4) The recusal of experts is governed by the provisions of article 31 of the Code of Civil Procedure.

§ 57.[418] **Professional assistance**
(1) Where certain information, which is inevitably necessary to determine an administrative matter, can only be obtained by an administrative authority, that administrative authority must, within the scope of its competence and powers, provide professional assistance to the court dealing with the administrative matter. The court does not seek professional assistance from an administrative authority in the cases provided in subpara 2 of article 18 of the Administrative Cooperation Act.
(2) An administrative authority provides professional assistance based on a court ruling. The ruling must, amongst other particulars, state the aim of the request for professional assistance and the nature of the assistance. The ruling may be appealed by a party or third party of the matter, or by the administrative authority on whom the obligation to provide professional assistance has been imposed. The ruling entered by the circuit court in respect of the appeal is not subject to further appeal.

(1) Tõend on igasugune teave, mis on seaduses sätestatud menetlusvormis ja mille alusel kohus seaduses sätestatud korras teeb kindlaks menetlusosaliste nõudeid ja vastuväiteid põhjendavad asjaolud või nende puudumise, samuti muud asja õigeks lahendamiseks tähtsad asjaolud.
(2) Halduskohtumenetluses võivad tõenditeks olla kõik tsiviilkohtumenetluse seadustiku §-de 251–305 kohaselt tsiviilkohtumenetluses lubatud tõendid ja käesolevas seadustikus lubatud tõendid. Haldusasjas tõendite esitamise, kogumise ja uurimise suhtes kohaldatakse tsiviilkohtumenetluse seadustiku §-des 236–243 sätestatut, kui käesolevast seadustikust ei tulene teisiti.
(3) Menetlusosalise taotlusel võib kohus vajaduse korral rakendada tõendite tagamiseks ja asjaolude eelnevaks tuvastamiseks tsiviilkohtumenetluse seadustiku §-des 244–250 sätestatud eeltõendamismenetluse korda.
(4) Eksperdi taandamise osas kohaldatakse tsiviilkohtumenetluse seadustiku §-s 31 sätestatut.

[418] **§ 57.** Ametiabi
(1) Haldusorgan osutab oma pädevuse ja volituste piires haldusasja lahendavale kohtule ametiabi, kui haldusasja lahendamiseks on vältimatult vaja teavet, mida saab välja selgitada vaid haldusorgan. Kohus ei pöördu ametiabi saamiseks haldusorgani poole halduskoostöö seaduse § 18 lõikes 2 sätestatud juhtudel.
(2) Haldusorgan osutab ametiabi kohtumääruse alusel. Määruses märgitakse muu hulgas ametiabi taotlemise eesmärk ja abi laad. Määruse peale võib esitada määruskaebuse pool, kolmas isik ja haldusorgan, keda kohustatakse ametiabi andma. Määruskaebuse kohta tehtud ringkonnakohtu määrus ei ole edasi kaevatav.
(3) Ametiabi määranud kohus ei hüvita haldusorgani kulusid abi osutamisel. Abi osutanud haldusorgan võib esitada haldusasja läbivaatavale kohtule andmed ja kuludokumendid abi osutamise kulude kohta. Sellisel juhul loetakse need kulud haldusasja kuludeks.

(3) The court which ordered the provision of professional assistance does not reimburse to the administrative authority any expenses which the authority incurred in relation to providing the assistance. The administrative authority who provided the assistance may submit to the court which hears the administrative matter the information and expense documents concerning any expenses related to provision of the assistance. In such a case those expenses are deemed to be part of the expenses of the administrative matter.

§ 58.[419] **Demand for information**

The court may demand information necessary for determining the matter from a participant of the proceedings, as well as from an administrative authority which is not a participant of the proceedings, from the employer of a participant of the proceedings, from an insurance company or a credit institution, if the administrative authority or other person can be assumed to possess such information and provided the law does not provide otherwise. The participant of the proceedings, the administrative authority or other person are obligated to provide the information within the time-limit established by the court. The court may impose a fine on any person who fails to respect this obligation.

§ 59.[420] **Burden of proof**

(1) Unless the law determines otherwise, a participant of proceedings must prove the factual assertions on which his or her submissions are founded and, if the court requires, also the facts in relation to which it may be assumed that the participant has access to the corresponding evidentiary items. If submission of the evidence is not possible, the reasons for such impossibility must be shown and the location or possible location of the evidence must be disclosed.

(2) The burden of proof in administrative court proceedings may not be redistributed by an agreement of the parties in a manner different from that provided in the law.

---

[419] **§ 58.** Teabe nõudmine

Kohus võib menetlusosaliselt, samuti menetlusväliselt haldusorganilt, menetlusosalise tööandjalt, kindlustusseltsilt või krediidiasutuselt nõuda asja või taotluse lahendamiseks vajalikku teavet, kui sellise teabe olemasolu haldusorganil või isikul saab eeldada ning seadus ei sätesta teisiti. Menetlusosaline, haldusorgan või muu isik on kohustatud teavet andma kohtu määratud tähtaja jooksul. Kohustuse rikkujat võib kohus trahvida.

[420] **§ 59.** Tõendamiskoormus

(1) Menetlusosaline peab tõendama neid asjaolusid, millele tuginevad tema väited, kui seadusest ei tulene teisiti, samuti kohtu nõudmisel neid asjaolusid, mille puhul võib eeldada, et just temal on vastavatele tõenditele juurdepääs. Kui tõendite esitamine ei ole võimalik, tuleb näidata põhjused, miks neid esitada ei saa, ja teatada, kus tõendid asuvad või võivad asuda.

(2) Menetlusosaliste kokkuleppega ei saa halduskohtumenetluses jagada tõendamiskoormust seaduses sätestatust erinevalt.

(3) Kui asja õigeks lahendamiseks vajalikud tõendid on esitamata või neid on esitatud ebapiisavalt, teeb kohus menetlusosalisele, kes peab asjaolu tõendama, ettepaneku need esitada või kogub tõendeid ise. Ettepaneku tegemisel selgitab kohus, milliseid asjaolusid on vaja tõendada.

(4) Kui menetlusosaline ei esita tõendit asjaolu kohta, mida ta peab käesoleva paragrahvi lõike 1 kohaselt tõendama, ja tõendeid asjaolu või selle ümberlükkamise kohta ei ole võimalik hankida muul viisil, võib kohus hinnata asjaolu tema kahjuks.

(3) Where evidence required for a just determination of the matter has not been presented or where insufficient evidence has been presented, the court proposes that the participant of the proceedings on whom it is incumbent to prove the relevant fact present the requisite evidentiary items or takes evidence itself. When making the proposal, the court explains which facts must be proved.
(4) In the case that a participant of proceedings does not present an evidentiary item concerning a fact which he or she is required to prove by virtue of subpara 1 of this article, and evidence concerning that fact or a rebuttal thereof cannot be obtained by other means, the court may adopt an assessment of the fact which is adverse to the participant.

§ 60.[421] **Grounds for exemption from the burden of proof**
(1) A fact which the court deems generally known does not need to be proved. The court may deem generally known only facts regarding which reliable information is available from sources outside the proceedings.
(2) The court may deem a fact asserted by a participant of the proceedings to have been proved if the other participants of the proceedings admit that fact and if such admission does not prejudice the rights of a person who does not participate in the proceedings or does not prejudice any public interest. Admission means unconditional and express assent to a factual assertion which is made to the court in accordance with the procedure provided in subpara 2 of article 52 of this Code. An admission is assessed by the court together with other evidence in the matter.
(3) An admission may be withdrawn if the participant of the proceedings who seeks to withdraw it shows that the assertion which he or she admitted and which concerns the presence or absence of a fact, is untrue and that the admission was thus founded on a mistaken notion of the fact. In such a case, the fact is not deemed to be admitted.
(4) The truth of a fact of crucial importance for determination of the matter may not be assumed by the court merely based on absence, in declarations or objections made by other participants of the proceedings, of an express contestation of the presence of the

[421] **§ 60.** Tõendamisest vabastamise alused
(1) Tõendada ei ole vaja asjaolu, mida kohus loeb üldtuntuks. Üldtuntuks võib kohus lugeda asjaolu, mille kohta saab usaldusväärset teavet menetlusvälistest allikatest.
(2) Kohus võib lugeda menetlusosalise väidetud faktilise asjaolu tõendatuks, kui teised menetlusosalised võtavad selle omaks ning omaksvõtt ei kahjusta menetlusvälise isiku õigusi ega avalikke huve. Omaksvõtt on faktilise väitega tingimusteta ja selgesõnaline nõustumine käesoleva seadustiku § 52 lõikes 2 sätestatud korras kohtule esitatud avalduses. Omaksvõttu hindab kohus koos muude tõenditega.
(3) Omaksvõtu võib tagasi võtta juhul, kui tagasivõttev menetlusosaline tõendab, et väide asjaolu olemasolu või puudumise kohta, mis omaks võeti, ei vasta tõele ja omaksvõtt oli tingitud ebaõigest ettekujutusest asjaolust. Sel juhul ei loeta asjaolu omaksvõetuks.
(4) Haldusasja lahendamiseks määrava tähtsusega faktiliste asjaolude õigsust ei saa kohus eeldada ainuüksi selle põhjal, et teised menetlusosalised ei ole nende esinemist oma avaldustes või vastuväidetes sõnaselgelt vaidlustanud, kui nende vaidlustamise vajadus ei pidanud olema menetlusosalise jaoks ilmselge.

fact, unless it had to be obvious to those participants that they needed to contest that fact.

§ 61.[422] **Assessment of evidence and of the amount claimed**

(1) The court takes guidance from the law in objectively assessing the evidentiary items of a matter in their fullness and in relation to all of their aspects, and decides, acting in all conscience, whether an assertion made by a participant of proceedings has been proved.

(2) The court does not regard any evidentiary item as possessing pre-determined strength in the matter. The court assesses the evidentiary items as a body of evidence and considers relations between evidentiary items.

(3) In administrative court proceedings, no evidentiary item may be assigned pre-determined strength by an agreement of participants of the proceedings, nor may the type or format of evidence be limited by such agreement, or the manner of submission, taking or examination of the evidence. The abandoning or withdrawing of an evidentiary item has no binding force on the administrative court when it determines the matter.

