Which country's court is responsible?

Estonija

1 Should I apply to an ordinary civil court or to a specialised court (for example an employment labour court)?

Civil matters fall within the competence of county courts (*maakohus*). County courts as courts of first instance hear civil matters. Civil matters cover a wide range of areas and involve disputes arising from different contracts and obligations, family and succession matters, disputes over real rights, issues regarding the activities and management of companies and non-profit associations, bankruptcy matters and labour law issues.

In order to initiate a civil matter, a statement of claim or an application for a matter on petition must be submitted to a county court. The statement of claim to be submitted to the court must indicate the person against whom the claim is being made, what is being claimed, the factual circumstances underlying the claim, and which evidence supports which circumstances.

The conduct of proceedings in civil matters is regulated by the Code of Civil Procedure (*tsiviilkohtumenetluse seadustik*).

Although no specialised courts exist in Estonia, certain disputes can be addressed to extrajudicial committees before exercising the right of recourse to the courts.

For instance, labour disputes may be resolved by the **Labour Dispute Committee** (*töövaidluskomisjon*). The Labour Dispute Committee is an independent pre-trial body that resolves individual labour disputes. Both employees and employers have the right of recourse to the Committee whilst remaining exempt from state fees. The resolution of labour disputes by the Labour Dispute Committee is governed by the Labour Dispute Resolution Act (*töövaidluse lahendamise seadus*). Proceedings of the Labour Dispute Committee do not constitute a mandatory pre-trial procedure. A decision of the Labour Dispute Committee which has entered into force is binding on the parties. The Labour Dispute Committee may be addressed in order to resolve the following disputes arising from labour relations: 1) a labour dispute arising from the labour relation between an employee and an employer registered in Estonia, operating in Estonia through a branch or registered as a non-resident employer and from the preparation for such a labour relation (individual labour dispute); 2) a labour dispute arising from Section 7 of the Working Conditions of Employees Posted to Estonia Act between an employee posted to Estonia and their employer (individual labour dispute); 3) a collective labour dispute arising from the performance of a collective agreement (collective labour dispute). The Labour Dispute Committee does not resolve disputes over compensation for damage caused by damage to health, a bodily injury or death due to an occupational accident or occupational disease. The application submitted to the Labour Dispute Committee should set out the applicant's clearly expressed claim as well as the circumstances that are relevant to the dispute. For instance, when challenging the cancellation of an employment contract, the time of and reason for cancellation should be given. It is necessary to describe the nature of the disagreement between the parties, i.e. what the employee or the employer has failed to do or has done illegally. Any statements and claims will need to be substantiated and, for that reason, any circumstances that are supported by documentary evidence (employment contract, mutual agreements or correspondence between the employee and the employer, etc.) or any reference to other evidence and witnesses should be included. This documentary evidence, which substantiates the claim of the employee or the employer, should be enclosed with the application when it is submitted. If the applicant considers it necessary to invite a witness to the meeting, the witness's name and address should be included in the application. Claims arising from a contract between a consumer and a trader can be resolved by the **Consumer Disputes Committee** (*tarbijavaidluste komisjon*). The resolution of consumer disputes by this Committee is governed by the Consumer Protection Act (*tarbijakaitseseadus*). The Consumer Disputes Committee is competent to resolve both domestic and cross-border consumer disputes which arise from contracts between consumers and traders and which are initiated by a consumer if one of the parties to the dispute is a trader whose place of establishment is in the Republic of Estonia. The Consumer Disputes Committee is also competent to settle disputes relating to damages caused by a defective product, provided that a loss can be established. If the fact that a loss has been caused is established, but the exact amount of the loss cannot be quantified (for example, in the event of a non-monetary loss or losses arising in the future), the amount of indemnity shall be determined by a court. The Committee does not settle disputes relating to the provision of non-economic services of general interest, educational services provided by legal persons governed by public law, health care services provided to patients by healthcare professionals for the evaluation, preservation or restoration of their health, or the prescription, issuing or supplying of medicines and medical devices. Nor does the Committee resolve a dispute if the claim arises from an event of death, bodily injury or damage to health, or disputes for which the resolution procedure is prescribed by other Acts. Such disputes are settled by a competent institution or by a court. Proceedings of the Consumer Disputes Committee do not constitute a mandatory pre-trial procedure and the resolution of a dispute does not result in a decision subject to compulsory enforcement in enforcement proceedings. A list of the traders who have failed to comply with the decisions of the Committee is published on the website of the Consumer Protection and Technical Regulatory Authority. If the parties do not consent to the decision of the Committee or fail to comply therewith, they may refer the same dispute to the county court for a hearing.

