

# **Act CXL of 2004**

## **on the General Rules of Administrative Proceedings and Services**

With a view to improving the public profile of the proceedings of administrative authorities where the majority of citizens and organization are concerned, such as:

- to place more emphasis on the service aspects of executive branches by way of substantially simplifying the procedures required from clients, and by opening new ways for faster and simpler handling of the majority of cases by putting to use modern means of electronics and information technology,

- to satisfy the requirement of harmony with other Member States of the European Union, to pave the way for expanding the possibilities of international cooperation in official proceedings, and for direct collaboration with foreign authorities,

- to provide a transparent legal background for the relationship between the clients and other parties to the proceeding with the authorities,

- to uphold the rights of clients in a manner and to the extent commonly acceptable in any democracy, whereas to leave the way open for the discharge of obligations on a voluntary basis,

- to afford priority to general provisions so as to provide a framework of guarantees for special rules of procedure,

Parliament has adopted the following Act:

### ***Chapter I***

#### ***Principles and Basic Provisions***

##### **Principles of Procedure**

###### *Section 1.*

(1) In their proceedings administrative authorities must abide by the provisions of legal regulations, and must enforce them upon others. They shall exercise their powers with a view to achieving the objectives prescribed by statutory provisions, and shall exercise the principle of weighing and deliberation in consideration of the criteria specified in legislation and to the extent applicable to the matter on hand.

(2) Administrative authorities may not misuse their powers, and shall exercise their powers in a professional manner in accordance with the principles of efficiency and cooperation with clients in their proceedings. The officers of authorities shall act in good faith, within the framework of the law, bearing in mind the rights and the lawful - including economic - interests of clients.

(2a) In the application of this Act, administrative authorities shall proceed ascertaining specifically the interest of minors.

(3) Administrative authorities may limit the rights and the lawful interests of clients to the extent required for the protection of public interest and the rights and the lawful interests of the adverse party.

(4) Administrative authorities shall protect the rights of clients they have obtained in good faith, the limitations of which are regulated by law.

###### *Section 2.*

(1) In proceedings of the authorities all clients shall have equal rights in the court of law and shall be treated without undue discrimination, bias or prejudice.

(2) Administrative proceedings must be conducted without any discrimination or restrictive treatment aimed at or resulting in any violation of the principle of equality in the court of law, or any diminishment in the legal rights of clients and other parties to the proceeding granted under this Act. In all proceedings the principle of equal treatment must be strictly observed.

(3) Administrative authorities shall contemplate in their proceedings the facts relevant to the case on hand, shall apply all evidence consistent with its weight, and shall base its decisions on the pragmatic facts of the case.

###### *Section 3.*

(1) In administrative proceedings the principle of opening proceedings ex officio shall prevail within the framework of this Act.

(2) The administrative authorities:

a) may open proceedings ex officio, apart from those which may be opened only upon request, and may continue proceedings that were opened upon request under the conditions laid down by the relevant legislation, and may - in these cases - open the enforcement procedure ex officio as well;

b) shall ex officio ascertain the relevant facts of the case and specify the type and extent of evidence admissible, independent from the clients' requests concerning evidence, however, in the process of ascertaining the relevant facts of the case all circumstance that may be of import shall be taken into consideration;

c) may review - within the framework of this Act - their own rulings and resolutions (hereinafter referred to as "decision") and those adopted by other authorities under their supervisory competence;

d) may take measures ex officio to have their decisions corrected, supplemented, revised or withdrawn.

#### *Section 4.*

(1) Clients are entitled to receive fair treatment and have the right for a decision to be adopted in their official affairs within the time limits prescribed by law, as well as the right for use of their native language during the course of proceedings.

(2) Administrative authorities shall be subject to civil liability for damages caused by any unlawful proceedings.

(3) Administrative authorities shall be liable to pay restitution for any violation of rights relating to personality resulting from unlawful proceedings.

#### *Section 5.*

(1) Administrative authorities shall ascertain that the client and other parties to the proceeding are properly informed of their rights and obligations, and shall promote the exercise of clients' rights.

(1a) Administrative authorities shall inform incompetent persons and persons of limited legal capacity, as well as any other party to the proceedings who is deemed incompetent or of limited capacity, of their rights and obligations, and on the procedural steps pending by way of the means best suitable for such person's age, health condition and intellect, while ensuring proper atmosphere.

(2) Administrative authorities shall inform the clients without legal representation concerning the relevant legal provisions pertaining to the case, the rights to which they are entitled and the obligations to which they are committed, and on the consequences for any breach of obligation, and on the availability of legal aid if the client is a natural person.

(3) Where it is required due to the complexity of a case the clients with legal representation may be compelled under the relevant legislation to meet disclosure obligations.

(4) Administrative authorities shall provide for the right of access to documents, subject to restrictions specified by law, to clients and their representatives and other parties concerned, and shall hold public hearings in the cases specified by law, and shall convey their decision to the parties concerned. Moreover, the authority shall provide for the confidentiality of statutory secrets and for the protection of personal data.

#### *Section 6.*

(1) In administrative proceedings the clients are required to act in good faith.

(2) Clients may not engage in conduct aimed to mislead the authorities, nor to delay the decision-making process or the enforcement procedure. The good faith of clients in the proceedings shall be presumed, and the burden of proof for bad faith lies with the authorities.

(3)

#### *Section 7.*

Administrative authorities, with a view to efficient and cost-effective functioning, shall organize their activities to entail the lowest costs upon the clients and the authority, and to close out the proceedings as fast as possible.

#### *Section 8.*

The client lodging a request for the opening of proceedings and other parties to the proceeding shall be entitled to choose - within the framework of this Act - freely from the means of communication available.

## Languages

### Section 9.

(1) In Hungary the official language in administrative proceedings shall be Hungarian. This, however, shall not mean that other languages cannot be used in the proceedings of consular officers and the minister in charge of foreign policies, or in proceedings of international legal assistance.

(2) Bodies of nationality self-governments of communities, and regional and nation-wide self-government bodies of nationalities of minorities may define in a resolution the language that is to be used in the proceedings within their jurisdiction, in addition to Hungarian.

(3) Persons acting on behalf of nationality organizations and the natural persons falling within the scope of the Nationalities Act may use the language of their respective nationality in proceedings with the administrative authorities. Any decision adopted in the Hungarian language in connection with an application submitted in the language of a nationality shall be translated into the language of the application at the client's request.

(4) At those administrative authorities where - according to Subsection (2) - there is another official language being used in administrative proceedings in addition to Hungarian, the clients and other parties to the proceeding using the Hungarian language shall have the same rights afforded to nationalities under Subsection (3).

### Section 10.

(1) Where an administrative authority opens *ex officio* proceedings which require immediate action involving a person who is not a Hungarian citizen and who does not speak the Hungarian language during their stay in Hungary, or if a natural person requests urgent legal protection from a Hungarian administrative authority, the competent authority shall take measures to ensure that the client is not prejudiced on account of his lack of command of the Hungarian language. The provisions of this Subsection may be prescribed as mandatory by law for matters not regulated in this Subsection.

(2) With the exception of the client specified in Subsection (3) of Section 9, any client who cannot speak the Hungarian language may request the administrative authorities to use his native language or another intermediary language, in which his request is worded, in cases not mentioned in Subsection (1), provided that the applicant agrees to cover the costs of translation and interpretation.

(3)

### Section 11.

(1) If there is any deviation between the Hungarian version and the foreign translation of any decision adopted by the administrative authorities, the Hungarian version shall be the authentic one.

(2) In the cases specified in Subsections (3) and (4) of Section 9 and in Subsection (1) of Section 10, the costs of translation and interpretation, as well as the costs of a sign language interpreter shall be covered by the competent administrative authority.

(3) Different provisions may be installed by law concerning languages used for official certificates, official instruments and for making entries into official records and registers.

## Scope

### Section 12.

(1) In the proceedings of administrative authorities the provisions of this Act shall be applied in the administrative matters falling within the scope of this Act.

(2) 'Official matters of an administrative nature' (hereinafter referred to as "administrative action") shall mean:

a) all actions where the administrative authority defines any right or obligation concerning a client, verifies any data, fact or entitlement, maintains official records and registers or conducts a regulatory inspection;

b) procedures for admission into and removal from the register for engaging in activities, where engaging in a specific profession is rendered subject to membership in a public body or other organization of the like, not including disciplinary and ethics proceedings.

(3) For the purposes of this Act, 'administrative authority' (hereinafter referred to as "authority") shall mean the following bodies vested with jurisdiction to carry out administrative actions:

a) government bodies;

b) the councils of representatives of municipal governments, including the general assembly of county representatives, and their bodies referred to in Subsection (2) of Section 19 under delegated powers;

c) mayors of communities and metropolitan areas, chairmen of the county general assemblies (hereinafter referred to collectively as “mayor”);

d) chief notaries and notaries (hereinafter referred to collectively as “notary”), and the officials of the common offices of local authorities;

e) other organizations, public bodies or persons vested with administrative competence by an act or government decree.

(4) Where an the other organization, public body or person is vested subsequently with administrative competence by the relevant government decree, the types of cases to which this Act applies shall be specified.

### *Section 13.*

(1) This Act shall not apply to misdemeanor proceedings, elections, the preparation and conduct of a national referendum, territorial issues, proceedings for the judicial oversight of municipal governments, higher education admission procedures and citizenship proceedings, with the exception of the issue of citizenship certificates.

(2) This Act applies to:

a) industrial property rights and copyrights;

b) proceedings related to compulsory payments to the central budget as prescribed by law, or to be shared with the budget of the Communities, and to subsidies paid from the central budget or from extra-budgetary funds under the conditions set forth in legal regulations;

c) proceedings related to the admission and residence of persons entitled to the right of free movement and admission, and third-country nationals, and also to asylum procedures;

d) the requirements for the marketing and supply of goods and services and relating to the monitoring of commercial practices with respect to the marketing and supply of goods and services, and to market surveillance and market control procedures, including the proceedings related to the prescription of medicinal products, medical aids and medical technologies subsidized by the social security system;

e) proceedings related to the supervision of money and the capital market, and the activities of insurance companies, voluntary mutual insurance funds and private pension funds, competition oversight proceedings;

f)

f) proceedings related to the supervision of the provision of audiovisual media services and the publication of press products, media and communications governance, market surveillance, market regulation, control and supervision of electronic communications services and activities, audiovisual media services and media products, and the governance of the motion picture industry;

g) cases related to the use of atomic energy;

ga)

h) proceedings relating to hazardous facilities; and

i) proceedings relating to benefits provided by the social insurance system, including benefits provided before the legal age limit, service emoluments, ballet dancers’ annuities and provisional miners’ allowances;

j) administrative procedures for data protection and for the protection of secrets;

k) proceedings of the relevant authorities and experts concerning the classification of research and development activities;

l) proceedings under the Act on Settlement Finality in Payment and Securities Settlement Systems, and to proceedings concerning the making of imitations of the legal tender of Hungary in circulation;

m) expropriation procedures;

n) proceedings for the approval of the acquisition of title of ownership to land, or the acquisition of land use rights as provided for in the Act on Transactions in Agricultural and Forestry Land, and to the monitoring of restrictions on acquisitions;

n) change of name procedures, notifications of intent to marry, and to notifications of intent to enter into a registered partnership;

only if the act pertaining to the type of case in question does not provide otherwise.

(3) The legislation pertaining to administrative proceedings other than those mentioned in Subsections (1) and (2) may derogate from this Act only if expressly permitted in this Act.

(4) Where a directly applicable Community legislation that is binding in its entirety lays down any procedural rule, the provisions of this Act shall not be applied in the matters to which such legislation pertains. For the purpose of implementing a directly applicable Community legislation, derogations from this Act are permitted - to the extent and in the manner deemed necessary - if laid down in an act, government decree or decree of the Governor of Magyar Nemzeti Bank.

(5) An act promulgating an international treaty may prescribe provisions in derogation from this Act.

(6) Supplemental provisions regarding issues not regulated in this Act, if in harmony with the provisions of this Act, may be prescribed by law.

#### Section 14.

(1) Statutory provisions may be laid down by an act or government decree in derogation from this Act concerning:

- a) redress procedures relating to public procurements;
- b) the building authority's proceedings for the authorization of structures and buildings to be constructed for defense and military purposes, or to the designation of the operating and protection areas of such; and
- c) procedures related to extraordinary cases of death defined by the Healthcare Act.

(2) An act or government decree may prescribe provisions in derogation from this Act or impose prohibitions with respect to authorization procedures relating to the international trade of military equipment and services and dual-use items and technologies concerning:

a)-h)

(3) The act on the acceleration and simplification of the implementation of investment projects of special import for national economy considerations, or a government decree adopted by authorization of this Act, may prescribe regulations in derogation from this Act and the act pertaining to the type of case in question for:

- a) supplying missing information,
- b) notification,
- c) information of clients,
- d) powers and competencies,
- e) participation of specific authorities.
- f) declaring a decision final and executable irrespective of any appeal.

(4) In procedures for the classification of public waste management service activities, statutory provisions may be laid down in derogation from this Act as regards the client base.

## Client

#### Section 15.

(1) 'Client' shall mean any natural or legal person and any association lacking the legal status of a legal person whose rights or lawful interests are affected by a case, who is subjected to regulatory inspection, or who is the subject of any data contained in official records and registers.

(2)

(3) An act or government decree may define the persons who can be treated as clients - in connection with certain specific types of cases - without prejudice to Subsection (1). Without prejudice to what is contained in Subsection (1), all owners of real estate properties located in the impact area specified in the relevant legislation, as well as any person whose right related to such properties has been registered in the real estate register shall also be treated as clients.

(4) The rights of clients are also conferred upon the bodies of vested competence, other than those participating in the case in the capacity of an authority or special authority.

(5) In certain specific cases the rights of clients may be vested upon, or client status may be granted to, non-governmental organizations whose registered activities are oriented for the protection of some basic rights or the enforcement of some public interest.

(5a) In proceedings of the authorities, non-governmental organizations whose registered activities are oriented for the protection of some basic rights or the enforcement of some public interest shall have the right to make statements. Such statements shall not be binding upon the acting authority.

(6) The exercise of the rights of clients properly notified concerning the opening of proceedings may be rendered conditional by law upon the client lodging a statement or request in proceedings of the first instance. The content requirements for such statement or request may be laid down by an act or a government decree adopted under authorization thereof.

(6a) Where so prescribed by law, after six months following the date when the authority's decision became final and enforceable, as specified by law, additional clients may not join the proceedings. In that case no application for extension shall be accepted upon failure to meet the above deadline.

(7) A natural person shall be considered legally competent if considered to have legal capacity. In the cases defined by law persons of limited capacity shall also be considered to have legal capacity in terms of administrative proceedings. When in doubt, the competent authority shall *ex officio* investigate the status of legal capacity and - if found lacking - shall summon the client's legal representative, or shall request the appointment of a guardian *ad litem* with the relevant documents attached, or - where an act or government

decree so provides - shall provide for the appointment of a guardian *ad litem* at its own discretion, upon laying down the detailed rules for the appointment of a guardian *ad litem*.

(8) A ruling on the refusal to grant client status to a client other than the one having submitted a request for the opening of proceedings may be appealed.

## **Succession**

### *Section 16.*

(1) Unless otherwise provided by law, or if not excluded on account of the personal nature of the administrative action or the content of the commitment,

a) in proceedings opened *ex officio*, the departing client shall be replaced by the client's successor in title under civil law, or

b) in proceedings opened upon request, the departing client shall be replaced by the client's successor in title under civil law, other than the client who has lodged the request for the opening of the proceedings.

(2) In proceedings opened upon request, the successor of the requesting client may apply for having the fact of succession declared within fifteen days upon becoming aware of the proceedings, but maximum within six months from the time of succession.

(3) The client whose right had been declared by final resolution may be replaced - in accordance with the relevant legislation - by his successor. Where an obligation is established by final resolution and the obligor is terminated by succession, the successor shall be given the opportunity to discharge the obligation voluntarily, in justified cases, by providing a one-time extension of the respective time limit if necessary.

(4) Any ruling the authority has adopted prior to succession shall apply to the successor as well, with the exception of:

a) a ruling imposing any sanction upon the predecessor, if a natural person, for obstructing the proceedings or for his failure to appear;

b) a ruling granting payment facilities for the predecessor, including a ruling for the remission or reduction of any default penalty; and

c) a ruling granting cost exemption for the predecessor, if a natural person.

(5) In the absence of a successor the competent authority shall be liable to take the measures necessary to eliminate an unlawful situation or a situation that is harmful to or endangers public interests.

(6) Any ruling adopted in connection with succession, or establishing a new time limit for performance shall be delivered to the client. Rulings adopted on the subject of succession and declining to establish a new time limit for performance may be appealed independently.

## **Data Processing**

### *Section 17.*

(1) During the period of the authority's proceedings, and also during the time required for the authority's services, the authority shall ensure that statutory secrets and the secrets obtained in the course of professional activities (hereinafter referred to as "privileged information") are not disclosed to the public - in particular in the course of authorization of access to documents, in the course of hearings, in the process of drafting the decision and communicating it by means of a posted notice -, and cannot be obtained by unauthorized persons, and that all personal data is sufficiently safeguarded.

(2) In the course of its proceedings and also during the time required for its services the authority shall have powers - for the purpose of identification of natural person clients and other parties to the proceeding - to process their:

a) name;

b) birth name;

c) date of birth;

d) place of birth;

e) mother's name;

f) home address; and

g) personal data specified by specific other legislation and by local government resolutions by authorization of an act, limited to the type of data defined therein.

(3) The authority shall be authorized to obtain and process personal data in cases defined by law, to the extent deemed absolutely necessary to discharge its duties and for the provision of its services.

(4) The authority shall be authorized to have access to privileged information - subject to the provisions of specific other legislation in terms of procedures and scope - as it may be required in the course of its proceedings and during the time required for its services.

(5) The authority shall be authorized to disclose any personal data and privileged information it has obtained in the course of its proceedings or during the time of provision of its services to another body only if so permitted by law or if the data subject granted consent, with the exception if required for proceedings conducted for the same case as specified by this Act. The data subject's consent may be granted in the administrative disposition, or, if so permitted by the relevant legislation, by telephone after the electronic identification of the data subject, provided that the conversation is recorded by reliable means for the safeguarding of information.

(6) Compliance with the regulations relating to data protection may not result in any restriction of rights to remedy.

(7) Upon the closure of its proceedings by final decision, the acting authority shall block the personal data obtained and processed during those proceedings. The authority shall store such blocked personal data until the documents of the case are discarded or archived, and shall be authorized to process such data only for the purpose of execution of its final decision, for monitoring the implementation of its final decision or for any appeal or review initiated in connection with its final decision, and may disclose them only to another body or person authorized for the processing of such personal data.

(8) The duration specified in Subsection (7) for the processing of personal data may be reduced by law.

#### *Section 17/A.*

(1) As regards the identification data of natural persons used for the purpose of communication with such clients or with other authorities, the authority shall process such data separately from all other data with adequate technical solutions installed to prevent the interconnection of such registers even in the event where both registers are accessed without authorization.

(2) The data subject's consent for authorization for the authority for the transmission of special data may be granted by either of the following methods:

a) consent granted in the administrative disposition,

b) consent granted in the client's electronic statement authenticated by the method specified in the administrative disposition.

c) if so permitted by the relevant legislation, by telephone after the electronic identification of the data subject, provided that the conversation is recorded by reliable means for the safeguarding of information.

## ***Chapter II***

### ***Jurisdiction, Powers and Authorizations***

#### **Jurisdiction**

##### *Section 18.*

(1) Unless otherwise prescribed by the relevant legislation, in administrative proceedings where a Hungarian citizen is concerned, or a legal person or business association lacking the legal status of a legal person established in Hungary, the Hungarian authorities shall have competence in territory of Hungary.

(2) If the client is not of Hungarian citizenship, or is a nonresident legal person or business association lacking the legal status of a legal person, in their administrative actions in the territory of Hungary the Hungarian authorities shall have competence, unless otherwise provided by law, provided that a directly applicable Community legislation that is binding in its entirety or a Hungarian legislation applies to the case on hand.

(3) If so authorized by an act or government decree, in the administrative actions of a client abroad the minister in charge of foreign policies or the competent consular officer shall have competence.

### **Definition of Powers, Procedural Obligation**

##### *Section 19.*

(1) The powers of authorities shall be defined by law specifically for the various types of proceedings of the authorities. The authority acting in the first instance shall be specified by law, as well as the authority of appellate jurisdiction if other than the authorities listed in Sections 106 and 107.

(1a) In cases defined by an act or government decree, the integrated customer service center (hereinafter referred to as “one-stop government window”) shall be construed as an authority vested with powers and jurisdiction in the first instance, apart from the authority vested with powers and jurisdiction under specific other legislation related to the case on hand.

(2) Unless otherwise provided for by municipal decree, in administrative actions of local authorities the council of representatives shall have competence in the first instance. The council of representatives may delegate this competence upon the mayor, committees or associations of the council of representatives, or upon the notary.

(3) The authority may not delegate its powers or the right to exercise its powers to another authority, with the exception where such delegation is permitted by law under special circumstances to another authority specified therein. Cases where the powers for the issuance of official copies is delegated lawfully shall not be construed as the delegation of powers.

(4) Cases over which the authority has jurisdiction may not be transferred. Transfer of jurisdiction shall not include cases where another authority of competence is designated by this Act to handle the case in question, nor shall it cover the division of competencies by an act or government decree among several authorities.

(5) Where a court has established its competence in a case, or the lack of it, or has adopted a decision on the merits of a case, this decision shall be binding upon the acting authority.

#### *Section 20.*

(1) The authority shall proceed within its area of jurisdiction in the cases for which it has competence, and also on the basis of designation.

(2) In the event of an authority’s failure to comply with the obligation described above within the relevant administrative time limit, the supervisory organ shall take prompt action to investigate the reason within eight days from the time of receipt of the request therefor or upon gaining knowledge of the fact, and shall order the defaulting authority to conclude the proceedings under priority. The authority may not be ordered to conclude the proceedings where Subsection (2) of Section 71 applies.

(3) If the required result was not achieved inside the new time limit set by the supervisory organ, the supervisory organ shall forthwith transfer the case to another authority of similar competence - with the exceptions set out in Subsections (4) and (5) - and shall bring disciplinary charges against the head of the defaulting authority. Based on this motion the disciplinary proceedings must be conducted. The transferee authority shall adopt a decision in priority proceedings.

(4) Where an authority repeatedly falls in default it may not be deprived of jurisdiction and its jurisdiction may not be transferred to another authority if it pertains to the issue of official certificates or official instruments, official records and registers, or if such jurisdiction is exclusive. The authority in question must comply with its original obligations within fifteen days from the time when so instructed by the supervisory organ. At the same time the supervisory organ shall bring disciplinary charges against the head of the defaulting authority. Based on this motion the disciplinary proceedings must be conducted.

(5) If the council of representatives, the mayor, the committee, the association or the notary (hereinafter referred to collectively as “local authority”) failed to comply with its procedural obligation in some administrative actions of local authorities, the competent Budapest or county government agency shall instruct the officer or body in default to conduct the procedure forthwith, not later than within twenty-one days.

(6) According to Subsection (5), if the notice sent to the local authority did not produce the result desired, the client or the competent Budapest or county government agency, or if in the case in question there is no supervisory organ, or the supervisory organ fails to execute its vested authority, the court of jurisdiction for administrative actions shall, at the client’s request, order the authority to conclude the procedure.

(7) The provisions contained in Subsections (1)-(4) shall apply to the proceedings of special authorities and to appellate proceedings as well. These provisions shall apply also if the competent authority - for the resolution annulled or abolished - fails to comply with its obligation to launch new proceedings within the administrative time limit.

(8) The supervisory organ shall notify the client concerning the measures referred to in Subsection (2), and on having the case transferred to another authority in accordance with Subsection (3), shall monitor compliance by the original authority in executing its vested authority, or by the new authority within the prescribed time limit. The competent Budapest or county government agency shall notify the client of having issued the instruction referred to in Subsection (5), and shall inform the client at the same time of the option to seek remedy at the court of jurisdiction for administrative actions in the case of non-compliance with the said instruction.

(9) In the event of the authority’s failure to execute its obligation to act, the competent public prosecutor may bring action before the court of jurisdiction for administrative actions if the authority fails to comply with such obligation within the time limit prescribed by the prosecutor in the intervention filed under the Act

on the Prosecution Service (hereinafter referred to as “prosecutor’s intervention”) to order the authority to execute said obligation as required.

## **Competence**

### *Section 21.*

(1) Unless otherwise provided in the relevant legislation, from the authorities vested with analogous jurisdiction, the authority by reference:

a) to the place where the client’s permanent or temporary residence or, in the absence of such, contact address (hereinafter referred to collectively as “home address”), or registered office, place of business, branch (hereinafter referred to collectively as “registered office”) is located;

b) to the place where the property to which the proceedings pertain is located;

c) to the designated place where the activities to which the proceedings pertain is carried out; or

d) to the place where the unlawful act was committed;

shall have competence.

(2) Where the exercise of certain powers is conferred upon several different authorities by an act or government decree, the argument as to competence must be one and the same.

(3)

(4) If the client’s home address is unknown, the area of competence specified in Paragraph a) of Subsection (1) shall be determined based on the client’s last known address in Hungary. In the absence of this, unless otherwise prescribed in the relevant legislation, the chief notary of Budapest shall have competence in cases otherwise falling within the jurisdiction of any Budapest authority or notary.

(5) Where several authorities of similar jurisdiction are considered to have competence in a case, it shall be handled by the one where the proceedings were first opened (precedence), unless the has requested otherwise.

(6) Where an authority finds that another authority has already taken measures in the case by way of precedence, or the case is pending in front of another authority, it shall terminate its proceedings, or shall withdraw its decision if necessary, and shall notify the authority handling the case previously or currently, and the client accordingly. The ruling adopted for the termination of the proceedings and the decision for the withdrawal of the decision may not be appealed.

## **Definition of Jurisdiction, Powers and Competencies**

### *Section 22.*

(1) The authority shall examine ex officio the issue of jurisdiction - and in this context the law applicable -, and its powers and competencies with respect to all phases of its proceedings.

(2) If lacking powers and competencies the authority shall transfer the petition and other documents of the case without delay, not to exceed eight days from the date of receipt of the petition, or the date when the lack of powers and competencies is declared in a case pending, to the authority vested with powers and competencies, and shall notify the client accordingly.

(3) The authority - irrespective of its jurisdiction and powers and competencies - shall ex officio take provisional measures, without which any delay is likely to result in insurmountable damage, irremediable violation of rights relating to personality or unavoidable danger.

(4) The authority shall deliver its ruling concerning the above-specified provisional measures to the client, and also to the authority with jurisdiction and powers, that will conduct an inquiry as to the necessity of the provisional measures, and shall take the actions for which it has competence.

(5) When conducting an inquiry with respect to provisional measures the protection of rights acquired and exercised in good faith shall not apply.

## **Disputes in Powers and Competencies**

### *Section 23.*

(1) If in connection with a single case:

a) several authorities proclaimed to have powers and competence;

b) several authorities proclaimed not to have powers and competence, and consequently the proceedings cannot be opened or are not pending;

c) proceedings were opened in front of several competent authorities, and there is no clear solution as to which authority is entitled to conduct the proceedings by way of precedence,

the authorities affected are required to open discussions among one another in an attempt to resolve the dispute.

(2) Negotiations shall be initiated by the authority where the proceedings had been opened subsequently, that proclaimed not to have powers and competence subsequently, or by the one that the client affected requested to conduct discussions.

(3) If the procedure referred to in Subsection (1) is unsuccessful, the acting authority shall be designated by the following body:

a) in connection with any conflict of jurisdiction, the common supervisory organ, or in the absence of such, the competent Budapest or county government agency by reference to the area of competence of the authority requesting settlement of the dispute;

b) in connection with any conflict of powers and competencies, the Fővárosi Közigazgatási és Munkaügyi Bíróság.

(4) At the request of the authority that moved to open discussions, in the case referred to in Paragraph a) of Subsection (3) the competent authority shall be designated within fifteen days.

(5) If the discussions are deemed successful, in the cases specified in Paragraphs a) and c) of Subsection (1) the authority that will cease to proceed shall terminate its proceedings, withdraw its decisions adopted in the course of the proceedings, and shall transfer the documents and evidence of the case to the competent authority. The ruling adopted for the termination of the proceedings and the decision for the withdrawal of the decision may not be appealed.

(6) The ruling adopted in a dispute as to jurisdiction may not be appealed.

#### *Section 24.*

(1) The Fővárosi Közigazgatási és Munkaügyi Bíróság shall adopt a decision to resolve a jurisdictional dispute at the request of the client or the authority in non-judicial proceedings under priority.

(2) The decisions of the Fővárosi Közigazgatási és Munkaügyi Bíróság cannot be appealed.

### **Proceedings Outside the Area of Jurisdiction**

#### *Section 25.*

(1) An authority shall be authorized to take any procedural step outside its area of jurisdiction if expressly permitted by an act or government decree.

(2) An authority whose competence is limited to a district of Budapest may take procedural steps in the entire area of Budapest.

### **National Legal Assistance**

#### *Section 26.*

(1) Legal assistance may be requested:

a) if any procedural step is necessary outside the area of jurisdiction of the requesting authority;

b) if it is justified by the client's lawful interests or for reasons of cost-efficiency;

c) where any data or document is required for the requesting authority to discharge its duties, that is in the possession of another authority, other government or local body, or - in connection with certain specific types of cases as specified in an act - another agency or person.

(2) The request referred to in Paragraphs a) and b) of Subsection (1) shall be made, depending on the nature of the case, to a body vested with similar powers and competencies as the requesting authority, or failing this to the notary of the competent local government.

(3) In proceedings opened upon request, the client's consent for the processing of his personal data for the purpose of providing legal assistance shall be presumed, including the personal data transmitted to the extent required. In connection with proceedings opened *ex officio*, the authority shall be entitled to transmit personal data, from among the data that may be processed on the strength of law, to the requested body to the extent required for the purposes of legal assistance.

(4) The requested body or person may refuse to comply with the request only if it constitutes any violation of the law. If another authority is vested with powers to provide the legal assistance requested, the requested body or person shall forward the request to this body without delay, not to exceed five days from the date of receipt of the request, and shall inform the requesting authority accordingly.

(5) The request shall be satisfied:

a) in the cases specified under Paragraphs a) and b) of Subsection (1), within fifteen days;

b) in the case specified under Paragraph c) of Subsection (1), within eight days;

c)

d) if the data is requested from an electronic database and electronic communication between the authorities is permissible, within five days from the date of receipt of the request for national legal assistance.

(5a) If the requesting authority has direct electronic access to the records of the authority where the data necessary for its proceedings are available, the requesting authority shall access such records directly and retrieve the information required, except where access to such records is denied due to system breakdown or some other unavoidable circumstance and cannot be established within the time limit specified in Paragraph d) of Subsection (5).

(6) The head of the requested body may extend the time limit referred to in Subsection (5) - excluding the time limit specified in Paragraph d) of Subsection (5) - before it expires in justified cases on one occasion, by up to fifteen days. The requested body shall deliver its ruling on the extension of the administrative time limit to the requesting authority and the client concerned.

(7) If the requested body or person fails to fulfill the request in due time, the requesting authority shall request information - within the prescribed time limit - from the requested body or person as to the reasons. If the requested body or person fails to provide the information requested, or if continually refuses or fails to comply with a request for taking procedural steps, the requesting authority shall be entitled - with the exception of the case referred to in Paragraph c) of Subsection (1) - to carry out the procedural step itself, of which the requested body or person shall be notified, or if the requested body or person is an authority that has a supervisory body, it shall refer the case for oversight proceedings, or shall - in other cases - notify the head of the organ concerning the omission. The supervisory organ shall take measures within fifteen days.