(4) Facts which have been established in the reasons article of an earlier court decision which has become final are assessed by the court as part of the body of evidence in the matter.

(5) In the case that the court fails in establishing the amount of a patrimonial or non-patrimonial claim, including a claim for compensation, or if the establishing of the amount is materially complicated or unreasonably expensive, the court, acting in all conscience, determines the amount of the claim by having regard to all circumstances of the matter.

[422] **§ 61.** Tõendite ja nõude suuruse hindamine
(1) Kohus hindab seadusest juhindudes kõiki tõendeid igakülgselt, täielikult ja objektiivselt ning otsustab oma siseveendumuse kohaselt, kas menetlusosalise esitatud väide on tõendatud või mitte.
(2) Ühelgi tõendil ei ole kohtu jaoks ette kindlaks määratud jõudu. Kohus hindab kõiki tõendeid nende kogumis ja vastastikuses seoses.
(3) Menetlusosaliste kokkuleppega ei saa halduskohtumenetluses anda tõendile ette kindlaks määratud jõudu ega piirata tõendi liiki ega vormi ning tõendite esitamise, kogumise ja uurimise viisi. Tõendist loobumine või tõendi tagasivõtmine ei ole halduskohtu jaoks asja lahendamisel siduv.
(4) Varasema jõustunud kohtulahendi põhjendustes tuvastatud asjaolusid hindab kohus kogumis teiste tõenditega.
(5) Kui varalise või mittevaralise nõude, sealhulgas kahjunõude suurust ei õnnestu kindlaks teha või selle kindlakstegemine on oluliselt raskendatud või ebamõistlikult kulukas, otsustab kohus nõude suuruse oma siseveendumuse kohaselt kõiki asjaolusid arvestades.

The rules on evidence must be followed: **8**

§ 62. Due time for submission of evidence, relevance and admissibility of evidence
(1)[423] In pre-trial proceedings, the court sets a time-limit to participants of the proceedings for submission of evidence and of applications seeking the taking of evidence, explaining to the participants which specific facts they are expected to provide evidence of. If, by the expiration of the time-limit, an evidentiary item has not been submitted, or an application for the taking of evidence has not been made, subsequent reliance on that evidentiary item is allowed only if the conditions set out in subpara 4 of article 51 of this Code are fulfilled. In the case the court does not hold a court session, and has not, in pre-trial proceedings, set a time-limit for submission of evidence and of applications for the taking of evidence, evidence may also be submitted after the conclusion of pre-trial proceedings, but only on the presumption that this does not cause delays in determining the matter.
(2) The court only admits or arranges for the taking of, evidentiary items, and has regard, in determining the matter, to evidentiary items, which are material in the matter. An evidentiary item is not material in the matter, amongst other cases, in the case that the corresponding fact does not need to be proved, or in the case that the corresponding fact has, in the court's assessment, already been proved to a sufficient extent.
(3) In addition to from the provision of subpara 2 of this article, the court may refuse to admit an evidentiary item and return the same, or refuse the taking of evidence, if:

[423] **§ 62.** Tõendite esitamise õigeaegsus ning tõendite asjakohasus ja lubatavus
(1) Kohus annab menetlusosalistele eelmenetluses tähtaja tõendite esitamiseks ja nende kogumise taotlemiseks, selgitades neile, milliste konkreetsete asjaolude kohta tuleb tõendeid esitada. Kui tõendit ei ole määratud tähtaja möödudes esitatud või tõendite kogumist taotletud, võib hiljem tõendile tugineda üksnes käesoleva seadustiku § 51 lõikes 4 sätestatud tingimustel. Kui kohus ei korralda istungit ega ole andnud tähtaega eelmenetluses tõendite esitamiseks ja nende kogumise taotlemiseks, võib tõendeid esitada ka pärast eelmenetluse lõppu, kuid üksnes eeldusel, et see ei põhjusta asja lahendamise viibimist.
(2) Kohus võtab vastu ainult sellise tõendi ja korraldab selliste tõendite kogumise ning arvestab asja lahendamisel ainult sellist tõendit, millel on asjas tähtsust. Tõendil ei ole asjas tähtsust muu hulgas juhul, kui asjaolu ei ole vaja tõendada või see on kohtu hinnangul juba piisavalt tõendatud.
(3) Kohus võib keelduda tõendi vastuvõtmisest ja selle tagastada või keelduda tõendite kogumisest lisaks käesoleva paragrahvi lõikes 2 sätestatule, kui:
1) tegemist on kuriteoga või põhiõiguse rikkumisega saadud tõendiga;
2) tõend ei ole kättesaadav, eelkõige kui ei ole teada dokumendi asukoht või tunnistaja andmed või tunnistajale ei ole olemasolevate andmete alusel korduvalt olnud võimalik kohtukutset kätte toimetada, samuti kui tõendi tähtsus ei ole vastavuses tõendi kättesaamiseks mineva ajakuluga või sellega seotud muude raskustega;
3) tõendite esitamise ja kogumise vajadust ei ole põhjendatud.
(4) Kui menetlusosalise taotlus tõendeid koguda jäi rahuldamata seetõttu, et tõendite kogumist taotleti hilinenult või tõendite kogumist taotlenud menetlusosaline jättis tasumata kohtu nõutud ettemakse tõendite kogumisega seotud kulude katteks, ei ole tal hiljem õigust taotleda nende tõendite kogumist, kui taotluse rahuldamine põhjustaks asja arutamise edasilükkamise.
(5) Tõendi vastuvõtmisest või tõendite kogumisest keeldumise kohta teeb kohus põhjendatud määruse.
(6) Käesoleva paragrahvi lõigetes 2 ja 3 sätestatud juhul võib kohus vastuvõetud või kogutud tõendi jätta asja lahendamisel ka arvestamata. Arvestamata võib jätta ka tõendi, mis on kohtu hinnangul ilmselt ebausaldusväärne. Tõendi arvestamata jätmist peab kohus põhjendama.

1) the evidentiary item has been obtained because of the commission of a criminal offence or breach of a fundamental right;
2) the evidentiary item is not accessible, in particular if the whereabouts of a document or the particulars of a witness are unknown, or if, on the basis of known particulars, it has been impossible, in spite of repeated attempts, to deliver summons to a witness, or if the importance of the item does not correspond to the period which will be spent obtaining it, or to any other difficulties related to the item;
3) no reasons have been given for the need to present or take the evidence.
(4) In the case that an application by a participant of the proceedings for the taking of evidence was dismissed because the application was submitted belatedly or because the participant who made the application failed to pay the advance payment required by the court to cover expenses related to the taking of the evidence, that participant may not subsequently apply for the taking of the evidence insofar as the grant of the application would cause the hearing of the matter to be adjourned.
(5) When it refuses admission of evidence or dismisses an application for the taking of evidence, the court makes a corresponding ruling in which it states its reasons.
(6) In the cases specified in subparas 2 and 3 of this article, the court may, when determining a matter, set aside an evidentiary item admitted or taken in the matter. The court may also set aside an evidentiary item which, in the assessment of the court, is obviously unreliable. The court must state its reasons for setting aside an evidentiary item.

§ 63.[424] **Substantiation**
Substantiation means explaining a factual assertion to the court such that the court finds the assertion credible. To substantiate an assertion, a participant of proceedings may use evidence as well as information which is not in a format that the law foresees in relation to the proceedings.

§ 64. Examination under oath of participant of proceedings
(1)[425] A participant of proceedings who was unable to prove, by other evidence, a fact which he or she needed to prove, or who has not submitted any other evidence, may, to

[424] **§ 63.** Põhistamine
Põhistamine on faktilise väite selgitamine kohtule selliselt, et kohtu hinnangul on väide usutav. Põhistamiseks võib menetlusosaline kasutada nii tõendeid kui ka teavet, mis ei ole seaduses sätestatud menetlusvormis.
[425] **§ 64.** Menetlusosalise vande all ülekuulamine
(1) Menetlusosaline, kes ei ole suutnud muude tõenditega tõendada tema poolt tõendamist vajavat asjaolu või kes ei ole muid tõendeid esitanud, võib asjaolu tõendamiseks taotleda teise menetlusosalise vande all ülekuulamist. Kohus kuulab menetlusosalise vande all üle üksnes juhul, kui tõendite esitamiseks kohustatud menetlusosaline põhistab, et muul viisil tõendite esitamine või kogumine on oluliselt raskendatud.
(2) Menetlusosalise võib vande all üle kuulata ka kohtu algatusel, kui tõendamist vajava asjaolu kohta ei ole võimalik koguda tõendeid muul viisil või see oleks ebamõistlikult koormav.

prove a fact, apply for another participant of the proceedings to be examined under oath. The court will only examine a participant of the proceedings under oath if the participant of the proceedings on whom the obligation to present evidence lies provides a substantiated submission showing that the taking or presentation of evidence by other means is subject to significant difficulties.
(2) A participant of proceedings may be examined under oath also on the initiative of the court, provided that no other way exists for the taking of evidence regarding a fact which needs to be proved, or that such taking of evidence would be unreasonably burdensome.
(3) In the case of a legal person, examination under oath may be applied in respect of such person's legal representative or, in the case of a branch of a foreign company, the manager of that branch. In the case of an administrative authority, the person to be examined is the head of the authority or any other person who acted in the name of the authority and who participated in the administrative proceedings which gave rise to the dispute to be determined in the administrative matter.
(4) In all other respects, examination under oath of a participant of proceedings is subject to the provisions of articles 269–271 of the Code of Civil Procedure.