Lease disputes can be settled in a Lease Committee, the procedures of which are governed by the Lease Disputes Resolution Act (*üürivaidluse lahendamise seadus*). A Lease Committee may be formed as an independent body of a local authority which resolves lease disputes. Lease Committees do not resolve disputes involving financial claims exceeding EUR 3 200. Proceedings of the Lease Committee do not constitute a mandatory pre-trial procedure. After entry into force of a decision of the Lease Committee, the parties may not file the same claim on the same basis with a court and a decision of the Lease Committee which has entered into force is binding on the parties.

2 Where the ordinary civil courts have jurisdiction (i.e. these are the courts which have responsibility for such cases) how can I find out which one I should apply to?

In order to know which court is competent to hear a matter, it is important to know the principles of jurisdiction. Jurisdiction is divided into three areas: 1) general jurisdiction, which depends on the place of residence of the person; 2) optional jurisdiction; 3) exclusive jurisdiction (see section 2.2).

2.1 Is there a distinction between lower and higher ordinary civil courts (for example district courts as lower courts and regional courts as higher courts) and if so which one is competent for my case?

Courts of lower and higher instance are different, as the Estonian court system has three instances.

County courts (*maakohus*) as courts of first instance hear all civil matters. An Act may set out that certain types of matters are to be heard only by particular county courts if this speeds up the hearing of matters or otherwise renders the process more effective.

A district court (*ringkonnakohus*) reviews decisions made in civil matters by the county courts within its territorial jurisdiction, on the basis of appeals against decisions and rulings. A district court also adjudicates other matters placed within its jurisdiction by law.

The Supreme Court (*Riigikohus*) reviews decisions made in civil matters by the district courts, on the basis of appeals in cassation and appeals against rulings. The Supreme Court also adjudicates petitions for the review of court decisions in force, in the cases provided by law, appoints a court with the appropriate competence to adjudicate a matter, and adjudicates other matters placed within its jurisdiction by law. The Supreme Court also serves as Estonia' s Constitutional Court.

A matter is first adjudicated and a judgment made by a county court as a court of first instance. If a person finds that the judgment of the court of first instance is based on a breach of a legal provision or that, in view of the circumstances and evidence which must be taken into consideration in the appeal procedure, a judgment different from the judgment made by the court of first instance should be made in the appeal procedure, they have a legal right to file an appeal with a higher court, i.e. the district court. District courts are courts of second instance and they therefore review the decisions made by county and administrative courts on the basis of appeals and appeals against rulings. A district court adjudicates civil matters collegially – an appeal is adjudicated by a panel of three judges, unless otherwise set out in law.

The Supreme Court is the highest instance. The Supreme Court reviews decisions made in civil matters by the district courts, on the basis of appeals in cassation and appeals against rulings. The Supreme Court also adjudicates petitions for the review of court decisions in force; in the cases laid down by law, appoints a court with the appropriate competence to adjudicate a matter, and adjudicates other matters placed within its jurisdiction by law. Cassation refers to the filing of an appeal against a court judgment that has not entered into force on the basis of legal issues and the review of that judgment in a higher court without re-evaluating the facts. Review of court decisions refers to the re-examination of decisions and rulings that have already entered into force, in cases where new circumstances have arisen and on the basis of an application by a participant in the proceedings.

A participant in proceedings on appeal may file an appeal against a judgment of the district court with the Supreme Court if the district court has materially violated a provision of procedural law or incorrectly applied a provision of substantive law. In an action in the Supreme Court, a participant in proceedings may perform procedural acts and file petitions and applications only through a barrister. In proceedings on petition in the Supreme Court, a participant in proceedings may perform procedural acts and file petitions and applications personally or through a lawyer. The Supreme Court accepts an appeal in cassation if the appeal in cassation conforms to the requirements of law, has been submitted in a timely manner and, if:

1) the district court has evidently applied a provision of substantive law incorrectly in its judgment and the incorrect application of such provision could have resulted in an incorrect judgment;

2) the district court has materially violated a provision of procedural law in making the judgment and this could have resulted in an incorrect judgment.

In addition, the Supreme Court accepts the matter if hearing the appeal in cassation would be of fundamental importance in respect of guaranteeing legal certainty and shaping uniform judicial practice, or for further development of the law.

2.2 Territorial jurisdiction (is the court of city/town A or of city/town B competent for my case?)

Jurisdiction is the right and obligation of a person to exercise their procedural rights before a specific court. Jurisdiction is general, optional or exclusive.

