

## Public Information Act

Passed 15 November 2000

(RT<sup>1</sup> I 2000, 92, 597),

entered into force 1 January 2001,

amended by the following Acts:

12.02.2003 entered into force 01.10.2003 - RT I 2003, 26, 158;

11.02.2003 entered into force 01.07.2003 - RT I 2003, 25, 153;

19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387;

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

## Chapter 1

### General Provisions

#### § 1. Purpose of Act

The purpose of this Act is to ensure that the public and every person has the opportunity to access information intended for public use, based on the principles of a democratic and social rule of law and an open society, and to create opportunities for the public to monitor the performance of public duties.

#### § 2. Scope of application of Act

(1) This Act provides for:

- 1) the conditions of, procedure for and methods of access to public information and the bases for refusal to grant access;
- 2) restricted public information and the procedure for granting access thereto to the extent not regulated by other Acts;
- 3) the procedure for the exercise of state supervision over the organisation of access to information.

(2) This Act does not apply:

- 1) to information which is classified as a state secret;
- 2) upon granting access to public records by archival agencies pursuant to the procedure provided for in the Archives Act (RT I 1998, 36/37, 552; 1999, 16, 271; 2000, 92, 597; 2001, 88, 531; 93, 565; 2002, 53, 336; 61, 375; 63, 387; 82, 480) and on the basis thereof;

3) upon responding to petitions and memoranda pursuant to the procedure provided for in the Response to Petitions Act (RT I 1994, 51, 857; 1996, 49, 953; 2000, 49, 304; 92, 597; 2001, 58, 354) if responding requires the analysis and synthesis of the recorded information or the collection and documentation of additional information;

4) to restrictions on access to information and to special conditions for, the procedure for and methods of access if these are otherwise provided for in specific Acts or international agreements.

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

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

### § 3. Public information

(1) Public information (hereinafter information) is information which is recorded and documented in any manner and on any medium and which is obtained or created upon performance of public duties provided by law or legislation issued on the basis thereof.

(2) Access to information specified in subsection (1) of this section may be restricted pursuant to the procedure provided by law.

### § 4. Principles of granting access to public information

(1) In order to ensure democracy, to enable public interest to be met and to enable all persons to exercise their rights and freedoms and perform their obligations, holders of information are required to ensure access to the information in their possession under the conditions and pursuant to the procedure provided by law.

(2) Access to information shall be ensured for every person in the quickest and easiest manner possible.

(3) Upon granting access to information, the inviolability of the private life of persons shall be ensured.

(4) Access to information shall be granted without charge unless payment for the direct expenses relating to the release of the information is prescribed by law.

(5) Every person has the right to contest a restriction on access to information if such restriction violates the rights or freedoms of the person.

### § 5. Holders of information

(1) The following are holders of information:

1) state and local government agencies;

2) legal persons in public law;

3) legal persons in private law and natural persons under the conditions provided for in subsection (2) of this section.

(2) The obligations of holders of information extend to legal persons in private law and natural persons if the persons perform public duties pursuant to law, administrative legislation or contracts, including the provision of educational, health care, social or other public services, – with regard to information concerning the performance of their duties.

(3) The following are deemed to be equal to holders of information:

1) undertakings which have a dominant position in the market or special or exclusive rights or which are natural monopolies – with regard to information concerning the conditions and prices of the supply of goods and services and changes thereto;

2) non-profit associations, foundations and companies of which the state, a local government or a legal person in private law is a member or the founder or in which the state, a local government or a legal person in private law is a participant, – with regard to information concerning the use of funds allocated from the state or a local government budget.

## § 6. Request for information

A request for information is a request to obtain information submitted, pursuant to the procedure provided for in this Act, to a holder of information by a person making a request for information.

## § 7. Person making request for information

Each person who submits a request for information to a holder of information pursuant to the procedure provided for in this Act is a person making a request for information.

## § 8. Access to information

(1) Access to information shall be granted by a holder of information by:

1) complying with a request for information;

2) disclosing information.

(2) Disclosure of information is the grant of access to information by a holder of information pursuant to the procedure provided by law, without a person being required to make a request for information.

## Chapter 2

### Organisation of Access to Information

## § 9. Obligations of holders of information

(1) Holders of information are required to grant access to information in their possession pursuant to the procedure provided by law.

(2) Upon granting access to information, a holder of information is required:

1) to ensure access to the documents which the person making a request for information requests access to if the person making the request for information has the right to access the information;

2) to maintain records on documents in the possession thereof;

3) to disclose information subject to disclosure pursuant to the procedure provided by law;

4) to provide information to the public regularly on the performance of public duties;

5) to assist persons making requests for information;

6) to inform persons making requests for information of any valid restrictions on access to documents;

7) to ensure compliance with restrictions on access to information;

8) not to submit knowingly misleading, inaccurate or incorrect information and, in the case of doubt, is required to verify the correctness and accuracy of the information released.

#### § 10. Organisation of access to information by holders of information

(1) The head of a holder of information or a holder of information who is a natural person is responsible for the organisation, by the holder of information and pursuant to law, of access to information.

(2) A holder of information may, using an operations procedure or other documents, designate the structural units and officials or employees responsible for complying with requests for information and disclosing information, and the procedure for the internal processing of requests for information or of information subject to disclosure.

(3) If a holder of information does not establish the competence of officials or employees in complying with requests for information, each official or employee to whom a request for information is assigned for it to be complied with or to whom a request for information is submitted is responsible for complying with the request for information in a manner which meets the requirements.

(4) The head of a holder of information is responsible for the proper disclosure of information in a manner which meets the requirements unless organisation of the disclosure of information is assigned to another person by legislation.

#### § 11. Document register of agency

The document register of an agency is a digital database which is maintained by a state or local government agency or a legal person in public law in order to register documents received by the agency and prepared in the agency and to ensure access thereto.

#### § 12. Requirements for document registers

(1) The following shall be registered in a document register:

1) documents received by the agency and documents released by the agency, on the day on which the documents are received or released or on the following working day;

2) legislation prepared and signed in the agency, on the date of signature thereof;

3) contracts entered into.