§ 65.[426] **Evidence taken in administrative proceedings and in proceedings concerning an offence**
(1) The court may, in determining a matter, consider as evidence any statements recorded in writing or by recording equipment in the course of administrative proceedings or proceedings concerning an offence, or any explanations provided in writing or orally, as well as any other evidence, provided they were or it was used as evidence in the administrative proceedings which gave rise to the dispute to be determined in the administrative matter.
(2) When the court declares admissible an evidentiary item mentioned in subpara 1 of this article, a participant of the proceedings may apply for the person whose statement or explanation the evidentiary item mentioned in subpara 1 of this article contains, to be examined as a witness or to be examined under oath. The court may only dismiss such

(3) Juriidilise isiku puhul võib vande all üle kuulata selle seadusliku esindaja või välismaa äriühingu filiaali puhul filiaali juhataja. Haldusorgani puhul kuulatakse üle asutuse juht või muu haldusorgani nimel tegutsenud isik, kes osales haldusmenetluses, millest tekkis haldusasjas lahendatav vaidlus.
(4) Muus osas kohaldatakse menetlusosalise vande all ülekuulamisele tsiviilkohtumenetluse seadustiku §-des 269–271 sätestatut.

[426] **§ 65.** Haldus- ja süüteomenetluses kogutud tõendid
(1) Kohus võib asja lahendamisel arvestada tõendina ka haldus- või süüteomenetluses protokollitud või salvestatud ütlusi või kirjalikult või suuliselt antud seletusi, samuti muid tõendeid, mis olid tõendiks haldusmenetluses, millest tekkis haldusasjas lahendatav vaidlus.
(2) Kui kohus võtab vastu käesoleva paragrahvi lõikes 1 nimetatud tõendi, võib menetlusosaline taotleda, et kohus kuulaks tunnistajana või vande all üle isiku, kelle ütlusi või seletusi käesoleva paragrahvi lõikes 1 nimetatud tõend sisaldab. Kohus võib sellise taotluse jätta rahuldamata üksnes käesoleva seadustiku § 62 lõike 3 punktis 2 või lõikes 4 sätestatud juhul.

an application in the case provided in point 2 of subpara 3 or in subpara 4 of article 62 of this Code.

Chapter 3
General Conditions for Proof and Taking of Evidence

§ 60.[427] Proof and matter of common knowledge

(1) In the adjudication of a criminal matter, a court shall rely on facts which it has declared to be proved or a matter of common knowledge.
(2) A fact is deemed to be proved if, because of the proof submitted, a court is convinced that the facts relating to the subject of proof exist or do not exist.
(3) A fact concerning which reliable information is available from sources not subject to criminal proceedings may be declared a matter of common knowledge by a court.

§ 61.[428] Evaluation of evidence

(1) No evidence has predetermined weight.
(2) A court shall evaluate all evidence in the aggregate according to the conscience of the judges.

§ 62.[429] Subject of proof

The facts relating to a subject of proof are:
1) the time, place and manner of commission of the criminal offence and other facts relating to the criminal offence;
2) the necessary elements of the criminal offence;
3) the guilt of the person who committed the criminal offence;
4) information describing the person who committed the criminal offence, and other circumstances affecting the liability of the person.

---

[427] **3. peatükk**
TÕENDAMINE
1. jagu
Tõendamise ja tõendite kogumise üldtingimused
§ 60. Kriminaalmenetluse seadustik Tõendatus ja üldtuntus
(1) Kohus tugineb kriminaalasja lahendades asjaoludele, mis ta on tunnistanud tõendatuks või üldtuntuks.
(2) Tõendatus on kohtul tõendamise tulemusena kujunenud veendumus, et tõendamiseseme asjaolud on olemas või puuduvad.
(3) Üldtuntuks võib kohus tunnistada asjaolu, mille kohta saab usaldusväärset teavet kriminaalmenetlusvälistest allikatest.

[428] **§ 61. Kriminaalmenetluse seadustik** Tõendite hindamine
(1) Ühelgi tõendil ei ole ette kindlaksmääratud jõudu.
(2) Kohus hindab tõendeid nende kogumis oma siseveendumuse kohaselt.

[429] **§ 62. Kriminaalmenetluse seadustik** Tõendamisese
Tõendamiseseme asjaolud on:
1) kuriteo toimepanemise aeg, koht ja viis ning muud kuriteo tehiolud;
2) kuriteokoosseis;
3) kuriteo toimepannud isiku süü;
4) kuriteo toimepannud isikut iseloomustavad andmed ja muud tema vastutust mõjutavad asjaolud.

§ 63.[430] **Evidence**

(1) Evidence means the statements of a suspect, accused, victim, the testimony of a witness, an expert's report, the statements given by an expert upon provision of explanations concerning the expert's report, physical evidence, reports on investigative activities, minutes of court sessions and reports on surveillance activities, and other documents, photographs, films or other data recordings.

(1^1) Submission of information collected pursuant to the Security Authorities Act as evidence in criminal proceedings shall be decided by the Chief Public Prosecutor considering the restrictions specified in subparas 126^1 (2) and 126^7 (2) of this Code.

(2) Evidence not listed in subpara (1) of this article may also be used to prove the facts relating to a criminal proceeding, except in the case the evidence has been obtained by a criminal offence or violation of a fundamental right.

§ 64.[431] **General conditions for taking of evidence**

(1) Evidence shall be taken in a manner which is not prejudicial to the honour and dignity of the persons participating in the taking of the evidence, does not endanger their life or health or cause unjustified proprietary damage. Evidence shall not be taken by torturing a person or using violence against him or her in any other manner or by means affecting a person's memory capacity or degrading his or her human dignity.

(2) If it is necessary to undress a person during a search, physical examination or taking of comparative samples, the official of the investigative body, the prosecutor and the participants in the procedural act, except health care professionals and forensic pathologists shall be of the same sex as the person.

---

[430] **§ 63. Kriminaalmenetluse seadustik** Tõend

(1) Tõend on kahtlustatava, süüdistatava, kannatanu, tunnistaja või asjatundja ütlus, ekspertiisiakt, eksperdi antud ütlus ekspertiisiakti selgitamisel, asitõend, uurimistoimingu, kohtuistungi ja jälitustoimingu protokoll või muu dokument ning foto või film või muu teabetalletus.

(1 1) Julgeolekuasutuste seaduse alusel kogutud teabe tõendina esitamise kriminaalmenetluses otsustab riigi peaprokurör, arvestades käesoleva seadustiku § 126^1 lõikes 2 ja § 126^7 lõikes 2 nimetatud piiranguid.

(2) Kriminaalmenetluse asjaolude tõendamiseks võib kasutada ka käesoleva paragrahvi lõikes 1 loetlemata tõendeid, välja arvatud juhul, kui on tegemist kuriteo või põhiõiguse rikkumise teel saadud tõendiga.

[431] **§ 64. Kriminaalmenetluse seadustik** Tõendite kogumise üldtingimused

(1) Tõendeid kogutakse viisil, mis ei riiva kogumises osaleja au ja väärikust, ei ohusta tema elu või tervist ega tekita põhjendamatult varalist kahju. Keelatud on tõendeid koguda isikut piinates või tema kallal muul viisil vägivalda kasutades või isiku mäluvõimet mõjutavaid vahendeid ja inimväärikust alandavaid viise kasutades.

(2) Kui isiku läbiotsimisel, läbivaatusel või võrdlusmaterjali võtmisel on vaja paljastada tema keha, peavad uurimisasutuse ametnik, prokurör ja menetlustoimingus osaleja, välja arvatud tervishoiutöötaja või kohtuarst, olema temaga samast soost.

(3) Kui tõendeid kogudes kasutatakse tehnikavahendeid, teatatakse sellest eelnevalt menetlustoimingus osalejatele ja neile selgitatakse tehnikavahendite kasutamise eesmärki.

(4) [Kehtetu - RT I, 23.02.2011, 1 - jõust. 01.09.2011]

(5) Vajaduse korral hoiatatakse menetlustoimingus osalejaid, et käesoleva seadustiku § 214 kohaselt ei ole lubatud kohtueelse menetluse andmeid avaldada.

(6) Jälitustoiminguga tõendite kogumine on reguleeritud käesoleva seadustiku peatükis 31.

(3) If technical equipment is used while taking of evidence, the participants in the procedural act shall be notified thereof in advance and the objective of using the technical equipment shall be explained to them.
(4) [Repealed - RT I, 23.02.2011, 1 – entry into force 01.09.2011]
(5) If necessary, participants in a procedural act shall be warned that disclosure of information relating to pre-trial proceedings is prohibited in accordance with § 214 of this Code.
(6) The taking of evidence by surveillance activities is regulated by Chapter 31 of this Code.

§ 65.[432] **Evidence obtained from ships during voyages and from foreign states**
(1) Evidence obtained in a foreign state pursuant to the legislation of that state may be used in a criminal proceeding conducted in Estonia, unless the procedural acts performed to obtain the evidence conflict with the principles of Estonian criminal procedure, taking into account the specifications provided for in subpara (2) of this article.
(2) If the object of the criminal proceeding is an act of a person serving in the Defence Force committed outside the Republic of Estonia, evidence taken in a foreign state may be used in a criminal proceeding unless the procedural acts performed in order to obtain the evidence are in conflict with the principles of the Estonian criminal procedure regardless of the fact of whether the procedural act was conducted on the basis of a request for assistance or not.
(3) If an act to which the Estonian Penal Code applies is committed on board of a ship during a voyage, the documents prepared by the master of the ship pursuant to § 73 of the Merchant Shipping Code are the evidence in the criminal proceedings.

[432] **§ 65. Kriminaalmenetluse seadustik** Reisil viibival laeval ja välisriigis saadud tõendid
(1) Eesti kriminaalmenetluses on lubatud kasutada välisriigis selle riigi seaduste kohaselt kogutud tõendeid, kui tõendi saamiseks tehtud menetlustoiming ei ole vastuolus Eesti kriminaalmenetluse põhimõtetega, arvestades käesoleva paragrahvi lõikes 2 nimetatud erisust.
(2) Kui kriminaalmenetluse esemeks on kaitseväeteenistuses oleva isiku tegu, mis pandi toime väljaspool Eesti Vabariiki, siis on kriminaalmenetluses lubatud kasutada välisriigis kogutud tõendeid, kui tõendi saamiseks tehtud menetlustoiming ei ole vastuolus Eesti kriminaalmenetluse põhimõtetega, sõltumata asjaolust, kas menetlustoiming tehti abistamistaotluse alusel või mitte.
(3) Kui reisil viibival laeval leiab aset tegu, millele kohaldatakse Eesti karistusseadustikku, on kapteni poolt kaubandusliku meresõidu koodeksi § 73 alusel koostatud dokumendid kriminaalmenetluses tõendiks.