General jurisdiction establishes the court with which an action can be filed against a person and other procedural acts can be performed with respect to a person unless it is provided by law that the action must be filed or the act be performed by another court.

Optional jurisdiction establishes the court with which actions can be filed against a person and other procedural acts can be performed with respect to a person in addition to general jurisdiction. This means that, for example, an action involving a proprietary claim against a natural person can equally be filed with the court whose jurisdiction covers their longer-term place of stay. If a person resides in a foreign state, an action involving a proprietary claim can also be filed against them with the court that covers the location of the property with respect to which the claim is filed, or with the court whose jurisdiction covers the location of other property of the person.

Exclusive jurisdiction establishes the sole court which can be addressed for adjudication of a civil matter. Jurisdiction of matters on petition is exclusive unless otherwise provided by law. Exclusive jurisdiction may be determined, for example, by the location of immovable property, the place of business of a legal person, etc.

2.2.1 The basic rule of territorial jurisdiction

An action against a natural person may be filed with the court whose jurisdiction covers their place of residence, and an action against a legal person may be filed with the court whose jurisdiction covers its registered office. If the residence of a natural person is not known, an action against the person can be filed with the court whose jurisdiction covers their last known residence.

2.2.2 Exceptions to the basic rule

An action against a citizen of the Republic of Estonia living in a foreign state in respect of whom extraterritoriality applies or against a citizen of the Republic of Estonia working in a foreign state who is a civil servant can be filed with the court whose jurisdiction covers the person's last residence in Estonia. If the person has not had a residence in Estonia, an action can be filed against them with Harju County Court (*Harju Maakohus*). An action can be filed against the Republic of Estonia or a local authority with the court that covers the registered office of the state or local authority in question. If the state authority cannot be determined, the action is filed with Harju County Court. If the local authority cannot be determined, the action is filed with the court whose jurisdiction covers the seat of the rural municipality or city government.

A plaintiff can also file an action against the Republic of Estonia and a local authority with the court whose jurisdiction covers their own residence or seat.

2.2.2.1 When can I choose between the court in the place where the defendant lives (court determined by the application of the basic rule) and another court?

In the cases set out in law, a court may be chosen with which an action can be filed against a person and where other procedural acts can be performed with respect to a person in addition to general jurisdiction.

Jurisdiction based on the place of stay – an action involving a proprietary claim can be filed against a natural person also with the court whose jurisdiction covers their place of stay if the person has stayed there for a longer period of time due to an employment or service relationship, studies or for other such reason.

Jurisdiction based on the place of business – an action related to the economic or professional activities of the defendant can also be filed with the court whose jurisdiction covers its place of business.

Jurisdiction based on the registered office of a legal person – a legal person based on membership, including a company, or a member, partner or shareholder thereof can file an action arising from their membership or holding against a member, partner or shareholder of the legal person also with the court whose jurisdiction covers the registered office of the legal person.

Jurisdiction based on the location of property – if a person has a residence or registered office in a foreign state, an action involving a proprietary claim can be filed against that person with the court whose jurisdiction covers the location of the property with respect to which the claim is filed, or with the court whose jurisdiction covers the location of other property belonging to the person. If property has been entered in a public register, the action can be filed with the court whose jurisdiction covers the location of the register in which the property is registered. If the property is a claim under the law of obligations, the action can be filed with the court whose jurisdiction covers the residence or registered office of the debtor. If the claim is secured by an asset, the action can be filed with the court whose jurisdiction covers the location of the asset.