(2) Accounting documents shall not be entered in a document register.

(3) At least the following information concerning received and released documents shall be entered in a document register:

1) from whom the documents are received or to whom they are released;

2) the date of receipt or release;

3) the manner in which the documents are received or released (by electronic mail, post, fax, courier or delivered in person);

4) requisite information on the documents;

5) the type of documents (petitions, memoranda, decisions, requests for information, letters, etc.);

6) restrictions on access to the documents.

(4) The term arising from law for processing or responding, the name of the structural unit responsible for the preparation of a response or the organisation of processing and the name of the official or employee who prepares the response shall also be entered in a document register concerning received documents and documents which need to be processed or responded to.

(5) The registrars of document registers shall grant access to the document registers and shall create indexes and instructions in order to facilitate the finding of documents.

## Chapter 3

### Grant of Access to Information on Basis of Requests for Information

#### Division 1

#### Making Requests for Information and Acceptance of Requests for Information for Processing

##### § 13. Manners of making requests for information

A person making a request for information shall make the request for information either:

1) orally, addressing a holder of information directly or by telephone, or

2) in writing, delivering a request for information personally or communicating it by post, fax or electronic mail.

#### § 14. Requirements applicable to requests for information

(1) A request for information shall set out the following information orally or in writing:

- 1) the given name and surname of the person making the request for information;
- 2) the name of the legal person or agency in the case of a request for information made on behalf of an agency or legal person;
- 3) the details of the person making the request for information (postal or electronic mail address, or fax or telephone number), through which the holder of information could release the information or contact the person making the request for information;
- 4) the content of the information or the type, name and content of the document requested, or the requisite information on the document known to the person making the request for information;
- 5) the manner of complying with the request for information.

(2) If a person requests information which contains sensitive or private personal data concerning him or her or third persons, the holder of information shall identify the person making the request for information.

(12.02.2003 entered into force 01.10.2003 - RT I 2003, 26, 158)

(3) A holder of information has the right to request submission of a request for information in writing if the person making the request for information is not satisfied with the information provided orally.

(4) If a state or local government official or employee requests information to perform his or her functions or duties or if a person requests personal data concerning a third person, he or she shall inform the holder of information of the basis and purpose of accessing the information.

(12.02.2003 entered into force 01.10.2003 - RT I 2003, 26, 158)

(5) A person making a request for information shall not request access to information for other purposes under the pretext of the performance of functions or duties or using his or her official position.

#### § 15. Obligation of holders of information to assist persons making requests for information

(1) Holders of information are required to clearly explain the procedure for and the conditions and manners of access to information to persons making requests for information.

(2) Officials and employees of holders of information are required to assist persons making requests for information in every way during the making of requests for information and the

identification of the information necessary for the persons making requests for information, the location of the information and the most suitable manners of access thereto.

(3) An official or employee of a holder of information who is not competent to comply with a request for information is required promptly to send the person making the request for information to an official or employee who has the corresponding competence, or promptly to communicate the request for information in writing to the specified official or employee.

(4) If a request for information does not indicate the manner or the information which the person making the request for information is requesting, the holder of information shall promptly contact the person making the request for information in order to specify the request for information.

#### § 16. Registration of requests for information

(1) A holder of information shall register a request for information on the date of receipt thereof or not later than on the working day following receipt.

(2) Information specified in subsection 14 (1) of this Act which is submitted by a person making a request for information and information concerning an employee or structural unit responsible for complying with the request for information and the due date for complying with the request for information shall be entered in the document register of a holder of information provided for in § 11 of this Act.

(3) A request for information need not be registered if:

- 1) it is anonymous;
- 2) it is made orally and promptly complied with.

#### Division 2

#### Compliance with Requests for Information and Refusal to Comply with Requests for Information

#### § 17. Manner of compliance with requests for information

(1) A holder of information shall comply with a request for information in the manner requested by the person making the request for information and shall release the information:

- 1) digitally to a transferable data medium or to an electronic mail address set out in the request for information;
- 2) as a copy or transcript of the document on paper either directly to the person making the request for information or to his or her postal address;
- 3) by fax;
- 4) orally;

5) for access at the holder of information;

6) in any other manner, taking into account the type of medium.

(2) A holder of information may refuse to comply with a request for information in a desired manner if:

1) there are no technical means therefor;

2) the type of medium does not enable compliance;

3) oral communication of the information would excessively hinder performance of the main duties of the holder of information due to the time this would take.

(3) At the request of a person making a request for information, a holder of information shall release copies of documents on paper if the type of medium and the details of the person making the request for information enable this and if the information has not been disclosed.

(4) At the request of a person making a request for information, a holder of information shall release information (including disclosed information) together with official confirmation if such confirmation is necessary in order to use the rights and freedoms and perform the obligations of the person making the request for information.

(5) Information shall be released orally only if:

1) information is requested concerning the processing of a petition, memorandum or other request submitted by the person making the request for information;

2) information is requested on whether information requested by the person making the request for information is in the possession of the holder of information.

(6) Upon compliance with a request for information orally, the person who complies with the request for information is not required to read documents aloud.

(7) In the cases provided for in subsection (2) of this section, a holder of information shall choose a suitable manner to comply with a request for information and shall, if possible, consult with the person making the request for information before complying with the request for information.

(8) If a request for information does not specify the manner for compliance requested by the person making the request for information and if it is not possible to specify the manner for compliance in consultation with the person making the request for information within the term prescribed for compliance with the request for information, the request for information shall be complied with on the basis of the details indicated therein in a manner chosen by the holder of information, and the holder of information shall, if possible, prefer the manner in which the request for information was made.

§ 18. Terms for compliance with requests for information and calculation of terms for processing



(1) A request for information shall be complied with promptly, but not later than within five working days.

(2) If a request for information cannot be complied with due to the insufficiency of the information submitted by the person making the request for information, the holder of information shall notify the person making the request for information thereof within five working days in order to specify the request for information.

(3) The terms for processing requests for information provided for in this Act shall be calculated as of the working day following registration of the requests for information.