5. Article 12a Anti-Fraud Coordination Services

1. Each Member State shall, for the purposes of this Regulation, designate a service (the 'anti-fraud coordination service') to facilitate effective cooperation and exchange of information, including information of an operational nature, with the Office. Where appropriate, ***in accordance with national law***, the anti-fraud coordination service may be regarded as a competent authority for the purposes of this Regulation.
2. Upon request of the Office, before a decision has been taken as to whether to open an investigation, as well as during or after an investigation, the anti-fraud coordination services shall provide or coordinate the necessary assistance for the Office to carry out its tasks effectively. Such assistance shall include, in particular, assistance from the competent authorities of Member States provided in accordance with article 3(5) and (6), article 7(3) and article 8(2) and (3).
3. The anti-fraud coordination services may help the Office upon request so that the Office may conduct coordination activities in accordance with article 12b, including, where appropriate, horizontal cooperation and exchange of information between anti-fraud coordination services.

National anti-fraud coordination service:

- Is situated within the Ministry of Finance. Financial Control Department

The National AFCOS has presented its structure and coordination in a presentation in 2018:

Ministry of Finance of Estonia
Roles: MA / CA AA / **AFCOS** IA IB

1st Level Intermediate Bodies (8)

- Ministry of Economic Affairs and Communications
- Ministry of Education and Research
- Ministry of the Environment
- Ministry of Social Affairs
- Ministry of Finance (regional field)
- Ministry of Finance (priority axis of increased administrative capacity)
- Ministry of Culture
- Government Office

2nd Level Intermediate Bodies (8)

- Ministry of Finance (priority axis of increased administrative capacity and the priority axis of developing the infrastructure of health and welfare)
- Enterprise Estonia (EAS)

- Environmental Investment Centre (EIC)
- Innove Foundation
- Information System Authority (RIA)
- KredEx Foundation
- Archimedes Foundation
- Technical Regulatory Authority
- Final Beneficiaries
- Natural person
- Legal person
- State agency
- Local government body

Source: taken from Virve Teppart, https://www.gdf.gov.it/eventi/anno-2018/tavola-rotonda-cooperation-project-2/Approfondimenti/interventi/5.pdf.

[Article 12b–12d]

6. Article 12e The Office's Support to the EPPO

1. During an investigation by the EPPO, and at the request of the EPPO in accordance with article 101(3) of Regulation (EU) 2017/1939, the Office shall, in accordance with its mandate, support or complement the EPPO's activity, in particular by:
(a) providing information, analyses (including forensic analyses), expertise and operational support;
(b) facilitating coordination of specific actions of ***the competent national administrative authorities*** and bodies of the Union; […]
(c) conducting administrative investigations. When providing support to the EPPO, the Office shall refrain from performing acts or measures which could jeopardise the investigation or prosecution.
2. A request referred to in para 1 shall be transmitted in writing and shall specify at least:
(a) the information relating to the EPPO investigation in so far as relevant for the purpose of the request;
(b) the measures which the EPPO requests the Office to perform;
(c) where appropriate, the envisaged timing for carrying out the request. Where necessary, the Office may request additional information.
3. To protect the admissibility of evidence as well as fundamental rights and procedural guarantees, where the Office performs, within its mandate, supporting measures requested by the EPPO pursuant to this article, the EPPO and the Office, acting in close cooperation, shall ensure that the applicable procedural safeguards of Chapter VI of Regulation (EU) 2017/1939 are observed.

Which are these national authorities?

- Administrative authority acc. to § 8 Administrative Procedure Act
- Tax and Customs Board
- Tax authority for the state tax
- Tax authority for the local tax
- Financial Supervision Authority
- Agricultural Registers and Information Board (ARIB)

[Article 12f–g]

7. Article 13 Cooperation of the Office with Eurojust and Europol

1. Within its mandate to protect the financial interests of the Union, the Office shall cooperate, as appropriate, with the European Union Agency for Criminal Justice Cooperation (Eurojust) and with the European Union Agency for Law Enforcement Cooperation (Europol). Where necessary to facilitate that cooperation, the Office shall agree with Eurojust and Europol on administrative arrangements. Such working arrangements may concern exchange of operational, strategic or technical information, including personal data and classified information and, on request, progress reports.
Where this may support and strengthen coordination and cooperation between ***national investigating and prosecuting authorities,*** or where the Office has forwarded to the competent authorities of the Member States information giving grounds for suspecting the existence of fraud, corruption or any other illegal activity affecting the financial interests of the Union in the form of serious crime, it shall transmit relevant information to Eurojust, within the mandate of Eurojust. […]
2. The competent authorities of the Member States concerned shall be informed, in a timely manner, by the Office in cases where information provided by them is transmitted by the Office to Eurojust or Europol.

1 National investigating and prosecuting authorities:

- Ministry of Justice
- Public Prosecutor's Office
- Investigative bodies:
- Police and Border Guard Border,
- Internal Security Service,
- Competition Authority,
- Department of Prisons of the Ministry of Justice,
- Prisons, which perform the functions of an investigative authority directly or through an institution administered by them or through a local office
- Pre-trial investigation judge
- Investigation Department (*Uurimisosakond*)

2 General administrative authorities:

- See above, Art. 3.

3 In customs matters:

- Tax and Customs Board (*Maksu- ja Tolliamet*)

4 In agricultural, fisheries matters:

- Environment Inspectorate

In forest matters: **5**

- Environment Inspectorate

[Article 14–16]

8. Article 17 Director-General

4. The Director-General shall report regularly, and at least annually, to the European Parliament, to the Council, to the Commission and to the Court of Auditors on the findings of investigations carried out by the Office, the action taken and the problems encountered, whilst respecting the confidentiality of the investigations, the legitimate rights of the persons concerned and of informants, and, where appropriate***, national law applicable to judicial proceedings***. Those reports shall also include an assessment of the actions taken by the ***competent authorities of Member States*** and the institutions, bodies, offices and agencies, following reports and recommendations drawn up by the Office.

7. The Director-General shall put in place an internal advisory and control procedure, including a legality check, relating, inter alia, to the respect of procedural guarantees and fundamental rights of the persons concerned and ***of the national law of the Member States concerned***, with particular reference to article 11(2). The legality check shall be carried out by Office staff who are experts in law and investigative procedures. Their opinion shall be annexed to the final investigation report.

1 Article 17 contains provisions regarding the office's reporting obligations and the safeguarding of procedural guarantees during its investigations. Paras 4 and 7 in particular – this is the *telos* – underline OLAF's efforts to balance effective investigative action with the protection of fundamental rights.

2 The Supervisory Committee noted that OLAF's country mini profiles provided some information on national laws but were insufficient for compensating occasional expertise issues.[433] They also reviewed **OLAF's legality check procedures**, recognizing the importance of expertise in all EU Member States' legal systems. Good relations between investigators and reviewers were seen to positively impact the quality of checks and reviews. OLAF's legality check ensures compliance with legal rules and addresses any breaches swiftly. The check focuses on procedural aspects and may lead to modifications or abandonment of actions if it fails. The committee emphasized the importance of compliance with rights and procedural rules in promoting the rights of those affected.

3 Article 17 para 4 specifies that the OLAF Director-General is required to **report regularly and at least annually** to major EU IBOA. The reports should cover the findings of OLAF's investigations, the actions taken and any problems encountered during them. Importantly, these reports must respect the confidentiality of investigations and the legitimate rights of individuals involved, including informants. The provision also requires OLAF to consider national laws applicable to judicial proceedings.

[433] Supervisory Committee, Opinion No 2/2015, Legality check and review in OLAF, 6 et seq.

Next, article 17 para 7 further emphasizes procedural guarantees and compliance with fundamental rights. It mandates the establishment of an internal advisory and control procedure, including a legality check, which OLAF did in the past. **4**

The **legality check** should be carried out by OLAF staff who are experts in law and investigative procedures and focus on the procedural safeguards. This internal control mechanism is relevant for ensuring that national laws are respected. The opinion resulting from this check should then be annexed to the final investigation report, thereby providing transparency and accountability for the decisions made throughout the investigative process. **5**

As noted in an article by *Mavromati* and *Riochet* it is recalled that this check was introduced as a new internal advisory and control procedure in the past.[434] This change, unlike its predecessor (Regulation 1073/1999), was designed to **include an internal legality** check that assesses, among other things, the respect for procedural guarantees and the fundamental rights of individuals under investigation. This internal process is vital for ensuring that OLAF's actions remain compliant with both EU and national standards, e.g. for upholding the rule of law and protecting the rights of individuals. Moreover, the importance of these procedural safeguards has been by the ECL C-787/22, which related to the respect for the rights of defence and procedural guarantees during OLAF's investigations were at the centre of the dispute.[435] It was reiterated the need for OLAF to operate in a manner that respects fundamental rights, including the right to be heard and the right to avoid self-incrimination. **6**

a) National Law Applicable to Judicial Proceedings

Applicable national law: **7**

National law applicable to judicial proceedings: Code of Administrative Courts Procedure (*Halduskohtumenetluse seadustik*), Code of Criminal Procedure (*Kriminaalmenetluse seadustik*), Code of Misdemeanour Procedure (*Väärteomenetluse seadustik*)

Examples from the Code of Administrative Court Procedure: **8**

- Procedural acts in the court, §§ 77 et seq.
- Stay of proceedings by operation of law, court-ordered stay of proceedings and expedition of proceedings, §§ 91 et seq.
- Part 3 Proceedings in administrative courts, Chapter 13 Opening of proceedings on actions, pre-trial proceedings in the matter, §§ 120 et seq.

[434] Mavromati and Riochet 2024, eucrim, pre-print.
[435] ECJ, Case C-787/22 P, *Sistem ecologica production v. EU Commission*, Judgement of 30 November 2023, ECLI:EU:C:2023:940.

- Part 4 Proceedings before the circuit court, Chapter 18 Proceedings on appeals against judgements of administrative courts, §§ 180 et seq.
- Part 6 Specialised proceedings, Chapter 28 Procedure in procurement matters, §§ 266 et seq.

