COMPARATIVE STUDY OF “RESIDUAL JURISDICTION” IN CIVIL AND COMMERCIAL DISPUTES IN THE EU
NATIONAL REPORT FOR:

ESTONIA

PREPARED BY:

LIINA LINSI, LIINA NAABER
LEPIK & LUHAÄÄR LAWIN
Dunkri 7
10123 Tallinn
Estonia
(A) General Structure of National Jurisdictional Rules for Cross-Border Disputes

1. Main legal Sources

The main legal source of the rules of jurisdiction in civil and commercial matters concerning the cross-border disputes in Estonia is the Code of Civil Procedure, plus four treaties regulating the question of jurisdiction: the Agreement between the Republic of Latvia, the Republic of Estonia and the Republic of Lithuania on Legal Assistance and Legal Relationships; the Agreement between Estonia and Poland on Granting Legal Aid and Legal Relations on Civil, Labor and Criminal Matters; the Agreement on legal assistance and legal relationships in civil, family and criminal matters between the Republic of Estonia and Russian Federation; the Agreement between Ukraine and the Republic of Estonia on Mutual Legal Assistance in Civil and Criminal Matters.

Case law is not considered to be a legal source in Estonian legal system but it is widely common practice that the rulings of the Supreme Court are followed as guidelines in the interpretation of the legal acts.

a) In the event the rules are based on statutes, treaties or court rules, please state the exact reference to those rules and reproduce in annex the full text of the rules in one of their official language (in PDF or Word formats), with a translation into English or French of the most basic rules (for those rules which are not drafted originally in one of those languages);

We have annexed the full text of the Code of Civil Procedure and the translation of the sections concerning the rules of jurisdiction.

2. Specific Rules (or Not) for Transnational Disputes

The Code of Civil Procedure provides that the circumstances under which a matter can be adjudicated by an Estonian court is determined by the provisions of international jurisdiction. A matter falls under the jurisdiction of an Estonian court if an Estonian court can adjudicate the matter according to the competence and pursuant to the provisions concerning jurisdiction or based on an agreement on jurisdiction, unless otherwise provided by law or an international agreement. International jurisdiction is not exclusive unless otherwise prescribed by law or an international agreement.

The jurisdiction of a person residing in a foreign state can be determined by the location of his or her property. If a person has a residence in a foreign state, an action involving a proprietary claim may be filed against him or her with the court of the location of the property with respect to which the claim is filed or with the court of the person’s property as such. When the person’s property has been entered in a public register, the action may be filed with the court in the location of the register in which the property is registered. Should the property be a claim under the law of obligations, then the action may be filed with the court of the residence or seat of the debtor. In case the claim is secured by a property, the action may be filed with the court of the location of the property.

Otherwise the jurisdictional rules for transnational disputes are derived from those applied in internal disputes.

3. Specific Rules (or Not) for Article 4(1) Jurisdiction
There is no specific set of national rules designed to govern the jurisdiction of courts pursuant to article 4(4) of the Brussels I regulation. The provisions of the Code of Civil Procedure concerning international jurisdiction apply upon determination of the jurisdiction between the courts of the Member States of the European Union only to the extent in which this is not regulated by Council Regulation 44/2001/EC on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.

4. Influence of EU Law

The new Code of Civil Procedure is drafted in the light of Brussels I Regulation.

5. Impact of Other Sources of Law

There is some impact of other sources of law on the application of national jurisdictional rules in Estonia. National jurisdictional rules are implicated by human right principles, such as the principle of non-discrimination, and The Constitution of the Republic of Estonia.

6. Other Specific Features

There are not any other specific features in Estonia with respect to the jurisdiction of Estonian courts in cross-border disputes.

7. Reform

There is not any proposed changed currently contemplated in Estonia for the rules of jurisdiction applicable in cross-border cases because the new Code of Civil Procedure drafted in the light of Brussels I Regulation entered into force on the 1st of January 2006

(B) Bilateral and Multilateral Conventions

8. Conventions with Third States

We have two bilateral conventions between our country and third countries that include jurisdictional rules: the Agreement on legal assistance and legal relationships in civil, family and criminal matters between the Republic of Estonia and Russian Federation; and the Agreement between Ukraine and the Republic of Estonia on Mutual Legal Assistance in Civil and Criminal Matters.