#### § 19. Extension of terms for compliance with requests for information

If a holder of information needs to specify a request for information or if identification of the information is time-consuming, the holder of information may extend the term for compliance with the request for information for up to fifteen working days. The holder of information shall notify the person making the request for information of extension of the term together with the reasons therefor within five working days.

#### § 20. Deeming requests for information to have been complied with

A request for information is deemed to have been complied with by the holder of information who receives the request for information if:

- 1) information is communicated to the person making the request for information in a manner provided by law;
- 2) the request for information is forwarded according to competence and the person making the request for information is notified thereof;
- 3) the possibility of accessing disclosed information is explained to the person making the request for information.

#### § 21. Forwarding of requests for information according to competence

(1) If a holder of information does not possess the requested information, the holder of information shall ascertain the competent holder of information and forward the request for information promptly thereto, but not later than within five working days, and shall notify the person making the request for information thereof at the same time.

(2) It is permitted to refuse to forward a request for information made by telephone if the person making the request for information is informed of to whom the person should turn with the request for information.

(3) A holder of information who is a legal person in private law or a natural person may refuse to forward a request for information and shall in this case notify the person making the request for information promptly thereof, but not later than within five working days.

#### § 22. Directing to disclosed information

If requested information has been disclosed pursuant to the procedure provided for in this or any other Act, the holder of information may promptly, but not later than within five working days, notify the person making the request for information thereof without releasing the information and shall in this case provide the person making the request with information concerning the manner and place of access to the requested information, except in the case provided for in subsection 17 (4) of this Act.

### § 23. Refusal to comply with requests for information

(1) A holder of information shall refuse to comply with a request for information if:

- 1) restrictions on access apply to the requested information and the person making the request for information does not have the right to access the requested information;
- 2) the holder of information does not possess the requested information, does not know who possesses it, and is unable to identify the holder of the requested information;
- 3) compliance with the request for information is impossible because it is not evident from specification of the request for information which information the person making the request for information is requesting;
- 4) the person making the request for information has not paid the state fee or has not paid the expenses relating to compliance with the request for information if the state fee or other fee is prescribed by law and the holder of information has not withdrawn the claim for expenses incurred to be covered.

(2) A holder of information may refuse to comply with a request for information if:

- 1) the requested information has already been released to the person making the request for information and the person does not justify the need to obtain the information for a second time;
- 2) information requested from a natural person or a legal person in private law does not concern the performance of public duties;
- 3) compliance with the request for information would require a change in the organisation of work of the holder of information, hinder the performance of public duties imposed thereon or require unnecessarily disproportionate expenses due to the large volume of requested information;
- 4) the request for information cannot be complied with by a single release of information;
- 5) in order to comply with the request for information, information would have to be additionally systematised and analysed and new information would have to be documented on the basis thereof. Such request for information is deemed to be a petition and shall be responded to pursuant to the procedure prescribed in the Response to Petitions Act;
- 6) the person making the request for information has been divested of active legal capacity by a court;

7) there is no address or there are no telecommunications numbers concerning the person making the request for information.

(3) On the bases provided for in subsections (1) or (2) of this section, the holder of information shall notify the person making the request for information of refusal to comply with the request for information within five working days.

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§ 24. Registration of compliance with requests for information and refusal to comply therewith

(1) Compliance with a request for information and refusal to comply therewith shall be registered in a document register, except in the cases specified in subsection 16 (3) of this Act.

(2) Upon compliance with a request for information or refusal to comply therewith, at least the following information shall be entered in a document register:

- 1) the person who complies with the request for information (the person who is responsible for compliance and who releases the information);
- 2) requisite information on the documents the copies of or extracts from which are released in order to comply with the request for information;
- 3) the date of compliance or refusal to comply;
- 4) the manner of compliance with the request for information or the grounds provided for in § 20 of this Act for deeming the request for information to have been complied with, or the grounds provided for in subsections 23 (1) or (2) of this Act upon refusal to comply therewith;
- 5) information on whether the person making the request for information has paid for the release of information or whether the holder of information has withdrawn the claim for expenses to be covered.

Division 3

Expenses relating to Compliance with Requests for Information

§ 25. Covering expenses relating to compliance with requests for information

(1) A holder of information shall cover the expenses relating to compliance with requests for information unless otherwise prescribed by law.

(2) A person making a request for information shall pay up to 3 kroons per page for copies on paper starting from the twenty-first page, unless a state fee for the release of information is prescribed by law.

(3) Holders of information shall cover the expenses relating to compliance with requests for information made by state or local government agencies.

#### § 26. Exemption from covering expenses

A holder of information may exempt a person making a request for information from covering expenses provided for in subsection 25 (2) of this Act if:

- 1) collection of the expenses is economically inefficient;
- 2) the person making the request for information needs the information for research;
- 3) the person making the request for information needs the information in order to exercise the rights and freedoms of the person or to perform obligations and if the person making the request does not have the financial capacity to cover the expenses.

#### § 27. Procedure for covering expenses

(1) A person making a request for information shall pay the holder of information before the information is released.

(2) If a state fee is prescribed for the release of information or documents, the person making a request for information shall pay the state fee pursuant to the procedure provided for in the State Fees Act (RT I 1997, 80, 1344; 2001, 55, 331; 56, 332; 64, 367; 65, 377; 85, 512; 88, 531; 91, 543; 93, 565; 2002, 1, 1; 9, 45; 13, 78; 79; 81; 18, 97; 23, 131; 24, 135; 27, 151; 153; 30, 178; 35, 214; 44, 281; 47, 297; 51, 316; 57, 358; 58, 361; 61, 375; 62, 377; 82, 477; 90, 519; 102, 599; 105, 610; 2003, 4, 20; 13, 68; 15, 84; 85; 20, 118; 21, 128; 23, 146; 25, 153; 154; 26, 156; 160) before the information is released.

(3) A holder of information is required to issue a receipt concerning the received amounts to the person making a request for information.