(8) The requested body shall be liable to cover the extra costs resulting from its failure to comply with the request as specified in Subsection (7).

## **International Legal Assistance**

### *Section 27.*

(1) Where Hungary has an agreement for mutual administrative assistance with any State, or if there is reciprocity existing between the States, or it is permitted under multi-lateral international agreement, the authority may contact a foreign authority to request legal assistance according to Subsection (1) of Section 26, and shall fulfill any request for legal assistance received from abroad.

(2) Reciprocity in the Member States of the European Economic Area (hereinafter referred to as "EEA") shall be considered to exist insofar as the minister in charge of foreign policies gives a dissenting opinion in agreement with the minister having competence in connection with the case on hand.

(2a) In the case of non-EEA Member States, having regard to reciprocity the position of the minister in charge of foreign policies shall be authoritative, and it will be formulated in agreement with the minister having competence in connection with the case on hand.

(3) Unless otherwise provided for in an act or government decree, the Hungarian and foreign (international) authorities involved in a request for international legal assistance shall be in direct contact. If the Hungarian authority is unaware of the authority of the foreign state that is competent for satisfying its request for legal assistance in accordance with Subsection (1), the request shall be sent via the competent supervisory organ to the minister in charge of foreign policies. The minister in charge of foreign policies shall forward the request for legal assistance in accordance with Subsection (1) through the ministry of the foreign state responsible for handling foreign affairs to the competent authority.

(4) The requested authority, if lacking competence to provide the legal assistance requested, shall forward the request to the competent authority, and shall notify the requesting authority accordingly.

(5)-(6)

### *Section 28.*

(1) The authority shall refuse to fulfill the request of a foreign authority if it is likely:

- a) to jeopardize the national security of Hungary or public safety;
- b) to jeopardize any fundamental right of any person affected; or
- c) to infringe upon any law.

(2) When a foreign request is refused the requesting authority shall be informed, with the reasons communicated.

(3)

## **Chapter II/A**

## **General Rules on Communications**

### *Section 28/A.*

- (1) The authority shall maintain communication with clients:
  - a) in writing;
    - aa) via the postal service,
    - ab) by way of electronic means construed as provided in writing, including fax,
    - ac) through documents delivered in person,
    - ad) via an agent for service of process,
    - ae) through the authority's process server,
    - af) through the administrator for service of process,
    - ag) by way of public notice; or
  - b) orally:
    - ba) in person,
    - bb) electronically, via an audio link, including telephone connection; or
    - c) by way of electronic communication by means other than writing.
- (2) The provisions laid down in Subsection (1) hereof shall apply to communications between clients and the authorities, and among the authorities themselves.
  - (2a) The authorities having joined the document transfer service between filing systems shall be entitled to maintain communications with other authorities by way of requesting such service in writing.
- (3) Where several different type of communication is available, the authority shall make a selection under the principles of cost-effectiveness and efficiency, giving preference to electronic means.
- (4) At the time of establishing contact, the authority shall inform the client concerning the available modalities of communication together with its contact information, and also on the possibility of access to electronic information services provided by the authority.
- (5) The client shall be authorized to abandon the selected mode of communication and switch to another means of communication available at the authority. The authority may decline to apply any new means of communication of the client's choice, if the client is alleged to engage in abusive conduct in respect of those means.
- (6) When switching from one mode of communication to another, the client may not demand to have documents and statements made in previous stages of the proceedings replaced according to the new means.
- (7) In a life-threatening or potentially devastating situation, or if so prescribed by the relevant legislation any means of communication between the authority and the client shall suffice, where the time and the means of communication shall be recorded on the document in the form of an entry or by other reliable means for the safeguarding of information.
- (8) The provisions of communications pertaining to clients shall also apply to other parties to the proceedings.

## **Electronic Communication**

### *Section 28/B.*

- (1) Unless otherwise provided for by an act, a decree adopted by the Government acting within its original legislative competence, or by a municipal decree in administrative actions of local authorities, the client shall be entitled - under the conditions set out by the relevant legislation - to communicate with the authority by way of electronic means, except if it cannot be applied with respect to the given means of communication.
  - (1a) The client shall be entitled to communicate with the one-stop government window by way of electronic means, except if it cannot be applied with respect to the given means of communication.
- (2) The client is required to maintain communication with the authority electronically where it is so prescribed by an act for the case in question or for specific procedural steps.
- (3) Unless otherwise prescribed by law, electronic communication may not be applied in connection with the requests mentioned in Subsection (6) of Section 20 and Subsection (1) of Section 24, nor in proceedings for the judicial review of any decision of the authority.
- (4) The authority shall maintain communications with the client by way of electronic means where so requested by the client, and also if the client has lodged the request by way of electronic means and did not provide otherwise in respect of the applicable mode of communication.
- (5) The authority that has the technical means necessary shall maintain communications orally under the conditions specified in the relevant legislation, and also by means other than writing on the basis of an

electronic statement, or shall accept such modes of communication used by the client, such as in particular short text messages and electronic mail.

## **Information**

### *Section 28/C.*

(1) Except where otherwise provided for in the relevant legislation, clients shall be able to use all modalities of communication under this Chapter for requesting information, and, where so permitted by law, use all modalities of communication under this Chapter for making appointments.

(2)

(3) If the information pertains to any data contained in the documents of the case, and if the client has supplied the identification data prescribed for the given case and that can be processed by the competent authority on the strength of law in the request for information, the information may not be refused.

(4) The authority shall not be compelled to provide the information requested if the client is found to have exercised his right for requesting information improperly. Improper exercise of right shall mean, in particular, where the authority has delivered a decision to the client within eight days before the time of requesting the information, or if any procedural step has been implemented with the client participating.

## **Communication by Way of Public Notice**

### *Section 28/D.*

(1) Where so authorized by an act or government decree, the authority shall be entitled to communicate with clients - in cases that concern a significant number of clients - by way of public notice, excluding the notice for the opening of proceedings and rulings addressed personally to individual clients.

(2) At the client's request, the authority shall use other means of written communication to deliver its decisions to the client.

(3) Significant number of clients shall mean where at least fifty clients are involved at the time of the opening of the proceedings. The number of clients involved may be increased by an act or government decree as a precondition for communication by way of public notice.

## **Chapter III**

### ***Procedure of First Instance***

#### **Opening the Proceedings**

##### *Section 29.*

(1) Proceedings of the authorities are opened at the client's request or *ex officio*.

(1a) The provisions on proceedings opened *ex officio* shall apply to proceedings conducted *ex officio*.

(2) The competent authority shall be required to launch proceedings *ex officio* within its sphere of competence if:

a) it is so prescribed by legal regulation;

b) so instructed by its supervisory organ, or ordered by the court;

c) it gains knowledge of a life-threatening or potentially devastating situation.

(3) Unless otherwise prescribed by an act or government decree, notice shall be sent concerning the opening of proceedings:

a) to the client, if known, eight days of the time of having taken the first procedural step in *ex officio* proceedings;

b) to the client, if known, other than the client who submitted the request for the opening of proceedings, eight days from the date of receipt of the petition if opened upon request.

(4) The notice shall not be sent if:

a) it is likely to jeopardize the outcome of the proceedings;

b) the authority adopts a decision on the merits of the case within eight days following the opening of the proceedings, or adopts a decision for rejection without substantive examination, or terminates the proceedings;

c)

d) prohibited by law for national defense and national security considerations and for reasons of public security.

(5) The notice shall contain:

a) the subject matter of the case, the case number, the date of opening the proceedings and the administrative time limit applicable to the case in question, the durations which are not included in the administrative time limit, the name of the relevant officer and the officer's contact information;

b) information concerning access to the documents and for the proceedings available for making statements;

c) an indication if the proceedings are opened *ex officio*, or the name of the client lodging the petition if opened upon request;

d)

(6) Where no other form of notification is prescribed by legislation, the clients living in the impact area and the organizations referred to in Subsection (5) of Section 15 shall be informed concerning the opening of proceedings by way of a posted notice. The notice may be published as well.

(7) The notice conveyed by way of posting and publication shall contain:

a) the subject matter and a brief description of the case;

b) the perimeter of the presumed impact area;

c) information as to the venue and the time when and where the documents of the case are to be made available to the parties concerned for inspection.

(8) The authority shall notify the person or body invoking *ex officio* proceedings - upon request - on the opening of the proceedings, and on the regulatory measures implemented.

(9) In proceedings opened upon the client's request, the authority shall inform the client within eight days of receiving the request concerning:

a) the case number and the name of the officer assigned to the case and the officer's contact information;

b) the date of the opening of the proceedings, the administrative time limit, the durations which are not included in the administrative time limit, and the procedures to be implemented in the event of the authority's failure to execute its vested authority;

c) information concerning access to the documents and for the proceedings available for making statements; and

d) a notice indicating that the request shall be construed as consent for the processing and transmission of personal data to the extent necessary for proceedings related to national legal assistance and to proceedings of the special authorities.

(10) The notices sent to the organizations referred to in Subsection (5) of Section 15 relying on a database specified in a government decree shall contain the data mentioned in Subsections (5) and (7) collectively.

(11) Where a client against whom the authority is conducting proceedings cannot speak Hungarian, the authority shall *ex officio* notify such client concerning the opening of proceedings by way of a notice translated to the client's native language. The notice, in addition to what is contained in Subsection (5), shall contain information as to the bearing of costs related to language and other associated services.

(12) In the case under Section 28/D the provisions of Subsections (3)-(5) hereof shall apply to the notice on the opening of the proceedings, however, the notice shall - in addition to what is contained in Subsection (5) - contain:

a) an indication that the authority shall henceforward maintain communication with the client by way of public notice,

b) an indication of the place where the notices are posted, including other rules pertaining to communication by way of public notice, and

c) information concerning the possibility featured in Subsection (2) of Section 28/D and in Paragraph b) of Section 78/A.

## **Provisional Protective Measures**

### *Section 29/A.*

(1) Where the enforcement of a claim to which the proceedings pertain appears to be in jeopardy, the authority shall have powers to implement provisional protective measures within five days from the time occurrence of the underlying circumstances, such as to obtain security for money claims or the sequestration of specific things, according to provisions of this Act on protective measures, pending decision on the merits of the case.

(2) The authority shall withdraw the provisional protective measure when the grounds therefor no longer exist, or if the provisional protective measure has been ordered to ensure a specific amount, and this amount has been deposited with the authority.

(3) The provisional protective measure shall be abolished upon the operative date of the resolution or the ruling for the termination of proceedings.

## **Rejection of a Petition Without Substantive Examination**

### *Section 30.*

The authority shall reject a petition without substantive examination within eight days if:

- a) it does not fall within the jurisdiction of a Hungarian authority;
- b) the authority is not vested with powers or competence, and the petition cannot be transferred;
- c) the petition pertains to an objective that is manifestly impossible;
- d) submission of the petition is subject to a statutory deadline or time limit, and the petition was filed prematurely or in delay;
- e) the authority has already adopted a decision regarding the petition, and another petition pertaining to the same right has been submitted while the relevant facts of the case and the applicable laws remained unaltered, and the case cannot be reopened, provided that rejecting the petition without substantive examination is not excluded by the relevant legislation;
- f) the petition has apparently been lodged by a person other than the rightful petitioner; or
- g) based on the contents of the petition it is established that the case in question does not require administrative action.

## **Termination of Proceedings**

### *Section 31.*

(1) The authority shall terminate its proceeding if:

- a) the petition should have been rejected pursuant to Section 30, however, the authority obtained information concerning the grounds for rejection following the opening of the proceedings;
- b) the property comprising the subject matter of the case is destroyed or is damaged to such an extent that the proceedings have become obsolete;
- c) the proceedings was opened upon request and the client has withdrawn the petition, except if the proceedings can be opened *ex officio* as well, and the authority conducts the proceedings *ex officio*, or if there are several petitioners involved, and not all of them have withdrawn their petition;
- d) the proceeding is no longer relevant due to the client's death or the termination of a legal person or association lacking the legal status of a legal person, and procedural succession did not take place;
- e) the reason for continuing the proceedings no longer exists;
- f) in proceedings opened at the client's request, the authority did not approve of the representative and the client failed to appoint a suitable replacement or did not act in person following receipt of the authority's notice, except if the proceedings can be opened *ex officio* as well, and the authority conducts the proceedings *ex officio*, or if there are several petitioners involved, and they are acting in person or their representatives had not been rejected by the authority;
- g) the case no longer falls within the competence of the authority due to an amendment of the relevant legal regulations;
- h) the proceedings of the authority is subject to payment of duties or an administrative service fee (hereinafter referred to as "fee"), and the client failed to comply within the prescribed time limit in spite of being notified by the competent authority and is not exempted from the payment of costs.
- i) attempts to ascertain the relevant facts of the case to the extent necessary for passing the resolution in *ex officio* proceedings have failed, and further procedural steps are clearly unlikely to bring the results desired;
- j) no infringement had been established in *ex officio* proceedings;
- k) it concludes in *ex officio* proceedings that it had no jurisdiction or competence at the beginning of the proceedings, and transfer is not an option.

(2) The authority may terminate the proceedings by way of a ruling if it was opened upon the client's request and the client failed to comply with the authority's notice requesting missing information, nor did he ask for extension of the relevant deadline, or the authority was unable to ascertain the relevant facts of the case due to the client's failure to supply a statement.

(3) If the client has withdrawn the petition for opening the proceedings prior to the operative date of the resolution according to Paragraph *c*) of Subsection (1), the authority shall withdraw its resolution.

(4)

## **Suspension of Proceedings**

### *Section 32.*

(1) Where a final decision in a proceeding requires the preliminary judgment of an issue where the decision lies with another organ, if the case cannot be reliably resolved without a decision in another proceeding under the competence of the same authority that closely relates to the case on hand, the authority shall suspend the proceedings. If the client has the right to launch proceedings before another authority, the client has to be advised to do so within the prescribed time limit. If the client fails to comply, the authority shall terminate the proceedings or shall adopt a decision based on the information in its possession.

(2) If the court of jurisdiction for administrative actions orders the authority to open new proceedings and in consequence a petition for reopening the case or for judicial review has been lodged, the authority shall suspend its proceedings.

(3) Where the procedures described in Subsection (1) cannot be applied, in justified cases the client may also request the suspension of proceedings on one occasion. The proceedings may be suspended at the client's request if:

a) it is not precluded by legal regulation; and

b) there is no adverse party or the adverse party granted consent for the suspension of the proceedings, or it does not prejudice the interests of the adverse party.

(4) Apart from what is contained in Subsection (3), additional conditions may be prescribed by legal regulations for the suspension of proceedings at the client's request.

(5) If the successor is not known beyond reasonable doubt, the authority shall suspend the proceedings if the petitioner is no longer available, and may suspend the proceedings at its own discretion in other cases.

(6) Where a liaison officer has been appointed, the authority shall have powers to suspend the proceedings on one occasion, for a maximum term of six months, taking into consideration the number of clients and the foreseeable duration of mediation.

(7) If the authority has suspended the proceedings under Subsection (3), and the client failed to request continuation within six months, the authority shall adopt a decision for the termination of the proceedings which are opened upon request only.

(8) Upon the suspension of proceedings all deadlines shall be discontinued, and shall recommence when suspension is terminated, with the exception of the administrative time limit. All procedural steps taken during the period of suspension shall be of no effect, other than the ones intended to eliminate the grounds for suspension.

(9) In addition to having the proceedings suspended the authority may decide that the suspension shall not pertain to the procedural steps pending, or to the time limits prescribed for their completion.

## **Administrative Time Limit**

### *Section 33.*

(1) Resolutions, rulings for the termination of the proceedings, and the rulings of appellate authorities for the annulment of decisions of the first instance and for reopening the case shall be adopted within twenty-one days from the date specified in Subsection (5), and measures shall be taken to have the decision published within the same time limit. A shorter time limit may be established by any form of legislation, whereas a longer one may be established only by an act or government decree. Where this Act fails to prescribe the time limit for the execution of any procedural step or for the passing of a ruling the authority shall take measures without delay, but within eight days, for having the procedural step in question carried out or the ruling adopted.

(2) If the client is a minor and his interest appears to be in jeopardy, or if it is necessary for the prevention of a life-threatening or potentially devastating situation, if the authority imposed provisional protective measures, or if otherwise required for reasons of public security, the case on hand shall be concluded in priority proceedings.

(3) If not excluded by law, the administrative time limit shall not include:

a) the length of the period of discussions for resolving any dispute in powers and competencies, and the length of the period required for the appointment of the competent authority;

b) the length of the period of legal assistance, and the time required for acquiring information pursuant to Subsection (2) of Section 36;

c) the length of time between the receipt of the notice requesting information that was missing or is required for ascertaining the relevant facts of the case, until they are provided;

d) the length of period of the proceedings of a special authority;

e) the length of the period of suspension of the proceedings;

f) the length of the period of the proceedings governed under Subsection (1) of Section 70;

g) the length of period of any system breakdown or some other unavoidable circumstance that has the capacity to disable the authority's functions for at least one full day;

h) the time required for the translation of the petition, the decision or any other document;

i)

j) the length of time required for the preparation of expert assessment;

(4) The authority, if a chamber organ, shall adopt a decision in the cases within its powers and competencies inside the time limits referred to in Subsection (1), or if this is not possible, during the first meeting past the expired deadline, not to exceed two months.

(5) The administrative time limit shall be reckoned from the day following the date of delivery of the petition to the competent authority, or on the date when the first procedural step is carried out if the proceedings are opened *ex officio*. This provision shall also apply where a petition for proceedings to be conducted by a Hungarian authority has to be submitted to an authority other than Hungarian.

(6) In the proceedings of an authority of appellate jurisdiction or any supervisory organ, and in reopened proceedings, the administrative time limit shall commence on the day following the date of delivery of all documents of the case to the competent authority of jurisdiction. The authority shall supply the documents that the supervisory organ has requested.

(7) The head of the competent authority may - except where excluded by law - extend the administrative time limit - before it expires - in justified cases on one occasion, by up to twenty-one days, or by up to fifteen days in the cases described under Subsection (2) hereof. If the administrative time limit is shorter than twenty-one days, it may be extended by not more than the prevailing administrative time limit. The ruling shall expressly indicate the reasons for the extension of the time limit.

(8) The administrative time limit for the proceedings of special authorities shall be fifteen days. In exceptionally justified cases - unless this is precluded by the relevant legislation - the head of the specialist authority may extend the time limit for the proceedings of special authorities before it expires on one occasion, by fifteen days, of which the client and the requesting authority shall be notified. If the time limit for the proceedings of special authorities is shorter than fifteen days, it may be extended by not more than the prevailing time limit for the proceedings of special authorities. In the ruling on the extension of the administrative time limit, the specialist authority shall expressly indicate the reasons for the extension of the time limit.

(9) A time limit shorter than what is contained in Subsections (7) and (8) may be established by any form of legislation, whereas a longer one may be established only by an act or government decree.

#### *Section 33/A.*

(1) In the event of the authority's failure to comply with the relevant administrative time limit for reasons beyond the control of the client and other parties to the proceeding, the authority shall refund the duties and other charges the client has paid in connection with the proceedings; if the time required for the proceedings has exceeded the administrative time limit by a factor of two, the amount of refund payable to the client shall be double the amount of duties and other charges the client has paid for proceedings.

(2) Where the client has been granted exemption from the payment of duties and other charges in whole or in part, this shall have no bearing on the authority's payment obligation under Subsection (1); in these cases the authority shall pay the part unpaid by the client to the account of the central budget published by the minister in charge of public finances. If the client who has lodged the request for proceedings is not liable to pay duties and charges - which are otherwise payable for such proceedings - by virtue of law, the authority shall pay an amount equivalent to the sum of the general rate of the procedural duty prescribed in the Duties Act to the central budget, or double that amount where applicable.

(3) The authority shall pay the refunds described in Subsections (1) and (2) from its own budget, within eight days of the effective date of the decision establishing the payment obligation to the client, or shall pay it to the central budget.

(4) If the authority of appellate jurisdiction or the supervisory organ finds that the authority had no reason to extend the administrative time limit, or did not comply with the payment obligation the provisions contained in Subsection (1) notwithstanding, the authority shall be ordered to refund or pay the sum specified in Subsection (1) or Subsection (2), of which the requesting client shall be notified.

#### *Section 33/B.*

(1) With a view to adopting a collective decision, the authority may order the merger of cases pending in front of it, where the subjects of such cases are related. The authority may adopt a single decision in connection such cases.

(2)

(3) In connection with the consolidation of proceedings, the authority shall honor the earliest administrative time limit applicable.

## Petitions

### *Section 34.*

(1) Except where otherwise provided for in the relevant legislation, petitions may be submitted to the competent authority in writing or orally. A petitioner may be required to appear in person by law, where any fact or circumstance that is deemed essential for adopting a decision in the case cannot be obtained otherwise.

(2) In a life-threatening or potentially devastating situation requiring prompt attention, the petition may be conveyed by telephone as well.

(2a) If so permitted by the relevant legislation, the petition may be conveyed by telephone as well after the electronic identification of the client, provided that the conversation is recorded by reliable means for the safeguarding of information.

(3) Clients may be required by law to submit their petitions on the prescribed form, or on-line on a standard electronic form completed by the proper software in connection with electronic communication. If electronic communication is prescribed mandatory by law, and the petition shall be submitted on-line or on the standard electronic form using the proper software, the authority shall make available the standard electronic forms that can be completed and downloaded electronically, as well as the downloadable version of the software according to the rules on electronic information services.

(4) The client may withdraw his petition for the opening of proceedings before the operative date of the resolution or the ruling for the termination of the proceeding.

(5) The provisions pertaining to requests for the opening of proceedings shall apply to other petitions of clients as well, with the exception that such requests may be withdrawn before the operative date of the decision adopted on the subject-matter of the case.

### *Section 35.*

(1) Unless additional requirements are prescribed by law, the petition shall contain the name and address of the client and his representative, the client's express request for the authority's decision, and - optionally - it may indicate the client's electronic mailing address, fax number or telephone number.

(2) Where so prescribed in the relevant legislation, the petition shall contain - for reasons of identification of the client - the client's means of verification suitable for the case on hand and that the competent authority is authorized to process on the strength of law.

### *Section 36.*

(1) Petitions shall be submitted with the enclosures prescribed by the relevant legislation attached. The client may not be requested to enclose the official assessment of a special authority or the special authority's prior express consent.

(2) Apart from the data necessary for the identification of the client, verification of any data that is considered public information or that must be contained in the records of an authority, a court or the Magyar Országos Közjegyzői Kamara (*Hungarian Association of Notaries Public*) as prescribed by law may not be requested from the client. Requests for data shall be satisfied within eight days.

(3) In connection with special data, the client may request the body that controls such data to forward it to the authority of his choosing. Upon receipt of such request, the authority shall proceed according to Subsection (2).

(4) The client shall pay the fee charged for the data supplied under Subsection (2) to the competent authority. The fee shall comprise revenue for the requested authority. The competent authority shall inform the client concerning the duties and other fees charged by the court or the Magyar Országos Közjegyzői Kamara, including the terms and conditions of payment.

### *Section 37.*

(1) A petition shall be assessed based on its contents, even if it fails to coincide with the designation used by the client.

(2) The competent authority shall proceed to check the petition immediately when received to determine as to whether:

- a) the authority has jurisdiction, powers and competence to adjudge the case,
- b) provisional measures or provisional protective measures are to be applied,
- c) the petition is in compliance with the requirements set out in Section 35 and Subsection (1) of Section 36.

(3) If the petition fails to comply with the requirements set out in Section 35 and in Subsection (1) of Section 36, the competent authority shall advise the client within eight days of receipt of the petition to

supply any missing information within the prescribed time limit, indicating the legal ramifications of non-compliance. A notice for requesting missing information may not be issued pertaining to a data or document that is to be obtained by the authority by virtue of Subsection (2) of Section 36, nor if the client did not file the fully completed petition on the standard form or standard electronic form prescribed on account of the authority's failure to make available the standard electronic forms that can be completed and downloaded electronically in compliance with the provisions on electronic information.

(3a) If so permitted by the relevant legislation, the missing information may be supplied by telephone as well after the electronic identification of the client, provided that the conversation is recorded by reliable means for the safeguarding of information, and where this is applicable with respect to the information in question.

(4) The eight-day time limit for issuing the notice for requesting missing information may be extended by an act or government decree.

(5) A notice for requesting missing information may be issued during the proceedings also if the petition was found in compliance with the requirements set out in Section 35 and in Subsection (1) of Section 36, however, it is deemed necessary in connection with a new information that may have emerged in the process of ascertaining the relevant facts.

#### *Section 38.*

(1) Natural persons shall submit their requests for the opening of proceedings in the first instance to the authority vested with powers and competence for the proceedings in question or, if not precluded by law, at the authority of jurisdiction by reference to his home or work address, vested with similar powers, or failing this at the notary of jurisdiction by reference to his address or employment, who shall forward it to the competent authority.

(2) An authority or body may be designated in derogation from Subsection (1) by the relevant legislation where a petition may be submitted.

(3) If the client submitted his request at an authority or agency other than the one vested with powers and competence under Subsection (1) or (2), the competent authority shall notify the client according to Subsection (9) of Section 29 concerning the opening of proceedings.

#### *Section 38/A.*

(1) A single request, or several requests for the exercise of a right can be submitted collectively if so provided in an act or government decree, at an authority designated by such act or government decree (hereinafter referred to as "participating authority"). For the purposes of this provision, a one-stop government window shall be construed as a participating authority.

(2) The participating authority shall transmit such request within five days to the authorities vested with powers and jurisdiction for adopting the relevant decisions. A shorter time limit may be prescribed by law for the transmission of the request. In the proceedings of consulate officers, requests shall be transmitted without delay, at the latest by the first diplomatic courier following submission of the request. The administrative time limit shall commence on the day following the date when the request is delivered to the authority vested with powers and jurisdiction, or, in the case of one-stop government windows, on the day following the date when the electronic document, or the certified copy of the request that can be transmitted electronically, is delivered to the one-stop government window.

(3) Unless otherwise prescribed by an act or government decree:

a) the client shall have the option to pay the applicable duties and fees to the participating authority;

b) the participating authority shall check the request in accordance with Subsection (2) of Section 37 and shall advise the client to remedy any deficiencies, this, however, shall have no bearing on the right of the authority vested with powers and jurisdiction to request missing information;

c) the participating authority shall be entitled to reject the request without substantive examination in the cases under Paragraphs *a), c), d), f) and g)* of Section 30;

d) the participating authority shall have powers to terminate the proceedings under Paragraph *h)* of Subsection (1) of Section 31.

(4) An act or government decree may confer other procedural functions upon the participating authority.

(5) The request and its enclosures shall be submitted to the one-stop government window, if it functions as a participating authority, on the prescribed form in a single copy. If a document is transmitted by the one-stop government window in a certified copy, the competent authority of jurisdiction shall honor such document for its proceedings even if the original is required according to the relevant legislation.

(6) Subsection (2) of Section 13, and Section 14 shall not apply having regard to the provisions of Subsection (2) relating to calculating the time limits in proceedings in which any one-stop government window is involved, and to the provisions of Subsection (5).

(7) By way of derogation from Subsections (5)-(6), the relevant legislation may provide that the one-stop government window is to transmit to the competent authority of jurisdiction the original of the document as well.

(8) Unless otherwise provided for by law, where the relevant legislation provides for any legal effect for the submission of any notification to the competent authority of jurisdiction, including where a right can be exercised contemporaneously, the legal effect shall apply as of the time when the notification is made at the one-stop government window, and the right that can be exercised upon such notification can be enforced immediately thereupon.

#### *Section 38/B.*

(1) If the participating authority has advised the client to remedy certain deficiencies pursuant to Paragraph *b*) of Subsection (3) of Section 38/A, and the deadline prescribed not yet expired, the authority vested with powers and jurisdiction may extend the deadline and request additional information.

(2)

#### *Section 38/C.*

(1) A certification body so authorized by way of the means specified in an act or government decree may participate in the process of ascertaining the relevant facts of the case. The authority must accept the certificate issued by the certification body in ascertaining the relevant facts of the case, and shall conduct no further procedural steps in respect of the facts certified.

(2) Where an act or government decree so provides, rights based on facts endorsed by a certificate issued by a duly authorized certification body may be exercised directly. The relevant act or government decree shall define the rules pertaining to the liability of the certification body as regards the facts endorsed on the basis of the certificate.

## **Minutes, Reports, Simplified Reports and Official Transcripts**

#### *Section 39.*

(1) The following procedural steps shall be properly documented by the competent authority:

- a*) seizures;
- b*) assessment visits, where an official witness is involved;
- c*) hearings;
- d*) public hearings;
- e*) protective measures, where an official witness is involved;
- f*) procedural steps specified by the relevant legislation.

(2) Where so requested by the client or any person affected by the procedural step, or if deemed necessary by the authority for the purposes of the proceedings, the following shall also be documented in a report:

- a*) oral requests;
- b*) interviews of the client, a witness or an expert;
- c*) assessment visits, where an official witness is not involved;
- d*) all other evidentiary procedures.

(3) The report shall contain:

- a*) the name of the authority, the name of the case officer, the subject matter of the case and the file reference number;
- b*) the name and address of the person affected by the procedural action, his procedural status and - if made available to the authority - other means of contact;
- c*) the name of the official witness;
- d*) proof of the person affected by the procedural action being advised of his rights and obligations;
- e*) all material statements and findings pertaining to the case, the facts and circumstances revealed by the procedural steps listed under Subsections (1) and (2) which may be of import concerning the outcome of the case, including the comments made by the official witness;
- f*) the place and time where and when the report was drawn up; and
- g*) the signature of the person affected by the procedural action, the representative of a person without legal capacity, the official witness, the officer in charge and the signature of the keeper of the minutes on each page.

(4) Upon the reasoned request of the person affected by the procedural action, his statement, deposition, expert assessment, or parts of them shall be recorded in the report verbatim.

(5) The provisions relating to reports shall also apply to sound recordings, with or without video, with the exception that they shall contain the information mentioned under Paragraphs *a*)-*f*) of Subsection (3) hereof.

The recording medium containing the sound recordings, with or without video, shall be enclosed with the documents of the case, or a report shall be drawn up before the conclusion of the proceedings with the contents specified in Subsection (3).

(6) The authority shall make a selection as to the means of the report under the principles of cost-effectiveness and efficiency. The client and other parties to the proceeding may request the use of the means of the report they prefer, on condition that they agree to cover the extra costs involved.

(7) The authority shall prepare a simplified report if the action is not documented in regular report at the request of the client or the person affected by the procedural action, or on account of the lack of proper justification to make one. The simplified report shall indicate the place and time where and when it was taken, the subject matter of the case and the file reference number, the name and procedural status of the person affected by the procedural action, proof of being advised of his rights and obligations, description and a brief summary of the procedural steps, the name and signature of the case officer, and the signature of the person affected by the procedural action. Additionally, a simplified report made on an oral request shall contain the client's name and home address or registered office, and the contents of the request.

(8) Where a procedural step is carried out by more than one authority, the ensuing report or simplified report may be drawn up jointly, containing the name of each authority involved, the name and signature of all officers representing such authorities, and the file reference numbers of the cases pending before such competent authorities.

(9) The competent authority may record procedural steps of import for the purposes of the case, or which are otherwise considered essential on account of its nature, in an official transcript, or may record such procedural steps on the document of the case in the form of an entry. The official transcript shall contain a brief description of the procedural step, the date, and the name and signature of the person making the official transcript.

(10) Official transcripts can be recorded by computer, by way of automated process, in which case the authority's electronic signature may be affixed in lieu of the author's signature.

(11) Official transcripts may be used for recording in writing information disclosed by way of electronic communication by means other than writing.