9. Practical Impact of International conventions with third states

These agreements establish, through jurisdiction, the law applicable in a given matter. It is typical that a competent authority applies the law of its state, although in some cases the agreements provide that the courts of the contracting state, the laws of which are applicable in a given matter, are competent in legal relationships. For example, Article 32 of the Legal Assistance Agreement of Estonia and Russia establishes that the courts of the contracting state whose laws are applicable in a given matter are competent to make decisions in the legal relationships specified in Articles 29-31.

(C) Applicable National Rules Pursuant to Article 4 of Brussels I Regulation
10. Structure

The *Code of Civil Procedure* provides that the jurisdiction can be 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. Under general jurisdiction there is jurisdiction over natural and legal persons, referring also to citizens of the Republic, jurisdiction over citizens of Republic of Estonia residing in foreign state, jurisdiction over Republic of Estonia and local governments, jurisdiction in bankruptcy proceedings.

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. Under optional jurisdiction there is jurisdiction by place of stay, jurisdiction by place of business, jurisdiction by seat of legal person, jurisdiction of person residing in foreign state by location of property, jurisdiction of action involving claim secured by mortgage or encumbered with real encumbrance, jurisdiction of action arising from apartment ownership, jurisdiction by place of performance of contract, jurisdiction by residence of consumer, jurisdiction of action arising from insurance contract, jurisdiction by residence or place of employment of an employee, jurisdiction of action arising from bill of exchange or draft, jurisdiction of action arising from damage, jurisdiction of action arising from maritime claim, rescue work or rescue contract, jurisdiction over action for division of estate, action against co-defendant and several actions against same defendant, jurisdiction of counterclaim and action by third person with independent claim.

Exclusive jurisdiction establishes the sole court which will be addressed for adjudication of a civil matter. Jurisdiction in matters on petition is exclusive unless otherwise provided by law. Under exclusive jurisdiction there is jurisdiction by location of immovable, claim for termination of application of standard terms, jurisdiction of matter of revocation of decision of body of legal person or establishment of invalidity thereof, jurisdiction of matrimonial matters, jurisdiction of filiation matters and maintenance matters.

There is also Jurisdiction of Matters on Petition, under which there are expedited procedure in matters of payment order, declaration of person dead and establishment of time of death of person, guardianship matters, placing of person in closed institution, establishment of custody over property of absent person, adoption, extension of active legal capacity of minor, establishment of filiation and contestation of an entry concerning parent after the death of the alleged parent, other family matters on petition, application of estate management measures, jurisdiction of registry matters and other matters on petition relating to legal persons in private law, property law matters, matters of recognition or enforcement of decisions of courts and arbitral tribunals of foreign countries.
11. General jurisdiction

An action against a natural person can be filed with the court of his or her residence and an action against a legal person can be filed with the court of its seat. If the residence of a natural person is not known, an action against the person can be filed with the court of his or her last known residence (Article 79 of the Code of Civil Procedure).

12. Specific Rules of Jurisdiction

a) Contract

An action arising from a contract or an action in the claim of establishment of the nullity of a contract may be filed also with the court of the place of performance of the contested contractual obligation. In the case of a contract for the sale of a movable, the place where the movable 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 seat of the debtor is deemed to be the place of performance of the obligation. The provisions apply in so far as the parties have not agreed otherwise (Article 79 of the Code of Civil Procedure).

An action involving a proprietary claim against a natural person may be filed also with the court of his or her place of stay if the person has stayed in such place for a longer period of time due to an employment or service relationship, studies or for other such reason (Article 83 of the Code of Civil Procedure).

An action related to the economic or professional activities of the defendant may be filed also with the court of the place of business thereof (Article 84 of the Code of Civil Procedure).

If a person has residence in a foreign state, an action involving a proprietary claim may be filed against him or her with the court of the location of his or her property with respect to which the claim is filed or with the court of the location of the person’s other property. When the person’s property has been entered in a public register, the action may be filed with the court of the register in which the property is registered. If the property is a claim under the law of obligations, the action may be filed with the court of the residence or seat of the debtor. If the claim is secured by a property, the action may be filed with the court of the location of the property (Article 86 of the Code of Civil Procedure).