### Chapter 4

#### Disclosure of Information

##### Division 1

#### Information Subject to Disclosure

#### § 28. Obligation of holder of information to disclose information

(1) A holder of information is required to disclose the following existing information relating to the duties thereof:

- 1) generalised economic statistics and economic forecasts of the state and local governments;
- 2) generalised statistics relating to crime and misdemeanours;

(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

- 3) statutes of state or local government agencies and their structural units;
- 4) formats of petitions and other documents submitted to state and local government agencies and instructions for the completion thereof;
- 5) job descriptions of state and local government officials;
- 6) positions in state and local government agencies, and the given names, surnames, education, areas of specialisation, telephone numbers and electronic mail addresses of officials filling the positions prescribed in such agencies;
- 7) information concerning danger to the life, health and property of persons;
- 8) reports on work results and the performance of duties in state and local government agencies;
- 9) names and electronic mail addresses of members of the supervisory boards and management boards of legal persons in public law;
- 10) management reports and income and expense statements of legal persons in public law;
- 11) budgets and draft budgets of state agencies, local governments and local government agencies, and reports on the implementation thereof;
- 12) information concerning the receipt of state budget revenue;
- 13) information concerning the state of the environment, environmental damage and dangerous environmental impact;
- 14) precepts or decisions relating to state supervision or supervisory control as of the entry into force thereof;
- 15) draft Acts prepared by ministries and draft Government of the Republic regulations, together with explanatory memoranda, when such drafts are sent for approval or presentation to the Government of the Republic;
- 16) draft regulations of ministers and local governments together with explanatory memoranda before such drafts are presented for passage;
- 17) draft concepts, development plans, programmes and other projects of general importance before such drafts are presented to the competent bodies for approval, and the corresponding approved or adopted documents;
- 18) information concerning research and analyses ordered by state or local government agencies;
- 19) information concerning unfilled positions in state or local government agencies;
- 20) information concerning public procurements which are being organised or have been organised by the state or local governments;

- 21) information concerning the use of assets and budgetary funds which the state or a local government has transferred to legal persons in private law founded by the state or local government or with the participation thereof;
- 22) programmes of public events;
- 23) changes in the work and duties of state and local government agencies which are related to services provided for persons, not later than ten days before implementation of the changes;
- 24) information concerning the office hours of heads of state and local government agencies;
- 25) salary rates and guides valid in state and local government agencies, and the procedure for payment of additional remuneration and the grant of fringe benefits in such agencies;
- 26) information concerning the price formation of companies which have a dominant position in the market or special or exclusive rights or which are natural monopolies;
- 27) information concerning the provision of public services and concerning changes in the conditions and price of the provision of the service before implementation of such changes;
- 28) lists of the members of political parties;
- 29) court judgments which have entered into force;
- 30) information in general national registers and state registers to the extent prescribed by law;
- 31) the document register of the agency;
- 32) other information and documents concerning which the obligation to disclose is provided by an international agreement, an Act or legislation passed on the basis thereof or which the holder of information deems necessary to disclose.

(2) Upon the disclosure of information, the person who documents the disclosed information, the time the disclosed information is documented, the act (establishment, approval, registration or other official act) with which the disclosed information is documented, and the person from whom explanations concerning the disclosed information can be obtained shall be set out.

#### § 29. Manners of disclosure of information

(1) Information specified in subsection 28 (1) of this Act shall be disclosed on a web site.

(2) In addition to a web site, information specified in subsection 28 (1) of this Act may be disclosed:

- 1) by the broadcast media or in the printed press;
- 2) by displaying the document for public examination in a local government agency or public library;

3) in an official publication;

4) in any other manner prescribed by an Act or legislation passed on the basis thereof.

### § 30. Selecting manner of disclosure of information

(1) A holder of information is required to disclose information in a manner which ensures that it reaches every person who needs the information as quickly as possible.

(2) If the manner of disclosure of information is prescribed by a specific Act or an international agreement, the manner provided for in the specific Act or international agreement shall be used upon the disclosure of the information and information shall also be disclosed on a web site if such obligation arises from § 31 of this Act.

(3) A holder of information is required to disclose promptly any information concerning danger which threatens the life, health or property of persons or the environment, and shall select the quickest and most suitable manner therefor in order to avert danger and alleviate the possible consequences.

(4) State and local government agencies are required to communicate information concerning events and facts and which is in their possession to the broadcast media and the printed press for disclosure if public interest can be anticipated.

## Division 2

### Disclosure of Information in Public Data Communication Network

#### § 31. Obligation to maintain web site

(1) The Chancellery of the Riigikogu<sup>2</sup>, the Office of the President of the Republic, the Office of the Chancellor of Justice, the State Audit Office, courts, the General Staff of the Defence Forces, government agencies and legal persons in public law are required to maintain web sites for the disclosure of information.

(2) A city or rural municipality government shall organise the maintenance of a web site in order to provide details of the activities of the bodies and agencies of the city or rural municipality and to disclose information in the possession thereof. On the basis of a contract, city and rural municipality governments may organise the maintenance of a joint web site.

(3) The State Chancellery, ministries and county governments are required to take measures for the maintenance of web sites by state agencies administered by them.

#### § 32. Requirements for maintenance of web sites by state and local government agencies

(1) An agency which maintains a web site shall:

1) inform the public of the opportunity to access the web site by disclosing data communication addresses and changes thereto;

2) publish topical information on the web site;

- 3) not disclose outdated, inaccurate or misleading information on the web site;
  - 4) promptly apply measures in order to remove any technical problems which hinder access to the web site;
- (2) On its web site, a holder of information shall set out the date of disclosure of each document and when information on the web site is updated.
- (3) It shall be possible to access directly the web sites of agencies administered by the State Chancellery, ministries or county governments from the web sites of the State Chancellery, ministries or county governments.

#### § 33. Access to data communication network

Every person shall be afforded the opportunity to have free access to public information through the Internet in public libraries, pursuant to the procedure provided for in the Public Libraries Act (RT I 1998, 103, 1696; 2000, 92, 597).

### Chapter 5

#### Restricted Information

#### § 34. Restricted information

- (1) Restricted information is information to which access is restricted pursuant to the procedure established by law.
- (2) Pursuant to this Act, the head of an agency may establish a restriction on access to information and classify information as information intended for internal use.