## **Confidential Data Processing**

### *Section 39/A.*

(1) Upon receipt of a justified request, the authority shall order that the natural identification data and home address of a witness, interpreter, holder of the subject-matter of the inspection, the advocate, and the person invoking ex officio proceedings to be handled confidentially, if the requesting person is able to demonstrate that he could be exposed to extreme danger on account of his part in the proceedings. The ruling shall be communicated to the requesting person only.

(1a) If the party, the witness or the holder of the subject-matter of the inspection is incompetent or of limited legal capacity, the authority may order - without being served with an express request to that effect - the confidential treatment of the personal data of such persons, in order to protect party, the witness or the holder of the subject-matter of the inspection. The ruling shall be delivered also to the representative of the incompetent person or person of limited legal capacity.

(2) Experts may request - according to Subsection (1) - that their natural identification data and home address, apart from their data contained in the register of forensic experts which are considered public information, to be handled confidentially.

(3) The authority shall process natural identification data and home address separately among the documents of the case, confidentially. The authority shall ensure that confidential data will be kept confidential in the course of procedural steps.

(4) Access to any confidential data shall be authorized only for the officer in charge, the keeper of the memorandum and the clerk typist, the head of the authority, the supervisory organ, and an authorized officer and the head of the authority of appellate jurisdiction, the competent public prosecutor and the judge hearing the judicial review.

(5) With a view to securing the right of access to documents, the authority shall prepare an extract of the documents of the case - subject to statutory formal and content requirements -, with all information of reference to the person specified in Subsection (1) above removed.

## **Replacing Lost, Destroyed Documents**

### *Section 39/B.*

The authority shall take measures for obtaining replacements of lost or destroyed documents; to this end it may interview persons who participated in the proceedings, and may obtain certified copies and duplicates of documents. No replacements are required if the decision adopted on the basis of documents that have been lost or destroyed is final and executable, in which case it shall suffice to obtain a certified copy of the decision.

## **Representation**

### *Section 40.*

(1) Where the client is not required by an act to proceed in person, the client may be substituted by his legal representative or by a person designated by the client or his legal representative, and in all cases the client may proceed together with his representative. The same person may not represent the adverse parties.

(2) If the client is not involved personally, the authority shall check the representative's authorization for representation. The representative shall be required to verify his authorization for representation by way of the means specified in Section 40/A.

(3)

(4) The authority shall refuse to allow a representative to proceed if found unsuitable to properly handle the case, or if the representative fails to subsequently provide proof of authorization when requested. If the representative is rejected the authority shall call upon the client to take action in person, or to provide a suitable replacement representative.

(5) If the client is a natural person whose whereabouts are unknown or is unable to handle the case in person, and does not have a legal representative or proxy, the competent authority shall contact the guardian office - with the relevant documents attached - to delegate a guardian *ad litem*, or - where an act or government decree so provides - shall provide for the appointment of a guardian *ad litem* at its own discretion, upon laying down the detailed rules for the appointment of a guardian *ad litem*.

(6) Other forms of representation may also be prescribed by statutory provision, as well as specific type of proof for the power of representation.

(7) If the client has a representative, the authority shall send the documents to the representative; however, a summons instructing the client to appear in person shall be served only upon the client, with his representative notified at the same time. A client with legal capacity may request the authority to deliver the documents to him, regardless if there is a representative involved in the case.

(8) Where any statement made by the client fails to coincide with those made by his representative or representatives during the proceedings, or if their procedural steps are contradictory, the authority shall instruct the client to clarify within the prescribed time limit. If the client fails to comply in due time, the authority shall consider as if the statements and procedural steps of the client himself are contradictory.

### *Section 40/A.*

(1) The authorization for representation shall be fixed in writing or recorded in a memorandum. If made in writing, the authorized representative shall attach the original of the authorization for representation, or a certified copy to the documents at the time of first contact.

(2) Where the authorization for representation is made out in writing, it shall be fixed in an authentic instrument or a private document with full probative force, or authorization shall be given in an administrative disposition. A power of attorney made out to an attorney at law need not be witnessed if signed by the client himself; otherwise the provisions of the relevant legislation shall apply to powers of attorney given to lawyers. Where the power of attorney is given in an administrative disposition, the representative shall verify his entitlement in accordance with the rules pertaining to administrative dispositions.

(3) Where the authorization for representation is made out abroad, it shall be fixed in an authentic instrument or a certified private document, and shall be re-certified.

(4) The authorization may apply to the entire proceedings, or to certain procedural steps only.

(5) Where the authorization applies to the entire proceedings, it shall cover all statements and acts related to the proceedings, including protective measures and enforcement procedures.

(6) Any limitation upon the right of representation shall be recognized to the extent implicitly implied in the authorization.

(7) Where the authorization is terminated by way of withdrawal or rescission, or upon the death of the client, it shall take effect vis-à-vis the authority upon the time of notification of the authority, and vis-à-vis other clients upon the notification of the client.

## **Advocate**

*Section 40/B.*

- (1) If an advocate is appointed under the Civil Code, the advocate:
  - a) may attend together with the advocated party all procedural steps carried out during the procedure, including if the hearing is held in camera, his absence, however, shall not preclude the implementation of procedural steps and shall not prevent the procedure from going forward,
  - b) may consult with the advocated party - without disturbing the action - before making a statement and before the disclosure of data.
- (2) The advocate shall verify his entitlement to serve as an advocate by the resolution of appointment or by a certificate made out by the guardian authority. The guardian authority's resolution or certificate shall be presented to the authority before the first procedural step in which the advocated party and the advocate participate together.
- (3) The advocate shall have no authority to make any statement in the advocated party's stead, on his behalf.
- (4) The party advocated shall provide for the advocate's participation in the proceedings; the authority shall not be liable to take any action in that regard.
- (5) If the authority detects any conflict of interest between the advocate and the advocated party, it shall forthwith notify the guardian authority and shall inform the advocated party thereof at the same time.
- (6) The following may not participate in the proceedings as an advocate:
  - a) the adverse party or the adverse party's representative or advocate,
  - b) any person who participates in the proceedings as an officer of the authority, as an expert, interpreter, official witness or liaison officer.
- (7) The provisions pertaining to other parties to the proceedings shall also apply to the advocate, with the exceptions set out in this Act.
- (8) The advocated party shall advance and cover the expenses arising in connection with the advocate in the proceedings.

**Liaison Officer**

*Section 41.*

- (1) In the interest of settlement of disputes between the authority and the client, and adverse parties, the authority may employ a liaison officer.
- (2) The following persons may not function as liaison officers:
  - a) the client, the owner, officer or employee of an organization that is involved in the proceedings as a client, and any person engaged with the client under contract for the performance of work;
  - b) any person engaged with the authority or with the supervisory organ of the authority in a civil service or other similar relationship for the performance of work;
  - c) any person who is involved in the case on his own right or by way of a relative;
  - d) any person who is considered to be biased for any other reason.
- (3) The liaison officer:
  - a) shall be liable to provide authentic and accurate information and in readily understandable language to the parties affected concerning the objective of the proceedings and the foreseeable consequences, and on any measures that may be necessary to prevent or reduce potentially unfavorable changes (effects);
  - b) shall inform the clients regarding the provisions of legal regulation relevant to the case, and their rights specified in substantive and procedural regulations;
  - c) shall mediate between the authority and the clients, or the adverse parties with a view to finding a solution to achieve the objectives of the proceedings and that is beneficial to all sides concerned;
  - d) shall compile and arrange the comments received from the clients in connection with the proceedings before conveying them to the authority.
- (4) The authority - if not precluded or restricted by law - shall permit the liaison officer to inspect the relevant documents to the extent required for his official functions and shall provide support to the liaison officer to the extent necessary to discharge his duties.
- (5) The liaison officer shall maintain confidentiality with regard to all of the protected data obtained in that capacity, and shall provide for the protection of personal data.
- (6) Any liaison officer who fails to discharge his duties for reasons within his control shall be subject to administrative penalty and may be ordered to bear the costs incurred.
- (7) The liaison officer shall be remunerated for his work and shall be compensated for his related expenses according to the rules of liability for costs.

(8) The register of liaison officers maintained by the Budapest and county government agencies shall contain the natural identification data and education of the liaison officers, their contact information and the sphere of activities in which they are authorized to proceed in the capacity of liaison officers.

(9) The information contained in the register referred to in Subsection (8) concerning the name, contact information, education and sphere of activities of liaison officers are considered public information.

(10) The register referred to in Subsection (8) shall be construed as an official public register, with the exception of natural identification data and home addresses.

## **Exclusions**

### *Section 42.*

(1) Any person whose right or lawful interests is directly affected in a case may not participate in proceedings pertaining to that case, nor any person who has made a testimony or who participated as a liaison officer, or as the client's representative, an official witness or an expert, furthermore, the holder of the subject-matter of the inspection and the advocate.

(2) Any person who had a role in the first instance may not participate in the second instance.

(3) Any person who is considered biased may not participate in a proceedings.

(4) Any authority whose right or lawful interests is directly affected in a case may not participate in proceedings pertaining to that case. However, the authority shall not be excluded solely because any payment established by way of a resolution is paid to an account it has indicated.

(5) The notary of a community may not participate - in the capacity of an authority - in any proceedings, in which the municipal government of his area of competence, any organ of this municipal government or the mayor is involved as the adverse party, or if the impending resolution may impose an obligation or right upon the municipal government, said organ or the mayor, or may result in any commitment on their part relating to the subject-matter of the proceedings.

(6) Any authority whose head is subject to any grounds for disqualification in connection with a case may not participate in proceedings pertaining to that case.

### *Section 43.*

(1) An officer shall notify the head of the authority if he should be excluded for any reason without delay, not to exceed five days following the day on which the cause for exclusion emerges. The grounds for exclusion may be reported by the client as well within eight days from the day of gaining knowledge of such. If the client's motion for exclusion is manifestly unfounded, or if lodging another unsubstantiated attempt in the same proceeding for the exclusion of the same person, an administrative penalty may be imposed upon this client in the ruling in which exclusion is refused.

(2) The head of the authority shall adopt a decision on the subject of exclusion and shall appoint another officer if necessary, and shall also decide as to whether the procedural steps taken by the excluded officer should be repeated or not. The ruling adopted on exclusion shall be delivered to the client.

(2a) The head of the authority shall decide on the exclusion before notifying the client concerning the opening of proceedings without issuing a ruling.

(3) If another officer with proper qualifications is not available at the authority, the head of the supervisory organ shall appoint another authority of similar powers and competencies.

(4) Where any grounds for exclusion emerges in connection with the head of the competent body or authority, the grounds for exclusion shall be reported to the head of the supervisory organ.

(5) Where any grounds for exclusion emerges in connection with the head of the competent officer or authority, the case shall be transferred - unless the relevant legislation provides otherwise - to another authority designated by the head of the supervisory organ that is vested with similar powers and competencies.

(6) If another authority vested with similar powers and competencies, to which the case can be transferred, is not available, the authority that is subject to grounds for exclusion shall proceed. In this case the authority shall inform the client without delay, in any case within eight days from the date of occurrence of the grounds for exclusion, concerning the exclusion, including instructions for further procedures.

(6a) Where Subsection (6) applies, the authority shall deliver its resolution and any ruling which may be appealed independently to the head of the supervisory organ as well.

(7) Exclusion shall also apply to the members and heads of associations acting in some administrative action, and to the manager vested with powers for the issuance of official copies of the competent authority, with the exception that if another officer vested with powers for issuance facilities or one who would be qualified to handle such functions is not available at the authority, the competent officer shall proceed in the case.

(8) In the administrative actions of local government authorities, decisions concerning exclusion shall be adopted in proceedings related to personal involvement as specified in specific other legislation.

## **Participation of Special Authorities**

### *Section 44.*

(1) An act or government decree may require the authority of competence to adopt a decision on the merits of the case to obtain the opinion of another authority (hereinafter referred to as “special authority”). The special authority shall provide an assessment in connection with issues for which it has competence in administrative actions, or failing this it is conferred under its competence by an act or government decree.

(1a) In the cases, and under the conditions, defined by an act or government decree, the authority shall exercise discretion whether or not to contact a specialist authority, and shall itself decide specific issues. In the cases, and under the conditions, defined by an act or government decree, the authority shall refrain from contacting a specialist authority. If the authority itself decides specific issues, an expert may not be delegated, and dues and fees may not be charged for proceedings of the specialist authorities related to such specific issues. If, upon exercising discretion, the authority decides to contact a specialist authority, the specialist authority’s assessment decision shall be binding upon the authority.

(2) An act or government decree may delegate a scientific or professional body, or an expert association to function as the special authority in connection with specific issues.

(3) Unless otherwise provided for in this Act, the provisions on authorities shall also apply to special authorities.

(4) Where a client fails to pay the duties and fees charged for the proceedings of the special authority in full at the time of payment of the duties and fees charged for the underlying procedure, the authority shall advise the client to pay the fees as charged with respect to all special authorities. The authority shall contact the special authority if the client remedied the payment arrears.

(5) The special authority need not be contacted if the authority finds within ten days that the request has to be refused irrespective of the special authority’s assessment.

(6) The provisions pertaining to the content requirements of resolutions shall also apply to special authority assessments, with the exception that the assessment:

a) shall indicate the name of the special authority and the name of the special authority’s officer,

b) shall contain in the operative part the special authority’s consent, any provision or condition prescribed by the special authority, or its refusal to grant approval,

c) shall not contain a decision concerning the bearing of procedural costs.

(7) If the special authority finds its assessment unlawful, it may alter the assessment on one occasion before the operative date of the authority’s resolution or ruling for the termination of the proceedings.

(8) Where so provided for in an act or government decree, the special authority shall provide a prior assessment upon the client’s request submitted before the opening of the proceedings - including payment of the duties and fees charged for the proceedings of the special authority -, subject to the provisions pertaining to procedures for the special authority’s assessment, in proceedings for the enforcement of specific client rights (hereinafter referred to as “prior express consent of the special authority”) that shall remain valid for a period specified in an act or government decree. Where a prior express consent is enclosed with the application, the authority shall use it as the special authority’s assessment, with the exception that Subsection (7) of Section 44 shall not apply.

(9) The prior express consent, assessment and rulings of the special authority may not be appealed independently; they may be contested together with the relevant resolution or ruling for the termination of the proceedings.

### *Section 45.*

(1) An act or government decree may require in connection with certain specific types of cases the authority and the relevant special authority to lay down the conditions for authorizations by way of negotiations; the special authorities shall be notified of the procedure and the deadline for negotiations in the request for negotiations.

(2) If the authority and the special authority or authorities prescribe provisions or requirements which are contradictory to any extent, the authority and the special authorities affected shall enter into negotiations that are to be concluded within eight days, unless otherwise prescribed by an act or government decree, and the special authorities shall communicate their assessment revised as discussed to the competent authority.

(3) Where the authority considers that the special authority has exceeded its competence, or its assessment is contradictory to the requirements set out in Subsection (6) of Section 44, the authority shall discuss the issue with the special authority within eight days of receipt of the assessment. If the discussions are

unsuccessful the authority shall move to suspend the proceedings and shall invoke the proceedings of the special authority's supervisory organ. The supervisory organ shall adopt a decision within fifteen days.

(4) If the special authority considers that its assessment is ignored or its proceeding prescribed by an act or government decree is avoided, it shall discuss the issue with the authority within eight days of becoming aware thereof and, if the discussions are unsuccessful, shall move to invoke the proceedings of the authority's supervisory organ. The supervisory organ shall adopt a decision within fifteen days.

(5) If the court of jurisdiction for administrative actions found the special authority's assessment unlawful and annulled or overruled the resolution on those grounds, the special authority shall reimburse the authority of the expenses incurred resulting from its unlawful assessment.

(6) If the court of jurisdiction for administrative actions annulled or overruled the resolution on the grounds of the authority's actions to ignore the special authority's assessment, the authority shall reimburse the special authority of the expenses incurred on account of those actions.

#### *Section 45/A.*

(1) Where the special authority becomes aware of a fact or circumstance that requires:

- a) provisional protective measures,
  - b) the rejection of the request without substantive examination,
  - c) the termination of the proceedings,
  - d) the suspension of the proceedings,
  - e) the implementation of sanctions for the obstruction of the proceedings,
- the authority shall be so informed without delay.

(2) The special authority shall proceed to check the petition immediately when received to determine as to whether it has powers and competence to adjudge the case.

(3) The special authority, if it finds that it has no competence in the case, shall so inform the authority within eight days of the time of receipt of the request and shall terminate its proceedings.

(4) The special authority, if it finds that it has no jurisdiction in the case, shall forward the request within eight days of the time of receipt, together with all documents of the case, to the authority vested with powers and competence - of which the requesting authority has to be notified.

(5) If the special authority finds that it has already adopted a decision regarding the request, and another request - other than a request for prior express consent of the special authority - pertaining to the same right has been submitted while the relevant facts of the case and the applicable laws remained unaltered, the special authority shall forthwith send its previous assessment to the authority and shall terminate its proceedings. The request may not be satisfied by re-sending the previous assessment of the special authority if the case is re-opened.

(6) The special authority shall request - if necessary - the client to remedy any deficiencies according to Section 37, and shall so inform the authority without delay. If the client fails to comply with such request in proceedings opened upon request, the special authority shall inform the authority on the client's failure to remedy deficiencies, upon which the authority shall terminate the proceedings if it cannot be continued *ex officio*.

## **Summons**

#### *Section 46.*

(1) Where it is necessary to interview a person in connection with a proceeding, the authority shall summon this person to appear prior to the time limit or deadline given, or at the place indicated.

(2) In proceedings opened at the client's request the client may not be summoned to appear, unless the authority:

- a) continues such proceedings *ex officio*;
- b) holds consultation, public hearing or settlement negotiations.

(3) The summons shall be served - unless the circumstances suggest otherwise - upon the person summoned at least eight days before the scheduled date of the hearing to make it easier for him to comply.

(4) The summons shall indicate the reason and the status in which the person will be interviewed. The person summoned shall be advised as to the consequences of failure to appear.

(4a) If the person summoned is of limited legal capacity, the authority shall notify the legal representative with instruction to ascertain that the person summoned will appear. If the person summoned is incompetent, the authority shall send the summons through the legal representative.

(4b) If the person summoned under Subsection (4a) fails to appear, and the legal representative fails to offer proof that this is due to no fault of his own, the legal representative may be subject to an administrative penalty.

- (5) A summons ruling may be served orally as well.
- (6) The summons may not be appealed independently.

*Section 47.*

(1) The authority may summon a person who lives outside its seat to appear at its seat only if so prescribed by legal regulation or if so requested by the person affected, and if the person summoned to be interviewed has better access to the competent authority's seat as oppose to the authority of the lowest level, at whose seat he resides permanently or temporarily; otherwise the authority shall contact the authority of the lowest level to have the person interviewed.

(2) The restriction prescribed in Subsection (1) shall not apply in the case where the person is summoned to participate in discussions or negotiations, or if having the interview conducted elsewhere would impair the procedural rights of the client (clients), or if at the home address of the person to be interviewed there is no authority that is suitable to take the necessary procedural step.

(3) An authority whose competence is limited to Budapest and the associations may summon persons from the territory of Budapest and from the entire area of the association, respectively.

(4) If the person summoned is unable to appear before the authority due to his/her age, health condition, physical disability or some other reason, the person summoned shall be heard at his/her place of stay.

*Section 48.*

(1) The person summoned must appear as ordered.

(2) If the person summoned fails to comply with the summons or departs without authorization from the place of the proceedings before the interview, and is unable to provide sufficient explanation in advance as to the reason for his absence, or to verify it within eight days, or if he appears for the interview in a condition unsuitable to be interviewed without offering an adequate reason therefor, such person may be subject to an administrative penalty. No penalty may be imposed upon the person summoned if the summons had not been served properly.

(3) If the person summoned fails to appear upon the second summons and fails to offer a proper excuse, he may be arrested and presented by the police. The arrest warrant shall be approved - unless otherwise prescribed by the relevant legislation - by the public prosecutor to be requested by the head of the authority.

(4) If the authority is aware that a person whose arrest has been warranted is a professional member of the Hungarian Armed Forces, a law enforcement agency or the Nemzeti Adó- és Vámhivatal (*National Tax and Customs Authority*), the relevant commander shall be contacted to carry out the arrest.

(5) If the person summoned is able to verify the reason for his absence or departure, the ruling establishing the administrative penalty and the ruling ordering his arrest shall be withdrawn.

(6) If the representative of a legal person or association lacking the legal status of a legal person failed to appear for the interview as summonsed, and the executive officer refuses to reveal the name of the representative at the authority's request, the executive officer may be imposed an administrative penalty. The arrest may apply to the executive officer.

(7) The ruling ordering the arrest may not be appealed independently.

## **Notice**

*Section 49.*

(1) If the authority considers that it is not necessary to summon a client, the client shall be notified concerning the interview of the witness and the expert, on the inspection and the hearing, including an advice that the client shall have the option to attend the interview. The notice - unless the circumstances suggest otherwise - shall be delivered to the client at least five days in advance.

(2) The client may not be notified and the hearing or the inspection shall be conducted in closed session, if the personal identification data and home address of the witness to be heard, the expert or the holder of the subject-matter of the inspection are handled confidentially, and confidentiality of such data cannot be ensured during the hearing or the inspection.

(3) The competent special authority shall be notified concerning the hearing of a witness or an expert, on the inspection, negotiations and the public hearing at least five days in advance, where it concerns its powers and competencies.

(4) If so permitted by the relevant legislation, the client may be notified in person or by telephone.

## **Ascertaining the Relevant Facts of the Case**

*Section 50.*

(1) The authority shall ascertain the relevant facts of the case in the decision-making process. If the information available is insufficient, the authority shall initiate an evidence procedure.

(2) The authorities affected through their powers and competencies may be ordered by an act or government decree to cooperate during the proceedings and the regulatory inspection with a view to ascertaining the relevant facts of the case and to the protection and promotion of the client's rights and legitimate interests. Cooperation may take the form of a dialogue between the authorities, and coordinating their control procedures and activities. The failure of either of the authorities ordered by an act or government decree to cooperate to comply shall not effect the other authority's obligation to act, where the acting authority shall report the omission to the supervisory organ of the defaulting authority, or in the absence of such organ to the head of the defaulting authority.

(3) The facts which are officially known to the authority and which are of common knowledge shall not be evidenced.

(4) In proceedings of the authorities such evidence shall be admissible if suitable to facilitate the ascertaining the relevant facts of the case. Evidence shall, in particular, mean the client's statement, a document, a testimony, a memorandum of inspection, expert opinion, a memorandum drawn up in a regulatory inspection and physical evidence.

(5) The authority shall select the evidence it deems admissible at its own discretion. The authority may be required by law to base its resolution solely on certain specific means of evidence, furthermore, legislation may prescribe the use of certain specific means of evidence mandatory, and may prescribe that certain specific bodies have to be consulted beforehand.

(6) The authority shall assess each piece of evidence separately and on the aggregate and shall establish the facts according to its conviction based on this assessment.

(7)-(9)

*Section 50/A.*

(1) The authority of competence to adopt a decision on the merits of the case shall have powers - with a view to ascertaining the relevant facts of the case - to take one's property from one's possession (hereinafter referred to as "seizure"), if there is no other way to ascertain the relevant facts of the case or it would take an unreasonably long time, or if failure to do so may endanger the success of the procedure.

(2) In the process of implementation of the seizure the holder of the property shall be advised to surrender the property. Any person who cannot be heard as a witness shall not be compelled to surrender the property, nor any person who has the right to refuse to testify under Paragraph *c*) of Subsection (4) of Section 53 if having the property surrendered would expose the identity of a person from whom he receives information.

(2a) The exemption of any person who has the right to refuse to testify under Paragraph *c*) of Subsection (4) of Section 53 from having to surrender the property shall remain to apply after the underlying relationship is terminated.

(3) Where a person who is required to surrender the property fails to comply, the authority shall carry out the seizure with police assistance, and may impose an administrative penalty upon the person required to surrender the property.

(4) The provisions on inspections shall also apply to seizures, with the exception that the provisions pertaining to the holder of the subject-matter of the inspection shall apply to the holder of the seized property.

(5) The ruling ordering seizure, and the ruling declining a request for the termination of the effect of the seizure may be appealed independently. The appeal shall have no suspensory effect on the enforcement of the ruling, unless seizure is ordered notwithstanding reference to Paragraph *c*) of Subsection (4) of Section 53.

*Section 50/B.*

(1) The authority shall provide for the transportation and safeguarding of the seized property, or if transportation is not possible or if it would entail unreasonably high costs, it shall leave the property in the custody of the holder subject to a prohibition of use and alienation.

(2) The seizure report shall describe the seized property enabling individual identification.

(3) The seized property shall be safeguarded to prevent any changes, and to ensure that the seized property cannot be exchanged and that it can be easily identified.

(4) As regards seized documents, a certified copy shall be provided at the request and at the expense of the holder of the document, provided that this is not considered to jeopardize the outcome of the procedure.

*Section 50/C.*

(1) The authority shall terminate the effect of the seizure:

a) when the grounds therefor no longer exist,

b) if the authority terminated the proceedings, or

c) a decision has been adopted on the merits of a case.

(2) Unless otherwise provided in the relevant legislation, any seized property that has no further use for establishing the relevant facts of the case shall be returned to its original holder within eight days. If the authority requests proceedings that fall within the competence of another authority, any seized documents and physical evidence that may be necessary to carry out the proceedings shall be handed over to the requested authority.

(3) Where it is evident on the basis of the relevant circumstances that the person from whom the property was seized is not the rightful holder of the property, the authority shall release the property in question to a person who is able to make a claim properly substantiated.

(4) Where possession of the seized property is found unlawful, the authority shall proceed as instructed by the relevant legislation instead of releasing the property.

(5) If the property cannot be released in its physical substance, compensation shall be provided based on the consideration received from the sale of the seized property, less the costs of storage and handling, with interest added up to the time of compensation calculated by the central bank base rate. Any additional claim the holder of the property may have can be enforced under civil liability. Where seizure was subsequently found unsubstantiated, the costs of storage and handling may not be deducted from the amount of consideration received from the sale of the seized property.

(6) If the seized property has no value, and if it is unclaimed, it shall be destroyed upon the termination of the effect of the seizure. The owner and the holder of the seized property shall be jointly and severally liable for the costs of destruction.

(7) Where a property is to be released to a client, it may be withheld in security for any cash payment for which the client is liable.

#### *Section 50/D.*

(1) The authority shall move to sell a seized property if it is perishable or unsuitable for long-term storage.

(2) The authority may also move to sell a seized property if:

a) the treatment, storage or safeguarding of the seized property is likely to entail unreasonably high costs, taking into account the value of the property or the foreseeable long period of storage that may be required,

b) the value of the seized property is likely to diminish considerably due to the foreseeable long period of storage that may be required.

(3) In the cases of Subsections (1) and (2), the seized property may be sold if no rightful claim is filed for the property within five days following the authority's notice.

(4) The consideration received from the sale of the seized property shall take the place of the seized property.

## **Client Statement, Data Disclosure Requirement**

#### *Section 51.*

(1) The client has the right in a proceedings to make a statement, or to refuse to make a statement.

(2) If deemed necessary to ascertain the relevant facts of the case the authority shall request the client in proceedings launched upon request to make a statement. If the client fails to provide a statement as requested by the authority in proceedings opened at his request, the authority shall adopt a decision based on the information in its possession, or shall terminate the proceedings pursuant to Subsection (2) of Section 31.

(2a) If the client is incompetent, he may be requested to make a statement unattended if there is no other way to obtain the evidence the statement is presumed to provide, and if this is approved by his legal representative. In justified cases, an incompetent person shall be interviewed at his home address.

(2b) Unless otherwise provided for by law, any person of limited legal capacity, and whose ability to perceive the significance of making a statement on account of his mental or other condition, may be requested to make a statement only if he wishes to do so, and if this is approved by his legal representative.

(2c) The statement of incompetent persons and persons of limited legal capacity shall be taken only in the presence of the legal representative. If the statement is made in writing it shall be signed by the legal representative.

(2d) If there exists any conflict of interest between the client and his legal representative, the legal representative's rights under Subsections (2a)-(2c) shall be exercised by the guardian authority. If the client submits a petition against his legal representative, conflict of interest shall be declared. The guardian authority may interview the incompetent person or person of limited legal capacity without the legal representative being present, if this is deemed to serve the interest of the incompetent person or person of limited legal capacity.

(3) An act or government decree may compel the client in *ex officio* proceedings, or the adverse party in proceedings opened upon request to supply at the authority's request the information deemed necessary for a decision on the merits, and may prescribe sanctions for any failure to comply with the obligation of data disclosure or for supplying false data.

(4) Where the disclosure of data is prescribed by an act or government decree, the client in proceedings opened *ex officio*, or the adverse party in proceedings opened upon request may refuse to comply if:

- a) he was not released from the obligation of confidentiality relating to classified information;
- b) compliance would implicate himself or his relative in some criminal activity; or
- c) the client or the adverse party is a media content provider or any person it employs under contract of employment or some other form of employment relationship, and his statement would expose the identity of any person from whom they receive information relating to the media content they provide.

(4a) The exemption described in Paragraph c) of Subsection (4) shall remain to apply after the underlying relationship is terminated.

(4b) The ruling ordering the client or the adverse party to disclose information notwithstanding reference to Paragraph c) of Subsection (4) may be appealed independently.

(5) The client or his representative may be subject to an administrative penalty if providing any false evidence of substantial weight for the case on hand, in spite of his knowledge otherwise, or if fails to comply with the disclosure requirement prescribed in Subsection (3) for reasons other than those illustrated under Subsection (4), or conceals any information which may be of import concerning the outcome of the case, or provides any false information.

(6) The authority shall inform the client concerning his rights and obligations relating to making statements and to data disclosures, and shall advise the client concerning the legal consequences for any failure to comply with his obligations.

(7) If so permitted by the relevant legislation, the client shall be allowed to make the statement referred to in Subsection (1) and to disclose the information under Subsections (3)-(4) by telephone as well after the electronic identification of the client, provided that the conversation is recorded by reliable means for the safeguarding of information, or may refuse to make the statement and to disclose the information by telephone as well.

## **Official Documents**

### *Section 52.*

(1) The authority, for establishing the relevant facts of the case, may request to present some document or other instrument, and may contact another organ in an attempt to obtain them, in accordance with Paragraph c) of Subsection (1) of Section 26.

(2) An authentic instrument made out abroad, and any private document certified by a foreign court, administrative body, notary public or any other person vested with authenticity shall - unless any legal regulation pertaining to the case in question, an international agreement or the principle of reciprocity suggests otherwise - be considered affirmative proof according to Hungarian laws if endorsed by the Hungarian foreign mission in the country where it was issued. Any instrument made out in a language other than Hungarian shall be accepted only with the official translation attached, unless otherwise prescribed by any legal regulation pertaining to the type of case in question.

(3) Any instrument made out in a language other than Hungarian shall be accepted only with the official translation attached, unless otherwise prescribed by any relevant legislation pertaining to the type of case in question, however, the client may offer a statement concerning a fact that is to be verified in place of a document that may be unreasonably difficult to obtain. In such cases the client has to be advised concerning the legal consequences for making a false statement.

(4)

## **Witnesses and Official Witnesses**

### *Section 53.*

(1) Any fact that pertains to the case may be verified by witness testimony.

(2) The person summoned to testify must appear for the interview and shall provide a testimony subject to the exceptions set out in Paragraph b) of Subsection (3) and in Subsections (4) and (6).

(3) A person may not be required to testify:

- a) who is unlikely to produce any admissible evidence;
- b) who was not released from the obligation of confidentiality concerning any privileged information.