A claim arising from a residential or commercial lease contract concerning an immovable or other contract for the use of an immovable under the law of obligations, or from the validity of such contracts must be filed with the court of the location of the immovable (Article 99 of the Code of Civil Procedure).

b) Tort

An action for compensation for damage may be filed also with the court of the place of performance of the act or occurrence of the event which caused the damage (Article 94 of the Code of Civil Procedure).

c) Criminal Proceedings
There is no specific ground of jurisdiction as regards civil claims or restitution which is based on an act giving rise to criminal proceedings. There is a possibility to file the claim already in the criminal proceedings but should the matter be more complicated then the claim must be filed with the civil court under the general jurisdiction.

**d) Secondary Establishment**

There is no specific ground of jurisdiction that allows to bring a claim against a defendant domiciled in a non-EU State on the basis that such defendant has an establishment (or a branch or agency) in Estonia, but an action related to the economic or professional activities of the defendant may be filed also with the court of the place of business thereof (Article 84 of the Code of Civil Procedure). The place of business of a person is the place where the permanent and continuous economic or professional activity of the person is carried out. The action must be related to the economic or professional activities of the defendant.

**e) Trust**

There is not any specific ground of jurisdiction for trusts in actions brought against defendant domiciled in non-EU States. Estonian legal system does not regulate trusts.

**f) Arrest and/or location of Property**

An action with a claim related to the seizure of an immovable will be filed with the court of the location of the immovable (Article 99 of the Code of Civil Procedure).

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 may 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 (Article 87 of the Code of Civil Procedure).

**13. Protective Rules of Jurisdiction**

**a) Consumer Contracts**

(i) **Claim from EU Consumer against Non-EU defendant**

A consumer may file an action arising from a consumer contract or relationship or an action arising from another contract concluded with an operator who has a residence or place of business in Estonia also with the court of the residence of the consumer. The above does not apply to actions arising from contracts of carriage (Article 90 of the Code of Civil Procedure).
(ii) Claim from EU professional against Non-EU Consumer

There are not any protective rules of jurisdiction that apply to a professional domiciled in the EU to bring a claim before courts against a consumer domiciled in a non-EU state in Estonia but the a claim can be brought before Estonian court by place of performance of contract.

An action arising from a contract or an action for the establishment of the invalidity of a contract may be filed also with the court of the place of performance of the contested contractual obligation (Article 89 of the Code of Civil Procedure).

In case of a contract for the sale of a movable, the place of performance of the obligation is deemed to be the place where the movable was delivered or had to be delivered to the buyer and, in case of a contract for provision of a service, the place of performance of the obligation is deemed to be the place where the service was provided or had to be provided. In other cases, the place of business or in the absence thereof, the residence or seat of the debtor is deemed to be the place of performance of the obligation. The provisions apply in so far as the parties have not agreed otherwise (Article 89 of the Code of Civil Procedure).

b) Individual Employment Contracts

(i) Claim against a Non-EU employer

An employee may file an action arising from his or her employment contract also with the court of his or her residence or place of work(Article 92 of the Code of Civil Procedure).

(ii) Claim against a Non-EU employee

There are not any protective rules of jurisdiction that apply to an employer to bring a claim before courts against an employee domiciled in a non-EU state in Estonia, so the general rules of jurisdiction are applied.

c) Insurance Contract

(i) Claim against a Non-EU insurer

Policyholder, beneficiary or other person entitled to demand performance from the insurer on the basis of an insurance contract may file an action arising from the insurance contract against the insurer also with the court of such person’s general jurisdiction. In the case of liability insurance, or insurance of a construction works, immovable or movables together with a construction works or immovable, an action may be filed against the insurer also with the court of the place where the act or event which caused the damage was performed or occurred (Article 91 of the Code of Civil Procedure).

(ii) Claim against a Non-EU insured, policyholder or beneficiary

There are not any protective rules of jurisdiction that apply to an insurer to bring a claim before courts against an insured, policyholder or beneficiary domiciled in a non-EU state in Estonia, this matter is subject to general rules of jurisdiction.

d) Distribution Contracts
There are not any protective rules of jurisdiction that apply to distribution contracts and the general rules of jurisdiction are applied.