An action for the collection of a claim secured by a mortgage or encumbered with a real encumbrance or another action involving a similar claim can also be filed with the court of the location of the immovable provided that the debtor is the owner of the registered immovable which is secured by the mortgage or encumbered with the real encumbrance.
Jurisdiction of an action arising from apartment ownership – an action against an apartment owner arising from a legal relationship relating to ownership of an apartment may also be filed with the court with jurisdiction in the location of the immovable property that is the object of the apartment ownership.
Jurisdiction based on the place of performance of a contract – an action arising from a contract or an action for ascertaining the invalidity of a contract can also be filed with the court whose jurisdiction covers the place where the contested contractual obligation is to be performed. In the case of a contract for the sale of movable property, the place where the movable property was delivered or had to be delivered to the buyer and, in the case of a contract for provision of a service, the place where the service was provided or had to be provided is deemed to be the place of performance of the obligation. In other cases, the place of business or, in the absence thereof, the residence or registered office of the debtor is deemed to be the place of performance of the obligation. These provisions apply unless the parties have agreed otherwise.
Jurisdiction based on the residence of a consumer – an action arising from a contract or relationship specified in Sections 35, 46, 52, 208(4), 379, 402, 635 (4), 709, 734 and 866 of the Law of Obligations Act (*võlaõigusseadus*) or an action arising from another contract concluded with an undertaking that has a registered office or a place of business in Estonia can also be filed by a consumer with the court whose jurisdiction covers the residence of the consumer. The above does not apply to actions arising from contracts of carriage.
Jurisdiction of an action arising from an insurance contract – a policyholder, beneficiary or other person entitled to demand performance from the insurer on the basis of an insurance contract can also file an action arising from the insurance contract against the insurer with the court whose jurisdiction covers the residence or registered office of the person. In the case of liability insurance or insurance of a construction, immovable property, or movable property together with a construction or immovable property, an action can also be filed against the insurer with the court whose jurisdiction covers the place of the act or event that caused the damage, or the place where the damage was caused.
Jurisdiction of an action arising from an agreement on intellectual property rights – an action arising from an agreement on transfer of an object of copyright, related rights or industrial property rights or a licence agreement or an action for ascertainment of the invalidity of such agreement may also be filed with Harju County Court.
Jurisdiction based on the residence or place of work of an employee – an employee can also file an action arising from their employment contract with the court whose jurisdiction covers their residence or place of work.
Jurisdiction of an action arising from a bill of exchange or cheque – an action arising from a bill of exchange or cheque can also be filed with the court whose jurisdiction covers the place of payment for the bill of exchange or cheque.
Jurisdiction of an action arising from criminal damage – an action for compensation for criminal damage can also be filed with the court whose jurisdiction covers the place of the act or event that caused the damage, or the place where the damage was caused.
Jurisdiction of an action arising from a maritime claim, rescue work or a rescue contract – an action arising from one or several maritime claims specified in the Law of Maritime Property Act (*laeva asjaõigusseadus*) can also be filed with the court whose jurisdiction covers the location of the ship of the defendant or the home port of the ship. An action arising from rescue works or a rescue contract can also be filed with the court whose jurisdiction covers the place where rescue works took place.
Jurisdiction over an action for the division of an estate – an action that aims to establish the right of succession, a successor's claim against the possessor of the estate, a claim arising from a legacy or succession contract, or a claim for a compulsory portion or for division of an estate can also be filed with the court whose jurisdiction covers the bequeather's residence at the time of their death. If the bequeather was a citizen of the Republic of Estonia but at the time of death had no residence in Estonia, the action can also be filed with the court whose jurisdiction covers the bequeather's last residence in Estonia. If the bequeather had no residence in Estonia, the action can be filed with Harju County Court (*Harju Maakohus*).
Action against co-defendants and several actions against a single defendant – an action against several defendants can be filed with the court whose jurisdiction covers the residence or registered office of one co-defendant of the plaintiff's choice. If several actions are to be filed against one defendant on the basis of the same fact, all actions can be filed with the court with which an action relating to one claim or some of the claims arising from the same fact could be filed.
Jurisdiction of a counterclaim and an action by a third person with an independent claim – a counterclaim can be filed with the court with which the original action was filed provided that the conditions for filing a counterclaim are complied with and the counterclaim does not fall under exclusive jurisdiction and it is not established that matters of this type are reviewed by a certain county court only. This also applies in cases where, pursuant to general provisions, the counterclaim should be filed with a foreign court.
An action by a third party with an independent claim may be filed with the court hearing the main action.
Jurisdiction in bankruptcy proceedings – The bankruptcy petition of a debtor who is a natural person is filed with a court in accordance with the general jurisdiction applicable to the debtor. If the registered office of a debtor who is a legal person is in Harju County, the bankruptcy petition is filed with Harju County Court. In other cases, the bankruptcy petition of a debtor who is a legal person is filed with Tartu County Court (*Tartu Maakohus*). It is presumed that the registered office indicated in the register one year before the filing of a bankruptcy petition is the registered office of the debtor, unless it is proved that the registered office of the debtor is elsewhere. If several different bankruptcy petitions are filed with regard to one debtor, the petitions are joined into one procedure and heard by the court with which the first bankruptcy petition was filed. If, in connection with bankruptcy proceedings concerning a debtor who is a legal person, a declaration of bankruptcy is also requested with regard to a partner or member who is liable for the obligations of the legal person with his or her assets, the bankruptcy petition may be filed also with the court hearing the bankruptcy petition filed against the legal person. Disputes relating to the acceptance of claims, including claims governed by public law, in bankruptcy proceedings are within the competence of the county court hearing the bankruptcy matter. If a debtor dies after the filing of a bankruptcy petition, the estate bankruptcy proceedings conducted in respect of the debtor's estate will continue at the court with which the bankruptcy petition was filed in accordance with Section 4(2) of the Bankruptcy Act (*pankrotiseadus*). Upon death of a debtor, the estate bankruptcy petition in respect of the estate of the debtor is filed with the court of the debtor's place of residence at the time he or she died.
An action concerning bankruptcy proceedings or bankruptcy estate is filed with the court that declared the bankruptcy.
If a matter falls under the jurisdiction of several Estonian courts simultaneously, the petitioner has the right to choose the court with which to file the petition. In such cases, the matter is adjudicated by the court that was first to receive the petition.
If an action is filed with the court whose jurisdiction covers the residence or registered office of the defendant or with the court of exclusive jurisdiction, the matter is heard in the courthouse whose territorial jurisdiction includes the defendant's residence or registered office, or the place according to which the exclusive jurisdiction is determined. If multiple places used to determine the jurisdiction remain within the territorial jurisdiction of a single county court, but within the service areas of different courthouses, the plaintiff selects the courthouse in which the matter is to be heard. If the plaintiff fails to select it, the court determines where the matter should be heard.
More precise geographical areas and service areas of the courts are laid down in the Courts Act (*kohtute seadus*).