- (4) Testimony may be refused if:
- a) the witness is a relative of any of the clients;
  - b) it would implicate the witness himself or his relative in some criminal activity; or
  - c) the witness is a media content provider, or any person it employs under contract of employment or some other form of employment relationship, and his testimony would expose the identity of any person who supplies information relating to the media content provided.
- (4a) An incompetent person may be asked to testify if there is no other way to obtain the evidence the testimony is presumed to provide, and if this is approved by his legal representative. In the case of questioning, the witness shall not be advised of the legal consequences of perjury. In justified cases, an incompetent person shall be interviewed at his home address.
- (4b) Unless otherwise provided for by law, any person of limited legal capacity, and whose ability to comprehend the significance of refusal to testify on account of his mental or other condition, may be questioned as a witness only if he wishes to testify, and if this is approved by his legal representative.
- (4c) Questioning of an incompetent person or person of limited legal capacity may take place only if the witness's legal representative is present.
- (4d) If there exists any conflict of interest between the witness and his legal representative, the rights specified in Subsections (4a)-(4c) shall be exercised by the guardian authority. The guardian authority may interview the incompetent witness or witness of limited legal capacity without the legal representative being present, if this is deemed to serve the interest of the incompetent witness or witness of limited legal capacity.
- (5) A testimony taken in violation of the provisions contained in Subsection (3) and in Subsections (4a)-(4d) hereof, and in Subsections (5) and (6) of Section 54 may not be admissible, or any testimony where the witness was not advised beforehand concerning his right explained in Subsection (4).
- (6) Subject to the exceptions set out in an act, persons enjoying diplomatic immunity shall not be obliged to testify.
- (7) An administrative penalty may be imposed if the person summoned to testify fails to comply with the obligation described in Subsection (2) in spite of being advised concerning the legal implications.
- (8) The exemption described in Paragraph c) of Subsection (4) shall remain to apply after the underlying relationship is terminated.

#### *Section 54.*

- (1) Before the interview the witness's identity shall have to be established. The witness shall declare his relationship with the clients, and whether or not he is biased. If there is any proof indicating that the witness is biased, it shall be recorded in a report. The witness shall be advised of his rights and obligations, and of the legal consequences of perjury.
- (2) A witness not yet interviewed may not be present at the interview of the client, another witness or an expert.
- (3) If the authority interviews a witness without a hearing, this interview shall be conducted according to the provisions on hearings.
- (4) The interview of the witness may not be attended by the client or any other parties to the proceeding, if the witness's testimony concerns any privileged information, or if the natural identification data and home address of the witness are to be handled confidentially.
- (5) The authority may authorize the witness to make his testimony in writing after or instead of the interview. In this case the witness shall himself write down his testimony and shall sign it, or if made in the form of an electronic document, execute it by way of an electronic signature, or if the witness's testimony is written in any other way, it shall be endorsed by a judge or notary public. If the witness is incompetent or of limited legal capacity, the legal representative, and in the event of conflict of interest the guardian's representative shall also sign the deposition. Making a deposition shall not preclude the authority to summon the witness for making an oral testimony.
- (6) If the witness makes his testimony in writing without or after the hearing, the deposition shall contain an indication that the witness made the testimony in full knowledge of the obstacles in giving evidence and of the legal consequences of perjury. The authority shall so advise the witness at the time when authorizing the witness to make his testimony in writing and when reciting the obstacles in giving evidence and of the legal consequences of perjury.

#### *Section 55.*

- (1) The authority shall have the right to carry out protective measures and to conduct inspections, searches seizures and regulatory inspections in the presence of an official witness.
- (2) An official witness may not be present at the procedural steps where video and sound recordings are made.

(3) The official witness shall verify the events when carrying out the procedural step and the facts he has seen by affixing his signature on the memorandum.

(4) Relatives of the client, and persons engaged in employment or some other work-related relationship with the competent authority, and persons lacking legal capacity may not function in the capacity of official witness.

(5) No one may be compelled to serve as an official witness.

(6) Prior to carrying out the procedural steps, the official witness shall be advised of his rights and obligations. The official witness may present his views in connection with the procedural steps, and shall be entitled to compensation according to the provisions governing the reimbursement of the expenses of witnesses.

(7) The official witness is bound by confidentiality with regard to every fact and datum about which he gains knowledge, from which he may be released by the competent authority, the authority of appellate jurisdiction or the court in respect of the facts, data and circumstance which pertain to the given case.

## **Search Warrant**

### *Section 56.*

(1) Where ascertaining the relevant facts of a case requires the inspection or surveillance of any movable property, real estate property (hereinafter referred to collectively as “subject-matter of the inspection”), or a person, the authority may order an inspection.

(2) Inspections may be conducted by the authority’s officers, an expert appointed by the authority, or another person duly authorized by the relevant legislation, where they are required to verify their authorization, with the exception set out in Subsection (3) of Section 57. The person conducting the inspection may be required by law to produce a letter of authorization before commencing the inspection.

(3) An act or government decree may provide for the special authority competent in the case to provide its assessment within the framework of an on-site inspection. The authority shall inform the special authority concerning the time of the on-site inspection at least fifteen days in advance, by forwarding the request for a special authority assessment.

(4) In the case referred to in Subsection (3) above, the provisions of Paragraph *d*) of Subsection (3) of Section 33 and Subsection (8) of Section 33 shall not apply.

### *Section 57.*

(1) Subject to the exceptions set out in Subsections (2) and (3), the holder of the subject-matter of the inspection and the person mentioned in Subsection (1) of Section 56 (hereinafter referred to collectively as “holder of the subject-matter of the inspection”) shall be notified in advance of the assessment visit. Where deemed necessary for the purposes of the assessment visit, the notice shall contain instructions ordering the holder of the subject-matter of the inspection to attend in person, and to have the necessary documents prepared. The notice - unless the circumstances suggest otherwise - shall be delivered to the holder of the subject-matter of the inspection at least five days in advance.

(2) Where the advance notice is likely to jeopardize the success of the inspection, the holder of the subject-matter of the inspection shall be informed concerning the inspection at the beginning of the inspection.

(3) Where the provision of information prior to the inspection is likely to jeopardize the outcome of the procedure, the authority shall hand over or send a copy of the inspection report to the holder of the subject-matter of the inspection at the time when it is completed, or immediately thereafter. The information is not required if the inspection can be carried out in the absence of the holder of the subject-matter of the inspection, by way of external survey.

(4) The absence of the holder of the subject-matter of the inspection shall have no bearing on carrying out the inspection. The relevant legislation may prescribe in specific cases that an on-site inspection may be conducted only in the presence of the client, his associate or authorized representative, or failing these in the presence of an official witness.

(5) The client affected may attend the inspection, except where the natural identification data and home address of the holder of the subject-matter of the inspection is handled confidentially.

### *Section 57/A.*

(1) An on-site inspection shall be conducted during the hours when the activity to which the inspection pertains is conducted, in a private residence that is not registered as a business address - unless another time is better suitable for the purposes of the inspection - on regular work days between 8:00 and 20:00 hours. The

inspection shall be conducted so as to cause the least amount of disturbance in the work and regular activities of the holder of the subject-matter of the inspection.

(2) In the case of a life-threatening or potentially devastating situation, furthermore, for reasons of public security and public order, or for any other important reasons specified by law the inspection may be carried out without delay.

(3) In the process of carrying out the inspection, the holder of the subject-matter of the inspection can be ordered to produce the subject-matter of the inspection and to admit the client into the premises, of which the owner shall be notified at the same time.

(4) In the course of the inspection the person delegated to conduct the inspection may - without exceeding his jurisdiction - enter any area, building or premises as is required to carry out the inspection, may inspect any document, object and work processes as pertaining to the subject-matter of the inspection, request information from the holder of the subject-matter of the inspection or any other person in the premises inspected, and make video and sound recordings of the site and of the inspected objects and processes, take samples and may collect other evidence.

(5) Where the inspection is carried out through any means of information technology, upon verification of authorization to carry out the inspection, the holder of the subject-matter of the inspection shall provide access for the authority to the information specified by the relevant legislation, also to personal data where authorized by an act, by making available the required technical means and access information.

(6) The holder of the subject-matter of the inspection containing any classified information may not be ordered to present it, if he was not released from the obligation of confidentiality relating to the article in question.

(7) The holder of the subject-matter of the inspection, if a media content provider or any person it employs under contract of employment or some other form of employment relationship, may not be ordered to present the subject-matter of the inspection if it would expose the identity of any person who supplies information relating to the media content provided. Such exemption shall remain to apply after the underlying relationship is terminated.

#### *Section 57/B.*

(1) In justified cases, if deemed necessary for the successful and safe conduct of the inspection, the authority may ask for police assistance.

(2) If the holder of the subject-matter of the inspection fails to present it for inspection when so instructed by the authority despite being advised of the legal consequences in the case of non-compliance, or unlawfully prevents to have it searched on the premises, the authority may seize the article in question.

(3) Any person who obstructs the inspection in any way shall be subject to an administrative penalty.

(4) If an on-site inspection is deemed necessary in a life-threatening or potentially devastating situation requiring prompt attention, or if it is allowed by law for other reasons of import, the authority shall carry out the inspection by opening a locked area, building or room by force, against the will of the persons present.

(5) Conducting an inspection in the manner specified in Subsection (4) shall be subject to the prior consent of the competent public prosecutor, and shall be carried out with police assistance in the presence of an official witness. If obtaining the prior consent of the public prosecutor is likely to result in undue delay, the inspection may be carried out without the prior consent of the public prosecutor, in which case the inspection report - containing the reason for taking prompt action and the action in detail - shall be sent to the public prosecutor within five days.

## **Expert**

#### *Section 58.*

(1) An expert shall be consulted or an expert opinion shall be obtained if the competent authority does not have sufficient expertise and:

- a) if special expertise is required in the case for establishing a material fact or other circumstance; or
- b) an expert is prescribed mandatory by the relevant legislation.

(2) No expert may be appointed if the opinion of a special authority is prescribed by an act or government decree for the subject matter in question.

(3) Where a specific expert is prescribed by the relevant legislation, this organization, institution, body or person shall be delegated for such expert services. In other cases the authority shall have the right to appoint a forensic expert authorized to perform the activities specified in the Act on the Activities of Forensic Experts.

(4) Subject to the exceptions set out in the Act on the Activities of Forensic Experts, the expert appointed shall follow the instructions of the authority as laid down in the appointment. The expert appointed may be subject to an administrative penalty and his remuneration may be reduced by one per cent for each day

following the deadline if he fails to discharge his duties in due time without requesting an extension or without providing prior notice of being detained.

(5) The client may also make a recommendation as to the person of the expert. At the client's request - subject to advance payment of the costs involved - the authority may appoint another duly authorized forensic expert in justified cases, either before or after the original expert has presented his opinion. The assessment provided by the expert delegated by the client shall be admissible as evidence also if the authority did not officially appoint the expert in question.

(6) Any person who is subject to the grounds for exclusion applicable to officers in charge, who cannot be heard as a witness or who has the capacity to refuse to testify, may not serve as an expert.

#### *Section 59.*

(1) The authority shall furnish to the expert all data and information that may be necessary to discharge his duties. The expert may inspect the documents of the case to the extent required to discharge his duties related to the proceedings, may attend the interview of the client or the witness, may participate in the hearing or the inspection, and may interrogate the client, the witness and the holder of the subject-matter of the inspection.

(2) Where so prescribed by an act, the client may be required to participate in the expert's examination. The expert shall communicate his findings to the authority.

(3) The expert shall be advised of the legal consequences of providing a false assessment beforehand.

(4) If the expert assessment is lacking clarity or incomplete, if it appears contradictory in itself or relative to the opinion of another expert, or to repudiate certain established facts supported by evidence, or if there is serious doubt as to its authenticity, the expert shall provide the information necessary when so requested by the authority.

(5) Where the different assessments provided for the same subject-matter to be verified contain any difference relating to a specific issue that is beyond clarification by means of testimony of the experts involved or by any other means, the authority shall appoint another expert to administer an opinion as to the possible reasons for such difference between the assessments, and as to whether any supplement is required for either of the assessments.

(6) If the authority interviews an expert without a hearing, this interview shall be conducted according to the provisions on hearings.

(7) Having regard to matters not regulated in this Section the provisions of the Act on the Activities of Forensic Experts shall apply to experts. Except where otherwise provided for in the relevant legislation, the time limits for expert assessments shall be governed by the provisions pertaining to special authorities.

## **Interpreter**

#### *Section 60.*

(1) If the officer in charge does not speak the language of the client or any other party to the proceeding, an interpreter shall be engaged. If the officer in charge is able to speak the foreign language, an interpreter shall be employed to the benefit of other clients and other parties to the proceeding, unless they too speak the given language. This fact shall be recorded in the memorandum.

(2) If the client or any other party to the proceeding is hearing impaired, the hearing shall be conducted with a sign language interpreter at the client's request, or the client or other party shall be permitted to make a written statement instead. If the client or any other party to the proceeding is deafblind, the hearing shall be conducted with a sign language interpreter at the client's request. If the client or any other party to the proceeding is speech impaired, the client or other party shall be permitted to make a written statement upon request.

(3) The provisions pertaining to experts shall also apply to interpreters.

(4) In the course of regulatory inspections, the authority may engage a person present who is able to speak a foreign language as an interpreter in connection with ascertaining the relevant facts of the case, if there is no other way available. The person engaged as an interpreter shall be advised of the rights and obligations of interpreters, and this shall be recorded in the inspection report together with the statement of the person engaged as an interpreter.

## **Consequences for Obstruction of the Proceedings**

#### *Section 61.*

(1) In the cases specified in this Act any breach of obligations within the perpetrator's control shall be subject to an administrative penalty. If the client or any other party to the proceeding otherwise acts in bad faith, the competent authority may impose an administrative penalty upon such client or party.

(1a) The authority shall order the client or any other party to the proceedings to cover any extra expenses that may ensue:

- a) upon having an administrative penalty imposed,
- b) upon having to repeat a certain procedural step due to any unlawful conduct of the client or any other party to the proceedings, or
- c) on account of the failure of the client or any other party to the proceedings to carry out certain procedural steps in due observation of the principle of prudence.

(2) The minimum amount of administrative penalty that may be imposed is five thousand forints for each violation, and the maximum amount shall be - subject to the exception set out in Subsection (1) of Section 141 - five hundred thousand forints for natural persons and one million forints for legal persons and for associations lacking the legal status of a legal person.

(3) The administrative penalty may be imposed repeatedly in the same proceedings, for any repeated conduct of the same infringement or for another infringement.

(4) When imposing the administrative penalty the authority shall take into consideration:

- a) the gravity of the infringement and the degree of responsibility;
- b) the financial situation and income of the person affected; and
- c) the number and extent of previous penalties if the administrative penalty is imposed in the same proceedings.

(5)-(6)

## **Hearing and Public Hearing**

### *Section 62.*

(1) The authority shall hold a hearing if so prescribed by legal regulation, or if it is necessary to provide audience to all parties to the proceeding in order to ascertain the relevant facts of the case or for an attempt to reach a composition.

(2) In the hearing the authority shall interview the client, the witness, the expert, the liaison officer, and may examine the articles of inspection. An incompetent person or a person of limited legal capacity may be examined in a hearing only if being interviewed collectively with other parties to the proceedings would not harm the interest of such persons.

(3) The client may present his views in connection with the hearing, ask questions from the persons interviewed, and may request the hearing of other persons or to obtain other evidence.

(4) The hearing may be attended by any person, with the exception of those mentioned in Subsection (2), if not objected by the clients concerned. The authority may decide to hold the hearings in closed sessions and bar the public from any stage of the hearing so as to ensure the protection of privileged data and confidential information.

(5) A person who disturbs the order of the hearing may be called to order by the chair of the hearing, and may be expelled or may have an administrative penalty imposed on him in the case of the repeated or more serious disturbance of the order of the hearing.

### *Section 63.*

(1) The authority shall conduct a public hearing if:

- a) so prescribed by the relevant legislation;
- b) more than fifty clients participate in the proceedings, or more than five bodies referred to in Subsection (5) of Section 15, except if otherwise provided for by law; or
- c) the authority deems it necessary to learn the opinion of the general public.

(2) The authority shall notify the parties affected concerning the place and time of the public hearing at least five days in advance - unless otherwise prescribed by the relevant legislation - by way of a posted notice, and by way of publication.

(3) The minutes taken to record the events of a public hearing shall contain:

- a) the name of the authority, the name of the case officer, the subject matter of the case and the file reference number;
- b) the place and time where and when the public hearing was held;
- c) a summary of the comments made during the public hearing;
- d) the place and time where and when the minutes was drawn up; and
- e) the signature of the case officer and the signature of the keeper of the minutes on each page.

(4) The recording medium containing the sound recordings, with or without video, shall be enclosed with the documents of the case, or a memorandum shall be drawn up before the conclusion of the proceedings with the contents specified in Subsection (3).

## **Composition**

### *Section 64.*

(1) Where so prescribed by law or - if the authority holds a hearing - at the hearing the authority shall - before making its decision - attempt to mediate a settlement between the parties by way of composition. Settlement by composition may be attempted where it appears feasible due to the nature of the case.

(2) If a settlement is agreed upon the procedure specified in Section 75 shall be applied, otherwise the authority shall continue the proceedings.

## **Calculation of Time Limit**

### *Section 65.*

(1) The time limit defined in days or working days shall not include the day when the act or circumstance underlying the commencement of the time limit has occurred, or the day of service, delivery, or the day of posting and removal of a notice.

(2) Where a time limit is defined in months and years, it shall expire on the day that corresponds to the starting day based on its number, or if this day is not available in the month when the time limit expires, on the last day of the month.

(3) If the last day of a time limit falls on a day that is declared to be an official holiday, the time limit shall expire on the next working day.

(4) The date of presentation for a petition or request submitted by way of the postal service shall be the date of dispatch.

(5) The date of presentation of electronic documents shall be the date when dispatched, however, the time limit shall commence on the next working day.

(6) Where a right is contingent upon a specific day, it shall take effect at the beginning of that day. The legal consequences relating to any failure of compliance with a time limit and to default shall take effect upon the last day of the time limit.

(7) In the event of doubt the time limit shall be considered observed.

(8) In the absence of any provisions of law to the contrary, the duration of any system breakdown shall not comprise in the time limit.

## **Application for Excuse**

### *Section 66.*

(1) Any person who was unable to keep a deadline or time limit in the proceedings for reasons beyond his control may lodge an application for excuse.

(2) The application for continuation shall be adjudged by the authority proceeding at the time of the omission. An application for continuation for failure to observe the deadline for filing an appeal or for filing for legal action shall be adjudged, respectively, by the authority of the first instance, or by the court of jurisdiction for administrative actions.

(3) If the authority is in conformity with the regulations concerning the notification of clients and the delivery of resolutions, an application for continuation shall not be accepted for missing the deadline for lodging an appeal on the grounds that the notice and/or the resolution was delivered by means other than the postal service. This provision shall also apply to deadlines relating to lodging petitions for judicial review.

(4) The application for continuation shall be submitted within eight days from the time of becoming aware of the default or from the time the obstruction is eliminated, where applicable, but not later than within six months from the last day of the time limit or deadline in question.

(5) In the event that a deadline is missed, the action neglected must be performed simultaneously with submission of the application for excuse, if it is possible.

### *Section 67.*

(1) If the authority accepts the application for continuation, the person who filed the application for continuation shall be treated from a procedural perspective as being in compliance. To this end the authority

shall revise or withdraw its decision, and shall continue the proceedings in the event of withdrawal of its decision for terminating the proceedings, or shall repeat certain procedural steps. The restrictions set out in Section 114 shall not apply to the revision or withdrawal of a decision under an application for excuse.

(2)-(4)

## **Access to Documents of the Proceedings**

### *Section 68.*

(1) The client shall be allowed access to the documents of the proceedings any time during the proceedings. This right shall prevail also if the client did not previously participate in the proceedings.

(2) Witnesses shall be allowed to review the report that contains their testimony; the holder of the subject-matter of the inspection shall be allowed to inspect the documents of the inspection.

(3) A third person may be allowed access to documents containing any personal data or privileged information, if able to substantiate that the inspection of the document is necessary for the enforcement of his right, or for the fulfillment of his obligation conferred upon him by the relevant legislation or an official ruling, and if the legal requirements for access to privileged information are satisfied. The right for access to documents for inspection may be exercised subject to a fee specified in the relevant government decree, as well as for rendering personal data and privileged information unrecognizable, and for making copies of extracts of documents produced in this fashion.

(4) The sphere of persons authorized to access documents for inspection according to Subsection (3) may be prescribed by law in connection with certain types of cases.

### *Section 69.*

(1) No access shall be allowed to:

- a) the draft of the decision;
- b) any document that may contain any reference to the identity of the person, whose natural identification data and home address is considered confidential information by order of the authority;
- c) any document that contains any classified information without proper clearance for use or inspection;
- d) any document containing other privileged information, where such information is prevented by the legislation in which protection is prescribed, or if the lack of knowledge of privileged information will not impair the client in exercising his rights conferred by law.

(2) The client may request the restriction of access to the relevant documents with respect the data expressly specified with a view to protecting his business and other personal interests within reasonable limits. The authority shall approve the request - upon carefully weighing the relevant circumstances of the case - if the lack of knowledge of the data in question will not impair the persons in exercising their rights to inspect the documents in question.

(2a) If the client is incompetent or of limited legal capacity, the authority may, in the client's interest, decide to limit the right of access to the documents of the case without being served with an express request to that effect.

(3) With a view to exercising the right of access to documents for review, the authority shall render personal data and privileged information unrecognizable, as well as the data described in Subsection (2), to which the authorization of the person to inspect documents does not pertain.

(4) At the request of the person referred to in Section 68, the authority shall investigate as to whether the conditions set out in Subsections (1)-(3) are satisfied, and shall permit the inspection of documents accordingly, or shall adopt a ruling for the refusal of the inspection of documents, which ruling may be appealed independently by the requesting person.

(5) The person duly authorized to exercise the right of inspection of documents shall be allowed to make copies or extracts of these documents, or may request copies. The authority shall certify such copies and extracts upon request.

(6) The person duly authorized to exercise the right of inspection of documents shall be permitted - according to Subsections (1)-(5) - to inspect the documents in the authority's possession after the final conclusion of the proceedings.

### *Section 69/A.*

(1) Where publicity of a decision is not restricted or excluded by law, upon the conclusion of the proceedings the final resolution, if it does not contain any personal data and privileged information, as well as any ruling for the annulment of the resolution of the first instance and for ordering the authority of the first

instance to reopen the case shall be made available to the general public, of which copies may be requested subject to a fee specified in the relevant government decree.

(2) A request for access to a decision referred to in Subsection (1) shall be satisfied by the authority that has adopted the final decision within eight days, after the personal data and privileged information contained in the decision are rendered unrecognizable. Where any reference is made to a natural person in the decision, it shall be consistent with his role in the proceedings, however, if this is not suitable to prevent the identification of the natural person in question, the identification data shall be erased in a manner so as not to prejudice the relevant facts of the case.

(3) Any data that is considered public information may not be rendered unrecognizable in the decision.

(4) Personal data and privileged information may not be rendered unrecognizable if the requesting person is able to substantiate - indicating the data in question - that access to such data is necessary for the enforcement of his right, or for the fulfillment of his obligation conferred upon him by the relevant legislation or an official ruling, and if the legal requirements for access to privileged information are satisfied.

#### *Section 69/B.*

The authority, if unable to determine of its own motion as to whether the reasons under Subsection (2) of Section 69 for the restriction of access to the relevant documents apply, shall request the client whose business and other personal interests are under protection to make a statement. Access to documents may not be refused if the client in question fails to make the statement in due time.

### **Presentation of Evidence to the Client**

#### *Section 70.*

(1) If the authority did not notify the client concerning the opening of proceedings, and has conducted an evidence procedure for the case, the client shall be notified within eight days from the conclusion of such procedure so as to inspect the evidence - subject to the regulations governing access to documents for inspection -, to present his views within eight days, to exercise his right to make statements, and to present a request for additional evidence.

(2) The notice shall not be required if the authority provided the client with the opportunity to inspect the evidence during the evidence procedure, and to exercise his rights conferred under Subsection (1), or if the authority complies with the client's request, if there is no adverse party involved.

(3) The client's failure to exercise their right conferred under Subsection (1) within the deadline prescribed by the authority shall not constitute an obstacle in the conclusion of the proceedings.

### ***Chapter IV***

#### ***Decisions of the Authority***

#### **Resolution and Ruling**

#### *Section 71.*

(1) Subject to the exceptions set out in Subsections (5) and (6), the authority shall close out cases by way of resolution, and shall deliver rulings in other issues during the process.

(2) Unless otherwise provided for by an act or government decree, where a request made by a client pertains to the acquisition of some right, and there is no adverse party involved in the first instance:

*a)* the client shall be considered to have been authorized to exercise the right in question if the authority fails to adopt a decision within the prescribed time limit,

*b)* the consent of the specialist authority shall be considered granted if the specialist authority in question fails to provide an assessment decision within the prescribed time limit.

(3)

(4) In the application of Subsection (2) the acquired right shall be entered upon the application, and on the duplicate copy of the application if requested, or the client shall be supplied a duplicate of the copy held by the authority.

(5) The authority shall avoid to adopt a resolution if the purpose of the proceedings is to increase the amount of cash benefits without deliberation to an extent defined by law, to the beneficiaries specified by law.

(6) The authority shall avoid to adopt a resolution where the exercise of a right afforded by law is conditional only upon the submission of the client's application therefor. At the client's request, the authority shall verify that the client is within his rights in exercising the aforementioned statutory right as of the time of submission of the application.

(7) If the technical means are available, the authority shall adopt its decisions electronically in the event of paper-based communication as well.

#### *Section 72.*

(1) Save where additional requirements are prescribed by law, the resolutions shall contain:

- a) the name of the competent authority, the case number and the name of the officer in charge;
- b) the name and home address or registered office of the obligor or obligee, and the identification data the client has supplied in the application;
- c) description of the subject matter of the case;
- d) in the operative part:
  - da) the authority's decision, and information on the form of remedy available, the place and the deadline for filing, and information on the remedy procedure, and in the case of judicial review, on the possibility for requesting a hearing,
  - db) the name of the special authority involved and the operative part of its assessment,
  - dc) the decision ordering payment of the duties and fees charged for the proceedings to the client or the central budget,
  - dd) the costs of the proceedings as established, unless it is decided by the authority separately,
  - de) the decision as to covering the costs of the proceedings, unless it is decided by the authority separately,
  - df) the time limit or deadline for the performance of obligations and the legal consequences for the failure of voluntary performance, including the information relating to any liability for the payment of default interest in the decision establishing the payment obligation, and the amount payable, and - in the case specified in Subsection (1a) of Section 131 - information on the rules for substituting unpaid administrative penalty with community service work,
  - dg) information concerning the payment of any payment obligation established in the resolution and the duties or fees on appeal, and the terms and conditions of payments;
- e) in the disposition:
  - ea) the relevant facts of the case and the underlying evidence,
  - eb) the evidence presented by the client and found inadmissible, and the reason for this finding,
  - ec) for resolutions adopted under the principle of weighing and deliberation, the criteria and facts employed,
  - ed) the explanation for the specialist authority's assessment, and the reasons for not contacting the specialist authority,
  - ee) in the event of failure to meet the administrative time limit, the last day of the administrative time limit, information as to the cause for non-compliance within the control of the client or any other party to the proceeding, or as to the cases where Section 33/A applies,
  - ef) the statutes upon which the authority has adopted the resolution,
  - eg) reference to the relevant legislation conferring the authority's powers and competencies;
- f) the venue and the time where and when the decision was adopted, the name and title of the competent officer, and the name and title of the issuer, if other than the competent officer;
- g) the signature of the issuer of the resolution and the stamp of the authority.

(2) Unless additional requirements are prescribed by law, the ruling shall contain the items listed in Paragraphs a)-c), Subparagraphs da), df) and dg) of Paragraph d), Subparagraphs ec), ef) and eg) of Paragraph e) and Paragraphs f) and g) of Subsection (1). The ruling adopted for terminating the proceedings shall indicate the items contained in Subparagraphs dc)-de) of Paragraph d) and Subparagraph ee) of Paragraph e) of Subsection (1) as well.

(3) In the operative part of a ruling adopted under Subsection (4) of Section 22 on a provisional measure, the facts and circumstance underlying the necessity and feasibility of the provisional measures shall be indicated, along with the costs incurred, if the authority carrying out the provisional measure wishes to recover its expenses.

(4) A simplified decision may be adopted without any justification and information as to remedy if:

- a) the authority approves the request in its entirety and if there is no adverse party in the case, or if the decision does not affect the right or lawful interests of the adverse party, or
- b) the decision contains only the time for carrying out a procedural step.

(5) No justification is required for simplified decisions adopted for the approval of composition.

(6) The justification may be forgone if it would delay the decision and such delay may lead to a life-threatening or potentially devastating situation. In this case the justification shall be sent to the client within

ten days of the day when the decision was adopted. The time limit for lodging an appeal shall be calculated from the date of delivery of the justification.

*Section 73.*

(1) A decision shall be permitted to contain privileged information of the type that can be made available to the person to whom the decision is communicated. The decision shall be phrased without revealing the privileged information to which it contains any reference. Furthermore, the decision shall be phrased without making any implication as to the identity of the person, whose natural identification data and home address is considered confidential information.

(2) A decision shall be conveyed in a separate official instrument, fixed in a memorandum, or entered upon the case file. A decision shall be fixed in a separate official instrument if it is delivered by service of process or by way of electronic means, or if the client requests delivery of a decision that was originally conveyed orally.

(3) A resolution and a ruling, and several resolutions and rulings may be merged into a single official instrument. The operative parts and dispositions of decisions merged into a single official instrument shall be conveyed separately. The merger of decisions shall have no bearing on the deadlines prescribed for the various decisions, nor on the enforcement of remedies. Where an appeal is lodged against a merged resolution or ruling, the provisions pertaining to remedies available in connection with resolutions shall apply.

(4) The decision fixed in a report or entered upon the case file shall contain the information specified in Paragraphs *b*) and *c*), Subparagraphs *da*), *dc*)-*dg*) of Paragraph *d*), and Paragraph *g*) of Subsection (1) of Section 72, and the data under Subsection (1) of Section 72 which are not shown in the document.

(5) The authority may be required by law to issue its decisions in a prearranged format and in compliance with the content requirements laid down by the relevant legislation.

## **Binding Force of Decisions of the Authorities**

*Section 73/A.*

(1) The authority's decision of the first instance shall be declared binding if:

- a*) it was not appealed, and the deadline for appeal has expired;
- b*) the right to appeal was waived or the appeal was withdrawn;
- c*) no appeal may be filed, including the independent appeals against rulings; or
- d*) the authority of appellate jurisdiction sustained the decision of the authority of the first instance.

(2) If the right to appeal was waived or the appeal was withdrawn a decision shall be declared operative:

*a*) upon delivery of the decision of the first instance, if the client has waived his right to appeal before the decision is delivered subject to compliance with his request, and there is no adverse party involved in the case;

*b*) on the day when the last waiver or withdrawal is delivered to the authority, upon the waiver or withdrawal of the right to appeal by all persons entitled to appeal inside the deadline for appeal.

(3) In the case defined in Paragraph *c*) of Subsection (1) hereof, the decision of the first instance and the decision of the second instance shall take effect upon delivery.

(4) In the case defined in Paragraph *d*) of Subsection (1) hereof, the decision of the first instance shall take effect upon delivery of the decision of the second instance.

(5) Where the appellate procedure is terminated, the authority's ruling of the first instance or resolution that can be appealed separately shall become operative simultaneously with the ruling on termination of the appellate procedure.

(6) Any provisions of a decision of the first instance uncontested by the appeal shall be declared operative in accordance with Subsections (1)-(5) if:

- a*) only another party to the proceedings appealed any provision of the decision that pertains to him;
- b*) so provided by legislation where the appeal submitted is limited to certain specific provisions of the decision and, stemming from the nature of the case, the appeal proceedings shall have no effect upon the provisions left uncontested.

