



REPUBLIC OF ESTONIA
MINISTRY OF JUSTICE
AND DIGITAL AFFAIRS

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Acting on behalf of a client in their personal matters - digital solutions, platforms and legislation in Estonia

Dear Ms Alen,

We apologize for the delay in responding. We recommend that you contact the Ministry of the Interior (whom we include in a copy of this response) for further information. They are responsible for population activities and maintaining the population register.

Relevant laws (in English, as links)

General Data Protection Regulation and [An Act on the General Part of the Civil Code](#)
[Population Register Act](#)
[Family Law Act](#)
[Vital Statistics Registration Act](#)
[Personal Data Protection Act](#)

When is guardianship appointed for an adult?

According to Estonian law, a guardian is a legal representative appointed by a court. If an adult is permanently unable to understand their actions and their consequences due to a mental disorder (in practice, this may mean, among other things, that the person has difficulty concluding contracts, dealing with authorities or making financial transactions), the court may consider appointing a guardian for the person. Usually, the guardian is a close family member, but it can also be a local government. In order to appoint guardianship, either the parent, child, spouse or the person in need of guardianship can generally apply to the local government social worker or the court of residence with a free-form application. The appointment of guardianship is not necessary if the person's interests can be protected by granting a power of attorney, other family members or assistants.

Substantive functions of guardianship

- the guardian represents the ward, protects his property, rights and interests;
- guardianship is appointed by the court, as necessary, to manage all matters or only some activities (for example, financial transactions, marriage, acceptance of paternity or other important decisions that significantly affect the rights and obligations of a person. The areas subject to guardianship are specified in the court order);
- the guardian must ensure that the ward receives the necessary medical and social services (e.g., if the guardian is responsible for organizing care, he will take care of the documents related to the provision of necessary social services);
- the guardian's activities and the need for continuing guardianship are monitored by the court (guardianship is appointed for up to five years, because the need for guardianship may change or end) and
- the guardian submits a report to the court every year on the performance of his duties.

What problems have we observed with the movement of data after the establishment of guardianship

Guardianship data sometimes reaches the population register with a delay

However, these are rather isolated situations and this is due to the fact that courts do not submit data to the population register automatically (except for divorces).

However, the situation is expected to improve here. At the end of 2023, the Government of the Republic approved the vision of the population register, one of the tasks of which is to automate the transmission of court decisions data to the population register in order to ensure the quality of court decision data and save human resources. By the end of 2027, the necessary developments should be made for all types of court decisions and the data exchange should be functional. This will solve the problem of data reaching the population register with a delay, as they currently need to be entered manually. Work has already begun to automate court decision data, and the first thing that will be implemented is the transmission of court decisions data concerning guardianship.

Use of population register data

According to Section 6(1) and (2) of the Population Register Act, the accuracy of population register data is presumed and the performance of public tasks is based on the basic data entered in the population register. Therefore, to a certain extent, institutions are obliged to use population register data. When performing public tasks, access is guaranteed to institutions according to their needs and wishes. Data for performing public tasks is free of charge. Although private companies must pay for data, they are also guaranteed access to population register data in cases of legitimate interest and can use this data, including guardianship data. Private companies (e.g. banks) are not obliged to use population register data, but many of them have adopted population register data to streamline their work processes.

Guardianship data is not easily found in the population register or the scope of guardianship is not clearly understood

It is difficult for data recipients to understand in what respect and to what extent the actions are limited when restricting guardianship rights. When building the data exchange between the court information system and the population register, the needs of data recipients must be analyzed and taken into account, and the wishes of data recipients must be covered. It has been understood that it is necessary to separately analyze the display of the content of guardianship of adults to data recipients. The population register is also being updated, primarily the procedural software, but various applications and services of the population register (including those through which it is only possible to view data) are also being reviewed and updated. Population register data is used over X-road in such a way that they are displayed in the institution's own information systems.

Identity document

The authentication certificate and e-signature certificate attached to documents in use in Estonia are issued as a pair and it is technically not possible to invalidate, for example, only the signing certificate. However, it is possible to immediately request the Police and Border Guard Board to invalidate both certificates upon receipt of the document in order to avoid a situation where the ward could perform transactions that are harmful to him/her. This means that he/she will not be able to use, for example, his/her ID card to authenticate himself/herself in various e-services, but several e-services also use alternative options for logging in, such as biometrics or user ID and password. If the person's legal capacity is completely restricted, then a legal representative must act on his/her behalf (i.e. if necessary, he/she must also apply for an identity document, receive it and use it). If the person has limited legal capacity, then the guardian must act within the limits of the right of representation granted to him/her. If a person with limited legal capacity can perform certain actions, then restricting this right through an identity card is questionable.

Solutions should be sought primarily when establishing guardianship, i.e. to what extent guardianship is established. Identity card certificates can be requested to be invalidated (if the guardian is allowed to do so). Thus, the situation can be resolved procedurally, i.e. if the guardian does not want the certificates to be on the document, they can be cancelled. It is possible to obtain data on the restriction of a person's legal capacity from the population register with an X-road query. Technically, it is possible to restrict the electronic use of the service when using an e-service, for example, by authenticating with the ID card of a person with limited legal capacity. This is of course the case if the owner of a specific e-service/database considers it necessary, i.e. the risk that a person with limited legal capacity may perform an act harmful to him or her has been assessed. If data on the restriction of a person's legal capacity is entered on an identity card, this may be excessive disclosure of data, since the ID card is also used for physical identification of the person.

The Ministry of Justice and Digital Affairs is planning to reform the current guardianship system, including when establishing guardianship for an adult.

For example, a legal analysis has been commissioned on the possibilities of organizing expert opinions in guardianship proceedings. In addition, IT solutions are being developed to improve the practice of establishing guardianship and to enhance data exchange. An example is the form of a court decision on establishing guardianship, which is being developed for the court information system, which would help to standardize the resolutions of decisions. When using the form, decisions become data-based and courts can generate a single decision template so that the resolutions are standardized and unambiguous. In parallel, a solution is also being developed that would enable the automatic transmission of court decision data to the population register to ensure accurate and smooth reflection of court decisions in the register.

Guardian's reporting

The court has a statutory obligation to verify whether the guardian is acting in the interests of the ward. The court has the right to request information from the guardian at any time about the performance of his or her duties. The guardian is obliged to submit to the court a list of the ward's assets within a reasonable time (the deadline may result from the court ruling) after the court ruling is made in writing in free form. To simplify the submission of the list, a [sample form](#) of the list of assets has been developed by the court. The guardian must submit to the court at least once a year an overview of the performance of the duties arising from the law and the court ruling. To simplify the submission of the overview, the court has prepared a [report form](#). If the guardian is obliged to manage the ward's assets, he or she must submit the ward's bank account statements for the relevant reporting period together with the report. The deadline and period for submitting the report are usually stated in the resolution of the ruling.

The report can be completed and signed digitally, among other things, and submitted to the court by e-mail or via a [public e-file](#).

Yours sincerely,

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