2.2.2.2 When do I have to choose a court other than that in the place where the defendant lives (court determined by the application of the basic rule)?

In the cases set out in law, jurisdiction is exclusive. Exclusive jurisdiction establishes the sole court which can be addressed for adjudication of a civil matter.

1) *Jurisdiction by the location of immovable property* – an action with the following objects is filed with the court whose jurisdiction covers the location of the immovable property:

claims related to recognising the existence of the right of ownership, limited real right or other real right encumbrance concerning immovable property, or recognition of the absence of such rights or encumbrances, or claims related to other rights over immovable property;

determination of the boundaries or division of immovable property;

protection of the possession of immovable property;

claims with respect to a real right arising from apartment ownership;

claims related to compulsory enforcement of immovable property;

claims arising from a lease contract or commercial lease contract concerning immovable property or other contract for the use of immovable property under the law of obligations, or from the validity of such contracts.

An action related to real servitude, real encumbrance or right of pre-emption is filed with the court whose jurisdiction covers the location of the servient or encumbered immovable property.

2) *Claim for termination of the application of standard terms* – an action for termination of the application of an unfair standard term, or for termination and withdrawal of the recommendation of the term by the person recommending application of the term (Section 45 of the Law of Obligations Act) is filed with the court whose jurisdiction covers the place of business of the defendant or, if there is none, with the court whose jurisdiction covers the residence or registered office of the defendant. If the defendant has no place of business, residence or registered office in Estonia, the action is filed with the court under whose territorial jurisdiction the standard term was applied.

3) *Jurisdiction of a matter revoking a decision of a body of a legal person, or establishing its invalidity* – an action for revoking a decision of a body of a legal person, or for establishing its invalidity is filed with the court covering the registered office of the legal person.

4) *Jurisdiction of matrimonial matters*

Matrimonial matters are considered civil matters in which actions are adjudicated where the subject is:

divorce;

annulment of marriage;

establishing the existence or absence of marriage;

division of joint property or other claims arising from the proprietary relationship between the spouses;

other claims arising from the marital relationship filed by one spouse against the other.

An Estonian court is competent to adjudicate a matrimonial matter if:

at least one of the spouses is a citizen of the Republic of Estonia or was a citizen at the time of contracting the marriage;

the residences of both spouses are in Estonia;

the residence of one spouse is in Estonia, except where the judgment to be made would clearly not be recognised in the countries of nationality of either spouse.

In a matrimonial matter to be adjudicated by an Estonian court, an action is filed with the court whose jurisdiction covers the joint residence of the spouses or, if there is none, with the court whose jurisdiction covers the residence of the defendant. If the residence of the defendant is not in Estonia, the action is filed with the court whose jurisdiction covers the residence of a common child of the parties who is a minor and, in the absence of a common child who is a minor, with the court whose jurisdiction covers the residence of the plaintiff.

If custody has been established over the property of an absent person due to the person going missing or if a guardian has been appointed to a person due to their restricted active legal capacity, or if imprisonment has been imposed on a person as punishment, a divorce action against such a person can also be filed with the court whose jurisdiction covers the residence of the plaintiff.