*Section 74.*

(1) If the type of obligation allows for it, the authority may authorize performance by installments.

(2) If the debtor is able to verify that the lack of performance within the time limit is due to reasons beyond his control, or that it would impose an unreasonably heavy burden upon him, at the debtor's request submitted before the due date, the authority of the first instance may authorize deferred payment or

installment payment (hereinafter referred to collectively as “payment facilities”) for compliance. The provisions on payment facilities shall also apply to obligations for carrying out a specific act and pertaining to the surrender of a specific movable property.

(3) After the expiry of the deadline the client may submit an application for continuation and for payment facilities for the reason explained in Subsection (2), provided that enforcement procedure has not yet been opened. If the authority refuses the application for continuation and the application for payment facilities, a decision shall be issued simultaneously for the opening of the enforcement procedure.

(4) The authority shall hear the opinion of the adverse party and of the creditor relating to the authorization of payment facilities.

(5) The relevant legislation may contain provisions relating to payment facilities which are more lenient than what is contained in Subsections (2)-(4), or may provide for the reduction or remission of payment liabilities with the conditions duly specified.

## **Approval of Settlement by Composition**

### *Section 75.*

(1) If a settlement is reached in the proceedings of the authorities, the authority shall fix the settlement in a resolution and shall approve it, provided that:

- a) it complies with the requirements set out in the relevant legislation;
- b) it is not against public interest, or the rights or lawful interests of others; furthermore
- c) it covers the deadline for performance and the costs of the proceedings.

(2)

## **Administrative Agreement**

### *Section 76.*

(1) If permitted by legal regulation, the authority of the first instance may enter into an administrative agreement with the client, in lieu of passing a resolution, with a view to a settlement in cases within its competence that is best suitable for the public and for the client alike.

(2) Administrative agreements must be fixed in writing. Additional conditions may be laid down by an act, government decree or local government regulation.

(2a) Administrative agreements shall contain:

- a) the contracting parties' identification data and other particulars required in connection with the execution of the contract;
- b) the object of the contract;
- c) the agreed means of communication between the parties;
- d) the grounds for termination;
- e) descriptions of the conducts which are deemed to constitute breach of the contract, and the relating consequences; and
- f) where so justified by the object of the contract, the frequency and means of supervisory activities.

(3) If the client undertakes a commitment for which he cannot otherwise be compelled by way of official decision, an agreement may be concluded only if the client agrees in the administrative agreement to abide by the legal consequences stipulated in Subsection (2) of Section 77 for breach of contract with respect to the extra commitment for the event of his breach of the agreement.

(4) If the opinion of a special authority is required in an administrative action, the agreement may be concluded only in possession of the special authority's consent and if the requirements and conditions specified in the special authority's opinion are installed into the agreement.

(5) If the agreement affects the rights or lawful interest of any third person, the prior written consent of this person shall also be obtained. Without this consent the agreement shall not be considered valid.

(6) The consent of the contracting authority's supervisory organ may also be required by legal regulation for the validity of the agreement. This consent shall be obtained by the competent authority.

(7) The administrative time limit referred to in Section 33 shall also apply to the conclusion of an administrative action by way of an agreement.

### *Section 77.*

(1) The amendment of the resolution may be requested by either party if any new circumstance that is deemed significant for the purposes of the case arises or if the conditions existing at the time of signature of the agreement have changed significantly.

(2) If the client breaches the conditions laid down in the agreement, the authority shall consider its options whether to open *ex officio* proceedings, take measures toward enforcement or move to have the administrative agreement amended based on the facts revealed by its inspection, the gravity of the infringement, the nature of the legal and economic relations affected by the agreement, and from the point of view of effectiveness of the public interest underlying the agreement, taking also into consideration previous performances.

(3) If the authority fails to fulfill the administrative agreement as agreed and fails to comply with the client's notice requiring performance, the client may seek remedy at the court of jurisdiction for administrative actions within thirty days following the day of gaining knowledge of the authority's breach of the agreement.

(4) In matters not regulated in this Act regarding administrative agreements the general provisions of the Civil Code pertaining to contracts shall be applied.

## **Delivery and Publication of Decisions**

### *Section 78.*

(1) Resolutions shall be delivered to the client and to all persons upon whom it confers any rights or obligations, also to the special authorities involved in the case and to other authorities or government bodies specified by the relevant legislation.

(2) Rulings shall be delivered to the client and to the other parties upon whom it confers any rights or obligations, and also to the persons and bodies defined by the relevant legislation. The authority shall provide a copy of any ruling that was not communicated to the client free of any duties or charges upon request.

(3) Where according to the relevant legislation the decision has to be entered upon the case file only, it shall not be delivered to the persons mentioned in Subsections (1) and (2). In such cases the authority shall provide a copy of the decision upon request, free of any duties or charges.

(4) The authority may deliver its decisions by way of the means specified in Subsection (1) of Section 28/A. In the case defined in Subsection (7) of Section 71, the authority shall deliver documents which are to be delivered by means other than electronic in the form of a certified paper-based copy made on the electronic decision.

(5) In the case of written correspondence, the authority shall deliver its decisions in the form of an official document, or by way of electronic communication recognized as a written statement. Resolutions, and rulings that can be appealed independently, may not be communicated by way of fax, unless it was so requested by the rightful recipient (person or body) in advance, or if they consented in advance.

(6) If not excluded by the relevant legislation, the decision may be conveyed orally to the person referred to in Subsection (1) and (2). Having delivered the decision in this fashion, and the date shall be entered on the document and signed by the client. At the request of the person referred to in Subsections (1) and (2), the decision delivered orally shall be sent in writing within ten days.

(7) If the authority delivered its decision by way of electronic means, and the person referred to in Subsections (1) and (2) fails to acknowledge receipt of a document within five days, the authority shall use another form of written communication to deliver the decision. In these cases decision shall be considered served on the day when delivered for the second time. An act or government decree may prescribe provisions in derogation from this Act having regard to the delivery of decisions by way of electronic means.

(8) If the person referred to in Subsection (1) and (2) has supplied his contact information for receiving short text messages, telephone number and electronic mail address, the authority shall send a notice by way of short text message, by telephone or by electronic mail when having adopted a decision, indicating that the a copy of the decision may be collected within five days at the authority's office during normal business hours. Having collected the decision in person and the date shall be entered on the document and signed by the receiving person. If the person referred to in Subsection (1) and (2) fails to collect the decision within the deadline, the authority shall forthwith take measures to have it delivered in writing.

(9) Where in a life-threatening or potentially devastating situation, or pursuant to the relevant legislation the authority delivers the decisions by means other than what is described in this Act, the decision shall be delivered within ten days in writing as well. In these cases, the decision shall be considered served on the day when delivered for the second time.

(10) A decision shall be considered served on the day when delivered, orally or in writing, or by way of the means specified in Subsection (8). A decision delivered by way of a posted notice shall be considered served on the fifteenth day following the day of posting.

### *Section 78/A.*

At the client's request, the authority shall make available - by means of electronic mail - the text:

- a) of any ruling - other than the ones adopted under Section 39/A - which are not to be communicated to the client, and
- b) of documents which are to be delivered by post or published by means of public notice, while providing for the delivery and publication of the documents at the same time.

*Section 79.*

(1) Where delivery via the postal service fails because the addressee or his representative has declared to refuse to accept the consignment, the document shall be considered served on the day of attempted delivery.

(2) If the document is returned to the authority marked "unclaimed", the document shall be considered served on the fifth working day following the day of the second attempted postal delivery, unless proven to the contrary.

(3) Concerning the delivery of an official decision, the authority shall send notice to the client within ten days, together with the official document in proof that the document shall be treated as served under Subsection (2).

(4) The consignee may file a petition to rebut a presumption of service within fifteen days from the date of service, or within six months from the date of service beyond which no further appeal may be lodged. If a procedure for enforcement is instituted on the strength of a resolution that has been presumed served upon the respondent, a petition to rebut the presumption of service may be filed within fifteen days from the time of learning of the procedure for enforcement, irrespective of the six-month period running from the date of service.

(5) A consignee other than a natural person may file a petition to rebut a presumption of service only if the process has been served in violation of the relevant statutory provisions. A natural person may file a petition to rebut a presumption of service if he was unable to accept the official document through no fault of his own.

(6) The petition shall contain the facts and other evidence to demonstrate the alleged infringement in the service of process or to demonstrate that the taxpayer is not at fault. If the authority approves the petition the provisions of Section 67 shall apply.

(7) The petition shall be lodged with the authority from which the document presumed served originates.

(8) The provisions contained in this Section shall also apply where delivery is effected by an official process server.

*Section 79/A.*

(1) Where communication is maintained electronically, an electronic statement shall be considered delivered as per the following, provided that it is delivered by a secure delivery service:

- a) if the delivery service operator confirms receipt of the electronic statement, on the day of delivery;
- b) if the delivery service operator confirms that the consignee refused to accept the electronic statement, on the day of refusal; or
- c) if the delivery service operator confirms that the consignee did not accept the electronic statement after being notified twice, on the fifth working day following the date of the second notice.

(2) The administrative disposition submitted by a client to exclude electronic administration on the whole, or a given procedural step, shall also preclude the presumption of service taking effect.

(3) Delivery may be verified according to the relevant legislation by alternate means other than a secure delivery service, however, presumption of service shall not apply in respect of such alternate means.

*Section 80.*

(1) Unless otherwise prescribed by the relevant legislation, a document may be served by way of posted notice if:

- a) the client's home address or registered office is unknown, or the postal consignment is returned marked as no forwarding address is available for the addressee, and contacting the authority for personal data and address registration or another government body did not produce results;
- b) the successor is unknown;
- c) the client did not indicate an agent for service of process; or
- d) other means of communication apart from posted notice cannot be applied due to insurmountable obstacles, or if applying them appear to offer no results.

(2) The public notice contains:

- a) the date of posting;
- b) the name of the competent authority;
- c) the case number and the object of the proceedings;
- d) the name and last known address or registered office of the client; and

e) a notice indicating that the authority has adopted a decision and that it was unable to deliver it, therefore, it is available for the client or his authorized representative to collect at the authority.

(3) A document may be served by way of a posted notice to clients living in the impact area and the organizations referred to in Subsection (5) of Section 15, including if the clients affected and the boundaries of the impact area cannot be accurately defined, and also in the case where communication by way of public notice is prescribed by an act or government decree pursuant to Section 28/D. In such cases the public notice shall contain:

- a) the date of posting;
- b) the name of the competent authority;
- c) the case number and the object of the proceedings;
- d) the name (corporate name) of the requesting client;
- e) the impact area depending on the nature of the case;
- f) a notice indicating that the authority has adopted a decision and that it is available for review at the authority; furthermore
- g) information on the form of remedy available and the deadline for filing.

(4) The notice shall be posted on the bulletin board of the authority, and also on the bulletin board of the local government of jurisdiction by reference to the client's home address, to the place where the property to which the proceedings pertain is located or where the activity is carried out or where the infringement was committed, and of the local government situated in the impact area, and shall be displayed on the central electronic services network and also on the authority's website for providing information electronically, and may be published in the official publication of the local government - or failing this in the local newspaper -, and in the authority's official journal. If the authority is acting under designated competence, the notice shall be posted by the authority vested with powers and competencies, and also by the designated authority.

(5) The public notice shall be posted on the bulletin board of the authority and displayed on its website for providing information electronically on the same day. The time limits for substituted service of process shall be calculated from the time when the public notice is in fact posted on the bulletin board of the authority. In the event of substituted service of process the date of posting and removal of the public notice on or from the bulletin board of the authority shall be indicated on the document, and the time of display on the website shall be properly documented in a retrievable fashion.

(6) Where the conditions for substituted service of process by way of a posted notice no longer exist, the authority shall take prompt measures to have the notice removed, and shall contact the client according to the general provisions on communications.

#### *Section 80/A.*

(1) The authority shall make available to the general public the final resolution and those declared enforceable irrespective of any appeal:

- a) pertaining to the activities of state or local public authorities and agencies and other bodies attending to the public duties specified by law;
- b) that may be contested on behalf of the public;
- c) adopted in cases where the owners and legitimate users - registered in the real estate register - of real estate properties which are located inside the impact area are treated as clients by virtue of the relevant legislation;
- d) adopted in cases where more than fifty clients participate in the proceedings, or more than five bodies referred to in Subsection (5) of Section 15;
- e) adopted in connection with the distribution and use of natural resources of limited availability;
- f) adopted in cases where the client was granted some exclusive or special right;
- g) adopted with a view to preventing any life-threatening or potentially devastating situation effecting a large number of people or that is likely to strike in a place that cannot be accurately defined, or to mitigate any detrimental consequences of such situations;
- h) adopted for reasons of public security and public order;
- i) adopted in connection with the regulatory inspection of the business activities of legal persons, business associations lacking the legal status of a legal person and private entrepreneurs; or
- j) which are to be published as prescribed by law.

(2) The authority shall convey its resolution by substituted service of process, where an excerpt of the operative part and the disposition or an excerpt of the disposition of the resolution may be published in the notice. Unless otherwise prescribed by law, the authority shall render the personal data unrecognizable according to Subsection (2) of Section 69/A.

#### *Section 81.*

(1) At the time of establishing contact, the client shall designate an agent for service of process, with the relevant power of attorney attached, if:

- a) he does not have a home address or registered office in Hungary;
- b) he did not officially appoint a representative; and
- c) electronic communication is not permitted.

(2) The responsibilities of the agent for service of process shall include to collect on behalf of the client decisions and documents addressed to the client, and to deliver them to the client; and shall carry out these activities subject to civil liability vis-à-vis the client. Where a decision addressed to the client has been served upon the agent in due process, it shall be considered delivered to the client on the fifteenth day following the time when served upon the agent for service of process.

(3) Where a decision is to be delivered by way of substituted service of process under Paragraphs a)-c) of Subsection (1) of Section 80, and the decision confers an obligation upon the client, or it restricts or denies any fundamental right of the client, an administrator for service of process may be appointed to attempt to deliver the resolution. The administrator for service of process shall take measures to establish the client's whereabouts and to serve the resolution upon him.

(4) If the administrator for service of process failed to deliver the document, the decision shall be considered served on the day when the administrator for service of process notifies the authority of appointment of the failure of his procedure, or on the fifteenth day following the date of appointment.

(5) If having succeeded to deliver the document, the administrator for service of process shall notify the authority of the appointment concerning the day of delivery and the place where the client resides.

## **Correction and Supplementing of Decisions**

### *Section 81/A.*

(1) Where a decision contains any typing error with respect to a name, number or other data, or a calculation error, the authority shall correct it - after consulting with the client if necessary, if it has no effect on the merits of the case or on procedural costs, or on the bearing of costs.

(2) The authority shall effect the correction:

- a) on the original copy of the decision and on all duplicates thereof, if available,
- b) by withdrawing the erroneous decision and issuing a replacement one, or
- c) by issuing a remedial decision.

(3) The correction may not be appealed or contested.

(4) The correction shall be notified to any person to whom the original of the corrected decision was delivered.

### *Section 81/B.*

(1) Where a decision is devoid of any compulsory content element prescribed by the relevant legislation, if it fails to address any matter of substance, the authority shall supplement its decision.

(2) A decision may not be supplemented:

- a) after one year following the operative date of the decision, or
- b) if it would compromise any right that was acquired and exercised in good faith.

(3) The authority shall install the addendum:

a) by way of an independent auxiliary decision, which shall be noted - if possible - on the original copy of the decision and on all duplicates thereof, or

b) by withdrawing the erroneous decision and issuing a replacement one that contains the original decision and the auxiliary decision in a codified version.

(4) A auxiliary decision is subject to the same remedy procedure as the original decision.

(5) The addendum shall be notified to any person to whom the original of the supplemented decision was delivered.

## **Chapter V**

### ***Official Instruments, Certificates and Records and Registers***

#### **Common Provisions**

##### *Section 82.*

(1) The provisions of this Act shall apply to the proceedings relating to official instruments, certificates, records and registers subject to the exceptions set out in this Chapter. Having regard to official records and registers, the provisions of this Act shall apply unless the relevant legislation provides otherwise.

(2) Any instrument the authority has issued to verify a fact, data, entitlement or status, any other form of verification of these, and any entry into the official records and registers shall be construed as resolutions.

(3) The authority shall convey its refusal to issue an official instrument or official certificate, or to make an entry into the official records and registers in a resolution.

(4)

(5) In proceedings relating to official instruments, certificates, records and registers the client need not be notified concerning the opening of proceedings.

## **Official Instruments**

### *Section 83.*

(1) In cases provided for by law, and in connection with proceedings which otherwise fall within its competence, the authority, at the client's request, shall issue official instruments for the verification of a fact, status or some other data. The provisions of this Act relating to official instruments shall also apply to all other documents issued by an authority, which are not specifically identified by law as official instruments, which, however, are in conformity with the criteria set out in this Act for official instruments.

(2) Official instruments may be issued by the authorities referred to in Section 21, and also by the authority:

a) in whose area of jurisdiction the fact to be verified occurred, or the status prevailed or was terminated;

b) in whose area of jurisdiction there is a thing that may be linked to evidence, or there was a thing during the period to which the evidence pertains;

c) whose records contain the data in question.

(3) Unless otherwise prescribed by legal regulation, the official instrument shall be issued within ten days from the date of the application therefore, or the document submitted by the client shall have a seal of approval affixed. Unless otherwise prescribed by legal regulation, the official instrument shall contain an indication as to whom it was issued and the supporting evidence. The requirements set out in Paragraphs a) and f) of Subsection (1) of Section 72 shall also apply to official instruments.

(4) The contents of official instruments shall be accepted by all, unless proven to the contrary.

(5) The adverse party may not lodge an appeal against an official instrument, however, he may present evidence in the proceedings for which the official instrument was issued to the extent that the information contained in the official instrument is untrue.

(6) If the authority or other body conducting the proceedings where the client used his official instrument finds that the information contained in the official instrument is untrue, it shall notify the authority that has issued the official instrument in question concerning its finding and shall furnish the evidence in support.

(7) If the authority having issued the official instrument determines following receipt of the notice referred to in Subsection (6) or under other circumstances that the information contained in the official instrument is untrue, it shall correct, withdraw or amend the official instrument in question. This resolution shall be sent to any authority or body where there is suspicion that the client used or attempted to use the official instrument in question in front of this authority.

(8) The authority shall refuse to issue an official instrument if it constitutes any violation of the law, or if the client requests verification of any data, fact or circumstance that is untrue, or in connection with which the authority has no information available.

### *Section 84.*

## **Official Certificates**

### *Section 85.*

(1) The authority shall issue an official certificate in cases specified in the relevant legislation - containing the information prescribed therein - for the permanent verification of the data or rights of the client.

(2)

(3) The official certificate shall be accepted by all for verification of the data and rights entered, and the client may not be compelled to supply additional evidence for such data and rights. The provisions of Subsections (5)-(7) of Section 83 shall apply to the procedure for providing proof to the contrary.

(4) If an authority or official person duly authorized to check the official certificate determines that the official certificate or the data it contains is false or untrue, the official certificates shall be confiscated for further procedures against a receipt issued.

## **Official Records and Registers**

### *Section 86.*

(1) The authority shall keep the data specified by law in official public registers. As regards the provisions of this Act relating to official registers, any reference to official registers shall be understood as official public registers.

(1a) Based on the authenticity of official registers, it shall be presumed - pending proof to the contrary - that a party acquiring certain rights relying upon the data obtained from an official register was acting in good faith. Unless proved otherwise, data contained in the official registers shall be presumed to exist, and data deleted from the official registers shall be presumed not to exist. Lack of knowledge of data contained in official registers shall not constitute an excuse under any circumstances, except if the data contained in the official register is construed as personal data or statutory secret, and there are no legal grounds for allowing access to such data.

(1b) In proceedings for making entries and for deleting data from official registers only the means of evidence deemed admissible by the relevant legislation may be used by the authority for that purpose.

(1c)

(2) Having regard to entries made *ex officio* into the official records and registers without deliberation, the provisions of Sections 71-73 and Section 78 pertaining to resolutions shall not apply, and the decision shall become effective on the day of entry.

(3) The authority maintaining the registers shall *ex officio* remove any entry from the register that is found unlawful, and shall - similarly - correct errors and subsequently make any previously overlooked entries.

(4) The time limit for lodging an appeal shall commence at the time of the client becoming aware of the entry of an unlawful or erroneous data, or of the omission.

(5) Clients may request certified true copies or extracts from the records subject to payment of duties or fees.

(6) In respect of the official records and registers decreed by the Government the client is entitled to notify any changes in his particulars at the one-stop government window. The one-stop government window shall forward the update notice to the authority keeping the official records and registers, that shall take further action according to Subsection (3).

## **Chapter VI**

### ***Regulatory Inspection***

#### **General Provisions on Regulatory Inspections**

### *Section 87.*

The provisions of this Act shall apply to regulatory inspections subject to the exceptions set out in this Chapter.

### *Section 88.*

The authority - within the confines of its jurisdiction - shall monitor compliance with the provisions of legislation, and the implementation of enforceable decisions.

### *Section 88/A.*

(1) Regulatory inspections are opened *ex officio*, or at the client's request if this is not precluded or restricted by an act or government decree. A client may request a regulatory inspection only against himself.

(2) Unless otherwise provided for by an act or government decree, a regulatory inspection may not be requested and any request therefor shall be refused without any examination as to substance if:

a) another regulatory inspection is already in progress in respect of the same case at the time the request is submitted,

b) the authority inspects the client on a regular basis for other reasons,

c) another inspection had already been conducted at the request of the same client within one year previously, and the authority did not find any infringement, except if the request is submitted due to any reason or circumstances which has occurred since that inspection, or

d) an enforcement is pending based on an inspection the authority has conducted against the petitioner previously.

#### *Section 89.*

The means of regulatory inspections are:

a) data disclosure, submission of documents and other forms of information provided for the purposes of inspection;

b) site inspections; or

c) if permitted by the relevant legislation, inspections conducted by way of remote data transmission from the monitoring system installed at the site or at the authority's official records and registers, or built into the process.

#### *Section 90.*

(1) Data disclosure obligations prescribed by the relevant legislation may be periodic or regular, and routine inspections may be prescribed as well.

(2) As regards the obligation of notification relating to the opening of control procedures and pertaining to site inspections, the rules laid down by the relevant legislation may differ if the authority conducts control procedures at a client on a regular basis.

#### *Section 91.*

(1) The authority shall draw up a control plan containing *inter alia* the subject matter of scheduled inspections, the period inspected, the timetable and means of the inspections, the criteria for inspections and other particulars defined by the head of the authority. The control plan is not required to indicate permanent control functions.

(2) The authority shall prepare an inspection report concerning the implementation of the functions set out in the control plan, covering also the regulatory inspections conducted during the inspected period, which are not specified in the control plan, and the findings of the inspection before the closure of the next inspection period, containing also the amount of inspections conducted and their results, the types of infringements revealed, and other statistical data specified by the head of the authority.

(3) The authority shall publish the control plan and the inspection report on its website and shall post them in the customer area of its offices. The control plan shall be made public in a manner and to the extent so as not to jeopardize the outcome of the inspections.

#### *Section 92.*

In connection with site inspections the provisions of this Act pertaining to assessment visits shall apply.

## **Conclusion of Regulatory Inspections**

#### *Section 93.*

(1) The authority shall hand over a copy of the report made on the regulatory inspection to the client at the site, or shall send it within ten days of the date of conclusion of the inspection.

(2) In the application of Paragraph *b*) of Subsection (1) of Section 94, the authority may inform the client present concerning the opening of *ex officio* proceedings, and disclose the information specified in Subsection (5) of Section 29 at its disposal, and may deliver its decision at the site.

(3) Where the authority finds no infringement during the regulatory inspection, a simplified report shall suffice in place of a report, a copy of which shall be provided to the client - upon request - on site, or shall be sent to the client within ten days of the time of conclusion of the inspection.

(3a) Where the authority finds no infringement during the regulatory inspection conducted at the client's request, it shall make out an official certificate to that effect if so requested by the client at the time of submission of the request. Unless otherwise provided for by an act or government decree, the official certificate shall remain in effect for a period of one year. In that case the time limit specified in Subsection (3) of Section 83 shall not apply.

(4) If the client did not request the official certificate referred to in Subsection (3a), the authority shall send upon the conclusion of the proceedings an extract of the report or simplified report made on the inspection to

the client with all personal data removed. In that case the inspection shall be conducted within twenty-one days, within which time the extract of the report or simplified report shall be sent to the client with all personal data removed, excluding the client's personal data. A shorter time limit may be established by any form of legislation, whereas a longer one may be established only by an act or government decree.

(5) If the decision is based solely on the findings contained in the report, the authority may forego sending to the client a copy of the report made on the regulatory inspection.

#### *Section 94.*

(1) If the authority reaches the conclusion upon the regulatory inspection that the client has violated any provisions of the relevant legislation or its decision:

*a)* and the infringement of the provisions of the relevant legislation or the authority's decision can be remedied by abolishing the unlawful conduct or by restoring operations within the framework of the law, the authority shall apprise the client of the infringement and shall adopt a ruling to order the client to cease such actions within the prescribed time limit of not less than twenty days, or suffer the legal implications indicated;

*b)* if the required result was not achieved inside the new time limit referred to in Paragraph *a)*, or if Paragraph *a)* cannot be applied, the authority shall *ex officio* open the proceedings conferred under its competence, and shall take the procedural steps falling within its competence and establish the ensuing legal consequences;

*c)* if Paragraph *a)* and Paragraph *b)* cannot be applied due to the authority lacking competence or jurisdiction concerning the infringement in question, the authority shall contact the authority vested with powers to take the measures necessary - with the part of the report containing the infringement enclosed -, or shall bring disciplinary, misdemeanor, criminal or civil charges or request other proceedings.

(1a) In the case provided for in Paragraph *c)* of Subsection (1), the competent authority of jurisdiction may use the report, or the joint report as evidence, and may take action directly relying on such evidence.

(2) Paragraph *a)* of Subsection (1) shall not apply if:

*a)* any infringement of the provisions of the relevant legislation or the authority's decision can be remedied only by opening another regulatory proceedings;

*b)* precluded by the relevant legislation - showing the infringement and the statutory provision underlying the sanction applicable - for the infringement of the law or the authority's decision, or the time limit provided under Paragraph *a)* of Subsection (1) represents a direct threat to or is likely to jeopardize human life, bodily integrity, national security or national defense, property, the safety of transportation systems, the environment or the sustainable balance of nature, compliance with the obligation of contribution to public revenues, the financial interest of the European Union or the fundamental right of any third person;

*c)* the authority has already imposed any sanction upon the same client inside a period of two years if the required result was not achieved within the new time limit referred to in Paragraph *a)* of Subsection (1);

*d)* the authority has taken the course referred to in Paragraph *a)* of Subsection (1) inside a period of two years vis-à-vis the same client concerning the infringement of the same statutory provision or resolution;

*e)* the case is handled by an autonomous government body or an autonomous regulatory agency;

*f)* the infringement concerns a statutory provision under Paragraph *b)* of Subsection (2) of Section 13;

*g)* the infringement of the statutory provision laying down the obligation of data disclosure or notification is established by the proceedings under Paragraph *d)* or *e)* of Subsection (2) of Section 13; or

*h)* the client failed to satisfy the obligation of notification for registration in the official public register, as prescribed by law.

(2a) By way of derogation from Subsection (2), if the regulatory inspection was opened at the client's request, Paragraph *a)* of Subsection (1) may be applied also in the cases provided for in Paragraphs *a)* and *e)*-*h)* of Subsection (2).

(3) The authority shall keep records on the processes set out in Subsections (1) and (2) for reasons of monitoring, that is to contain:

*a)* the client's name;

*b)* the client's means of verification that the authority is authorized to process on the strength of law, or failing this the client's natural identification data and home address, if a natural person, or the registered office, if not;

*c)* the notice dispatched due to the infringement of the provisions of the relevant legislation or the authority's decision, showing the statutory provision or the decision infringed upon, as well as the time of delivery of the ruling containing the notice; and

*d)* an indication if the ruling containing the notice failed to produce the result required, and the effective date of the decision containing the sanction imposed in consequence.

(4) The authority shall be authorized to process the data referred to in Subsection (3) for a period of two years from the time they were first recorded.

(5) The authority requested according to Paragraph *c*) of Subsection (1) shall examine the request on the merits - in accordance with Subsection (1) for administrative authorities -, and shall inform the requesting authority within thirty days concerning the measures it has taken or of the reasons for not taking any measures.

## ***Chapter VI/A***

### ***Legal Basis for Levying Administrative Penalties and Instant Fines, and for Applying Confiscation***

#### *Section 94/A.*

(1) Where a financial penalty may be imposed under the relevant legislation, excluding the administrative penalty referred to in Section 61, the authority shall decide having regard to all applicable circumstances on levying and on the amount of the penalty. Accordingly, the authority shall - unless otherwise provided for by law - weigh:

- a*) the damage resulting from the infringement, including the costs of measures taken for the prevention or mitigation, and for the cleanup of such damage, and the benefits earned as a result of the infringement;
- b*) whether the damage resulting from the infringement can be reversed;
- c*) the amount of people affected by the infringement;
- d*) the duration of the infringement;
- e*) the frequency of the infringement, in the case of repeat offenders;
- f*) the offender's cooperation in the ensuing proceedings; and
- g*) the economic weight of the infringer.

(1a) The upper limit of the administrative penalty that may be imposed by decree of the council of representatives of a municipal government shall be - depending on the person of the perpetrator - two hundred thousand forints for natural persons and two million forints for legal persons and unincorporated business associations. The upper limit of the administrative penalty shall be determined in the municipal decree as commensurate based on the infringement.

(2) Unless otherwise provided for by law, proceedings for establishing an infringement and for imposing a financial penalty may not be opened after one year following the time of the authority of jurisdiction for levying the penalty gaining knowledge of the infringement, or after five years from the time the infringement was committed. The five-year period shall begin:

- a*) on the day when the infringement was committed;
- b*) if the infringement persists, on the day when eliminated.

(3) Unless otherwise provided for by law, the one-year period referred to in Subsection (2) shall start over for the authority's purposes:

- a*) on the day when the ruling under Paragraph *a*) of Subsection (1) of Section 94 becomes operative;
- b*) if the court of jurisdiction for administrative actions orders the authority to reopen the proceedings.

(4) Where permitted by an act or municipal decree, in the case of infringements where an administrative penalty may be levied, the authority shall have powers - within the framework of the provisions set out in Section 94 - to impose an instant fine if the offender acknowledges the infringement in full to the citation officer.

(5) Before imposing the instant fine the offender shall be advised of the conditions defined in Subsections (6)-(8), and - if necessary - shall be informed of the exhibits which the authority may request, and also on the legal consequences for non-payment of the instant fine.

(6) If the offender acknowledges the infringement, the instant fine may not be appealed.

(7) If the offender acknowledges the infringement the authority shall inform the offender on the imposition of the instant fine at the scene. In the summary of the decision it shall suffice to make reference to the offender's signed statement of acknowledgment of the infringement.

(8) If the offender refuses to acknowledge the infringement the authority shall *ex officio* open the relevant proceedings, and shall notify the offender thereof at the scene, disclosing also the information referred to in Subsection (5) of Section 29, if available.

#### *Section 94/B.*

(1) Where permitted by an act, the authority shall confiscate any article,

- a*) that was actually used for carrying out the infringement, or that was so intended to be used;
- b*) the possession of which is illegal or constitutes an endangerment to public safety;
- c*) which is created by way of an infringement;

d) for which the infringement was committed, or that was used for the transportation of this article in connection with the infringement after the fact;

e) that the offender received from the owner for carrying out the infringement, or from others upon the owner's consent.