9 Examples from the Code of Criminal Procedure:

- Presumption of innocence, § 7 CPC
- Safeguarding of rights of participants in proceedings, § 8 CPC
- Safeguarding of personal liberty and respect for human dignity, § 9 CPC
- Restrictions on public access to court sessions, § 12 CPC
- Chapter 2 Persons subject to criminal proceedings Division 4 Suspect and Accused, §§ 33 et seq. CPC
- Chapter 8 Pre-trial Procedure, §§ 193 et seq. CPC
- Chapter 9 Simplified Proceedings Division 2 Settlement Proceedings, §§ 239 et seq. CPC, Division 3 Summary Proceedings, §§ 251 et seq. CPC
- Chapter 10 Court procedure in District Courts, §§ 257 et seq. CPC
- Chapter 11 Appeal proceedings, §§ 318 et seq. CPC
- Chapter 12 Cassation Proceedings, §§ 344 et seq. CPC
- Chapter 19 international co-operation in criminal procedure, §§ 433 et seq. CPC

10 Examples from the Code of Misdemeanour Procedure:

- Presumption of innocence, § 4
- Safeguarding of rights of participants in proceedings, § 5
- Respect for human dignity, § 6
- Chapter 4 Circumstances precluding misdemeanour proceedings and bases for termination of misdemeanour proceedings, §§ 29 et seq.
- Chapter 5 procedural acts, terms in proceedings and procedure expenses, §§ 31 et seq.
- Chapter 10 Extra-judicial proceedings §§ 53 et seq.
- Chapter 11 Hearing of Misdemeanour matters in District Courts, §§ 83 et seq.
- Chapter 12 Appeal proceedings in District Courts, §§ 114 et seq.

11 Competent authorities:

- Administrative authority acc. to § 8 Administrative Procedure Act
- Tax and Customs Board
- Tax authority for the state tax
- Tax authority for the local tax
- Financial Supervision Authority
- Agricultural Registers and Information Board (ARIB)

b) Internal Advisory and Control Procedure: Legality Check Involving National Law

Sources and national articles 2: Article 17 OLAF Regulation – Overview for Estonia **12**

Law Enforcement Act/*Korrakaitseseadus*	**Chapter 1 General Provisions** § 7 Principle of proportionality § 8 Principle of expediency § 9 Protection of rights and guarantee of human dignity Et seq. **Chapter 3 State Supervision measures** §§ 23 et seq.
Customs Act/*Tolliseadus*	**Chapter 2 Obtaining data for assessment of threat** § 8 Obtaining data from state database for assessment of threat § 9 Obtaining data from Economic Operator for assessment of threat **Chapter 3 Surveillance activities, secret cooperation and enquiry to communications undertaking** § 10 Collection of information for deciding on access of person to surveillance information and employment of person in service § 11 Secret cooperation and covert measures § 12 Enquiry to communications undertaking **Chapter 12 State supervision** § 60 State supervision § 61 Special state supervision measures § 62 Customs seals § 63 Examination of goods and means of transport § 64 examination of baggage § 65 Specifications of examination of passenger § 66 Examination of postal consignment § 67 use of direct coercion § 68 use of firearms
Taxation Act/*Maksukorralduse seadus*	**Chapter 1 General Provisions** Division 2 Principal Obligations of Tax Authority § 10 Duties of tax authority

	§ 11 Principle of investigation § 12 Right of Discretion et seq.
Administrative Procedure Act/*Haldusmenetluse seadus*	**Chapter 1 General Provisions** Supchapter 2 Principles of Administrative Procedure § 3 Protection of rights § 4 Right of discretion § 5 Choice of form and purposefulness § 6 Principle of investigation § 7 Accessibility and data protection Subchapter 5 Proceedings with Matter in Administrative Procedure § 14 Application et seq. **Chapter 2 Conducting of Administrative Proceedings** §§ 35 et seq.

[Article 18–21]

Bibliography

Allegrezza S (2024) Chapter 26. Absent Prosecution Witnesses and Active Participating at Trial: The European Court of Justice Shapes European Fairness in Criminal Justice. In: Regan E, Engsig Sørensen K, Lenaerts K and Neergaard U (eds) (2024) Shaping a Genuine Area of Freedom, Security and Justice. Bloomsbury Publishing. London, pp 289–314.

Bicker E, Steinele C, Skoupil C, Reischl M, Seddon J, Davidson E, Morvillo JC, Bowes M, Tolaini L, Adams AA, McGrath T (2021) The Practitioner's Guide to Global Investigations, Volume 2 Global Investigations around the world. GIR, Law Business Research, London/Derbyshire, 5th ed., pp 234–254.

Böse M (2017) The Investigation and Prosecution of Financial Economic and Financial Crimes-Role and Function of Administrative Authorities in Germany. In: Bernardi A and Negri D (eds) Investigating European Fraud in the EU Member States. Bloomsbury Publishing, pp 85–103.

Bovend'Eerdt K (2024) The Protection of Fundamental Rights in OLAF Composite Enforcement Procedures. Springer, Cham.

Bradley K (2018) Part III. Institutional Framework. The European Parliament. Chapter 14, III. Part E. In: Oxford Principles of European Union Law Volume 1: The European Union Legal Order. OUP, Oxford.

Brüner F H (2001) Das Europäische Amt für Betrugsbekämpfung (OLAF) und seine Aufgaben bei der Erweiterung der Europäischen Union. In: Henke R (ed), Erweiterung der europäischen Union: Zusammenarbeit von Wirtschaft und Verwaltung, Köln, 2001, pp 17–26.

Brüner F H (2008) OLAF-Reform II – Kosmetischer Eingriff oder Großer Wurf?, EuR, pp 859–872.

Brüner F H (2009) OLAF-Manual, Operational Procedures, Brüssel.

Caianiello M (2020) Right To Remain Silent and Not to Incriminate Oneself in the European Union System (December 5, 2020). https://ssrn.com/abstract=3743329 or http://dx.doi.org/10.2139/ssrn.3743329. Accessed 30 June 2025.

Callewaert J (2021) 'No Case to Answer for the European Public Prosecutor under the European Convention on Human Rights? Considerations on Convention Liability

for Actions of the European Public Prosecutor's Office'. Vol. (1) 3, Europe of Rights & Liberties/Europe des Droits & Libertés, pp 20–35.

Carrera S, Mitsilegas V, Stefan M (2021) Criminal Justice, Fundamental Rights and the Rule of Law in the Digital Age. Centre for European Policy Studies (CEPS), Brussels. https://www.ceps.eu/wp-content/uploads/2021/05/Criminal-Justice-Fundamental-Rights-and-the-Rule-of-law-in-the-Digital-Age.pdf. Accessed 30 June 2025.

Claes A L, Franssen V (2022) When EPPO meets customs: A clash of enforcement strategies and procedural safeguards? Jean Monnet Network on EU Law Enforcement Working Paper Series, No 09/22.: https://jmn-eulen.nl/wp-content/uploads/sites/575/2022/05/WP-Series-No-09-22-When-EPPO-meets-customs-A-clash-of-enforcement-strategies-and-procedural-safeguards-Claes-Franssen.pdf. Accessed 30 June 2025.

Daily Äripäev (2024) Eurora founder Marko Lastik will appear in court in September (in Estonian language), 13 February 2024. https://www.aripaev.ee/uudised/2024/02/13/eurora-asutaja-marko-lastik-astub-kohtu-ette-septembris. Accessed 30 June 2025.

Delfi Ekspress (2021) Politsei Põhl'aku rahaasju ei uuri. https://ekspress.delfi.ee/artikkel/95323877/politsei-pohlaku-rahaasju-ei-uuri. Accessed 30 June 2025.

Đorđević N (2021) Fraud, corruption, and misuse of EU agricultural funds a major problem in CEE, say MEPs. https://emerging-europe.com/news/fraud-corruption-and-misuse-of-eu-agricultural-funds-a-major-problem-in-cee-say-meps/. Accessed 30 June 2025.

EPPO (2023a) Report 2023. https://www.eppo.europa.eu/sites/default/files/2023-02/EPPO_2022_Annual_Report_EN_WEB.pdf. Accessed 30 June 2025.

EPPO (2023b) Estonia: EPPO probes into suspected fraud involving street lighting. https://www.eppo.europa.eu/en/news/estonia-eppo-probes-suspected-fraud-involving-street-lighting. Accessed 30 June 2025.

EPPO (2023c) Estonia: Five individuals and five companies indicted for subsidy fraud. https://www.eppo.europa.eu/en/news/estonia-five-individuals-and-five-companies-indicted-subsidy-fraud. Accessed 30 June 2025.

Ernits M, Ginter C, Laos S, Allikmets M, Krõõt Tupay P, Värk R, Laurand A (2019) The Constitution of Estonia: The Unexpected Challenges of Unlimited Primacy of

EU Law. In: Albi/Bardutzky (eds) National Constitutions in European and Global Governance: Democracy, Rights, the Rule of Law, Springer, 874 (924).

EU Agency for Fundamental Rights (FRA) (2016) Rights of suspected and accused persons across the EU: translation, interpretation and information. Luxembourg: Publication office of the European Union. https://fra.europa.eu/sites/default/files/fra_uploads/fra-2016-right-to-information-translation_en.pdf. Accessed 30 June 2025.

EU Commission (DG Policy, U 2) (2017) Handbook, The role of Member States' auditors in fraud prevention and detection for EU Structural and Investment Funds Experience and practice in the Member States.

EU Commission (DG regional Policy) (2009) Information Note on Fraud Indicators for ERDF, ESF and CF, COCOF 09/0003/00-EN.

EU Commission (OLAF) (2017) Fraud in Public Procurement A collection of Red Flags and Best Practices. Ref. Ares(2017)6254403 – 20/12/2017, online: https://sfc.ec.europa.eu/system/files/documents/sfc-files/fraud-public-procurement-final-20122017-ares20176254403.pdf. Accessed 30 June 2025.

Farkas A, Dannecker G, Jacsó J (eds) (2019) Criminal Law Aspects of the Protection of the Financial Interests of the European Union with particular emphasis on the national legislation on tax fraud, corruption, money laundering and criminal compliance with reference to cybercrime. Budapest, Wolters Kluwer.