#### § 35. Grounds for classification of information as internal

(1) A holder of information is required to classify the following as information intended for internal use:

1) information collected in criminal or misdemeanour proceedings until the case is referred to a court but not for longer than until end of the limitation period;

(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

2) information collected in the course of state supervision proceedings until the entry into force of a decision made thereon;

3) information the disclosure of which would damage the foreign relations of the state;

4) information on the armaments and location of military units and personnel of the Defence Forces, unless this information is a state secret;

5) information the disclosure of which would endanger objects protected under heritage conservation;



6) information the disclosure of which would endanger the preservation of protected areas or protected species or varieties and their habitats;

7) information including a description of security systems, security organisations or security measures;

8) information on technological solutions if disclosure of such information would damage the interests of the holder of information or if classification of such information as internal is prescribed in a contract entered into with a person in private law;

9) any other information provided by law;

(11.02.2003 entered into force 01.07.2003 - RT I 2003, 25, 153)

10) information which contains private or sensitive personal data;

(12.02.2003 entered into force 01.10.2003 - RT I 2003, 26, 158)

11) information which contains personal data if it significantly breaches the inviolability of private life of the data subject.

(12.02.2003 entered into force 01.10.2003 - RT I 2003, 26, 158)

(2) The head of a state or local government agency or a legal person in public law may classify the following as information intended for internal use:

1) draft legislation of general application before it is sent for approval or presented for passage;

2) draft administrative legislation of specific application and its accompanying documents before passage or signature of the administrative legislation;

3) in justified cases, documents addressed to persons within the agency which are not registered in the document register (opinions, notices, memoranda, certificates, advice, etc.).

#### § 36. Prohibition on classification of information as internal

(1) A holder of information who is a state or local government agency or a legal person in public law shall not classify the following as information intended for internal use:

1) results of public opinion polls;

2) generalised statistical surveys;

3) economic and social forecasts;

4) notices concerning the state of the environment;

5) reports on the work or the work-related success of the holder of information and information on the quality of the performance of duties and on managerial errors;

6) information which damages the reputation of a state or local government official, a legal person in private law performing public duties or a natural person, except sensitive or private personal data;

(12.02.2003 entered into force 01.10.2003 - RT I 2003, 26, 158)

7) information on the quality of goods and services arising from protection of the interests of consumers;

8) results of research or analyses conducted by the state or local governments or ordered thereby, unless disclosure of such information would endanger national defence or national security;

9) documents concerning the use of budgetary funds of the state, local governments or legal persons in public law and remuneration and compensation paid from the budget;

10) information concerning the proprietary obligations of the holder of information;

11) information on the property of the holder of information;

12) precepts which have entered into force and legislation which is issued by way of state supervision or supervisory control or under disciplinary procedure and information relating to punishments in force.

(2) The prohibition provided for in subsection (1) of this section also applies to:

1) non-profit associations, foundations or companies which are founded by the state, local governments or legal persons in public law or in which the state, local governments or legal persons in public law participate;

2) information pertaining to the use of funds allocated and assets transferred to legal persons in private law from the state or a local government budget.

§ 37. (Repealed - 12.02.2003 entered into force 01.10.2003 - RT I 2003, 26, 158)

§ 38. Access to information classified as internal only

(1) A holder of information shall disclose information concerning facts which arouse public interest and which are related to an offence or accident before the final clarification of the circumstances of the offence or accident to an extent which does not hinder the investigation or supervision or clarification of the reasons for the accident. The competent official who organises the investigation or supervision or who clarifies the circumstances of the accident shall decide on the extent of disclosure of such information.

(2) If the grant of access to information may cause the disclosure of restricted information, it shall be ensured that only the part of the information or document to which restrictions on access do not apply may be accessed.

(12.02.2003 entered into force 01.10.2003 - RT I 2003, 26, 158)

(3) State and local government officials have the right to access information which is classified as information intended for internal use in order to perform their duties. Such information shall not be communicated to third persons without the permission of the agency which establishes the restriction on access.

(4) The head of an agency may decide to grant access to information classified as internal to persons outside the agency if this does not damage the interests of the state or a local government.

(12.02.2003 entered into force 01.10.2003 - RT I 2003, 26, 158)

#### § 39. Access to information which contains personal data

(1) A holder of information shall grant access to personal data in its possession upon the existence of a basis provided for in the Personal Data Protection Act pursuant to the procedure provided for in this Act.

(2) A holder of information is required to maintain records concerning to whom, for what purpose, when, in which manner and which information classified as internal which contains personal data is released.

(3) In order to ascertain the truth in criminal proceedings and ensure the security of persons, a competent official conducting an investigation or state supervision may grant access to information classified as internal which contains personal data. If compliance with a restriction on access may endanger the life, health or property of other persons, the restricted information shall be promptly disclosed in a manner provided for in subsection 30 (4) of this Act.

(12.02.2003 entered into force 01.10.2003 - RT I 2003, 26, 158)

#### § 40. Terms of restrictions on access

(1) A restriction on access to information intended for internal use applies as of the preparation or receipt of the documents for as long as is necessary, but not for longer than five years. The head of an agency may extend the term by up to five years if the reason for establishment of the restriction on access continues to exist.

(12.02.2003 entered into force 01.10.2003 - RT I 2003, 26, 158)

(2) A restriction on access to documents pertaining to state supervision, supervisory control and preparation of single decisions of executive power applies until adoption of a decision unless another reason to restrict access to the information exists.

(3) A restriction on access to information classified as internal which contains private personal data applies for 75 years as of the receipt or documentation thereof or for 30 years as of the death of the person or, if it is impossible to establish death, for 110 years as of the birth of the person.

(12.02.2003 entered into force 01.10.2003 - RT I 2003, 26, 158)

#### § 41. Procedure for classification of information as internal

(1) Information shall be classified as information intended for internal use by the head of the agency.

(2) The person who prepares a document classified as information intended for internal use shall make a notation “*ASUTUSESESSEKS KASUTAMISEKS*” [“FOR INTERNAL USE”] in capital letters on the document or file of documents, if the medium enables this, or use the corresponding abbreviation *AK*. The name of the holder of information, the basis of the restriction on access, the final date for application of the restriction on access and the date on which the notation is made shall be added to the notation.