*e) Protective Rules in Other Matters*

There are matters like jurisdiction of action arising from maritime claim, rescue work or rescue contract and jurisdiction over action for division of estate which are subject to protective rules of jurisdictions. The maritime claims may be filed with the court of the location where the defendant’s ship has been registered or the home port of the ship (Article 95 of the Code of Civil Procedure). The actions with the claims concerning rescue works may be filed with the court of the location of the rescue works (Article 95 of the Code of Civil Procedure). In case of the actions with the claims of the division of the estate the general rules applicable at the time of the testator’s death may be applied (Article 96 of the Code of Civil Procedure).

14. Rules for the Consolidation of Claims

*a) Co-Defendants*

An action against several defendants may be filed with the court of the residence or seat of one defendant of the plaintiff’s choice (Article 97 of the Code of Civil Procedure).

*b) Third Party Proceedings*

A party of the court proceedings, who in case of adjudication of a court action against him, has a right to file a claim against a third party arising from circumstances which the party of the proceedings considers to be a breach of contract, for compensation of damage or for release from the obligation to pay damages, may file a petition to involve the third party. Besides that, a party of the court proceedings, who has a reason to presume that a third party will file a previously mentioned claim against that party, may file a petition to involve the third party to the proceedings (Article 216 of the Code of Civil Procedure). The third party is not considered to be a plaintiff nor a defendant in the proceedings but the resolution and the established facts in the ruling are binding for the parties in the future proceedings between the parties.

*c) Counter Claims*

A counterclaim may be filed with the court with which the action was filed, provided that the conditions for filing a counterclaim are complied with and the counterclaim does not fall under exclusive jurisdiction. The above also applies in cases where pursuant to general provisions, the counterclaim should be filed with a court of a foreign state (Article 98 of the Code of Civil Procedure).
d) Related Claims

If several claims of the same type which involve the same parties, or which are filed by one plaintiff against different defendants or by several plaintiffs against the same defendant are subject to concurrent court proceedings, the court may join such claims in one proceeding if the claims are legally related or the claims could have been filed by a single action and this allows for a more expeditious or facilitated hearing of the matter (Article 374 of the Code of Civil Procedure).

Till the end of the court proceedings it is possible for the plaintiff to involve other defendants in the proceedings, should the plaintiff find that the claim was not filed against all the persons who are parties of the disputed legal relationship.

e) Any Problems Pertaining to Lack of Harmonisation

We are not aware of any problems in practice pertaining to lack of harmonization..

15. Exorbitant jurisdiction

There is one rule of jurisdiction listed in annex 1 of the Brussels I regulation. Article 139 (jurisdiction of court at choice of plaintiff) paragraph 2 of the Code of Civil Procedure stipulates that an action against a defendant whose residence is not in Estonia may be filed with the court of the location of his or her property or with the court of his or her last known residence in Estonia.

The Code of Civil Procedure with the above mentioned article has been repealed and a new Code of Civil procedure drafted in the light of Brussels I Regulation has been adopted.

Similar regulation is in the new Code of Civil Procedure in Article 86 paragraph 1 which stipulates that if a person has residence in a foreign state, an action involving a proprietary claim may be filed against him or her with the court of the location of the property with respect to which the claim is filed or with the court of the location of other property of the person.

If the residence of the plaintiff is in Estonia, it is easier, less costly and more convenient to file a claim with the court of the location of property (Estonia) of the defendant.

Unfortunately there is no reported or known case where Estonian courts have applied article 4(2) of the Brussels I Regulation.

16. Forum necessitatis

When a matter does not belong under the jurisdiction of an Estonian court pursuant to general provisions or such jurisdiction cannot be determined and an international agreement or the law does not provide otherwise, the matter will be adjudicated by Harju County Court if:

1) the case must be adjudicated in the Republic of Estonia pursuant to an international agreement;

2) the petitioner is a citizen of the Republic of Estonia or has a residence in Estonia, and the petitioner has no possibility to defend his or her rights in a foreign state or the petitioner cannot be expected to do so;
National report on Residual Jurisdiction
Estonia

3) the matter concerns Estonia to a significant extent due to another reason and the petitioner has no possibility to defend his or her rights in a foreign state or the petitioner cannot be expected to do so.