Gellert L (2009) Gerichtliche Verwertbarkeit von Protokollen und Missionsberichten des OLAF, AW-Prax, pp 85–88.

Ginter J (1998) Corpus Juris and Estonian Criminal Procedure, III/1998, pp 64–67.

Hauck P (2021) Europarechtliche Vorgaben für das nationale Strafverfahren [European legal requirements for national criminal proceedings]. In: Böse M (ed) Enzyklopädie Europarecht (EnzEuR), vol 11: Europäisches Strafrecht. 2nd edition. Nomos, Baden-Baden, pp 543–632.

Herrnfeld H H (2021) In: Herrnfeld H H, Burchard M, Brodowski D (eds) European Public Prosecutor's Office: Regulation (EU) 2017/1939 Implementing Enhanced Cooperation on the Establishment of the European Public Prosecutor's Office ('the EPPO'), Article-by-Article Commentary. Nomos/Hart/Beck, Baden-Baden, pp 426 et seq.

Herrnfeld H H (2024) Yes Indeed, Efficiency Prevails. A Commentary on the Remarkable Judgment of the European Court of Justice in Case C-281/22 G.K. and Others (Parquet européen). Eucrim 2024, pp 370–380.

Iovene F, Recchia N (2017) Criminal-Liability of Political Decision Makers in Italy. In: Zimmermann F (ed) Criminal Liability of Political Decision-Makers. A Comparative Perspective, pp 141–167.

Kanger L (2012) Enese mittesüüstamise privileeg maksuvaidluste lahendamisel Eesti halduskohtute ja EIK praktikas [The privilege against self-incrimination in the settlement of tax disputes in the case law of Estonian administrative courts and the ECtHR]. https://www.riigikohus.ee/sites/default/files/elfinder/analyysid/2012/eik_ja_mittesyystamise_privileeg_analyys_l.kanger.pdf. Accessed 30 June 2025.

Kangur A, Lott A, Soo A (2020) Are EU Administrative Penalties Reshaping the Estonian System of Sanctions. eucrim 2020:138–144.

Kärner M, Rosin K (2018) The Roadmap Directives in Ensuring the Rights of Suspects and Accused Persons in Criminal Proceedings. Directive 2016/343/EU. Juridica International 2018:497–511.

Katsanaki S (2022) The gathering of e-evidence by the EPPO and the relevant admissibility issues. Jean Monnet Network on EU Law Enforcement Working Paper Series No. 04/22. https://jmn-eulen.nl/wpcontent/uploads/sites/575/2022/05/WP-Series-No.-04-22-The-gathering-of-e-evidence-by-the-EPPO-and-the-relevant-admisibility-issues-Katsanaki.pdf. Accessed 31 October 2025.

Kuhl L (1997) In: Corruption in Public Procurement: Proceedings: Programme of against corruption, Reports of the 2nd European Conference of Specialised Services in the Fight Against Corruption, Talinn (Estonia), Band 964, pp 59 et seq.

Laurits E (2015) Some problems encountered in computer systemsearches', Yearbook of Estonian Courts, pp 136–137, http://www.riigikohus.ee/vfs/2071/Riigikohtu_aastaraamat_eng_veebi.pdf. Accessed 30 June 2025.

Laurits E (2016) Criminal procedure and digital evidence in Estonia. Digital Evidence and Electronic Signature Law Review 13:113–120.

Laurits E (2020) Regulating the Unregulatable: An Estonian Perspective on the CLOUD Act and the E-Evidence Proposal, Juridica International, pp 62–70.

Łazowski A (2024) Chapter 22. EU criminal law and EU enlargement. In: Mitsilegas V, Bergström M, Quintel T (eds) Research Handbook on EU Criminal Law (2nd ed.). Cheltenham: Edward Elgar Publishing, pp 492–515.

Ligeti K (2024) Chapter 21. The European Public Prosecutor's Office. In: Mitsilegas V, Bergström M, Quintel T (eds) Research Handbook on EU Criminal Law (2nd ed.). Cheltenham: Edward Elgar Publishing, pp 460–491.

Lind K (2011) VAT Fraud and the Fight against It in Estonia: Laws and the Practice of the Administrative Law Chamber of the Supreme Court. Juridica International XVIII:152–160.

Mavromati N, Mavromati S, Riochet D (2025) The Protection of Fundamental Rights and Procedural Guarantees in OLAF Investigations: a 25-Year Journey. Eucrim, Preprint Issue 4/2024. https://doi.org/10.30709/eucrim-2024-024. Accessed 30 June 2025.

Mitsilegas V, Bergström M, Quintel T (eds) (2024) Research Handbook on EU Criminal Law (2nd ed.). Cheltenham: Edward Elgar Publishing.

Negri D (2017) Best Practices and Operational Models in Financial Economic-Investigations in Europe In View of the EPPO. In: Bernardi A and Negri D (eds) Investigating European Fraud in the EU Member States. Bloomsbury Publishing, London, pp 149–169.

Nevera A, Kaija S, Rosin K (2022) Legal Cooperation in Criminal Matters: Thirty-Years' Experience of the Baltic States. International Comparative Jurisprudence 2022:72–90.

Niemz J (2020) Komplexitätsbewältigung in Großverfahren des Wirtschaftsstrafrechts. Komplexitätsbewältigung in Großverfahren des Wirtschaftsstrafrechts Schriften zum Prozessrecht (PR), Band 258. Duncker & Humblot.

OSCE POLIS (2021) Country Profile: Estonia. https://polis.osce.org/country-profiles/estonia. Accessed 30 June 2025.

Pfister A (2024) Gerichtliche Überprüfung grenzüberschreitender Ermittlungs-maßnahmen der Europäischen Staatsanwaltschaft (EUStA), jurisPR-StrafR 5/2024. https://bit.ly/40iOO7t. Accessed 30 June 2025.

Prokuratuur (2021a) Raske korruptsioonikuritegevus. https://aastaraamat.prokuratuur.ee/prokuratuuri-aastaraamat-2021/raske-korruptsioonikuritegevus. Accessed 30 June 2025.

Prokuratuur (2021b) Suure kahjuga majanduskuritegevus. https://aastaraamat.prokuratuur.ee/prokuratuuri-aastaraamat-2021/suure-kahjuga-majanduskuritegevus. Accessed 30 June 2025.

Prokuratuur (2021c) Teekond prokuratuuris – intervjuu ringkonnaprokurör Liisa Nuudiga. https://aastaraamat.prokuratuur.ee/prokuratuuri-aastaraamat-2021/teekond-prokuratuuris-intervjuu-ringkonnaprokuror-liisa-nuudiga. Accessed 30 June 2025.

Prokuratuur (2024) Aro Siinmaa – Milleks jälitada?. https://aastaraamat.prokuratuur.ee/prokuratuuri-aastaraamat-2020/aro-siinmaa-milleks-jalitada. Accessed 31 October 2024.

Regan E, Engsig Sørensen K, Lenaerts K and Neergaard U (2024) (eds) Shaping a Genuine Area of Freedom, Security and Justice. Bloomsbury Publishing. London.

Robertson C, Aodha M M (2023) Legal Terminology of the European Union, pp 244–270. https://benjamins.com/online/hot/articles/leg2#c11-s3. Accessed 30 June 2025.

Rosin K (2021) The Relationship between EU Law and Fundamental Principles of Estonian Substantive Criminal Law. Juridica International 30:174–182. https://doi.org/10.12697/JI.2021.30.19. Accessed 30 June 2025.

Salom Lucas, A., Llambés Sánchez, M.I. (2021) Mutual legal assistance on criminal matters: when theory meets practice: a real story. ERA Forum 22:337–349. https://doi.org/10.1007/s12027-021-00661-x. Accessed 30 June 2025.

Satzger H, Zimmermann F (2019) Challenges of trial procedure reform: Is European Union legislation part of the solution or part of the problem? In: Brown, D.K., Turner, J.I. and Weisser, B. (eds) The Oxford Handbook of Criminal Process. Oxford: Oxford University Press, pp 633–652.

Scholten M (2023) Research Handbook on the Enforcement of EU Law. Cheltenham: Edward Elgar Publishing.

Siitam-Nyiri K (2021) EPPO – uus lüli kriminaalmenetluses. https://aastaraamat.prokuratuur.ee/prokuratuuri-aastaraamat-2021/eppo-uus-luli-kriminaalmenetluses. Accessed 30 June 2025.

Staffler L (2024) Kommentierung zu Art. 32 BV, in: Stefan Schlegel/Odile Ammann (eds.), Onlinekommentar zur Bundesverfassung – Version: 19.07.2024. https://doi.org/10.17176/20240804-101851-0. Accessed 10 October 2024.

State Police of the Republic of Latvia (2015) Simplification of less serious crime investigation aimed to balance public danger, harm caused by crime and consumption of resources for investigation, Estonia, pp 14–34. https://www.vp.gov.lv/sites/vp/files/police_sls_eng_20151.pdf, Estonia. Accessed 30 June 2025.

Stöger K (2015) Zwischen nationalem Verfassungsrecht und Unionsverfassungsrecht: Rechtspolitisches zur Immunität im Europäischen Parlament. JRP - Journal für Rechtspolitik, JRP 2015, p 147.

Supervisory Committee of OLAF (2015) Opinion No 2/2015, Legality check and review in OLAF. Luxembourg. https://supervisory-committeeolaf.europa.eu/supervisory-committee-olaf/opinions-and-reports_en. Accessed 30 June 2025.

Supervisory Committee of OLAF (2017a) Annual Activity Report 2016, 23 May. https://supervisory-committee-olaf.europa.eu/document/download/bff6a4f7-0319-4abd-ac5f-f037d735df5f_en?filename=scaar_2016_-_finalannex.pdf_0_1.pdf. Accessed 30 June 2025.

Supervisory Committee of OLAF (2017b) Opinion No 2/2017 – Accompanying the Commission Evaluation report on the application of Regulation (EU) No 883/2013 (Article 19), 29 September. https://supervisory-committee-olaf.europa.eu/document/download/d161134b-fae2-49b0-9eb454cb7ddb87de_en?filename=opinion_2_2017.pdf . Accessed 30 June 2025.