(12.02.2003 entered into force 01.10.2003 - RT I 2003, 26, 158)

#### § 42. Invalidation of restriction on access

(1) A holder of information is required to invalidate a restriction on access if the reasons for establishment thereof cease to exist.

(2) If a restriction on access to a document is invalidated, a corresponding notation shall be made on the document.

#### § 43. Protection of internal information

(1) A holder of information shall apply administrative and technical measures to ensure that information to which a restriction on access applies cannot be accessed by persons who do not have the right of access.

(2) If a restriction on access applies to a document prepared on a computer, the person who prepares the document shall verify that measures have been taken in the agency for the secure processing of data in order to restrict access.

### Chapter 6

#### Supervision

#### § 44. Supervision over compliance with this Act

Within the limits of their competence, the following shall exercise supervision over compliance with this Act:

- 1) the Data Protection Inspectorate pursuant to the procedure provided for in this Act;
- 2) a superior body or agency by way of supervisory control.

#### § 45. Supervisory competence of Data Protection Inspectorate

(1) The Data Protection Inspectorate shall exercise state supervision over holders of information during compliance with requests for information and the disclosure of information.

(2) The Data Protection Inspectorate may initiate supervision proceedings on the basis of a challenge or on its own initiative.

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

(3) Upon the exercise of supervision, the Data Protection Inspectorate shall ascertain whether:

- 1) each request for information is registered pursuant to the procedure prescribed by law;
- 2) each request for information is complied with pursuant to the procedure, within the term and in a manner prescribed by law;
- 3) refusal to comply with a particular request for information is in accordance with law;
- 4) a restriction on access to particular information is established pursuant to the procedure provided by law;
- 5) each holder of information performs the obligation to disclose information;
- 6) each holder of information performs the obligation to maintain a web site pursuant to the procedure provided by law.

§ 46. Filing of challenges and actions concerning refusal to comply with request for information or unsatisfactory compliance with request for information

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

A person whose rights provided for in this Act are violated may file a challenge with a supervisory body specified in § 44 of this Act or an action with an administrative court either personally or through a representative.

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

§ 47. Filing of challenge for initiation of state supervision proceedings

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

(1) A person who applies for the commencement of state supervision by the Data Protection Inspectorate shall file a written challenge which shall set out the following information:

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

1) the given name and surname of the person, and the name of the person in whose name the challenge is filed if the challenge is filed in the name of another person;

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

2) the postal address or telecommunications numbers of the person;

3) information on the holder of information who refuses to comply with a request for information or who does not respond to a request for information or who presented incorrect information;

4) the content of the request for information made to the holder of information;

5) the reasons why the person making the request for information considers the activities of the holder of information to be illegal;

6) the clearly expressed request of the person filing the challenge.

(12.02.2003 entered into force 01.10.2003 - RT I 2003, 26, 158)

(2) If, in the opinion of the person filing a challenge, the holder of information refused to comply with the request for information illegally or presented incorrect information, the person filing the challenge shall append a copy of the written refusal of the holder of information to comply with the request for information or the incorrect information presented by the holder of information to the challenge.

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

§ 48. (Repealed - 19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

§ 49. (Repealed - 19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

§ 50. Rights of Data Protection Inspectorate

(1) Competent officials of the Data Protection Inspectorate who exercise supervision have the right to:

1) demand explanations and documents from holders of information;

2) examine documents concerning access to information held by holders of information and internal documents to which access is restricted;

3) issue precepts to holders of information to comply with legislation;

4) (Repealed - 19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

5) make proposals to holders of information for the better organisation of access to information.

(2) The Data Protection Inspectorate shall notify the person filing the challenge, the holder of information and the superior body or agency of the holder of information of the decision on the challenge. The supervision results shall be disclosed on the web site of the Data Protection Inspectorate.

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

§ 51. Precept of Data Protection Inspectorate

(1) The Data Protection Inspectorate may issue a precept which requires a holder of information to bring its activities into accordance with law if the Inspectorate finds that the holder of information:

- 1) has refused illegally to comply with a request for information;
- 2) has not responded to a request for information within the prescribed term;
- 3) has not complied with a request for information as required;
- 4) has not processed a request for information as required;
- 5) has failed to disclose information subject to disclosure as required;
- 6) has not performed the obligation to maintain a web site as required;
- 7) has established restrictions on access to information illegally;
- 8) has failed to establish restrictions on access to information provided by law;

(12.02.2003 entered into force 01.10.2003 - RT I 2003, 26, 158)

9) has released information to which restrictions on access are established pursuant to this Act.

(2) (Repealed - 19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

#### § 52. Compliance with precepts of Data Protection Inspectorate

(1) A holder of information shall, within five working days as of receipt of a precept, take measures to comply with the precept and shall notify the Data Protection Inspectorate thereof. The Data Protection Inspectorate shall publish the notice on its web site.

(2) (Repealed - 19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

#### § 53. Application of Data Protection Inspectorate for organisation of supervisory control

(1) If a holder of information fails to comply with a precept of the Data Protection Inspectorate and does not contest it in an administrative court, the Data Protection Inspectorate shall initiate misdemeanour proceedings or the holder of information shall address a superior body or agency in order for supervisory control to be organised.

(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

(2) A body or agency exercising supervisory control is required to review an application within one month as of receipt thereof and notify the Data Protection Inspectorate of the results of supervisory control.

#### § 54. Report of Data Protection Inspectorate on compliance with this Act

(1) The Data Protection Inspectorate shall submit a report on compliance with this Act to the Constitutional Committee of the Riigikogu and to the Chancellor of Justice by 1 December each year.

(2) The report shall contain an overview of offences, the holders of information which committed the offences, challenges, precepts, misdemeanour proceedings initiated, punishments imposed, and other circumstances relating to the implementation of this Act.

(19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375; 19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

(3) Reports shall be published on the web site of the Data Protection Inspectorate.