(D) National Jurisdiction & Enforcement of Non-EU Judgments

17. National rules of jurisdiction barring the enforcement of a non-EU judgment

The judgment of a non-EU State cannot be denied recognition or enforcement in Estonia on the basis that the courts of Estonia have exclusive jurisdiction to entertain the claim.

A court decision in a civil matter made by a foreign state other than a Member State of the European Union is subject to recognition in the Republic of Estonia. The court decision is not subject to recognition if the recognition of the decision would be clearly contrary to the essential principles of Estonian law (public order) or fundamental rights and freedoms of persons; or when the defendant or other debtor was unable to reasonably defend the rights thereof or the summons or other document initiating the proceeding was not served on time and in the requisite manner. The decision will not be recognized when the decision is in conflict with an earlier decision made in Estonia in the same matter between the same parties or if an action between the same parties has been filed with an Estonian court or the decision is in conflict with a decision of a foreign court in the same matter between the same parties which has been earlier recognized or enforced in Estonia or decision is in conflict with a decision made in a foreign state in the same matter between the same parties which has not been recognized in Estonia, provided that the earlier court decision of the foreign state is subject to recognition or enforcement in Estonia. Besides the above mentioned the court decision is not subject to recognition when the court which made the decision could not make the decision in compliance with the provisions of Estonian law regulating international jurisdiction (Article 620 of the Code of Civil Procedure).

A court decision of a foreign state will be recognized in Estonia only if the decision has entered into force pursuant to the law of the country which made the decision. This rule is not applied when pursuant to law or an international agreement such decision is subject to recognition and execution as of the time the decision can be enforced in the country of the location of the court which made the decision (Article 620 of the Code of Civil Procedure).

(E) Declining Jurisdiction

18. Forum Non Conveniens

If an action with the same content between the same parties has been accepted by a court of a foreign state correctly by jurisdiction before the matter was accepted by an Estonian court, the Estonian court will accept the action provided that the other conditions for acceptance of the matter are complied with but will suspend the proceedings if it is possible to presume that the court of the foreign state will make a decision within a reasonable amount of time and such decision will be recognized by the Republic of Estonia. A matter is considered to be accepted by a court of a foreign state after that court has performed the first procedural act with respect to the action. Should the court of the foreign state fail to make a decision within a reasonable amount of time or it is evident that the decision of the court of the foreign state will not be recognized in Estonia, then the Estonian court will resume the proceedings (Article 78 of the Code of Civil Procedure).
This rule applies to the court proceedings in non-EU State courts as well as the court proceedings in the EU State courts.

19. Declining Jurisdiction when the Defendant is Domiciled in a Third State

Please see question 18

20. Declining Jurisdiction When the Defendant is Domiciled in the EU

Please see question 18

(F) The Adequate Protection (or lack thereof) of EU Nationals and/or Domiciliaries through the Application of Domestic Jurisdictional Rules

21. Use of National Jurisdictional Rules to Avoid an Inadequate Protection in Non-EU Courts

There are no known cases or practices where the courts have exercised jurisdiction to avoid inadequate protection in a non-EU state.

22. Lack of Jurisdiction Under National Rules Having the Effect to Deprive EU Plaintiffs of an Adequate Protection

There are no known cases or practices where the courts have found not to have jurisdiction or have declined jurisdiction to deprive EU plaintiffs of an adequate protection.

23. Lack of Adequate Protection as a Consequence of Transfer of Domicile to or from a Third State

We are not aware of any case where there would be lack of adequate protection as a consequence of transfer of domicile in a third state.

We are not aware of any case raising the risk that EU rules and principles would be put in jeopardy because of the application of domestic jurisdictional rules.

(G) Residual Jurisdiction under the new Brussels II Regulation

25. Applicable National Rules Pursuant to article 14 of the New Brussels II Regulation (Parental Responsibility)

In guardianship proceedings there are either decided the appointment of a guardian for a person, or matters that are related to guardianship. An Estonian court is competent to adjudicate a guardianship matter if 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. An Estonian court is competent to adjudicate a guardianship matter if the person in need of guardianship or the person under guardianship needs the protection of an Estonian court due to some other reasons, including for instance the case where the property of the person is located in Estonia (Article 110 of the Code of Civil Procedure).