5) *Jurisdiction of filiation and maintenance* – a filiation matter is a civil matter where an action aiming to establish filiation or contesting an entry concerning a parent in the birth certificate of a child or in the population register is adjudicated. An Estonian court can adjudicate a filiation matter if at least one of the parties is a citizen of the Republic of Estonia or at least one of the parties has a residence in Estonia. In a filiation matter to be adjudicated by an Estonian court, the action is filed with the court whose jurisdiction covers the residence of the child. If the residence of the child is not in Estonia, the action is filed with the court whose jurisdiction covers the residence of the defendant. If the residence of the defendant is not in Estonia, the action is filed with the court whose jurisdiction covers the residence of the plaintiff.

These provisions also apply to maintenance matters. A maintenance matter is a civil matter for the adjudication of an action claiming:

performance of a maintenance obligation of a parent arising from law with respect to a minor child;

performance of a maintenance obligation between parents;

performance of a maintenance obligation between spouses;

performance of another maintenance obligation arising from law.

6. Jurisdiction of matters on petition

Jurisdiction of matters on petition is exclusive unless otherwise provided by law.

Expedited procedure for payment orders – Matters dealt with under the expedited procedure for payment orders, except for matters of European orders for payment filed on the basis of Regulation (EC) No 1896/2006 of the European Parliament and of the Council creating a European order for payment procedure (OJ L 399, 30.12.2006, p. 1–32), are adjudicated by the payment order department of Haapsalu courthouse of Pärnu County Court (*Pärnu Maakohtu Haapsalu kohtumaja*). In order to initiate the expedited procedure for payment orders with regard to a claim for support or claim for debt, the website https://www.e-toimik.ee/ may be used to contact the county court's payment order department. The expedited procedure for payment orders is not applied to claims exceeding EUR 8 000 (debt claims). This amount covers both principal and collateral claims. Similarly, the expedited procedure is not applied if the support claimed exceeds 1.5-fold the minimum rate of support provided for in Section 101(3) of the Family Act (*perekonnaseadus*). The expedited procedure for payment orders is not applied if the debtor is not indicated in the birth certificate of a child as a parent of that child.

Declaration of a person as dead and establishment of the time of death – an Estonian court may declare a person as dead and establish the time of his or her death if: 1) at the time the missing person was last heard of, he or she was a citizen of the Republic of Estonia or had residence in Estonia at such time; 2) another legal interest exists for an Estonian court to declare the person dead or establish the time of his or her death.

A petition for declaring a person dead and establishing the time of his or her death is filed with the court of the last residence of the missing person. If a person has gone missing in connection with a shipwreck registered in Estonia, the petition is filed with the court of the home port of the ship. In other cases, a

petition for declaring a person dead or establishing the time of his or her death is filed with the court of the residence or registered office of the petitioner. If the residence or registered office of the petitioner is not in Estonia, the petition is filed with Harju County Court. A petition for amendment of the time of death or annulment of a declaration of death is filed with the court which established the time of death or declared the person dead.

Guardianship matters – a guardianship matter is a matter related to the appointment of a guardian for a person or another matter related to guardianship. An Estonian court may adjudicate a guardianship matter if: 1) the person in need of guardianship or the person under guardianship is a citizen of the Republic of Estonia, or his or her residence is in Estonia; 2) the person in need of guardianship or the person under guardianship needs the protection of an Estonian court for another reason, including cases where the property of the person is located in Estonia.

A guardian need not be appointed in Estonia if an Estonian court and a court of a foreign state are equally competent to establish guardianship and a guardian has already been appointed in a foreign state or a foreign court is conducting proceedings for appointment of guardianship, provided that the decision of the foreign court can be presumed to be recognised in Estonia and not appointing a guardian in Estonia is in the interests of the person in need of guardianship.

A guardianship matter is adjudicated by the court of the residence of the person in need of guardianship. Appointment of a guardian for a child before the birth of the child is adjudicated by the court of the residence of the mother. If establishment of guardianship is sought for brothers or sisters who are residing or staying within the territorial jurisdiction of several courts, the guardian is appointed by the court of the residence of the youngest child. If, in such a case, guardianship proceedings are already pending before a court, the guardianship matter is adjudicated by that court. If a person in need of guardianship has no residence in Estonia or if the residence cannot be established, the matter can be adjudicated by the court in whose territorial jurisdiction the person or his or her property is in need of protection, or by Harju County Court. A matter relating to a person under guardianship or his or her property is adjudicated by the court that appointed the guardian. Such matter can also be adjudicated, with good reason, by the court of the residence of the person under guardianship or the court of the location of the property of such person.