(2) Unless otherwise provided for by an act, in the cases of Paragraphs a) and d):

a) confiscation may not be ordered if the article is not the offender's property, except if the owner was aware of the infringement beforehand and agreed for the use of the article for such purpose,

b) confiscation may be omitted in exceptional cases, if it would entail an unreasonable burden to the offender or the owner, disproportionate to the gravity of the infringement.

(3) Unless otherwise provided for by an act, the confiscated article shall devolve upon the State.

## **Chapter VII**

### **Remedies and Review Procedures**

#### *Section 95.*

The provisions of this Act shall apply to redress procedures and review procedures subject to the exceptions set out in this Chapter.

#### *Section 96.*

Resolutions of the authorities may be appealed independently. A ruling of an authority may be appealed independently if permitted by law, in other cases the right to pursue remedies against rulings may be exercised within the framework of remedies available against resolutions, or failing this against rulings for the termination of the proceedings.

#### *Section 97.*

(1) A redress procedure shall be launched upon request, whereas procedures for the review of decisions are opened *ex officio*.

(2) Redress procedures available upon request are:

a) appeal procedures;

b) judicial review;

c) reopening procedure;

d) proceedings opened based on a resolution of the Constitutional Court.

(3) Administrative decisions are reviewed *ex officio*:

a) by the authority that has adopted the decision of its own motion;

b) within the framework of oversight proceedings;

c) upon prosecutor's intervention.

(4)

(5) In the proceeding referred to in Paragraph b) of Subsection (2) of Section 12 the provisions of Sections 112 and Paragraph a) of Subsection (1) of Section 115 may not be applied.

### **A) Redress procedure available upon request**

#### **Appeal**

#### *Section 98.*

(1) The client may appeal any resolution in the first instance. The right to appeal is not bound to specific titles, an appeal may be made for any reason that the person affected deems unjust.

(1a) Submission of an appeal may be rendered subject to the obligation to state the reasons by an act. Moreover, an act may also provide that the appeal may only be submitted with respect to the decision contested, that the appeal must be factually related, and it must be based on any infringement or injury directly resulting from the decision.

(2) Subject to the exceptions set out in Subsections (3) and (4), a ruling may be contested only in an appeal filed against the respective resolution, or failing this against rulings for the termination of the proceedings. An independent appeal may be permitted by law in other cases as well.

(3) An independent appeal may be lodged against a ruling of the first instance:

- a) for provisional protective measures;
- b) for rejecting a petition without substantive examination;
- c) for the termination of proceedings;
- d) for the suspension of proceedings or against a request for suspension;
- e) for the payment obligation referred to in Section 33/A;
- f)
- g) for imposing an administrative penalty;
- h) for the refusal of an application for continuation for failure to observe the deadline for filing an appeal;
- i) for limiting the right of access to documents for review; and
- j) relating to payment facilities, for determining and for the bearing of procedural costs, for the refusal of applications for exemption from costs, and the ruling for the amendment or withdrawal exemption from costs.

(4) Other parties to the proceeding may also lodge an independent appeal against any provisions of the resolution in the first instance that pertain to him, or against a ruling in the first instance pertaining to him.

(5) The provisions of Subsections (2)-(4) shall apply to appeals lodged against the ruling of the first instance adopted by the authority of the second instance.

#### *Section 99.*

(1) Unless otherwise prescribed by an act or government decree, an appeal shall be lodged within fifteen days following the date of delivery of the decision.

(2) The person entitled to appeal may waive his right to do so orally or in writing within the time limit in which an appeal must be filed. If presented orally, the waiver shall be fixed in a memorandum. The waiver of the right to appeal may not be withdrawn.

(3) If so permitted by the relevant legislation, the person entitled to appeal shall be allowed to make the statement referred to in Subsection (2) by telephone as well after the electronic identification of such person, provided that the conversation is recorded by reliable means for the safeguarding of information. The appeal may not be lodged by way of the means specified in Subparagraph bb) of Paragraph b) and Paragraph c) of Subsection (1) of Section 28/A.

#### *Section 100.*

(1) No appeal may be lodged:

- a) against a decision in the cases where excluded by an act;
- b) against a resolution adopted in approval of settlement between the clients;
- c) having regard to entries of any data, fact or right made *ex officio* into the official records and registers without deliberation, except where otherwise provided for in the relevant legislation;
- d) against any decision of the first instance adopted by a minister, by the head of an autonomous government body, an autonomous regulatory agency or other similar government agency;
- e) against any decision of the first instance adopted by the head of a central government body, unless an act or government decree provides otherwise.
- f) against the decisions of the council taken in administrative actions of local authorities.
- g) in proceedings connected to the levying of administrative penalties as decreed by the council of representatives of a municipal government, against resolutions adopted under delegated powers,
- h) against any decision for the refusal without any examination as to merits of an appeal submitted under Subsection (1a) of Section 98.

(2) In the cases mentioned in Paragraphs a), c)-h) of Subsection (1) hereof the decision of the first instance may be subject to judicial review.

#### *Section 101.*

(1) The right conferred in the decision appealed may not be exercised and the appeal shall have a suspensory effect in terms of the implementation of the decision, except if the decision is enforceable under this Act notwithstanding any appeal, or if the authority has declared the decision enforceable abolishing the suspensory effect of the appeal.

(2) The provisions of the decision shall be carried out any appeal notwithstanding if it prescribes a one-time or regular payment of money to the benefit of the client, cash benefits - including benefits in kind that can be expressed in a cash equivalent -, and the appeal the client has lodged pertains to any extra claim in addition to the amount granted.

(3) An appeal filed against a ruling for a provisional protective measure, or for the approval of a petition for the limitation of access to documents shall have no suspensory effect.

(4) An appeal filed against a decision for determining and for the bearing of procedural costs shall have no suspensory effect concerning the other provisions to which the appeal does not pertain.

(5) A decision may be declared enforceable notwithstanding any appeal if:

*a)* it is necessary to prevent any life-threatening or potentially devastating situation or to mitigate any detrimental consequences;

*b)* it is necessary for reasons of national security or national defense, public safety and public policy;

*c)* any delay is likely to cause significant and irreparable harm, or any severe violation of rights relating to personality;

*d)* the decision provides for the support or maintenance of any person;

*e)* it is permitted by law in connection with food supply chain supervisory functions, and for public health, disease control, fire protection and disaster management, employment, occupational safety, consumer protection considerations, for the protection of cultural heritage, for reasons of land and environmental protection and nature preservation, or for the purposes of development of public transportation infrastructure or the continuous and undisturbed supply of energy; or

*f)* prompt entry into the relevant official records and registers is prescribed by law.

(6) The authority shall specifically declare its decision enforceable notwithstanding any appeal, including reasoning, and shall provide for the means of enforcement and implementation in the decision. If such decision contains a deadline for performance, enforcement may be launched only after non-compliance with this deadline.

#### *Section 102.*

(1) The appeal shall be submitted to the authority that adopted the decision contested. If the appeal is filed at the authority of appellate jurisdiction, the authority of appellate jurisdiction shall forward it to the authority of the first instance. The appeal may not be dismissed on the grounds of delay, if the persons entitled to appeal files the appeal inside the deadline for appeal at the authority of appellate jurisdiction.

(2) New facts and evidence may also be presented in the appeal.

(3) The authority of the first instance shall refuse without any examination as to merits:

*a)* any appeal that is lodged beyond the relevant deadline;

*b)* any appeal that is filed by a person without proper entitlement;

*c)* any appeal lodged against a ruling that cannot be contested by a separate appeal; and

*d)* any appeal lodged in violation of Subsection (1a) of Section 98.

(3a) Where a client submits a petition for cost exemption inside the time limit specified in Subsection (3b) for remedying deficiencies, it shall be decided by the authority of the first instance.

(3b) The authority of the first instance shall, furthermore, refuse the appeal without any examination as to merits if the client failed to comply within the prescribed time limit with the obligation of payment of duties or an administrative service fee charged for the appellate procedure, in spite of being notified by the authority of the first instance, and is not exempted from the payment of costs.

(4) The authority of the first instance shall forward the appeal to the specialist authority. If the appeal is not concerned with the assessment of the specialist authority, the authority of the first instance shall not forward the appeal to the specialist authority.

(5) The authority of the first instance shall forward the appeal to the authority of appellate jurisdiction within eight days following the time limit for appeal - or within fifteen days where a special authority is required to participate -, unless the authority has withdrawn or supplemented the appealed decision or made the requested amendment or correction, or if dismisses the appeal without any examination as to its substance, and also if the appeal is withdrawn before being forwarded. The authority of the first instance shall forward the appeal with all documents attached, and shall make known its opinion concerning the appeal.

(6) If the client lodged an application for continuation for failure to observe the time limit for appeal, the time limit shall begin after the decision allowing for such continuation becomes operative. If the client submitted a petition for cost exemption, the time limit shall begin after the decision becomes operative. If the appeal is submitted to the authority of appellate jurisdiction, the time limit for forwarding shall begin when the appeal is received by the authority of the first instance.

(7) The authority of the first instance shall - after having introduced the relevant documents - inform the clients who did not appeal, that the decision has been appealed, hence it is not yet enforceable. If the appeal has been withdrawn by all appellants, the authority shall inform the non-appealing clients thereof.

### **Amendment or Withdrawal of Decisions as Appealed**

#### *Section 103.*

(1) The authority, if it finds following an appeal that its decision is unlawful, shall amend or withdraw the decision in question.

(2) Where a decision of an authority has been appealed and it was found lawful, the authority may withdraw its decision nonetheless, or amend it as requested by the client in the appeal if in agreement with the reasons stated in the appeal, and if there is no adverse party involved in the case.

(3) The special authority, if it finds following an appeal that its assessment is unlawful, shall amend the assessment in question.

(4) Where an assessment of a special authority has been appealed and it was found lawful, the special authority may amend its assessment nonetheless as requested in the appeal, if in agreement with the reasons stated therein, and if there is no adverse party involved in the case.

(5) If the special authority has amended its assessment according to Subsections (3) and (4) the authority shall revise its decision accordingly.

(6) The decision on the appeal shall be delivered to the party filing the appeal, and to all other persons to whom the contested decision was delivered.

(7) The decisions on withdrawal or amendment may be appealed the same as the withdrawn or amended decision.

## **Appeal Procedures**

### *Section 104.*

(1) Where the decision of the authority is not amended or withdrawn according to the appeal as described in Section 103, the appeal shall be adjudged by the authority vested with powers to do so.

(2) The authority of the second instance shall obtain the assessment of the special authority appointed in the second instance. If the appeal is not concerned with the assessment of the specialist authority of the first instance, the authority of the second instance shall not contact the specialist authority. If a specialist authority is not required in the second instance pursuant to an act or government decree, the authority shall have powers to adjudged the part of the appeal pertaining to the special authority's assessment.

(3) The authority of the second instance shall examine the contested decision and the proceedings preceding it; in this examination the authority shall not be bound to what is contained in the appeal.

(4) The authority of the second instance shall terminate the appeal proceedings if all appeals have been withdrawn.

### *Section 105.*

(1) The authority of the second instance shall either sustain, reverse, or annul the decision. In the cases defined by law the authority of the second instance may not establish an obligation more severe than what has been adopted in the decision in the first instance under the right of deliberation. The authority of the second instance shall have powers, regardless of whether it is stated in the appeal or not, to prescribe a new deadline in the appellate procedure, where it is deemed justified on account of the appellate procedure.

(1a) The decision of the second instance may be declared enforceable irrespective of any petition for the suspension of enforcement, if the conditions for enforceability notwithstanding any appeal are satisfied. Subsection (6) of Section 101 shall apply to having a decision declared enforceable irrespective of any petition for the suspension of enforcement.

(2) The authority of the second instance may annul the decision and order the authority of the first instance to reopen the case if the available data and information is insufficient to adopt a decision in the second instance, when new facts are brought to its notice or if further evidence is required to ascertain the relevant facts of a case, or shall proceed to obtain additional evidence on its own accord, and shall adopt a decision accordingly.

(3) The authority of the second instance, if it concludes that other clients are to be involved in the case, shall annul the decision in the first instance by way of a ruling and shall order the authority of the first instance to reopen the case.

(4) In the new proceedings the authority of the first instance shall be bound by the operative part and by the justification of the resolution of the second instance.

(5) The decisions referred to in Subsections (1)-(3) shall be delivered to the person who filed the appeal and to all other persons to whom the decision of the first instance was delivered.

(6)

(7) The authority of the second instance shall return the documents it has received in connection with the appeal after the decision referred to in Subsections (1)-(3) is adopted to the body of the first instance, together with the decision, and this authority shall take action to have the decision delivered.

## **Authority Vested with Powers to Judge Appeals**

### *Section 106.*

- (1) In the administrative actions where the decision can be appealed on the strength of law:
- a) the authority of the first instance and the authority of appellate jurisdiction cannot be one and the same body;
  - b) the authority of appellate jurisdiction and its director shall not be able to instruct the head or any officer of the authority of the first instance - except for the discharge of certain functions or to make amends relating to some discrepancy - in spite of otherwise having jurisdiction to do so.
- (2) In the application of Paragraph a) of Subsection (1), 'body' means, in particular, the central, regional and local branches of the central government body, irrespective of whether it has legal personality or not.
- (3) Unless otherwise provided for in an act or government decree, an appeal lodged against a decision of the authority shall be adjudged by the person or body exercising control, supervisory powers and professional oversight, and vested with jurisdiction to annul the authority's decisions, or to order it to reopen the case where necessary.
- (4) Where an act or government decree empowers a body or person established for reasons other than to carry out regulatory functions to exercise administrative competence, and their decisions can be appealed, the act or government decree in question shall designate the authority of appellate jurisdiction. Failing this the Budapest and county government agencies shall have powers to adjudge the appeals.

### *Section 107.*

- (1) In administrative actions of local authorities appeals shall fall within the competence of the council of representatives, if the decision of the first instance was adopted by a body other than the council of representatives.
- (2) Unless otherwise provided for by an act or government decree, appeals shall be heard by the Budapest and county government agencies in administrative proceedings if the case was heard in the first instance by the district (Budapest district) office, the one-stop government window or by the mayor or the authority referred to in Paragraph d) of Subsection (3) of Section 12.
- (3) Appeals against decisions adopted in cases conferred under the competence of public bodies shall be adjudged by the organ specified by law, or if no such organ is available, the decision adopted by the body of the first instance shall be subject to judicial review.

### *Section 108.*

## **Judicial Review**

### *Section 109.*

- (1) With the exception of rulings which cannot be appealed separately, a petition for the judicial review of the decision may be lodged:
- a) in the cases defined in Subsection (2) of Section 100; or
  - b) if either of the persons entitled to appeal has exhausted the right of appeal in the proceedings of the authorities.
- (1a) A ruling may be the subject of judicial review if it can be contested by an appeal independently pursuant to this Act, and if no appeal is permitted by law against the resolution of the first instance in the case in question, and it allows for the judicial review of the resolution.
- (2) Where a petition for judicial review is lodged, the authority of the first instance shall introduce or forward the documents of the case to the court and shall simultaneously notify the parties whose right or lawful interests is directly affected in a case. If the petition contains a requests that enforcement of the decision be suspended, the authority shall so inform the body carrying out the enforcement procedure as well, except if it declared the decision of the second instance enforceable irrespective of the petition submitted for having the enforcement procedure suspended.
- (3) If the court of jurisdiction for administrative actions has adopted a decision on the merits of the case, new proceedings may not be opened at the same authority in the same case, under the same grounds, with the exception if new proceedings were ordered by the court of jurisdiction for administrative actions.
- (4) The authority shall be bound by the operative part and by the justification of the decision adopted by the court of jurisdiction for administrative actions, and shall proceed accordingly in the new proceedings and when adopting a decision.

## **Reopening Procedures**

### *Section 112.*

(1) If the client obtained any fact, information or evidence after the operative date of a final resolution that already existed before the resolution was adopted, however, it was not presented during the proceedings although it is of essence for the judgment of the case, a request for reopening the case may be lodged within fifteen days after gaining knowledge, provided that it carries the potential to produce a resolution that is more beneficial for the client.

(2) The authority shall reject a request for reopening the case without substantive examination if:

a) supported by a fact that occurred after the final resolution was adopted, or by any subsequent changes in the relevant legislation;

b) if a judicial review is in progress, or if the court of jurisdiction for administrative actions has adopted a resolution in the judicial review;

c) after six months following the operative date of the decision;

d) if excluded by an act or government decree, and in administrative actions of local authorities a local government decree.

(3) Under special circumstances, for the protection of any interest of the client, the deadline referred to in Paragraph c) of Subsection (2) may be extended by statutory provision, and a new forfeit deadline not to exceed three years may be specified for lodging the request for reopening the case, provided that the decision adopted in the new proceedings shall not effect the rights or lawful interests of others.

(4) A request for reopening the case shall be judged by the authority of the first instance.

(5)

(6) In the reopened proceedings the authority may either amend or withdraw the final resolution, or may adopt a decision consistent with the new evidence presented. This decision shall be delivered to any person to whom the final decision was delivered, and it may be appealed according to the general provisions.

(7) If the authority's decision is for reopening the case, the proceedings shall be conducted under the presumption as if the client has had been aware at the time when the previous resolution was adopted of the data, facts and circumstances underlying the reopening procedure. Where any rights acquired in good faith may be prejudiced, it shall have no bearing on the decision adopted in the reopened proceedings.

(8) If in conclusion of the reopened proceedings the final resolution containing some obligation is expected to be reversed or withdrawn, the authority shall ex officio take measures to have the pending procedure suspended.

(9) If the newly obtained facts and evidence would have blocked the obligation - in full or in part - that was conferred in the final resolution, the reopened proceedings shall address the matter of settlement of the situation arising upon the performance (enforcement) completed up to the time of submission of the petition or until the enforcement procedure is suspended, the elimination of any unjust and adverse disposition the obligor has suffered, the matter of compensation for damages and procedural costs, and the payment of restitution for any violation of rights relating to personality.

## **Proceedings Opened Based on a Resolution of the Constitutional Court**

### *Section 113.*

(1) Where a constitutional complaint is submitted by a party against any legislation or statutory provision that is contrary to the fundamental law, based on which the resolution for approval of the settlement between the parties was adopted, and on that basis the Constitutional Court annuls the legislation or statutory provision in question, if the Constitutional Court did not declare the annulled legislation or statutory provision applicable in the case invoking the proceedings of the Constitutional Court, the party may submit a petition within thirty days following the date of delivery of the Constitutional Court resolution to the authority which approved the settlement for the amendment or withdrawal of the resolution.

(2) The authority which approved the settlement shall proceed in accordance with Chapters I-IV of this Act in its proceedings for the amendment or withdrawal of the resolution.

(3) If, acting on a constitutional complaint, the Constitutional Court declared only a potential interpretation of a specific statutory provision contrary to the fundamental law, the provisions of Subsections (1)-(2) shall apply to the resolution that was adopted relying on the interpretation that was declared contrary to the fundamental law.

## **B) Ex officio administrative review procedures**

### **Amendment or withdrawal of decisions**

#### *Section 114.*

(1) The authority, if it finds that its decision that has not been judged by an authority or supervisory organ vested with powers to hear appeal cases or by a court of jurisdiction for administrative actions is unlawful, shall amend or withdraw the decision in question. The decision shall be delivered to any person to whom the amended or withdrawn decision was delivered.

(2) The authority shall be entitled to conduct the procedure referred to in Subsection (1) - with the exception if the procedure is launched based on a resolution of the Constitutional Court or upon intervention by the prosecution - only once and, unless otherwise prescribed by law, within one year from the date the decision was delivered. Where judicial review of the decision is pending, the authority may withdraw its decision before a counterclaim is lodged on the merits.

(3) Apart from the erroneous entries made in official records and registers and in official certificates, and from the resolution of facts in citizenship certificates, a decision may not be amended or withdrawn if it would compromise any right that was acquired and exercised in good faith.

(4) The amendment or withdrawal of a decision may be excluded or rendered subject to specific conditions by the relevant legislation.

(5) Any amendment or withdrawal of a resolution under intervention by the prosecution shall be governed by the provisions contained in Sections 118 and 120.

(6) Section 121 shall apply where a decision of the authority is withdrawn under grounds for nullity.

### **Oversight Proceeding**

#### *Section 115.*

(1) The supervisory organ shall have powers to examine ex officio the proceedings of the competent authority, and its decision, and shall consequently:

- a) take the measures necessary to eliminate the infringement, if any;
- b) exercise the supervisory competence governed under Subsection (2), unless provided for by an act or government decree.

(2) If the decision of the authority is found to be unlawful, the supervisory organ may reverse or annul such decision. If necessary the supervisory organ shall adopt a ruling to annul the unlawful decision and shall order the authority to reopen the case. The decision shall be delivered to any person to whom the unlawful decision was delivered.

(3) The decisions adopted in the cases referred to in Paragraph b) of Subsection (2) of Section 12 may not be reversed in oversight proceedings.

(4) The authority's decision may not be reversed and may not be annulled if:

- a) it has been judged by a court of jurisdiction for administrative actions;
- b) where any grounds for nullity applies, the time referred to in Subsection (4) of Section 121 has elapsed;
- c) in the absence of any grounds for nullity, it would compromise any right that the client has acquired and exercised in good faith;
- d) if a period of five years has elapsed from the operative date of a decision that confers any obligation (adverse disposition) or from the last day of the time limit for performance, whichever is longer;
- e) it is precluded or rendered subject to specific conditions by legal regulation, and the condition no longer applies.

(5) Where an unlawful decision is annulled or reversed, oversight proceedings shall be implemented to address the matter of settlement of the situation arising upon the decisions or upon the performance or enforcement completed under this decision, and the matter of compensation for the costs caused without reason.

(6) When remedy is sought against the decision of annulment or reversal the procedure referred to in Subsection (5) shall be suspended.

### **Supervisory Organ**

#### *Section 116.*

Unless otherwise provided for in an act or government decree, the body that is or should be vested with powers to adjudge appeal cases shall function as the supervisory organ.

*Section 117.*

## **Actions by the Prosecution**

*Section 118-119.*

## **Prosecutor's Intervention**

*Section 120.*

If the public prosecutor intervenes in a case covered by this Act for the purpose of remedying an infringement, it shall be governed by the provisions of the Act on the Prosecution Service on the responsibilities of the prosecution service for the protection of public interests.

## **Nullity**

*Section 121.*

- (1) In the proceedings governed under this Chapter, the decision shall be annulled if:
- a) the Hungarian authority has no jurisdiction according to a directly applicable Community legislation that is binding in its entirety, an international agreement or an act;
  - b) the acting authority has no competence or jurisdiction for the case in question, except if the authority has proceeded according to Subsection (3) of Section 22;
  - c) the resolution was adopted without having to consult the specialist authority as required, or without taking into consideration the opinion of the specialist authority;
  - d) the contents of the administrative decision was influenced by some criminal act, provided that the criminal conduct was established by final court verdict, or such verdict was blocked by reasons other than the lack of evidence;
  - e) the chamber organ adopting the decision was not established according to regulation, did not have a quorum, or did not have the voting percentage required;
  - f) the contents of the decision are contradictory to what is contained in Subsections (3) and (4) of Section 109.
- (2) Failure to observe certain specific formal requirements or certain grave procedural violations may be proclaimed grounds for nullity by an act.
- (3)
- (4) With the exception set out in Subsection (5), a decision may not be annulled irrespective of any grounds for nullity if:
- a) it would compromise any right that the client has acquired and exercised in good faith, and a period of three years has elapsed since the operative date of the decision;
  - b) if a period of five years has elapsed from the operative date of a decisions that confers any obligation (adverse disposition) or from the last day of the time limit for performance, whichever is longer, or from the last performance if the decision prescribes a continuous obligation;
- (5) Where the grounds for nullity referred to in Paragraph d) of Subsection (1) applies, the decision may be annulled without any time limit if it does not affect any right acquired and exercised in good faith.
- (6)-(7)

*Section 122.*

*Section 123.*

## **Chapter VIII**

## **Enforcement**

*Section 124.*

The rules of administrative enforcement shall apply for the enforcement of:

- a) any liability conferred in the authority's decision;
  - b) any commitment assumed in a settlement that has been approved by the authority;
  - c) any refund of support and other allowance assumed in the administrative agreement, or claimed by the client in the case of breach of contract; and
  - d) any obligation prescribed in the resolution of a foreign authority in an administrative action for legal assistance;
- if it is not discharged voluntarily.

#### *Section 125.*

(1) In enforcement procedures the provisions of this Act shall apply subject to the exceptions set out in this Chapter.

(2) Unless otherwise provided for in this Act, in enforcement procedures the provisions of Act LIII of 1994 on Judicial Enforcement (hereinafter referred to as "JEA") shall apply subject to the exceptions set out in Subsections (3)-(7).

(3) Section 9, Chapter II and Chapters XI-XX of the JEA may not be applied.

(4) From Chapter III of the JEA the provisions pertaining to the date of conducting the procedures, to the notification of any reduction in or termination of the claim, to acts of coercion in the venue of enforcement and to the gathering, verification and processing of the data of the judgment debtor and other persons involved in enforcement proceedings shall apply.

(5) Unless this Chapter provides otherwise, any reference made in the JEA to court, court bailiff, enforcement order and judgment debtor shall be understood, respectively, as the authority initiating the enforcement, the body carrying out the enforcement procedure, enforceable decisions and debtor. Where the JEA provides for payment to be made to the bailiff's deposit account, it shall mean the account of the body carrying out the enforcement procedure. As regards the costs of the enforcement procedure pertaining prepayments and the bearing of such costs, and to administrative penalties the provisions of this Act shall apply. The provisions on the enforcement of pecuniary claims shall also apply to the enforcement of administrative penalties.

(6) The provisions of the JEA relating to electronic auctions of movable and immovable properties shall apply when the procedure is carried out by an independent court bailiff.

(7) In connection with the auction of an immovable property the body carrying out the enforcement procedure - excluding independent court bailiffs - shall proceed according to the provisions of the JEA subject to the exception that the second auction shall not be conducted, if the auction buyer has paid the purchase price in cash or by way of credit transfer before the commencement of the second auction, in which case the debit notice shall be presented, or a copy shall be provided, to the body carrying out the enforcement procedure, and has reimbursed the costs incurred by the scheduling of the second auction.

### **Enforceable Decisions**

#### *Section 126.*

(1) The authority's decision shall be enforceable if:

a) it confers an obligation for the payment of money, or an obligation for the performance of a specific act or a specific conduct, it is operative and the required result was not achieved inside the deadline or time limit specified for performance (hereinafter referred to collectively as "time limit");

b) it confers an obligation of forbearance or for the discontinuance of a specific act or a specific conduct, it is operative, and the client breached the obligation before the term of limitation of the right of enforcement expires;

c) the decision was declared enforceable notwithstanding any appeal or irrespective of a petition submitted for having the enforcement procedure suspended, or it was applied as a protective measure;

d) it contains no time limit specified for performance and it has become operative.

(2) The provisions contained in Subsection (1) hereof shall also apply to any commitment assumed in a settlement that has been approved by the authority and to obligations contained in an administrative agreement.

### **Opening of Enforcement Procedures**

#### *Section 127.*

(1) The authority of the first instance shall monitor compliance with the obligation prescribed in the enforceable decision of its own motion in *ex officio* proceedings, or upon the client's request in proceedings opened upon request, or may do so if the client did not lodge a request therefor in proceedings opened upon request, however, the authority has had competence to conduct the procedure *ex officio*. If compliance cannot be determined from the information available, the authority shall - if necessary - conduct a regulatory inspection within eight days following the deadline, or from the date of receipt of the request for inspection in proceedings opened upon request.

(2) The authority of the first instance shall launch the enforcement procedure if it finds that the obligation prescribed in the enforceable decision was not fully discharged by the deadline for performance or if performed in non-conformity with the prescribed requirements.

(3) If the authority of the first instance carries out the enforcement procedure, no ruling is required for the implementation of enforcement, and the procedure shall be opened within eight days of the time when voluntary performance is declared to have failed.

(4) Where the enforcement procedure is not implemented by the authority of the first instance, the authority of the first instance shall adopt a ruling relying on the information available or on the findings of the regulatory inspection; such ruling shall be delivered to the body carrying out the enforcement procedure as well. In such case the enforcement procedure shall commence on the day following the date of delivery of the ruling to the body carrying out the enforcement procedure.

(5) The above-specified ruling shall contain:

*a)* the data contained in the records of the authority of the first instance or in the documents of the case, to the extent required for the successful conclusion of the enforcement procedure; and

*b)* the amount of default interest where the enforcement pertains to the payment of money.

(6) The ruling may be appealed by the judgment debtor exclusively on the grounds of alleging an infringement. The appeal shall specify the facts on which the appeal is based, with evidence underlying the appeal enclosed. Enforcement of the ruling shall not be suspended on account of an appeal.

(7) The authority of the first instance shall adopt a ruling if it finds any violation of the obligation set out in the administrative agreement. The client may appeal such ruling before the court of jurisdiction for administrative actions, and his appeal shall have suspensory effect.

## **Implementation of Enforcement**

### *Section 128.*

(1) Unless otherwise prescribed by an act or government decree, enforcement shall be carried out by the authority of the first instance.

(2) The body carrying out the enforcement procedure may enter into an agreement with an independent court bailiff to execute the enforcement, however, only the authority initiating the enforcement shall have competence to adopt a ruling in the process.

(3) An act or government decree may prescribe, where enforcement is carried out by a person other than the authority of the first instance, that enforcement of a decision is to be carried out by the body carrying out the enforcement procedure with the authority of the first instance in tandem, if it requires the type of technical knowledge or some other special criteria that the body carrying out the enforcement procedure is lacking.

## **Enforcement of Pecuniary Claims**

### *Section 129.*

The principal source of satisfying pecuniary claims by administrative enforcement shall be the funds deposited with a payment service provider that were seized by way of the protective measures implemented, or - if these funds are found insufficient, whether in part or in full, to cover the amount of judgment - from the funds deposited with a payment service provider in the name and on behalf of the debtor, or if this is not possible in the case of natural persons, from the debtor's wages.

### *Section 130.*

(1) If the debtor is able to verify in the course of the implementation of enforcement that the lack of performance is due to no fault of his own, or if unable to meet the deadline for reasons beyond his control, or that it would impose an unreasonably heavy burden upon him, at the debtor's request the body carrying out the enforcement procedure may authorize - upon hearing the creditor - payment facilities in accordance with

Section 74, if it is not excluded by the relevant legislation and if the authority initiating the enforcement agreed in advance.

(2) Payment facilities in enforcement procedures may comprise the remission or mitigation of the default interest, whether in itself or combined with other forms of payment facilities. The remission or mitigation of the default interest shall be subject to the rightholder's consent.

(3) Insofar as the conditions set out in the ruling granting payment facilities are satisfied the debtor shall remain immune from enforcement, and no default interest may be charged for the period in question. In the event of the debtor breaching any of the conditions set out in the ruling granting payment facilities, the body carrying out the enforcement procedure shall move to continue the enforcement procedure for the whole amount remaining, with default interest charged retroactively.

#### *Section 131.*

(1) If the enforcement failed to produce results, or results are only likely to be achieved following an unreasonably long period of time, any property of the debtor that can be seized may be subjected to enforcement, primarily including the ones affected by protective measures.

(1a) If the pecuniary claim is an administrative penalty imposed upon a natural person by decree of the council of representatives of a municipal government, the authority having imposed the administrative penalty may - instead of applying the provisions of Subsection (1) of Section 131 - allow to substitute the unpaid administrative penalty with community service work. Where unpaid administrative penalties are substituted by community service work, five thousand forints may be compensated by six hours of work. Any fraction of five thousand forints in unpaid administrative penalties shall be ignored.