Guardianship does not have to be appointed in Estonia if an Estonian court or 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, but it is important that the decision of the foreign court can be presumed to be recognized in Estonia and that the failure to appoint a guardian in Estonia is in the best interests of the person whom the guardian will be appointed to. A guardianship matter will be adjudicated by the court of the residence of the person in need of guardianship. Should there be a need to appoint a guardian for a child before the child’s birth then the proceedings will be in the court of the residence of the future child’s mother. If establishment of guardianship is sought for brothers or sisters who are residing or staying within the territorial jurisdiction of several courts, the court of the residence of the youngest child will appoint the guardian. If the guardianship proceeding in such case is already conducted by a court, such court will adjudicate the guardianship matter.

Provisions of Guardianship matters of the Code of Civil Procedure apply to family matters on petition not specified in the Code of Civil Procedure, unless otherwise provided by law or dictated by the nature of the matter.

Jurisdiction of filiation matter and maintenance matter

The essence of the filiation matter is to establish filiation or to contest an entry concerning a parent in the birth registration. An Estonian court has the right to 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 and an action can be filed with the court of the residence of the child. In case the residence of the child is not in Estonia, the action shall be filed according to the general jurisdiction of the defendant. If the general jurisdiction of the defendant is not in Estonia, the action shall be filed according to the general jurisdiction of the plaintiff.
The above mentioned principles of filiation matters are applied as well to the maintenance matters. Maintenance matters are civil cases for the adjudication of actions the object of which is performance of 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 other maintenance obligation arising from law.
26. NA

27. Conventions with Third States in Matters of Parental Responsibility (and maintenance of children)

What are the international (and in particular bilateral) conventions concluded between your country and non-EU countries that include rules of jurisdiction in matters of parental responsibility (and maintenance of children)?

There are two international bilateral conventions concluded between Estonia and non-EU countries that include rules of jurisdiction in matters of parental responsibility:

1) the Agreement on legal assistance and legal relationships in civil, family and criminal matters between the Republic of Estonia and Russian Federation;

2) the Agreement between Ukraine and the Republic of Estonia on Mutual Legal Assistance in Civil and Criminal Matters.
28. Jurisdiction as a Ground for Resisting the Enforcement of non-EU Judgment in Matters of Parental Responsibility

Can the judgment of a non-EU State relating to matters of parental responsibility (for instance, a judgment giving the guardianship of a child to one of the parents) be denied recognition or enforcement in your country on the basis that the courts of your country are the only ones who have jurisdiction to entertain the matter? If so, what is (are) the ground(s) of these “exclusive” rules of jurisdiction (e.g., habitual residence of the child in your country, citizenship of one or several of the parties, etc.)

Judgment of a non-EU State relating to matters of parental responsibility can not be denied recognition or enforcement in Estonia on the basis that the Estonian courts are the only ones having jurisdiction to entertain the matter. There does not exist that kind of a jurisdiction in Estonia. Judgment of a non-EU State relating to matters of parental responsibility or any other matter that case can be denied recognition on other basis.

A court decision in a civil matter made by a foreign state other than a Member State of the European Union is subject to recognition in the Republic of Estonia, except in the case where:

1) recognition of the decision would be clearly contrary to the essential principles of Estonian law (public order) and, above all, the fundamental rights and freedoms of persons;
2) the defendant or other debtor was unable to reasonably defend the rights thereof and, above all, if the summons or other document initiating the proceeding was not served on time and in the requisite manner, unless such person had a reasonable opportunity to contest the decision and the person failed to do so within the prescribed term;
3) the decision is in conflict with an earlier decision made in Estonia in the same matter between the same parties or if an action between the same parties has been filed with an Estonian court;
4) the decision is in conflict with a decision of a foreign court in the same matter between the same parties which has been earlier recognised or enforced in Estonia;
5) the decision is in conflict with a decision made in a foreign state in the same matter between the same parties which has not been recognised in Estonia, provided that the earlier court decision of the foreign state is subject to recognition or enforcement in Estonia;
6) the court which made the decision could not make the decision in compliance with the provisions of Estonian law regulating international jurisdiction.

A court decision of a foreign state will be recognised in Estonia only if the decision has entered into force pursuant to the law of the country which made the decision unless, pursuant to law or an international agreement, such decision is subject to recognition and execution as of the time such decision can be enforced in the country of the location of the court which made the decision.