## Chapter 6<sup>1</sup>

(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

### Liability

(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

#### § 54<sup>1</sup>. Violation of requirements for disclosure and release of public information

(1) Knowing release of incorrect public information or knowing disclosure or release of information intended for internal use or failure to comply with a precept of the Data Protection Inspectorate is punishable by a fine of up to 300 fine units.

(12.02.2003 entered into force 01.10.2003 - RT I 2003, 26, 158)

(2) The provisions of the General Part of the Penal Code (RT I 2001, 61, 364; 2002, 86, 504; 105, 612; 2003, 4, 22) and the Code of Misdemeanour Procedure (RT I 2002, 50, 313; 110, 654) apply to the misdemeanours provided for in this section.

(3) The Data Protection Inspectorate is the extra-judicial body which conducts proceedings in matters of misdemeanours provided for in this section.

(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

## Chapter 7

### Implementing Provisions

#### § 55. Access to public computer network in public libraries

The state and local governments shall ensure that there is the opportunity to access public information through the data communication network in public libraries by 2002.

#### § 56. Commencement of maintenance of web site



(1) Ministers within their area of government, and the State Secretary and county governors with respect to state agencies administered thereby shall establish schedules by 1 June 2001 for the transition to web sites which comply with the requirements of this Act.

(2) Holders of information specified in § 31 of this Act shall create a web site which complies with the requirements of this Act by 1 March 2002 at the latest.

§ 57. Bringing of procedure for access to information maintained in state and local government databases into accordance with law

The Government of the Republic, ministries and local government bodies shall bring legislation regulating the maintenance of databases into accordance with this Act and with the amendments made to the Databases Act by this Act by 1 January 2002.

§ 58. Bringing of document management procedures into accordance with this Act

(1) The Government of the Republic shall establish the bases for the document management procedures of state and local government agencies and legal persons in public law by 1 March 2001.

(2) Holders of information shall bring their document management procedures into accordance with this Act by 1 June 2001.

§ 59. Amendment of Criminal Code

Section 167<sup>3</sup> is added to the Criminal Code (RT 1992, 20, 288; RT I 1999, 38, 485; 57, 595, 597 and 598; 60, 616; 97, 859; 102, 907; 2000, 10, 55; 28, 167; 29, 173; 33, 193; 40, 247; 49, 301 and 305; 54, 351; 57, 373; 58, 376; 84, 533) worded as follows:

"§ 167<sup>3</sup>. Violation of requirements for disclosure and release of public information

The release of incorrect public information knowingly or the disclosure or release of information intended for internal use knowingly, if significant damage is thereby caused to the rights or interests of another person that are protected by law or to the public interest, is punishable by a fine or detention."

§ 60. Amendment of Response to Petitions Act

The Response to Petitions Act (RT I 1994, 51, 857; 1996, 49, 953; 2000, 49, 304; 92, 597; 2001, 58, 354) is amended as follows:

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

"(2) This Act does not apply if requests for information are complied with pursuant to the Public Information Act.";

2) clause 2 1) is amended by adding the words "and judicial" after the word "executive";

3) subsection 7 (1) is amended and worded as follows:

"(1) Memoranda and petitions shall be submitted in clearly legible written form and shall be delivered in person or by post, fax or electronic mail.”;

4) section 7 is amended by adding subsection (5) worded as follows:

"(5) Petitions and memoranda sent to electronic mail addresses need not be autographically signed but shall be signed digitally, or each petition shall set out the name and number of the identity document and the personal identification code.”

#### § 61. Amendment of Personal Data Protection Act

The Personal Data Protection Act (RT I 1996, 48, 944; 1998, 59, 941; 111, 1833; 2000, 50, 317; 92, 597; 104, 685; 2001, 50, 283; 2002, 61, 375; 63, 387) is amended as follows:

1) in clause 4 (3) 1), the word “philosophical” [*filosoofilisi*] is substituted by the word “philosophical” [*maailmavaatelisi*];

2) clause 4 (3) 4) is repealed;

3) clause 4 (3) 5) is amended and worded as follows:

"5) information collected in criminal proceedings or in other proceedings to ascertain an offence before a public court session or before a judgment is made in a matter concerning an offence, or if this is necessary in order to protect public morality or the family and private life of persons, or where the interests of a minor, a victim, a witness or justice so require.”;

4) subsection (6) is added to § 9 worded as follows:

"(6) Personal data shall be released in accordance with this Act and the Public Information Act, and pursuant to the procedure prescribed by other Acts if a special procedure for the release of a particular kind of personal data is provided therein.”

#### § 62. Amendment of Databases Act

The Databases Act (RT I 1997, 28, 423; 1998, 36/37, 552; 1999, 10, 155; 2000, 50, 317; 57, 373; 92, 597; 2001, 7, 17; 17, 77; 24, 133; 2002, 61, 375; 63, 387; 2003, 18, 107; 26, 158) is amended as follows:

1) section 21<sup>1</sup> is added to the Act worded as follows:

"§ 21<sup>1</sup>. Access to information maintained in state and local government databases

(1) Every person has the right to obtain information from state and local government databases to which access is not restricted by law.

(2) At the request of a person, the authorised processor of a state or local government database is required to release information within five working days as of receipt of a corresponding request unless another term is provided by law.

(3) Information pertaining to data protection and the technical processing of data shall not be released from a state or local government database or with regard to a database. Only processors of information and the person exercising supervision over the maintenance of the database or an investigative body have the right to access such information.

(4) Access to data processed in a state or local government database shall be ensured pursuant to the procedure, in the manner, under the conditions and within the terms provided for in the Public Information Act unless a different procedure or manner or other conditions or terms are provided by law. Access to personal data shall be granted in accordance with the Personal Data Protection Act and the Public Information Act.

(5) Databases which contain information which is important for the public shall be accessible through the public data communication network. Databases or parts thereof which are to be disclosed in this manner shall be provided for in the Act or other legislation which is the basis for establishment of the databases.”;

2) clause 40 (1) 6), clause 44 (1) 8) and clause 47 (1) 6) are repealed.