(1b) Before ordering the substitution the offender's prior consent for the substitution of unpaid administrative penalties with community service work shall be obtained. If prior consent is refused unpaid administrative penalties may not be substituted with community service work.

(1c) Unpaid administrative penalties may not be substituted with community service work if the offender:

*a)* has not reached the age of eighteen at the time the ruling on substitution was adopted;

*b)* is disabled according to the Act on the Rights and Equal Opportunity of Persons with Disabilities, or hospitalized;

*c)* is a woman in the fourth month of pregnancy, a single parent with a child under fourteen years of age, disabled, or a person who alone provides for a relative who is in need of continuous care, supervision or attention.

(1d) The respondent shall report to the government employment agency within three working days following the operative date of the ruling ordering substitution. The government employment agency shall record the data necessary for the implementation of community service work in the register specified in Section 144/A of Act II of 2012 on Misdemeanor Offenses, Misdemeanor Proceedings and the Misdemeanor Register (hereinafter referred to as "Misdemeanors Act"), and shall - on that basis - provide for the enforcement of community service work performed in substitution of an unpaid administrative penalty. The authority having imposed the administrative penalty shall communicate to the government employment agency its ruling ordering substitution, indicating also the respondent's particulars required for enforcement.

(1e) Where unpaid administrative penalties are substituted by community service work, the respondent is obligated to perform the work assigned; the personal freedom of the respondent may not otherwise be restricted. The respondent shall perform community service work at least on one day per week, on the weekly day of rest or on his day off, without any remuneration. There is no employment relationship established with the employer for the duration of community service work. Community service work may not be enforced after one year from the date of the resolution imposing the financial penalty.

(1f) If the respondent has not satisfied or has only satisfied in part the obligation to perform community service work, the authority having imposed the administrative penalty shall take measures without delay upon gaining knowledge thereof for the implementation of enforcement, where enforcement shall continue for the part of administrative penalty which had not been substituted by community service work. Continuation of the enforcement may not be ordered if the time remaining from community service work is less than six hours.

(1g) Subject to the exceptions set out in this Act and the ministerial decree adopted for the implementation of this Act, Subsections (4) and (6) of Section 142, Subsections (4)-(6) and (8) of Section 144, and Section 144/A of the Misdemeanors Act shall also apply to the enforcement of community service work, with the proviso that any reference made to offenders shall be understood as respondents, and any reference made to misdemeanor authority shall be understood as the authority having imposed the administrative penalty.

(2) Attachment of real estate property may take place if the amount owed is over 500,000 forints. For a debt of less than 500,000 forints, attachment may also be ordered if the debt is in proportion to the value of the real property involved.

(3) A residential property occupied by the debtor and his family, if it does not exceed the reasonable housing requirement defined by the relevant legislation, may only be sold in an attachment proceeding if other forms of enforcement have failed.

(4) Where the attachment of immovables cannot be implemented, and if the attachment of any other property of the debtor has also been unsuccessful, the body carrying out the enforcement procedure may file a lien on the debtor's property on behalf of the beneficiary to cover the amount of the irrecoverable claim and its associated costs.

(5) The real estate supervisory authority - at the request of the body carrying out the enforcement procedure - shall register the lien in the real estate register without delay.

## **Default Interest**

### *Section 132.*

(1) The debtor shall be charged a default interest:

- a)* for failure to satisfy his money payment obligation in due time, except if an act provides otherwise;
- b)* if he is liable to refund the support or other allowance claimed under the administrative agreement; or
- c)* if so prescribed by law.

(2) The default interest shall be calculated at a rate of 1/365 of double the prevailing central bank base rate for each calendar day.

(3) The default interest shall be charged in connection with money claims for the period beginning on the day that follows the last day of the performance deadline; in connection with receiving support or other allowance claimed under an administrative agreement, from the first day of receiving such and ending on the day of performance or repayment; in connection with partial performance, on the residual amount.

### *Section 133.*

(1) Default interest shall be charged in an enforcement procedure for any delay in the payment of expenses, to pay the cash equivalent or any administrative penalty, and on the enforcement costs advanced by the State for the period to which the advancement pertains. No default interest shall be assessed after the overdue payment of the default interest.

(2) The default interest shall be paid together with the payment ordered by the enforceable decision.

## **Implementation of a Specific Act**

### *Section 134.*

If enforcement is for the performance of a specific act or a specific conduct (hereinafter referred to collectively as "specific act"), in the event of non-compliance the body carrying out the enforcement procedure:

- a)* may demand performance of the specific act at the cost and risk of the obligor;
- b)* may authorize the beneficiary to perform or to demand performance of the specific act at the cost and risk of the obligor;
- c)* may, at the beneficiary's request, order the obligor to pay the cash equivalent of the specific act;
- d)* may impose an administrative penalty upon the obligor if held liable for non-compliance, irrespective of his financial situation and income;
- e)* may enforce the specific act with police assistance.

### *Section 135.*

(1) If one per cent of the cost involved in carrying out a specific act is higher than the upper limit of the administrative penalty, the amount of administrative penalty that may be imposed in an enforcement procedure shall be limited to one per cent of the cost of performance.

(2) The administrative penalty may be imposed once again if the obligor failed to perform the specific act within the deadline specified for enforcement in the ruling imposing the penalty, or if engaged in repeated violation of the specific conduct.

### *Section 136.*

The body carrying out the enforcement procedure shall determine the process of enforcement, after hearing the beneficiary and the obligor if this is deemed necessary. The body carrying out the enforcement procedure

shall adopt a course of action that is likely to promote the performance of the obligation in the most efficient way in light of all applicable circumstances.

## **Enforcement of Foreign Judgments**

### *Section 137.*

(1) The decisions of foreign authorities adopted in administrative actions (hereinafter referred to as “foreign judgment”) shall be executed on the basis of the relevant act or government decree, directly applicable legislation of the European Union that is binding in its entirety, or reciprocity.

(2) Unless otherwise provided for as under Subsection (1), foreign judgments shall be executed in accordance with the provisions of this Act.

(3) Enforcement of a foreign judgment may be ordered at the request of the authority of issue, or the authority vested with competence for enforcement under foreign law.

### *Section 138.*

(1) Requests for the enforcement of foreign judgments shall be sent to the authority designated by the relevant government decree (for the purposes of this Section hereinafter referred to as “designated authority”).

(2) The designated authority shall examine the request for compliance with the requirements laid down in a directly applicable legislation of the European Union that is binding in its entirety and in international treaties, or with the principle of reciprocity, or failing these, with the provisions of Section 137. As to whether reciprocity exists shall be determined by the minister in charge of foreign policies in agreement with the minister having competence in connection with the case on hand. If the request is incomplete, or cannot be satisfied pursuant to this Act, the designated authority shall return the request to the foreign authority with the reasons indicated.

(3) Where a request concerns the enforcement of an obligation that falls within court jurisdiction, the request shall be transferred to the court of competent jurisdiction.

(4) If the foreign judgment is enforceable, the request shall be sent to the body vested with competence for the implementation of enforcement for the purpose of enforcement.

(5) If, according to Hungarian law, there is no authority with proper jurisdiction, and the court’s jurisdiction cannot be determined, the designated authority shall forthwith request the opinion of the minister in charge of the judicial system. The minister in charge of the judicial system shall send its opinion obtained upon consulting the minister affected or the head of a central government body within fifteen days to the designated authority. The minister in charge of foreign policies shall formulate his opinion in agreement with the minister having competence in connection with the case on hand, and shall make it known within fifteen days. The designated authority shall transfer the request to the authority specified in the said opinion.

## **Enforcement of the Decisions of Hungarian Administrative Authorities Abroad**

### *Section 139.*

(1) The decisions of Hungarian authorities may be enforced abroad on the basis of directly applicable legislation of the European Union that is binding in its entirety, an act or government decree, or reciprocity.

(2) If the decision of a Hungarian authority has to be enforced abroad, and unless otherwise provided for in the provisions referred to in Subsection (1), the authority of the first instance shall contact the foreign authority considered to have competence according to the relevant foreign law, or if unable to locate such authority on its own accord or by way of its superior authority, the request shall be sent to the minister in charge of foreign policies for the purpose of forwarding. The minister in charge of foreign policies shall have the request transmitted within fifteen days to the minister of the foreign state competent for foreign affairs, and shall notify the requesting authority accordingly.

## **Suspension of Enforcement Procedures**

### *Section 140.*

(1) The authority initiating the enforcement, the authority of appellate jurisdiction, the supervisory organ or the court shall have powers to order the suspension of an enforcement procedure. In enforcement procedures the provisions pertaining to the suspension of proceedings shall apply subject to the exceptions set out in Subsections (2)-(6) hereof.

(2) The enforcement procedure shall be suspended if:

*a)* an action of replevin is pending concerning the assets which are subject to enforcement or the court bailiff has already seized the asset for the enforcement of another claim, provided that there is no other asset that can be attached;

*b)* a petition to rebut a presumption of service has been lodged and the facts and other evidence presented in the petition appear strong enough for the petition to be approved;

*c)* the obligor has died or terminated, up to the operative date of the ruling pertaining to succession;

*d)* so requested by the public prosecutor in the prosecutor's intervention lodged against the enforceable decision;

*e)* continuation of the enforcement procedure is likely to create a life-threatening situation or to cause irreparable harm, or it is necessary for public health considerations or for reasons of public safety;

*f)* the obligor has lodged a petition for payment facilities, except if the authority has conclusively resolved the client's earlier petition, or payment facilities are not permitted under the relevant legislation; and

*g)* so prescribed by the relevant legislation.

(3) The authority initiating the enforcement may - in exceptional cases - order the suspension of enforcement at the obligor's request if the obligor is able to substantiate the reason and reasonable cause therefor, and if the obligor had not been previously fined for contempt during the enforcement procedure.

(4) During the period of suspension implementation of the enforceable decision shall be postponed, however, the acts of enforcement already carried out shall remain in effect.

(5) The body carrying out the enforcement procedure shall notify the authority initiating the enforcement concerning the grounds for suspension of which it is aware, including the grounds for ending the suspension.

(6) The authority initiating the enforcement shall decide whether to keep the suspension in effect if the grounds for suspension had been eliminated.

## **Termination of Enforcement Procedures**

### *Section 141.*

(1) The authority initiating the enforcement shall terminate the enforcement procedure if:

*a)* the enforceable decision is withdrawn, annulled or abolished;

*b)* the enforcement procedure cannot be continued in the absence of a successor;

*c)* the right for enforcement has lapsed;

*d)* the beneficiary requested the enforcement procedure to be terminated;

*e)* further procedural steps are not expected to bring any results;

*f)* the body carrying out the enforcement procedure has enforced the pecuniary claim under the provisions of liability pertaining to payment service providers and employers, or recovered it from the person required to make good for the obligor's debts under the relevant legislation;

*g)* the authority has extended the deadline for performance after having initiated the enforcement on account of succession;

*h)* the body carrying out the enforcement procedure moved for the liquidation of the obligor, or the obligor is undergoing liquidation;

*i)* the judgment debtor satisfied the obligation comprising the subject matter of the procedure;

*j)* an act or government decree provides for the termination of the enforcement procedure on other grounds.

(2) The body carrying out the enforcement procedure shall notify the authority initiating the enforcement concerning the grounds for suspension of which it is aware, and of the termination of the enforcement procedure.

(3) The ruling to terminate the enforcement procedure shall be delivered to the beneficiary and to the obligor, and shall be sent to the body carrying out the enforcement procedure without delay.

## **Term of Limitation of the Right of Enforcement**

### *Section 142.*

(1) The right of enforcement shall lapse after five years from the operative date of the decision conferring an obligation, or if the decision provides a deadline or time limit for performance, from the last day of this deadline or time limit. A shorter term of limitation may be established by the relevant legislation.

(2) The term of limitation shall be dormant for the duration of suspension of the enforcement procedure, for the length of the period authorized in the enforcement for payment facilities, and for the duration of continuous enforcement of money claims.

(3) The term of limitation of a right of enforcement shall be interrupted by any act of enforcement. When discontinued the term of limitation shall begin to run anew. However, ten years after the time specified in Subsection (1) the resolution may not be executed.

(4) If a resolution cannot be enforced since the term of limitation has expired, the irrecoverable money claim shall be cancelled.

## **Protective Measures**

### *Section 143.*

(1) Where performance of an obligation to which the proceedings pertain appears to be jeopardized, protective measures may be implemented before the performance deadline, within five days from the occurrence of the underlying reasons, such as a pledge of security for money claims or the sequestration of specific assets.

(2) Protective measures shall be ordered by the authority of the first instance, and shall be implemented by the body carrying out the enforcement procedure.

(3) The protective measures shall be withdrawn if:

*a)* it was ordered to secure a pecuniary claim, and the sum in question had been deposited with the body carrying out the enforcement procedure;

*b)* it was ordered to ensure a specific act, and the obligor is able to verify beyond reasonable doubt of having taken all measures within reason for voluntary performance, and the protective measure constitutes the only hindrance remaining; or

*c)* the grounds therefor no longer exist.

(4) The ruling for the implementation of protective measures may be appealed independently.

## **Legal Remedies in Enforcement Procedures**

### *Section 144.*

(1) Where a decision of the authority of the first instance can be appealed independently under this Act, the decision of the authority initiating the enforcement adopted in the enforcement procedure may also be appealed.

(2) The obligor, the beneficiary, and any person whose right or lawful interests is prejudiced by the enforcement may file a demurrer of enforcement against any unlawful action or measure of the body carrying out the enforcement procedure or its failure to take action at the body carrying out the enforcement procedure. The demurrer of enforcement shall be lodged within eight days from the time of becoming aware of the measure or from the time the obstruction is eliminated, where applicable, in any case not later than within three months from the time the measure was taken.

(3) The appeal and the demurrer of enforcement shall be decided by the authority of appellate jurisdiction within fifteen days. The demurrer of enforcement shall be decided by the authority of appellate jurisdiction regarding the decisions of the authority initiating the enforcement, if it is carried out by a court bailiff. A demurrer of enforcement lodged in connection with the remuneration of an independent court bailiff shall be decided by the district court of jurisdiction for the place where the bailiff is established.

(4) Unless otherwise prescribed by law, enforcement of the decision shall not be suspended on account of an appeal or demurrer of enforcement. The provisions pertaining to appeals shall also apply to demurrers of enforcement.

### *Section 145.*

(1) Enforcement of a foreign resolution may be ordered at the request of the authority of issue, or the authority vested with competence for enforcement under foreign law.

(2) A request from a foreign authority may be satisfied if the enforcement order containing the obligation and the official Hungarian translation of the request and the resolution is attached with the request.

(3) A foreign resolution may be enforced in the domestic territory if it is in compliance with the requirements set out in Section 127, and enforcement of the obligation is not in collision with Hungarian law.

### *Section 146.*

(1) Requests for the enforcement of foreign resolutions shall be sent to the authority designated by the relevant government decree (hereinafter referred to as “designated authority”).

(2) The designated authority shall examine the request for compliance with the requirements laid down in directly applicable Community legislation that is binding in its entirety and in international treaties, or with the principle of reciprocity, or failing these, with the provisions of Section 145. In the assessment of reciprocity the position of the minister in charge of foreign policies shall be authoritative, and it will be formulated in agreement with the minister having competence in connection with the case on hand. If the request is incomplete, or cannot be satisfied pursuant to this Act, the designated authority shall return the request to the foreign authority with the reasons indicated.

(3) Where a request concerns the enforcement of an obligation that falls within court jurisdiction, the request shall be transferred to the authority vested with powers and competence.

(4) If the foreign resolution is enforceable, the request shall be sent to the body vested with competence for the implementation of enforcement for the purpose of enforcement.

(5) If, according to Hungarian law, there is no authority with proper jurisdiction, and the court's jurisdiction cannot be determined, the designated authority shall forthwith request the opinion of the minister in charge of administration procedures and policies. The minister in charge of administration procedures and policies shall send its opinion obtained upon consulting the minister affected or the head of a central government body within fifteen days to the designated authority. The minister in charge of foreign policies shall formulate his opinion in agreement with the minister having competence in connection with the case on hand, and shall make it known within fifteen days. The designated authority shall transfer the request to the authority designated in the said opinion.

## **Enforcement of the Decisions of Hungarian Administrative Authorities Abroad**

### *Section 147.*

(1) The decisions of Hungarian authorities may be enforced abroad on the basis of directly applicable Community legislation that is binding in its entirety, an act or reciprocity.

(2) If the decision of a Hungarian authority has to be enforced abroad, and directly applicable Community legislation that is binding in its entirety or an act does not provide otherwise, or the principle of reciprocity does not suggest otherwise, the authority of the first instance shall directly contact the foreign authority considered to have competence according to foreign law, or if unable to locate such authority on its own accord or by way of its superior authority, the request shall be forwarded to the minister in charge of foreign policies. The minister in charge of foreign policies shall have the request transmitted within fifteen days to the minister of the foreign state competent for foreign affairs, and shall notify the requesting authority accordingly.

## **Suspension of Enforcement**

### *Section 148.*

(1) The authority of origin for ordering enforcement, the authority of appellate jurisdiction, the supervisory organ or the court shall have powers to order the suspension of an enforcement procedure. In enforcement procedures the provisions pertaining to the suspension of proceedings shall apply subject to the exceptions set out in Subsections (2)-(6).

(2) The enforcement procedure shall be suspended if:

*a)* an action of replevin is pending concerning the assets which are subject to enforcement or the court bailiff has already seized the asset for the enforcement of another claim, provided that there is no other asset that can be attached;

*b)* a petition to rebut a presumption of service has been lodged and the facts and other evidence presented in the petition appear strong enough for the petition to be approved;

*c)* the obligor has died or terminated, up to the operative date of the ruling pertaining to succession;

*d)* so requested by the public prosecutor in the intervention lodged in connection with the enforceable decision;

*e)* continuation of the enforcement procedure is likely to create a life-threatening situation or to cause irreparable harm, or it is necessary for public health considerations or for reasons of public security;

*f)* the obligor has lodged a petition for payment facilities, except if the authority has conclusively resolved the client's earlier petition, or payment facilities are not permitted under the relevant act; and

*g)* so prescribed in an act or government decree.

(3) The authority of origin for ordering enforcement may - in exceptional cases - order the suspension of enforcement at the obligor's request if the obligor is able to substantiate the reason and reasonable cause therefor, and if the obligor had not been previously fined for contempt during the enforcement procedure.

(4) The acts of enforcement carried out before the suspension shall remain in force. During the effective term of the suspension acts of enforcement may not be carried out.

(5) The body carrying out the enforcement procedure shall notify the authority of origin for ordering enforcement concerning the grounds for suspension of which it is aware, including the grounds for ending the suspension.

(6) The authority of origin for ordering enforcement shall decide whether to keep the suspension in effect if the grounds for suspension had been eliminated.

## **Termination of Enforcement**

### *Section 149.*

(1) The authority of origin for ordering enforcement shall terminate the enforcement procedure if:

- a) the enforceable decision is withdrawn, annulled or abolished;
- b) the enforcement procedure cannot be continued in the absence of a successor;
- c) the right for enforcement has lapsed;
- d) the beneficiary requested the enforcement procedure to be terminated;
- e) further enforcement procedural steps are not expected to bring any results;
- f) the body carrying out the enforcement procedure has enforced the money claim under the provisions of liability pertaining to payment service providers and employers, or recovered it from the person required to make good for the obligor's debts under specific other legislation;
- g) the authority has extended the deadline for performance after having issued the order for enforcement on account of succession;
- h) the body carrying out the enforcement procedure moved for the liquidation of the obligor, or the obligor is undergoing liquidation; or
- i) an act or government decree provides for the termination of the enforcement procedure for other reasons.

(2) The body carrying out the enforcement procedure shall notify the authority of origin for ordering enforcement concerning the grounds for suspension of which it is aware, and of the termination of the enforcement procedure.

(3) The ruling to terminate the enforcement proceedings shall be delivered to the beneficiary and to the obligor, and shall be sent to the body carrying out the enforcement procedure without delay.

## **Term of Limitation of the Right of Enforcement**

### *Section 150.*

(1) The right of enforcement shall terminate after five years from the operative date of the decision conferring an obligation, or if the decision provides a deadline or time limit for performance, from the last day of this deadline or time limit. A shorter term of limitation may be established by legal regulation.

(2) The term of limitation shall be dormant for the duration of suspension of the enforcement procedure, and for the length of the period authorized in the enforcement for payment facilities.

(3) The term of limitation of a right of enforcement shall be interrupted by any act of enforcement. When discontinued the term of limitation shall recommence. However, ten years after the time specified in Subsection (1) the resolution may not be executed.

(4) If a resolution cannot be enforced since the term of limitation has expired, the irrecoverable money claim and the mortgage registered on a property under Subsection (5) of Section 136 shall be cancelled. The real estate supervisory authority - at the request of the body carrying out the enforcement procedure - shall remove the lien from the real estate register.

## **Protective Measures**

### *Section 151.*

(1) Where performance of an obligation to which the proceedings pertain appears to be jeopardized, protective measures may be implemented before the performance deadline, such as a pledge of security for money claims or the sequestration of specific things.

(2)

(3) Protective measures may be ordered by the competent authority upon request or *ex officio*, and shall be implemented by the body carrying out the enforcement procedure.

(4) The protective measures shall be withdrawn if:

- a) it was ordered to secure a money claim, and the sum in question had been deposited with the body carrying out the enforcement procedure;
  - b) it was ordered to ensure a specific act, and the obligor is able to verify beyond reasonable doubt of having taken all measures within reason for voluntary performance, and the protective measure constitutes the only hindrance remaining; or
  - c) the grounds therefor no longer exist.
- (5) If the body carrying out the enforcement procedure is carrying out protective measures on the real estate property used by the obligor, an official witness may be employed.
- (6) The ruling for the implementation of protective measures may be appealed independently.
- (7)

## **Remedies in Enforcement Procedures**

### *Section 152.*

(1) Where a decision of the authority of the first instance can be appealed independently under this Act, the decision of the authority of origin for ordering enforcement adopted in the enforcement procedure may also be appealed.

(2) The obligor, the beneficiary, and any person whose right or lawful interests is prejudiced by the enforcement may file a demurrer of enforcement against any unlawful action or measure of the body carrying out the enforcement procedure or its failure to take action at the body carrying out the enforcement procedure. The demurrer of enforcement shall be lodged within eight days from the time of becoming aware of the measure or from the time the obstruction is eliminated, where applicable, but not later than within three months from the time the measure was taken.

(3) The appeal and the demurrer shall be adjudged by the authority of appellate jurisdiction within fifteen days. The demurrer of enforcement shall be adjudged by the authority of appellate jurisdiction regarding the decisions of the authority of origin for ordering enforcement, if it is carried out by a court bailiff. A demurrer of enforcement lodged in connection with the remuneration of an independent court bailiff shall be adjudged by the local court of jurisdiction for the place where the bailiff is established.

(4) Unless otherwise prescribed by law, enforcement of the decision shall not be suspended on account of an appeal or demurrer. The provisions relating to appellate proceedings shall also apply to demurrers of enforcement.

## **Chapter IX**

### ***Costs of Proceedings, Prepayment and Bearing of Costs***

#### **Costs of Proceedings**

##### *Section 153.*

Procedural costs shall include:

1. procedural fees;
2. administrative service fees;
3. costs incurred in connection with the client's appearance;
4. costs related to language services;
5. costs related to the right of access to the documents of the case;
6. costs of persons acting in representation of the clients;
7. expenses of any witness and official witness;
8. costs of liaison officers, and justified expenses incurred in connection with their activities;
9. experts' fees, including experts' expenses;
10. translation charges, other than what is contained in Subsection (2) of Section 11;
11. costs of postage and document transmission on the part of the client and other parties to the proceeding;
12. the costs of enforcement and fixed enforcement expenses;
13. the costs of police assistance;
14. the amount of compensation for damages resulting from the on-site inspection or from the expert's activities;
15. procedural costs specified by law, other than those under Points 1-14.

## **General Rules Relating to Procedural Costs**

### *Section 154.*

(1) With respect to the costs listed in Points 3-15 of Section 153 (hereinafter referred to as “other procedural costs”):

*a)* the authority shall proceed under the principle of cost-efficiency and prudence;  
*b)* the client and other parties to the proceedings are required to carry out their procedural steps in due observation of the principle of prudence.

(2) Any extra expenses resulting from any violation of what is contained in Subsection (1) shall be borne by the authority, client or any other party to the proceeding responsible.

## **Prepayment of Procedural Costs**

### *Section 155.*

(1) In proceedings opened upon request, other procedural costs shall be advanced and borne by the requesting client, unless otherwise prescribed by the relevant legislation. If more than one client of the same interest is involved, they shall be jointly and severally liable for the prepayment of other procedural costs, unless there is an agreement to stipulate otherwise. The client shall deposit the advance payment with the authority.

(2) In proceedings opened or pursued *ex officio* the other procedural costs shall be advanced by the authority, excluding the costs specified in Points 3, 6, 10 and 11 of Section 153 incurred by the client.

(3) The authority shall decide concerning prepayments at the time of occurrence of the costs, however, where there is reason to believe that the costs will be substantial beforehand, or if so justified by other reasons, the authority may order the party affected to deposit the sum estimated to cover such costs with the authority.

(4) The client may not be ordered to advance any procedural costs that is already covered by the fee.

(5) The costs of the procedure for taking evidence shall be covered by the party requesting the evidence.

(6) The costs of police assistance shall be advanced by the authority requesting such assistance.

## **Bearing of Procedural Costs**

### *Section 156.*

If the authority orders the client or any other party to the proceedings to pay the costs of certain procedural steps, such payment order shall apply effective immediately. The authority may use the same procedure also where the costs of certain procedural steps can be established and the person liable to bear such costs can be identified irrespective of the outcome of the proceedings.

### *Section 157.*

(1) In proceedings opened upon request, other procedural costs shall be borne by the requesting client, unless otherwise prescribed by the relevant legislation. If more than one client of the same interest is involved, they shall be jointly and severally liable for the bearing of procedural costs, unless there is an agreement to stipulate otherwise.

(2) In proceedings with adverse parties participating the authority shall - unless otherwise prescribed by law with respect to certain costs - order to pay the procedural costs specified under Section 153:

*a)* the client if his petition is refused;

*b)* the adverse party if the decision is for the client;

*c)* in the case of termination of the proceedings, the client whose action resulted in the procedural costs in question.

(3) If the decision is in favor of the petition only in part, the authority shall order the client and the adverse party to pay the costs in the percentage it specifies.

(4) If the authority confers any obligation upon the client, the client shall be ordered to cover the costs incurred in connection with evidencing the infringement underlying the obligation in question, unless otherwise provided for by the relevant legislation. If the authority confers any obligation upon several clients, it shall also provide for the sharing of costs among the clients.

### *Section 157/A.*

(1) If the supervisory organ transfers the case from the competent authority due to any infringement to another authority, the authority of original competence shall compensate the other authority for other procedural costs it has incurred on the basis of this Act.

(2) The other procedural costs incurred in connection with national legal assistance by the requested authority or person shall be covered by the requesting authority.

(3) The specialist authority shall bear the extra costs resulting from any amendment of the special authority's assessment, except if it was necessary due to an amendment of the relevant legislation.

(4) Unless otherwise prescribed by law, the authority shall transfer payment upon the expert's invoice within fifteen days from the amount of the expert's fee established by final decision, to the extent covered by the deposit. If the amount deposited is insufficient to cover the expert's fee, in proceedings opened upon request, the authority shall order the client to cover the expert's fee and to deposit the sum lacking.

(5) The costs incurred in connection with the exercise of the right of access to the documents of the case shall be covered by the person requesting access.

(6) The costs of an enforcement procedure shall be borne by the person who served the reason for opening and carrying out the enforcement procedure.

## **Decision for the Award of Procedural Costs**

### *Section 158.*

(1) The authority shall specify the amounts of procedural costs and shall decide as to the bearing of these costs, including the refund of advanced costs.

(2) The amounts of other procedural costs shall, in general, be determined based on the proof presented by the person affected.

(3) The authority shall determine the amount of the expert's fee - based on the schedule of charges submitted by the expert - within fifteen days upon receipt of the expert's assessment, or of the expert's interview, where applicable. The expert's fee shall be determined by the competent authority also if the expert was appointed by the requested authority.

(4) The authority - in accordance with Paragraph *b*) of Subsection (1) of Section 154 - shall reduce the amount of other procedural costs if it finds them unreasonably high.

## **Exemption from Costs**

### *Section 159.*

(1) The authority may grant exemption from costs to any natural person who - due to his income and financial situation - is unable to pay for all or part of the procedural costs, with a view to easing the burden on such a person in protecting his rights.

(2) 'Exemption from costs' means total or partial exemption from advancing and bearing duties, fees and other procedural costs.

(3) Exemption from costs covers the entire period of proceedings from the time the petition is submitted and applies to enforcement procedures. The authority shall advance those procedural costs arising between the time when the client submitted a petition for exemption for the first time and the operative date of the decision on granting exemption, that should have been advanced by the client.

(4) Based upon the occurrence of or changes in the conditions for exemption from costs during the proceedings, exemption from costs may be authorized, amended or withdrawn.

(5) The authority shall send a copy of its ruling authorizing exemption from costs and the ruling for the amendment or withdrawal of exemption from costs to the authorities whose actions carry the obligation of payment of duties and charges for their role in the proceedings.

(6) Exemption from duties or fees may not be granted to any client who is subject to joint and several liability for some payment obligation, except if he was granted exemption from costs for other reasons.

(7) Exemption from costs may be authorized by law for legal persons and unincorporated business associations as well.

(8) Certain cases may be defined by an act or government decree where the client is granted cost exemption. In such cases other procedural costs shall be advanced and borne by the State, unless otherwise provided for by an act or government decree.

## **Chapter X**

## ***Electronic Administration***

### **Basic Principles Relating to Electronic Administration**

#### *Section 160.*

(1) Regulations on the governance of electronic administration may not prescribe mandatory requirements for the installation of certain specific technical facilities (solutions), not including communications services provided through restricted government networks according to the government decree on restricted government networks, and the use of services provided by the State free of charge. Moreover, the relevant legislation shall contain requirements which are independent of the mode of technical development (technology neutrality).

(2) Unless otherwise provided for by law, the authority shall be entitled to carry out procedural steps by way of electronic administration even in the case of communication by means other than electronic, however, the client's administrative disposition must be observed in communications with the client in such cases as well.

(3) Where communication with clients and other organizations is to be maintained electronically, the administrative authority shall communicate through restricted government communications services, where this is available.

(4) In addition to what is contained in specific other legislation, the probative value of a document made by the authority, or by an organization delegated by the Government, in accordance with the rules on regulated electronic administration services as regards the conversion of electronic documents into certified paper-based documents, the conversion of paper-based documents into certified electronic documents, and making certified electronic copies of electronic documents in another format shall be the same as that of the original document.

(5) Any authority that assigns an identifier for the identification of a client other than the natural identification data shall, prior to communicating this identifier to the client, assign an access code and shall register this code together with the identifier, and shall make available this access code, indicating its type, encrypted for which the authority only has the key, to the cross-referencing registration service for updating the relevant entry in the cross-referencing register. Any inquiry or disclosure connected to the said identifier, for which an identifier other than the one assigned by the authority is also required, may henceforward be carried out through the cross-referencing register, in accordance with the provisions pertaining to the cross-referencing register.

(6) In connection with the services provided, regulated providers of electronic administration services shall ensure access to public information and information of public interest, as well as the protection of personal data and privileged information.

(7) Access to public and indicative information related to regulated electronic administration services, and the availability of public information by electronic means may not be restricted, and may not be rendered conditional upon the prior identification of users.

## **Electronic Procedures Inspectorate**

#### *Section 161.*

(1) Regulated electronic administration services may be provided upon notification submitted to the Electronic Procedures Inspectorate (hereinafter referred to as "Inspectorate"). A government decree adopted under authorization by this Act may - on the basis of overriding reasons relating to the public interest - provide that the Inspectorate's authorization is required for the provision of certain specific regulated electronic administration services.