Placing of a person in a closed institution – the matter of placing a person in a closed institution is adjudicated by the court that appointed the guardian for the person or the court conducting proceedings in the matter of guardianship. In other cases, such matters are adjudicated by the court within whose territorial jurisdiction the closed institution is located. The matter can also be adjudicated by the court that applied provisional legal protection.

Provisional legal protection in the case may be applied by any court within whose territorial jurisdiction the relevant measure must be applied. Other matters related to placement of a person in a closed institution, including matters of suspension or termination of placement of a person in a closed institution and matters of changes to the term of placement, are adjudicated by the court that decided the placement of the person in a closed institution.

Establishment of custody over the property of an absent person – the matter of establishment of custody over the property of an absent person is adjudicated by the court of the residence of the absent person. If an absent person has no residence in Estonia, the matter of establishment of custody over the property of the absent person is adjudicated by the court of the location of the property for which custody is sought. Other matters related to establishment of custody over the property of an absent person, including matters of termination of custody and change of the administrator and duties thereof, are adjudicated by the court that appointed the administrator.

Adoption – a matter of adoption can be adjudicated by an Estonian court if the adoptive parent, one of the spouses wishing to adopt, or the child, is a citizen of the Republic of Estonia or the residence of the adoptive parent, one of the spouses wishing to adopt or the child is in Estonia. A petition for adoption is filed with the court of the residence of the adoptive child. If the adoptive child has no residence in the Republic of Estonia, the petition is filed with Harju County Court. A matter of declaring an adoption invalid is adjudicated by the court which decided on the adoption.

Extension of the active legal capacity of a minor – the matter of extension of the active legal capacity of a minor can be adjudicated by an Estonian court if the minor is a citizen of the Republic of Estonia or his or her residence is in Estonia. A petition for extension of the active legal capacity of a minor or a petition for annulment of a decision to extend the active legal capacity of a minor is filed with the court of the residence of the minor. If the minor has no residence in the Republic of Estonia, the petition is filed with Harju County Court.

Establishment of filiation and contestation of an entry concerning a parent after the death of a person – if a person seeks establishment of his or her filiation to a person who is dead or a person contests an entry concerning a parent in the birth registration of a child or in the population register after the death of the person entered in the birth registration or in the population register as a parent, a petition to such effect is filed with the court of the last residence of the person the establishment of filiation to whom is sought or concerning whom the entry in the birth registration or in the population register is contested. If the last known residence of the person was not in Estonia or if the residence is unknown, the petition is filed with Harju County Court.

Other family matters on petition – the provisions concerning guardianship matters apply to other family matters on petition, unless otherwise provided by law or dictated by the nature of the matter. A matter on petition relating to the legal relationship between spouses or divorced spouses is adjudicated by the court of the territorial jurisdiction of the common residence of the spouses or of the last common residence of the spouses. If the spouses have had no common residence in Estonia or if neither of the spouses currently has a residence within the jurisdiction of the court of their last common residence, the matter is adjudicated by the court of the residence of the spouse whose rights would be restricted by the requested ruling. If the residence of that spouse is not in Estonia or the residence cannot be established, the matter is adjudicated by the court of the residence of the petitioner. If jurisdiction cannot be determined, the matter is adjudicated by Harju County Court. Provisional legal protection in a family matter on petition may be applied by any court within whose territorial jurisdiction the relevant measure must be applied.

Application of estate management measures – an Estonian court may apply management measures to an estate located in Estonia regardless of the state whose law is applicable to succession and the state whose authority or official is competent by general jurisdiction to conduct proceedings concerning the estate. Estate management measures are applied by the court of the location of the opening of the succession. If a succession procedure opens in a foreign state and the estate is located in Estonia, estate management measures can be applied by the court of the location of the estate.

Jurisdiction of calling matters – a petition for declaration of a security invalid is filed with the court of the place of redemption of the security and, in the absence of the place of redemption, in accordance with general jurisdiction as applicable to the issuer of the security. A petition for initiation of calling proceedings for preclusion of the rights of the owner of an immovable is filed by the possessor of the immovable pursuant to the provisions of Section 124 of the Law of Property Act (*asjaõigusseadus*) with the court within the territorial jurisdiction of which the immovable is located. In the case provided by Section 13 of the Law of Maritime Property Act, the entitled person files a petition for initiation of calling proceedings for the preclusion of the rights of the owner of a ship with Harju County Court. A petition for initiation of calling proceedings for preclusion of the rights of an unknown mortgagee (Section 331 of the Law of Property Act) is filed by the owner of the encumbered immovable with the court within the territorial jurisdiction of which the encumbered immovable is located. A petition for preclusion of the rights of an unknown maritime mortgagee or pledgee is filed by the owner of the encumbered ship or the owner of the pledged object encumbered with a registered security over movables pursuant to Section 59 of the Law of Maritime Property Act with Harju County Court.