#### § 63. Amendment of State Fees Act

The State Fees Act (RT I 1997, 80, 1344; 2001, 55, 331; 56, 332; 64, 367; 65, 377; 85, 512; 88, 531; 91, 543; 93, 565; 2002, 1, 1; 9, 45; 13, 78; 79; 81; 18, 97; 23, 131; 24, 135; 27, 151; 153; 30, 178; 35, 214; 44, 281; 47, 297; 51, 316; 57, 358; 58, 361; 61, 375; 62, 377; 82, 477; 90, 519; 102, 599; 105, 610; 2003, 4, 20; 13, 68; 15, 84; 85; 20, 118; 21, 128; 23, 146; 25, 153; 154; 26, 156; 160) is amended as follows:

1) subsections 43 (1) and (3), subsections 45 (1) and (3), subsections 48 (1) and (3), subsection 57 (1), subsections 60 (1) and (3), § 61, subsection 61<sup>2</sup> (4), clause 67<sup>1</sup> (4) 1), clause 68<sup>7</sup> (3) 1) and subsection 68<sup>9</sup> (3) are repealed;

2) clause 67<sup>1</sup> (1) 1) is amended by adding the word “certified” after the words “case of a” and clause 67<sup>1</sup> (1) 2) is amended by adding the word “certified” after the words “case of”;

3) section 68<sup>1</sup> is amended by adding the word “certified” after the words “issue of a”;

4) section 68<sup>2</sup> is amended by adding the word “certified” after the words “issue of”;

5) clause 68<sup>7</sup> (1) 1) is amended by adding the word “certified” after the words “case of a” and clause 68<sup>7</sup> (1) 2) is amended by adding the word “certified” after the words “case of”;

6) subsection 89<sup>1</sup> (6) is amended by adding the word “certified” after the words “making of”.

7) subsection 98 (2) is amended by adding the word “certified” after the words “issue of”;

8) subsection 106 (1) is amended by adding the word “certified” before the word “extracts” and subsection 106 (2) is amended by adding the word “certified” before the words “copy” and “extract”;

9) section 118 is amended by adding the word “certified” after the words “transcript of a”;

10) section 130 is amended by adding the word “certified” after the word “written”;

11) section 147<sup>8</sup> is amended by adding the word “certified” after the words “release of”;

12) subsection 190<sup>2</sup> (3) is amended by adding the word "certified" after the words “making of”.

#### § 64. Amendment of Archives Act

The Archives Act (RT I 1998, 36/37, 552; 1999, 16, 271; 2000, 92, 597; 2001, 88, 531; 93, 565; 2002, 53, 336; 61, 375; 63, 387; 82, 480) is amended as follows:

1) subsection 40 (2) is amended by adding the words “, the Public Information Act” after the words “this Act”;

2) in subsection 42 (2), the words “Personal Data Protection Act (RT I 1996, 48, 944)” are substituted by the words “Personal Data Protection Act (RT I 1996, 48, 944; 1998, 59, 941; 111, 1833; 2000, 50, 317) and the Public Information Act”;

3) the words “criminal convictions or judicial punishments of a person, criminal proceedings concerning a person” are omitted from subsection 42 (3);

4) subsection 42 (7) is amended and worded as follows:

“(7) The head of an agency shall establish restrictions on access to records designated only for the internal use of the agency pursuant to the procedure provided for in the Public Information Act. Access to such information shall be granted pursuant to the procedure prescribed in the Public Information Act.”

#### § 65. Amendment of Public Libraries Act

The Public Libraries Act (RT I 1998, 103, 1696; 2000, 92, 597) is amended as follows:

1) subsection 10 (3) is amended by adding clause 4) worded as follows:

“4) in order to establish connection with the public data communication network and acquire the appropriate technical means.”;

2) the words "and granting access to public information through the public data communication network." are added to the first sentence of subsection 15 (2)”;

3) subsection (2<sup>1</sup>) is added to § 15 worded as follows:

“(2<sup>1</sup>) A person requesting information shall be given the opportunity to use a computer in order to access information available through the public data communication network, pursuant to the Public Information Act. If more persons than a library can service request access to information available through the public data communication network, the library is required to organise pre-registration for persons requesting access to information. The employees of a library are required to assist persons gain access to the web sites of state and local government agencies.”

## § 66. Amendment of Environmental Monitoring Act

Section 8 of the Environmental Monitoring Act (RT I 1999, 10, 154; 54, 583; 2000, 92, 597; 2002, 63, 387) is amended as follows:

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

"(1) Data from environmental monitoring carried out on the basis of a state or local government monitoring programme or to the extent determined by a natural resources exploitation permit or a pollution permit shall be published in the form of generalised periodicals and to the extent determined by the Minister of the Environment on the web site of the Ministry of the Environment, except in the cases specified in subsection (2) of this section."

2) subsection (6) is repealed.

## § 67. Amendment of Chancellor of Justice Act

Section 23<sup>1</sup> is added to the Chancellor of Justice Act (RT I 1999, 29, 406; 2000, 92, 597; 2001, 43, 240; 58, 353; 2002, 30, 176; 57, 357; 2003, 20, 119; 23, 142) worded as follows:

"23<sup>1</sup>. Classification of petition as information intended for internal use

At the request of a petitioner or if the Chancellor of Justice finds that a restriction on access to the petition is necessary in order to protect the rights and freedoms of persons, the Chancellor of Justice shall classify the petition and information contained therein as information intended for internal use."

## § 68. Amendment of Digital Signatures Act

Section 43 of the Digital Signatures Act (RT I 2000, 26, 150; 92, 597; 2001, 56, 338; 2002, 53, 336; 61, 375) is amended as follows:

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

"(2) The Government of the Republic shall establish uniform bases for the document management procedures of state and local government agencies and legal persons in public law by 1 March 2001 and the bases shall also enable the use of digitally signed documents in the document management of the agencies."

2) subsection (3) is amended by adding the words "and legal persons in public law" after the words "government agencies" and by substituting the words "of the agencies" by the word "thereof".

## § 69. Entry into force of Act

This Act enters into force on 1 January 2001.

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

<sup>2</sup> Riigikogu = *the parliament of Estonia*