Supervisory Committee of OLAF (2018) Annual Activity Report 2017, 1 June. https://supervisory-committee-olaf.europa.eu/document/download/31a59701-c97d-477f-aa8e4332fa7967fa_en?filename=olaf_supervisory_committee_activity_report_2017.pdf.pdf. Accessed 30 June 2025.

Supervisory Committee of OLAF (2019) Annual Activity Report 2018, 15 July. https://supervisory-committee-olaf.europa.eu/document/download/4c338803-831a-4631-9e8d-c6d6b7cc3432_en?filename=scar_2018.pdf. Accessed 30 June 2025.

Supervisory Committee of OLAF (2020a) Annual Activity Report 2019, 11 August. https://supervisory-committee-olaf.europa.eu/document/download/4948a27d-9ff6-4499-9def-17195f66907c_en?filename=supervisory_committee_of_olaf_activity_report_2019_.pdf. Accessed 30 June 2025.

Supervisory Committee of OLAF (2020b) Opinion No 1/2020 – OLAF s dismissed cases concerning Members of EU Institutions, 22 April. https://supervisory-

committee-olaf.europa.eu/document/download/8ae66f96-a360-4ee4-a52d-6e667c3b40aa_en
?filename=opinion_1_2020_-_nc_0.pdf. Accessed 30 June 2025.

Supervisory Committee of OLAF (2021a) Annual Activity Report 2020, 14 June. https://supervisory-committee-olaf.europa.eu/document/download/d2dd8981-1fd9-4680-a980-d305357ce835_en?filename=Supervisory%20Committee%20of%20OLAF%20-%20Activity%20report%202020%20%283%29.pdf. Accessed 30 June 2025.

Supervisory Committee of OLAF (2021b) Opinion No 1/2021 – OLAF s recommendations not followed by the relevant authorities, 4 February. Available at: https://supervisory-committee-olaf.europa.eu/document/download/81b4db5b-51e0-4739-ab3f-c67859304f5e_en?filename=opinion_1_2021_-_recommendations_not_followed_-_nc.pdf. Accessed 30 June 2025.

Supervisory Committee of OLAF (2021c) Opinion No 2/2021 – Working arrangements between OLAF and EPPO, 31 May. Available at: https://supervisory-committee-olaf.europa.eu/document/download/2d90f9ac-6556-41c7-bb55-483ccd192d8d_en?filename=Opinion%202_2021_WA%20EPPO_OLAF.docx_2.pdf. Accessed 30 June 2025.

Supervisory Committee of OLAF (2021d) Opinion No 3/2021 – Supervision of OLAF internal investigations: Strategic conclusions and best practices, 21 October. Available at: https://supervisory-committee-olaf.europa.eu/document/download/57f5949d-886a-46ab-944ce73a2da06bb2_en?filename=NC%20OPINION%203_2021-EXTRACT%20%20for%20Institutions.pdf. Accessed 30 June 2025.

Supervisory Committee of OLAF (2021e) Opinion No 5/2021 – Analysis of OLAF s investigations lasting more than 36 months in 2019, 17 December. Available at: https://supervisory-committee-olaf.europa.eu/document/download/25411b56-2cc1-4ba2-9c5c-b58e1e95c236_en?filename=NCV_Opinion%205_2021.pdf. Accessed 30 June 2025.

Supervisory Committee of OLAF (2022) Annual Activity Report 2021, 11 February. Available at: https://supervisory-committee-olaf.europa.eu/document/download/6b5ccfa3-64e2-41e7-95e5-b34d8cd266de_en?filename=Annual%20activity%20report%202021.docx.pdf. Accessed 30 June 2025.

Supervisory Committee of OLAF (2023) Annual Activity Report 2022, 31 May. https://supervisory-committee-olaf.europa.eu/document/download/dac1bebe-341

3-4070-82578bc0fdc11dda_en?filename=Activity%20report%202022.pdf. Acce ssed 30 June 2025.

Supervisory Committee of OLAF (2024a) Annual Activity Report 2023, 10 July. https://supervisory-committee-olaf.europa.eu/document/download/61f6b4be-9f3 8-4b4f-a481-16841dca2515_en?filename=SCAR%202023.pdf. Accessed 30 June 2025.

Supervisory Committee of OLAF (2024b) Opinion No 1/2024 – Complementary investigations of OLAF and the EPPO, 16 April. https://supervisory-committee-olaf.europa.eu/document/download/9017a135-fe82-4471-84fc-eb7030379e3a_en ?filename=Opinion%20on%20CI%20-%20non%20confidential%20v.pdf. Acces sed 30 June 2025.

Supervisory Committee of OLAF (2024c) Opinion No 2/2024 – OLAF s preliminary draft budget for 2025, 15 May.

Supervisory Committee of OLAF (2024d) Opinion No 3/2024 – OLAF s Guidelines on investigation procedures, 12 November.

Supervisory Committee of OLAF (2024e) Opinion No 4/2024 – OLAF s power to conduct internal investigations: the case of Members of EU institutions , 12 November. Available at: https://supervisory-committee-olaf.europa.eu/document/ download/096b8633-17f2-49a0-9d04-480a92e9b624_en?filename=Opinion%20 on%20OLAFs%20power%20-%20IBOAs.pdf. Accessed 30 June 2025.

Timmermann M (2014) Esialgne õiguskaitse maksuasjades. Kohtupraktika analüüs [Pre-trial legal protection in tax matters. Analysis of case law]. Tartu. https://www.riigikohus.ee/sites/default/files/elfinder/analyysid/2014/esialgne_oig uskaitse_maksuasjades_m._timmermann.pdf. Accessed 30 June 2025.

Unger B, Ferwerda J, Rossel L (2021) (eds) Combating Fiscal Fraud and Empowering Regulators: Bringing tax money back into the COFFERS. OUP, Oxford.

Wahl T (2022) EPPO: Operational Activities – Reports from January to March 2022, eucrim, pp 17–18.

Wouters J (2020) In: Wouters J, Nowak M, Chane A-L, Hachez N (eds) The European Union and Human Rights: Law and Policy. Oxford University Press, pp 132 et seq.

Zajac K (2025) The Admissibility of Tainted Evidence in Criminal Proceedings as a Rule of Law Issue Under the ECHR. Criminal Law Forum. https://doi.org/10.1007/s10609-024-09496-w. Accessed 30 June 2025.

Special Bibliography OLAF

De Bellis M (2021) Multi-level Administration, Inspections and Fundamental Rights: Is Judicial Protection Full and Effective?. German Law Journal 2021:416–440.

Böse M, Schneider A (2019) Estonia, Country part. In: Giuffrida F, Ligeti K (eds) Admissibility of OLAF Final Reports as Evidence in Criminal Proceedings. University of Luxembourg, pp 132–156. https://orbilu.uni.lu/bitstream/10993/40141/1/ADCRIM_final_report.pdf. Accessed 30 June 2025.

Caianiello M, Lasagni G (2019) Estonia, Country part. In: Giuffrida F, Ligeti K (eds) Admissibility of OLAF Final Reports as Evidence in Criminal Proceedings. University of Luxembourg, pp 17–183. https://orbilu.uni.lu/bitstream/10993/40141/1/ADCRIM_final_report.pdf. Accessed 30 June 2025.

European Commission (2019) Report from the Commission to the European Parliament and the Council: 30th Annual Report on the Protection of the European Union's Financial Interests — Fight against Fraud – 2018. COM(2019) 444 final.

European Commission, Directorate-General for International Partnerships (2022) Practical Guide on Contract Procedures for European Union External Action (PRAG). Luxembourg. https://intpa-econtent-public.s3.eu-west-1.amazonaws.com/ePrag/2021.1/ePrag-en-2021.1-full.pdf. Accessed 30 June 2025.

Giuffrida F, Ligeti K (2019) (eds) Admissibility of OLAF Final Reports as Evidence in Criminal Proceedings. University of Luxembourg. https://orbilu.uni.lu/bitstream/10993/40141/1/ADCRIM_final_report.pdf. Accessed 30 June 2025.

Luchtman M, Vervaele J (2017) (eds) Investigatory Powers and Procedural Safeguards: Improving OLAF's Legislative Framework through a Comparison with Other EU Law Enforcement Authorities (ECN/ESMA/ECB). Utrecht University / RENFORCE, Utrecht. https://eulawenforcement.com/wp-content/uploads/2019/03/Report_Investigatory_powers_and_procedural_safeguards_Utrecht_University_1_.pdf. Accessed 30 June 2025.

Malan J, Bosch Chen I et al. (2021) Impact of Organised Crime on the EU's Financial Interests. Centre for Strategy & Evaluation Services (CSES)/Policy Department for Budgetary Affairs, Directorate-General for Internal Policies. PE 697.019. https://www.europarl.europa.eu/RegData/etudes/STUD/2021/697019/IPOL_STU(2021)697019_EN.pdf. Accessed 30 June 2025.

Malan J, Bosch Chen I et al. (2022) Identifying Patterns of Fraud with EU Funds under Shared Management – Similarities and Differences between Member States. Centre for Strategy & Evaluation Services (CSES)/Policy Department for Budgetary Affairs, Directorate-General for Internal Policies. PE 702.671, Brussels. https://www.europarl.europa.eu/RegData/etudes/STUD/2022/702671/IPOL_STU(2022)702671_EN.pdf. Accessed 30 June 2025.

OECD (2021) Fighting Tax Crime – The Ten Global Principles, Second Edition, COUNTRY CHAPTERS: Estonia. Paris, pp 125–135.

Ojasoo M, Pevkur A, Ustav S (2021) Ärieetika, korruptsiooni ja majanduskuritegude käsitlemine ettevõtluserialade õppekavades: analüüs ja ettepanekud. https://www.korruptsioon.ee/sites/www.korruptsioon.ee/files/elfinder/dokumendid/raport_03.02_21_.pdf. Accessed 30 June 2025.

Tricot J (2019) France, Country part. In: Giuffrida F, Ligeti K (eds) Admissibility of OLAF Final Reports as Evidence in Criminal Proceedings. University of Luxembourg, pp 95–132. https://orbilu.uni.lu/bitstream/10993/40141/1/ADCRIM_final_report.pdf. Accessed 30 June 2025.