Jurisdiction in matters on petition relating to legal persons in private law – matters, other than registry matters, on petition, which are related to the activities of a company, non-profit association and foundation, including matters related to the appointment of a substitute member of the management board or supervisory board, auditor, auditor for a special audit, and liquidator, as well as matters related to the determination of the amount of compensation to the partners or shareholders of a company are adjudicated by the court of the registered office of the legal person or the branch of a foreign company.
Apartment ownership and common ownership matters – a matter on petition related to apartment ownership or common ownership is adjudicated by the court of the location of the immovable.
Matters of access to a public road and of tolerating artificial recipients of land improvement systems, and of utility works – matters of access to a public road and of tolerating artificial recipients of land improvement systems, and of utility works, are adjudicated by the court of the location of the immovable from which access to a public road is sought or for which the building of an artificial recipient of a land improvement system is sought or on which the utility works is located.
Matters of recognition, declaration of enforceability and enforcement of decisions of courts of foreign states – a petition for recognition and declaration of enforceability of a decision of a court of a foreign state, a petition for refusal to recognise or enforce or for suspension of enforcement or another petition in enforcement proceedings is filed according to the residence or registered office of the debtor, or with the court within whose territorial jurisdiction the conduct of enforcement proceedings is sought, unless otherwise provided by law or an international agreement.
Matters of declaring a settlement agreement reached as a result of conciliation proceedings enforceable – a settlement agreement reached as a result of the conciliation proceedings specified in Section 14 (1) of the Conciliation Act (*lepitusseadus*) is declared enforceable by the court within the territorial jurisdiction of which the conciliation proceedings were conducted.
Matters of recognition and declaration of enforceability of decisions of arbitration tribunals – petitions for recognition and declaration of enforceability of decisions of arbitration tribunals made in Estonia or decisions of arbitration tribunals of foreign states and petitions for refusal to recognise or enforce these are filed with Pärnu County Court (*Pärnu Maakohus*). A petition for suspension of enforcement of a decision of an arbitral tribunal of a foreign state or another petition in enforcement proceedings is filed according to the residence or registered office of the debtor, or with the court within whose territorial jurisdiction the conduct of enforcement proceedings is sought, unless otherwise provided by law or an international agreement. If one of the parties to an agreement in an arbitration proceeding is a consumer, a petition for recognition and declaration of enforceability of the arbitration decision or a petition for refusal to recognise or enforce the arbitration decision is filed with the court of the territorial jurisdiction of the place of the arbitration proceeding.
Matters on petition are heard in the courthouse whose territorial jurisdiction includes the place used to determine jurisdiction. If different places determining jurisdiction remain within the territorial jurisdiction of a single county court, but within the service areas of different courthouses, the court determines where the matter should be heard.
More precise geographical areas and service areas of the courts are laid down in the Courts Act.

2.2.2.3 Can the parties themselves attribute jurisdiction to a court that would not be competent otherwise?

A court may also consider a matter according to jurisdiction in cases where the jurisdiction of this court is prescribed by an agreement between the parties and the dispute relates to the economic or professional activities of both parties, or the dispute relates to the economic or professional activities of one party and the other party is the state, a local authority or another legal person in public law, or if both of the parties are legal persons in public law.
An agreement on jurisdiction may also be entered into if the residence or registered office of one or both of the parties is not in Estonia.
Notwithstanding the foregoing, an agreement on jurisdiction also applies if:
1) such an agreement was reached after the dispute arose;
2) jurisdiction was agreed upon in a case in which the defendant settles in, or transfers the place of business or registered office thereof to a foreign state after entry into the agreement, or if the residence, place of business or registered office of the defendant is not known at the time when the action is filed.
Jurisdiction determined by agreement is exclusive jurisdiction, unless the parties have agreed otherwise.
The court of first instance may, by a ruling, refer the matter to another court of first instance if the parties submit a joint petition to such effect before the first court session or, in written procedure, before the expiry of the period for submission of positions.

3 Where specialised courts have jurisdiction how can I find out which one I have to address?

No specialised courts exist in Estonia.

Related links

Court system

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