Turksen U et al. (2021) D3.2 – A Comparative Analysis of Tax Crimes in the European Union. WP3 – Legal and Institutional Analysis of Illicit Financial Flows in the EU. PROTAX Project, Ref. Ares(2020)3599322 - 08/07/2020.

Further Reading

Glasse M L (2021), Le Parquet européen: perspectives suisses, European Papers Vol. 6, 2021, No 1, pp 391-403.

Juridical international, https://www.juridicainternational.eu/. Accessed 30 June 2025.

Important Websites

Access to Estonian Court Decisions, Extend Law, https://legal.ee/. Accessed 30 June 2025.

Administrative Courts (OLAF-related), https://www.riigikohus.ee/en/estonian-court-system/administrative-courts. Accessed 30 June 2025.

Estonian court System, https://www.riigikohus.ee/en/estonian-court-system. Prokuratuur, https://www.prokuratuur.ee/et/kontaktid/riigiprokuratuur [contains

all information on the Estonian Prosecutor's Offices including the contact details for EDPs, etc.]

Makk M (2021) Estonian Legal System and Legal Research, January/February 2021, https://www.nyulawglobal.org/globalex/Estonia1.html. Accessed 30 June 2025.

Rilgikohus, Constitutional Judgments (in English), https://www.riigikohus.ee/en/judgements/constitutional-judgments. Accessed 30 June 2025.

Supervisory Committee of OLAF. Website. https://supervisory-committee-olaf.europa.eu/index_en. Accessed 30 June 2025.

Yearbook of Estonian Courts 2021, https://aastaraamat.riigikohus.ee/en/. Accessed 30 June 2025.

Index

access to bank accounts and registers 253
additional procedural operations 97
Administrative Cooperation Agreements 252
administrative investigations 251
amnesty 94
application of article 37 EPPO 248
arrest order 216
Art. 30 EPPO Regulation 151

case file inspection 97
Chancellor of Justice 146
charges in respect of a member of the Riigikogu 106
chief justice 58
choice of preventive measure 213
circuit courts of appeal 56
collaboration between OLAF and the EPPO 251
completion of pre-trial proceedings
– sending of criminal file 96
confidentiality of information 135
contestation of taking into custody 219
court system 56
covert activities 172
covert examination of postal items 194
Criminal Bureau of the Estonian Police and Border Guard Board 59
criminal file 96
cross-border investigative measures 206
cross-border surrender 224
Cum-ex-fraud/MTIC fraud 86

defence counsel 246
defence in EPPO proceedings 244

definition
– legal 256
deprivation of liberty 249
detention of suspect 211
district prosecutor's offices 56
documentation of surveillance activities 195
duration of covert operations 169

economic operator 253, 261
EPPO Adoption Act 57
EPPO zone 249
EPPO-collected evidence 249
equality of arms 244
Estonia's incarceration rate 209
Estonian Prosecutor's Office 56
EU administrative law 391
European Delegated Prosecutor 2, 16, 23, 31, 39, 40, 41, 42, 47, 48, 49, 50, 51, 52, 53, 54, 59, 61, 62, 67, 68, 72, 74, 80, 88, 98, 99, 116, 169, 205, 206, 208, 209, 219
European Regional Development Fund 58
external investigations of OLAF 253
extradition and surrender 224

Financial Supervision Authority 165
functions of a national prosecutor 116
functions of the police 107

granting bail 218

holding in custody

– reasons 220

interim appeal 219
international cooperation in criminal proceedings 106
investigation measures
– search(es) 155
investigative jurisdiction 105
item of physical evidence 161

legality 251
legality checks 251
locus regit actum 249

maintenance of professional secrets 135
members of the Riigikogu 145
misappropriation 55
multi-annual framework 252

ne bis in idem principle 94
Non-procurement expenditure fraud 86
non-procurement expenditure fraud. 55
Non-VAT revenue fraud 86
notification of taking into custody 217

offences in EPPO jurisdiction 57
OLAF's final report 391
OLAF's recommendations 251
on-site inspection 285, 296, 381
on-the-spot checks OLAF 391
opportunity to examine each other's evidence 244
order pre-trial detention 249

physical evidence 160
Police and Border Guard Board
– task of the 109
presented evidence 129
President of the Republic 58
presumption of legality for evidence 248
pre-trial investigations 250
pre-trial proceedings
– supervision 105
pre-trial stage
– operations if receiving the criminal file 97
preventive measure 218
principle of investigation 277
privilege of a Union official 151
procedural guarantees 391
procedural mutual trust 249
procedure for taking into custody 215
processing of personal data 172
procurement expenditure fraud 55
Procurement expenditure fraud 86
proportionality 251

reasonable suspicion of a crime 249
Regulation (EU) 2017/1939 39, 40, 41, 42, 49, 50, 51, 53, 58, 67, 68, 84, 107, 115, 116, 169, 419, 429
Regulation (EU) No 883/2013 251
report on detention of suspect 212
reports of OLAF 254
resistance to the actions of OLAF 253
revenue fraud 55
right to a fair trial 246
right to appeal 246
right to be informed of the cause of the accusation 247
right to defence 247
right to inspect the case file 245
rights of persons concerned 251

Schengen Information System 234
search order 157
search report 160

secret co-operation and covert measures 203
secret wiretapping 247
sources of criminal procedure law 244
structural funds 280
subject of proof 124, 129
Supervisory Committee 251
Supreme Court 56, 244
surveillance activities 167

Tallinn 58
Tax and Customs Board 95

UCLAF 252
urgent measures 95
use of police agents 195

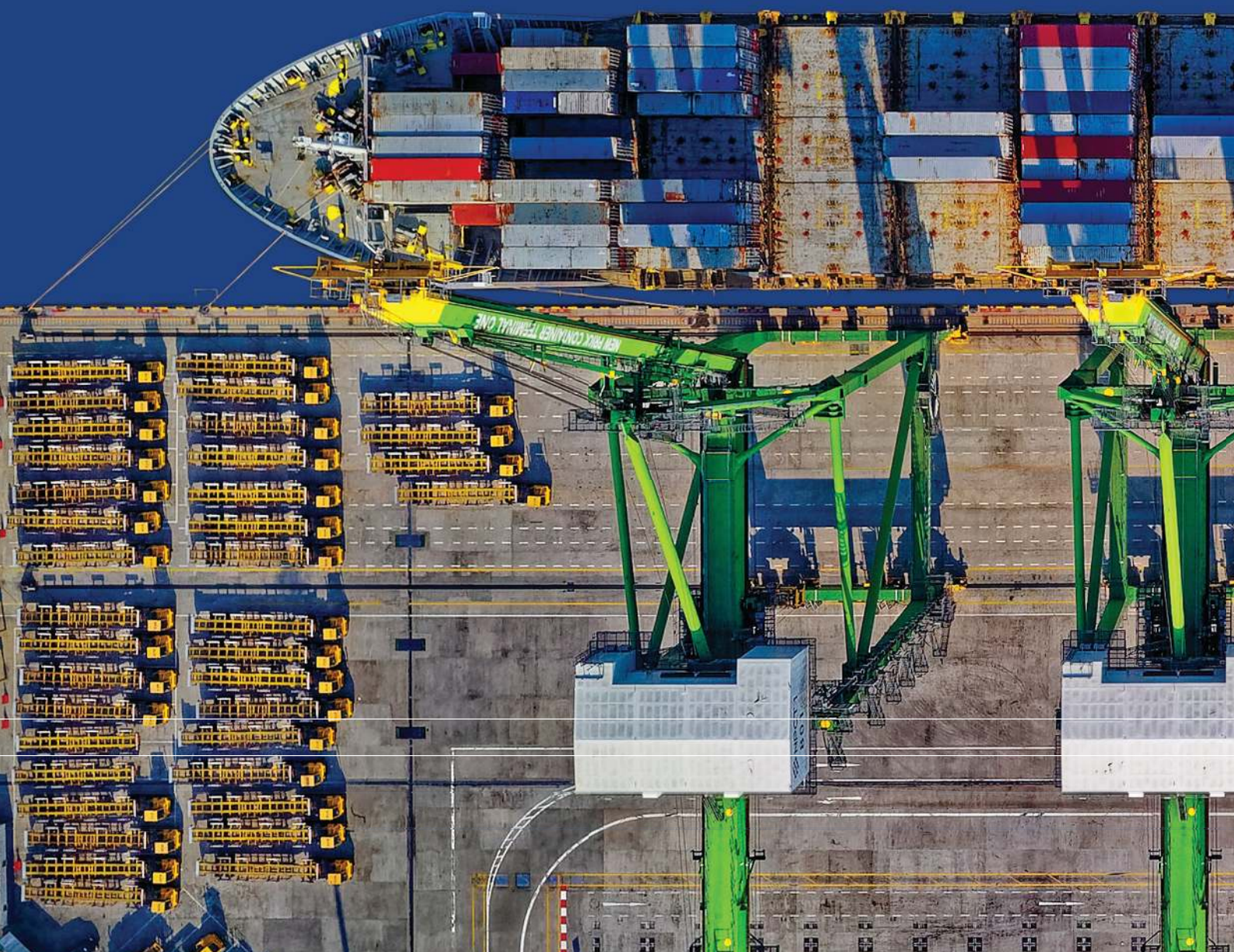
VAT revenue fraud 55, 86

Wire-tapping or covert observation of information 169

yield-rule 391

This **Estonian EPPO/OLAF volume** provides a comprehensive collection of material for EPPO/OLAF investigations, including case law, sources of law, and relevant institutions. In addition, it contains a compendium of national statutory law related to EPPO/OLAF investigations, highlighting the process of criminal investigations. Finally, it deals with OLAF investigations in Estonia, focusing on the investigation mandates of the European Anti-Fraud Office and its national partners. Prof Dr Jaan Ginter has acted as the publication's national expert.

While written in English, the volume includes footnotes that reproduce the original Estonian legislation in the local language. Easily navigable with the help of visual symbols, it is designed as a quick reference tool for academics, students, practitioners and other interested readers.

Logos Verlag Berlin

978-3-8325-6018-8