(2) Notification and authorization, maintaining the register of regulated electronic administration services and supervisory activities shall be governed by the relevant provisions of the Act on the General Provisions Relating to the Taking Up and Pursuit of the Business of Service Activities, subject to the exceptions set out in this Section and to the exceptions decreed by the Government.

(3) The notification, or the application for authorization if the service is subject to authorization, or in the event of any changes in the notification or in the authorization, the notification of the amendment or the application for the amendment of the authorization shall be submitted to the Inspectorate at least thirty days before the proposed date of starting up the service, or before the date of implementation of the change.

(4) The regulated provider of electronic administration services shall notify the termination of the business of service activities to the Inspectorate at least sixty days before the date of termination, and shall publish it according to the rules on electronic information services. The notification shall not exonerate the service

provider from honoring the service period requirement mandated by the relevant legislation or agreed upon on its own volition.

(5) The Inspectorate shall monitor as to whether the regulated electronic administration services are provided in due compliance with the relevant legislation, and with the documents submitted with the notification or in support of the authorization.

(6) In order to facilitate the provision of regulated electronic administration services the Inspectorate shall issue recommendations.

(7) Communication between the Inspectorate and regulated providers of electronic administration services shall be maintained by way of electronic means exclusively, in accordance with the provisions pertaining to electronic communication.

## **Administrative Disposition**

### *Section 162.*

(1) Unless otherwise provided for by law, the authority shall take into consideration the client's administrative disposition in the course of electronic communication (including by electronic means for audio link and telephone). Unless otherwise provided for by law, the authority may accept an electronic statement from, and may dispatch an electronic statement to, a client if the client did not specifically exclude this in the administrative disposition, or during the proceedings in the case of procedural steps carried out with the personal involvement of the case officer.

(1a) Where, in accordance with the relevant legislation, certain legal acts shall be considered valid only if committed to writing or made out in a private deed representing conclusive evidence, this shall be considered satisfied if the legal act is made in an administrative disposition.

(2) The registration entity shall - upon consulting the cross-referencing register - inform the authority concerning the contents of the client's administrative disposition in the manner defined by law, if the authority provides the information necessary for the identification of the client. The registration entity shall disclose information to the authority from the client's administrative disposition to the extent permitted by law, or as regards the information the client wishes to share with the authority as indicated in the client's administrative disposition.

(3) The client's administrative disposition may contain instructions requesting the acting authority to provide summary information electronically concerning the procedural steps carried out involving the client within a specific timeframe, or on the procedural steps specified by law, provided the authority in question is equipped to provide such service. When so requested by the client, the registration entity shall make available such information in the name of the authorities on the aggregate.

(4) The client's administrative disposition may contain instructions for the registration entity to inform the authority designated in the administrative disposition concerning any change in his particulars, automatically or upon the client's prior consent, by way of electronic means. The authority, when properly notified by the registration entity, shall update the client's records as appropriate, and shall notify the registration entity and the client thereof.

(5) Where a person makes an administrative disposition within the framework of electronic processing services defined by an act or government decree, other than this Act, it shall be subject - unless otherwise provided for by an act or government decree - to the provisions of this Act on administrative dispositions, where authority shall be understood as the provider of electronic processing services, and client shall be understood as the customer to whom such services are provided.

(6) The operator of the cross-referencing register shall notify by way of electronic means the entity where the client's administrative disposition is registered when an entry is made in the cross-referencing register on behalf of a new person. Upon receipt of notice, the registration entity shall proceed in accordance with the rules pertaining to the cross-referencing register in assigning an access code and for updating the relevant entry in the cross-referencing register.

(7) The registration entity shall register and store the client's administrative disposition under the access code it has assigned. The registration entity shall not store the client's natural identification data and access codes, apart from the data recorded by the client on his own volition.

## **Identification**

### *Section 163.*

(1) The authority or the supervisory organ shall determine, taking into account the levels of security satisfied by the identification service, collectively for all clients the minimum level of security for clients to

identify themselves in electronic administration procedures where protection appropriate to the security risks presented can be ensured. Government decree may derogate from these provisions in respect of government bodies and law enforcement agencies.

(2) In the administrative disposition the client shall be entitled to select a method of identification where the security level is higher than the one required from the identification services used by the authority.

(3) In the administrative disposition the client shall be entitled to select - at his own risk - a method of identification where the security level is lower than the one required under Subsection (1), provided that this is not precluded by an act or government decree in respect of certain specific types of cases in the interest of ensuring the level of security appropriate to the security risks presented, such as for the protection of personal data.

(4) The identification service provider, if other than the authority, shall confirm to the authority the level of security used for checking the data or statement it has disclosed. The identification service provider may provide this information by reference to a document identifying the identification procedure it uses, provided that the authority is able to access such document.

#### *Section 164.*

If the client appears before the authority in person, the authority may identify the natural person in question electronically, as per the following:

a) by comparison of the natural person's photograph contained in his personal identification document with his facial image, likeness or other biometric data stored electronically by the authority or in any public register;

b) by means of identification applicable in electronic administration procedures.

#### *Section 164/A.*

(1) Where the natural person representing the authority has to be identified before the authority can engage regulated electronic administration services, in order to prevent unauthorized data processing operations the authority shall maintain a register of authorized users, containing the following particulars of authorized natural persons:

a) natural identification data, or the identifier from the authority's records;

b) the level of access, and the date of authorization and withdrawal; and

c) the internal user identification.

(2) Where an authority uses regulated electronic administration services by means of direct access, the authority shall disclose to the regulated provider of electronic administration services:

a) the name of the organization requesting data, and its system-specific identification code;

b) the name of the person carrying out the data processing operation or the IT system's identifier, and his internal user identification.

(3) Where an authority uses regulated electronic administration services by means other than direct access, the service provider shall provide access to its services for the natural person duly authorized by the authority.

(4) The authority shall process the data referred to in Subsection (1) for a period of five years following the time of termination of the authorized natural person's access rights.

## **Delivery Service**

#### *Section 165.*

(1) The person or organization engaged in the pursuit of providing delivery services (hereinafter referred to as "delivery service operator") shall participate in accordance with the relevant legislation in the delivery of decisions and other electronic statements (for the purposes of this Chapter hereinafter referred to as "messages").

(2) If the delivery service used by the authority is not considered secure, the authority may use electronic service of process subject to the consignee's consent given in the administrative disposition or in a separate statement (in a separate agreement or during the proceedings) for such mode of delivery. In these cases the message shall be deemed delivered if receipt of the message is confirmed by the client. For the delivery of decisions only secure delivery services may be used, unless otherwise provided for in the client's administrative disposition made electronically. The client's electronic administrative disposition may contain instructions for the use of other forms of delivery service that meets the conditions set out by the relevant legislation.

*Section 166.*

## **Document Authentication Records**

*Sections 167.*

(1) Document authentication service means where the service provider makes it possible for the user to verify the authenticity of a paper-based or electronic document in his possession, or their contents pending availability of the relevant information. In cases provided for by law, an electronic document certified according to the regulations on document authentication records shall be considered authentic by definition of the relevant legislation.

(2) Paper-based copies of electronic documents made in proceedings specified by law by an organization designated by the relevant legislation, and certified according to the regulations on document authentication records shall have the same probative force as the originals without the signature and stamp of said organization.

(2a) If the document authentication records contain certified paper-based copies of electronic documents or electronic documents in their entirety, with the exception of documents containing public information or information of public interest, electronic documents may be kept in document authentication records only if encrypted. Accordingly, the party making the copy shall indicate the reverse-engineering code on the paper-based document.

(3) The customer of document authentication services shall enter in the document authentication records the particulars required by the service provider of his documents, including content elements. The document authentication records are available to the general public, and may be accessed by any person to verify the particulars available in the records of the documents in their possession, and in certain cases the authenticity of such documents as well.

## **Specific Conditions Relating to the Handling of Electronic Documents in Electronic Administration**

*Section 167/A.*

(1) Unless otherwise provided for by law, upon receipt of paper-based documents the authority shall be entitled to proceed using electronic copies of such paper-based documents if the conditions laid down by the relevant legislation for making copies of paper-based documents by way of electronic means are satisfied.

(2) Where certain electronic documents cannot be used in connection with procedural steps carried out in the course of electronic administration by instruction of the client or on the basis of law, and the information contained in such electronic documents can be displayed on paper, the authority shall be entitled - in accordance with the relevant legislation - to make official or standard copies of such electronic documents on paper for the purposes of said procedural steps.

(3) Unless otherwise provided for by law, the authority shall be entitled to discard paper-based documents which it has converted into electronic documents, provided that:

*a)* the decision adopted in conclusion of the proceedings became final within two years, and - in the case of resolutions - no petition was lodged inside this two-year period for the judicial review thereof, and the authority is not aware of any constitutional complaint having been filed against the resolution, and the authority provides for the safeguarding of the electronic copy of the converted paper-based documents, or

*b)* the contents of the documents had been incorporated into another document, and the author of the document to be discarded had been provided access to such document, and did not lodge any complaint during the objection deadline of at least sixty days alleging discrepancies.

## **Regulated Electronic Administration Services Which the State is Obligated to Provide**

*Section 168.*

(1) The following regulated electronic administration services shall be provided by the Government:

- a)* keeping records of the administrative dispositions of clients;
- b)* periodic notification of clients on actions taken in electronic administration procedures;
- c)* cross-referencing registration service;
- d)* identification service available to natural persons;
- e)* secure delivery service;
- f)* electronic document archiving;

g) electronic certificates provided in connection with the authority's statements and representations;  
h) electronic payment and settlement system;  
i) document authentication records;  
j) government certification service;  
k) government electronic signature verification service;  
l) primary identification agency;  
m) ÁNYK form submission support service;  
n) document certification with regress to identification;  
o) converting electronic documents into certified paper-based documents;  
p) converting paper-based documents into certified electronic documents;  
q) document transfer service between filing systems;  
r) primary agency for posting;  
s) primary agency for service of process;  
t) other regulated electronic administration services mandated by government decree adopted under authorization by this Act.

(2) Other bodies may also be required on the strength of law to provide certain specific regulated electronic administration services.

(3) The use of certain specific regulated electronic administration services may be made binding by government decree, or it may provide that certain specific regulated electronic administration services may be provided only by the service provider designated therein.

## **Client Registration Procedure**

### *Section 168/A.*

(1) Where access to certain specific regulated electronic processing services is subject to prior registration, in the registration procedure (hereinafter referred to as "client registration procedure") the client, in accordance with the provisions of this subtitle:

a) may register electronically with the use of an identification service, where the underlying registration meets the requirements set out in Paragraph b), and the use of which was otherwise allowed by the client in his administrative disposition, or

b) may register in person in a procedure in conformity with the provisions of the present subtitle.

(2) Prior to registration the natural person client, or the natural person representing the client other than a natural person (hereinafter referred to as "applicant") shall appear in person before the body of registration. In cases defined by the regulated provider of electronic administration services, any procedure conducted by the body of registration at an external location shall be considered equivalent to personal appearance, if verifying the applicant's identity in accordance with this Section can be ascertained under identical security arrangements.

(3) Upon the appearance of the natural person, the client registration body shall verify the identity of the natural person relying on the data contained in the official document suitable for identification purposes, as defined in specific other legislation, presented by the natural person in question. The client registration body shall compare the natural identification data of the natural person indicated in the said official document:

a) with the personal data and address records;

b) in the case of any nonresident who is not registered in the personal data and address records, with the central immigration register;

c) if the natural person is not listed in the registers referred to in Paragraphs a) and b), with the passport presented by the natural person, or with the personal identification document issued by any State that is a party to the Agreement on the European Economic Area for nationals of such States.

(4) The client registration body shall disclose the birth name shown in the personal identification document to the central register where the document is registered, together with the serial number and type of the personal identification document, for the purpose of verifying the authenticity and validity of the document and for verifying the facial likeness and signature contained in the document. The body of issue and registration of the document shall disclose to the client registration body the natural identification data, the data relating to issue and to the identity check, as well as facial likeness and signature information if the client registration body so requested.

(5) The client registration body shall compare the data received with the data contained in the document presented, and shall confirm whether the facial likeness received is that of the person present.

(6) The client registration body shall be authorized to use the data referred to in Subsection (4) solely for the purpose of identification and for cross-referencing to determine any discrepancies.

(7) The client registration body shall check the entitlement of the natural person representing the client other than a natural person in the register provided for in specific other legislation, or based on a document presented by the natural person in question in proof of lawful entitlement.

(8) If the identification is successful, the client registration body shall:

*a)* transpose the applicant's natural identification data and the document identifier (serial number and type of the document) from the register referred to in Paragraph *a)* or *b)* of Subsection (3),

*b)* in the case provided for in Paragraph *c)* of Subsection (3), enter natural identification data from the personal identification document presented, and the serial number and type of the document presented into the client registration database, and

*c)* the client registration body, if vested with powers of an authority, shall provide facilities for clients to make an administrative disposition if the necessary technical means are available.

(9) Following the identification procedure facial likeness and signature data must be deleted without delay. The provider of electronic processing services shall process the personal data of natural persons for a period of five years from the time of termination of client registration.

(10) If the data verification and authentication procedure under Subsections (4) and (5) failed to provide conclusive proof or the personal identification document presented was not valid, the client registration body shall refuse client registration and shall irreversibly delete any data that may have been recorded.

(11) In addition to the data referred to in Subsection (4), the client registration body shall enter into the client registration database the user name provided by the applicant, and - where applicable - the electronic mail address as well, and shall assign an access code which shall also be entered into the client registration database attached to the natural identification data.

(12) The client registration body shall make out a certificate on the data registered in the registration process and on the identifiers it has assigned. The client shall verify the accuracy of data shown in the certificate as supplied by the client by his handwritten signature affixed to the printed certificate, or by means of at least an advanced electronic signature or document certification with regress to identification if the certificate is made out electronically.

#### *Section 168/B.*

(1) Any natural person who resides abroad on the long term, and who does not have a registered address or habitual residence in Hungary, may register at his own discretion, in accordance with Section 168/A, into the personal register of natural persons residing abroad and using electronic administration services (hereinafter referred to as "personal register of foreign customers of electronic administration services") so as to be able to handle administrative matters electronically. These data shall be processed by the agency designated to operate the register of foreign customers of electronic administration services. At the time of registration of the natural persons referred to in this Subsection for the identification service which the State is obligated to provide, the registration body shall initiate the admission of such person into the personal register of foreign customers of electronic administration services.

(2) The person referred to in Subsection (1) shall be able to make an administrative disposition if listed in the personal register of foreign customers of electronic administration services.

(3) The data controller of the personal register of foreign customers of electronic administration services shall, at the time of admission, assign for the natural person a unique identifier and, attached thereto, an access code to the cross-referencing register, and shall send them to the cross-referencing register encrypted, in accordance with the provisions pertaining to the cross-referencing register.

(4) From the personal register of foreign customers of electronic administration services data may be transmitted through the cross-referencing register for identification purposes. The personal register of foreign customers of electronic administration services shall retain the personal data of the natural person registered for a period of five years from the time when registration is deleted, not exceeding fifty years from the date of registration.

#### *Section 169.*

### **Regulatory Services**

#### *Section 169/A.*

(1) The authorities duly authorized by the relevant legislation may, in proceedings specified by law:

*a)* provide access to administrative services relating to proceedings within the competence of other authorities, where so authorized by law and where so permitted by the IT systems of the authorities involved;

b) present requests in the name of clients for data or for copies from public registers, if the conditions specified in the relevant legislation are satisfied, and may issue such certificates in the name of the authority; and

c) request the issue of official instruments in the name of clients in accordance with the regulations relating to the protection of personal data and special data, and may issue official instruments.

(2) By way of derogation from Subsection (1), one-stop government windows may only provide the regulatory services specified by law.

(3) Organizations delegated by law may provide to clients the following regulatory services:

a) within the framework of the services referred to in Paragraph a) of Subsection (1) hereof, converting submissions into electronic documents according to the rules on regulated electronic administration services, as well as the receipt of electronic documents in the name of the authority and placing them in the authority's information systems, if the relevant information technology conditions are available, and may provide by way of the means provided for by law access to administrative services which may be provided to clients electronically relating to proceedings within the competence of other authorities;

b) services referred to in Paragraphs b) and c) of Subsection (1) hereof; and

c) provide to the clients access to the electronic information provided by other authorities, and to their electronic communication systems, and technical help, internet support and internet connection to clients for individual administrative services, after the identification of the clients.

(4) The authorities providing the services referred to in Paragraphs b) and c) of Subsection (1) and in Paragraph c) of Subsection (3) hereof may be requested by law to provide them in priority proceedings or under reduced administrative time limits as well.

(5) The authorities so delegated by the relevant legislation shall operate call centers covering the entire country, which - in accordance with the relevant legislation - shall have facilities:

a) to provide access to administrative services which may be provided to clients electronically relating to proceedings delegated by law within the competence of other authorities, and

b) to provide information on proceedings delegated by law within the competence of other authorities;

c) to present requests in the name of clients for data or for copies from public registers, if the conditions specified in the relevant legislation are satisfied, and

d) to request the issue of official certificates in the name of clients in accordance with the regulations relating to the protection of personal data and special data.

(6) The authorities so delegated by the relevant legislation shall be authorized to process data obtained through the national call center for a period of five years from the date when obtained.

## ***Chapter X/A***

*Sections 169/B-169/M.*

## ***Chapter XI***

### ***Closing Provisions***

*Section 170.*

Where a client breaches any prohibition or obligation established in a final or enforceable administrative decision and this conduct invokes, in addition to the administrative penalty imposed under this Act, a fine under administrative substantive law, or is subject to misdemeanor or criminal liability and liability for damages, or invokes the payment of restitution for any violation of personality rights, payment of the administrative penalty imposed under this Act shall have no bearing on the legal consequences for the other conduct.

### **Transitional Provisions**

*Section 171.*

(1) An international treaty promulgated by law before 1 July 2005 may derogate from the provisions of this Act.

(2) Subject to the exceptions set out in Subsections (3)-(9):

a) the provisions of this Act shall apply to cases opened after the date of entry into force of the act,

b) the provisions of this Act, as amended by Chapter Twelve of Act LXXXIII of 2005 on Amendments Relating to the Implementation of Act CXL of 2004 on the General Rules of Administrative Proceedings and Services, shall apply to proceedings opened after the date of entry into force thereof,

c) the provisions of this Act, as amended by Act CXI of 2008 on the Amendment of Act CXL of 2004 on the General Rules of Administrative Proceedings and Services, shall apply to proceedings opened after the date of entry into force of this Act,

d) the provisions of this Act, as amended by subtitle 58 of Act CXXVI of 2010 on the Budapest and County Government Agencies, and on the Amendments of Regulations Relating to the Setting Up and Regional Integration of Budapest and County Government Agencies, shall apply to proceedings opened after the date of entry into force thereof,

e) the provisions of this Act, as amended by Sections 45-53 of Act CLXXIV of 2011 on the Amendment of Act CXL of 2004 on the General Rules of Administrative Proceedings and Services and Other Related Acts, and on the Amendment of Regulations Relating to the Review of the Regulatory Jurisdiction of Ministers (hereinafter referred to as "Act CLXXIV/2011") shall apply to proceedings opened after the date of entry into force thereof, and to reopened cases.

(3) The inspection report under Subsection (2) of Section 91 of this Act, as established by Section 46 of Act CLXXIV/2011, shall for the first time be prepared and published after the inspection period following the entry into force of this provision.

(4) Chapter VIII of this Act, as established by Section 46 of Act CLXXIV/2011, shall also apply to enforcement procedures opened after the effective date of this provision.

(5)-(6)

(7) The provisions of this Act, established by Section 47 of Act CLXXIV/2011, relating to electronic communication and electronic administration shall also apply to proceedings pending at the time of these provisions entering into force.

(7a) The authorities required on 31 March 2012 to provide electronic communication and electronic administration services shall, by 30 June 2014:

a) ensure that the conditions for electronic communication and electronic administration are made available in compliance with the provisions in force on 31 March 2012, insofar as compliance with the relevant provisions of this Act is provided for,

b) lay down the conditions for meeting the requirements set out in this Act.

(7b) Customer ports of entry existing on 31 March 2012 shall remain operative after 1 April 2012, the body operating the customer access registry shall continue to process the particulars - with the exception of information as to citizenship - of natural persons with a customer port of entry in the client registration database referred to in Section 168/A, except if the natural person requests the body operating the client registration database to delete his customer port of entry and his related personal data.

(8) As regards the regulated electronic administration services provided at the time of Section 47 of Act CLXXIV/2011 entering into force, for which no authorization is required, the provisions of this Act established by Section 47 of Act CLXXIV/2011 shall apply as of 1 July 2014. Such services shall be notified to the supervisory authority by 1 July 2014.

(9) The regulated electronic administration services which are subject to authorization, provided at the time of Section 47 of Act CLXXIV/2011 entering into force, may be pursued after 1 July 2014 if the service provider has obtained the authorization under this Act by that time.

(9a) a) The authorization granted by the Inspectorate to providers of electronic processing services existing at the time of entry into force of Act LXXXI of 2013 on the Amendment of Regulations Relating to Electronic Administration shall remain valid until 30 June 2014;

b) the providers of electronic processing services who notified the Inspectorate before the entry into force of Act LXXXI of 2013 on the Amendment of Regulations Relating to Electronic Administration shall be entitled to provide regulated electronic administration services until 30 June 2014.

(9b) The organization delegated by law to provide mandatory regulated electronic administration services on behalf of the State shall provide the service for which it is delegated at the latest from 1 July 2014, unless otherwise provided for by law. Until 30 June 2014 the delegated organization may provide the service for which it is delegated without authorization or in the absence of notification, in accordance with the provisions of this Act.

(9c) The provisions of this Act established by Act LXXXI of 2013 on the Amendment of Regulations Relating to Electronic Administration shall apply to proceedings opened after the time of Act LXXXI of 2013 on the Amendment of Regulations Relating to Electronic Administration entering into force.

(10) The provisions of this Act as amended by Act CCX of 2012 on the Amendment of Regulations Relating to Budapest and County Government Agencies, and on the Amendment of Act CXL of 2004 on the

General Rules of Administrative Proceedings and Services and Certain Related Acts shall apply to proceedings opened after the effective date of these provisions and to reopened cases.

(11) Paragraph *a*) of Subsection (1) of Section 21 of this Act, as amended by Section 55 of Act LXXXIV of 2013 on the Amendment of Regulations Relating to Administrative Proceedings and Official Public Registers, and on the Amendment of Other Acts, shall apply to proceedings opened after the time of entry into force thereof, and to reopened cases.

(12) The provisions of this Act as established by Act CCXVIII of 2013 on the Amendment of Regulations Relating to Setting Up a Network of One-stop Government Windows and to the Functioning of Budapest and County Government Agencies shall apply to proceedings opened after the effective date of these provisions and to reopened cases.

#### *Section 171/A.*

(1) Any reference made in legislation to Act IV of 1957 on the General Rules of State Administration Procedures shall be understood as Act CXL of 2004 on the General Rules of Administrative Proceedings and Services, furthermore, any reference made to state administration proceedings or state administration resolution shall be understood, respectively, as administrative proceedings or administrative decision.

(2) Any reference made in legislation:

*a*) to central electronic services network shall be understood as the total of regulated electronic administration services provided by the Government under universal service obligations or the services mentioned therein,

*b*) to customer port of entry or official port of entry shall be understood as the secure identification and delivery service provided by the Government under universal service obligations within the framework of regulated electronic administration services, and

*c*) to dedicated customer storage space or to the transfer of information to such storage space within any context shall be understood as the secure delivery service provided by the Government under universal service obligations within the framework of regulated electronic administration services.

### **Interpretative Provisions**

#### *Section 172.*

For the purposes of this Act:

*a*) 'electronic certificate' shall mean an electronic document verifying the existence of facts, status, entitlement or other data, or verifying the particulars or rights of clients, made out by the authority or another organization for use by the client or the authority in proceedings governed by this Act;

*b*) 'electronic mail' shall mean a string of data comprised in a message that can be transmitted between individual mailing addresses via a mail program;

*c*) 'electronic administration' shall mean those procedural steps during which the client or the body carrying out of administrative actions makes an electronic statement, or the body carrying out of administrative actions converts the statement made by the client or another administrative body by means other than electronic into an electronic statement and uses during the proceedings;

*d*) 'services connected with electronic administration' shall mean:

*da*) information technology infrastructure set up by the authority for the purposes of electronic administration, with or without the services of third parties, regardless of the extent of such services used for setting up the information technology infrastructure, if any, or

*db*) in addition to what is contained in Subparagraph *da*), information society services provided free of charge or for a fee by a legal person or unincorporated business association to the authority or the client, for the purposes of electronic administration services, received or supplied;

*e*) 'other parties to the proceedings' shall mean witnesses, official witnesses, experts, interpreters, holders of articles of inspection, clients' representatives and liaison officers;

*f*) 'life-threatening or potentially devastating situation' shall mean any extraordinary situation, condition or event posing any imminent and direct threat to the life of one or more persons, or for inflicting serious injury or damage to their health, furthermore, posing substantial threat for causing irreversible damage to the natural or built environment and to property, and where executive and regulatory measures are required for its prevention or for protection against subsequent harmful effects;

*g*) 'privileged information' shall mean the secrets entrusted to doctors, lawyers, notaries public when acting in a professional capacity, and to the clergy, including members of religious organizations whose profession is to perform religious ceremonies;

*h)* 'relative' shall mean next of kin and their spouses; adoptive parents and foster parents; adopted persons and foster children; brothers and sisters, spouses, domestic partners; spouse's and domestic partner's next of kin, brothers and sisters; and spouses of their bothers and sisters;

*i)* 'document, official document, authentic instrument, private document' shall mean the document, official document, authentic instrument, private document defined by the Code of Civil Procedure;

*j)* 'regulated electronic processing services' shall mean the following services connected with electronic administration:

1. keeping records of the administrative dispositions of clients;
2. periodic notification of clients on actions taken in electronic administration procedures;
- 3.
4. cross-referencing registration service;
5. identification service;
6. delivery service;
7. electronic document archiving;
8. certification service;
9. providing electronic certificates in connection with the right to make statements;
10. access to the electronic document archiving system;
- 11.
12. access to data related to the functioning of the IT system;
13. converting electronic documents into certified paper-based documents;
14. converting paper-based documents into certified electronic documents;
15. making certified electronic copies of electronic documents;
16. making certified electronic copies of electronic documents in another format;
17. handling electronic documents;
18. providing automated data connection (access) platform to the authority's IT system for other authorities;
19. secure electronic certification service;
20. keeping document authentication records;
- 21.
22. encryption of electronic documents;
23. processing electronic forms;
24. electronic signature verification service;
25. supply of computer support infrastructure;
26. document certification with regress to identification;
27. electronic payment and settlement system;
28. document transfer service between filing systems;
29. primary agency for posting;
30. primary agency for service of process;
31. personalized communication platform;
32. other services connected with electronic administration identified as electronic processing services regulated by a government decree adopted under authorization by this Act.

*k)* 'regulated provider of electronic processing services' shall mean:

*ka)* any authority that provides any part of regulated electronic processing services to its own clients or making them available within its internal operations,

*kb)* any authority that provides regulated electronic processing services to the clients of other authorities as well,

*kc)* any person, other than an authority, who makes available regulated electronic processing services free of charge or for a fee to clients or authorities;

*l)* 'statutory secrets' shall mean classified information, as well as trade, bank, insurance and securities secrets, fund secrets, payment secrets, tax secrets, customs secrets and private secrets;

*m)*

*n)* 'system breakdown' shall mean any temporary or persistent malfunction in the information technology system used for electronic communications during communication between a client and the authority and during the inter-departmental communication of authorities, including the time required for maintenance works, on account of which the information technology system is rendered incapacitated to provide electronic information services, to maintain electronic communication, and to support the uploading and downloading, and the transmission of electronic documents.

*o)* 'media content provider' shall mean the media content provider governed by the Act on Freedom of the Press and on the Basic Rules Relating to Media Content.

p) 'person of limited legal capacity' shall mean any person of legal age with partially limited legal capacity, whose legal capacity under civil law has been limited relating to the action itself, to the subject matter of the action, or to certain specific procedural steps, and any minor over the age of fourteen years who is not incompetent;

q) 'minor' shall have the same meaning as defined in the Civil Code;

r) 'incompetent person' shall have the same meaning as defined in the Civil Code;

s) 'person of legal capacity' shall mean a person of legal capacity as defined in the Civil Code, and any person of legal age with partially limited legal capacity, if there exists no restriction in his legal capacity under civil law relating to the action itself, to the subject matter of the action, or to certain specific procedural steps;

t) 'electronic information' shall mean publication by electronic means as provided for in the Act on the Right of Informational Self-Determination and on Freedom of Information.

## **Entry into Force**

### *Section 173.*

(1) This Act - subject to the exceptions set out in Subsections (2) and (3) - shall enter into force on 1 November 2005.

(2) Subsection (2) of Section 109 shall enter into force on 1 January 2006.

(3)-(4)

## **Authorizations**

### *Section 174*

(1) The Government is hereby authorized to decree:

a) the information to be made public by the national security services, upon consulting with the Nemzeti Adatvédelmi és Információszabadság Hatóság (*National Authority for Data Protection and Freedom of Information*);

b) the detailed regulations for electronic communications;

c) the regulations concerning the activities of liaison officers, the conditions and requirements for the qualification of liaison officers and the selection process;

d) the rules for granting exemption from costs;

e)

f) the system of supervision of the activities of authorities;

g) the regulations relating to the database created and maintained with a view to providing notices to bodies referred to in Subsection (5) of Section 15 relying on such database in connection with their joining the proceedings;

h) the fee charged for rendering personal data and privileged information unrecognizable, and for making copies of extracts of documents produced in this fashion, and the procedures for the payment of such fees.

(2) The minister in charge of the judicial system is hereby authorized to decree, in agreement with the minister in charge of public finances, the regulations concerning the remuneration of liaison officers and interpreters, and in agreement with the minister in charge of public finances and the minister appointed to enforce social convergence the remuneration of sign language interpreters for their participation in administrative proceedings.

(3) Authorization is hereby granted to:

a)

b)-c)

d) the minister in charge of the judicial system to decree, in agreement with the minister in charge of public finances, the detailed regulations relating to the reimbursement of the expenses of witnesses and official witness;

e) the minister in charge of the judicial system to decree the detailed regulations for the storage and sale of assets seized by the administrative authorities;

f) the minister in charge of the judicial system to decree the detailed regulations relating to the authorities' deposit accounts.

(4) The ministers having competence are hereby authorized to decree a list of the statutory provisions whose infringement invokes the application of the provision laid down in Paragraph b) of Subsection (2) of Section 94.

(5) The minister in charge of the judicial system is hereby authorized to decree - in agreement with the minister in charge of employment and labor - the detailed regulations concerning the enforcement of community service work, the requirements relating to data disclosures for the register of employers providing community service work in terms of form and procedure, and for the disclosures to be provided by the body operating the register of employers providing community service work.

(6) The minister in charge of e-administration is hereby authorized to decree - in agreement with the minister in charge for the implementation of infrastructure requirements for administrative information technology systems, the minister in charge of the judicial system, the minister in charge of information technology, and the minister in charge of public finances - the amount of fees related to the use of, access to and operation of the regulated electronic administration services which the State is required to provide, and the rules relating to the bearing of costs, payment, collection, handling and processing of such fees.

#### *Section 174/A.*

(1) The Government is hereby authorized to decree:

a) the designation of special authorities required to participate in administrative proceedings;  
b) the competence of special authorities within the framework of which they are required to provide an assessment in administrative proceedings, including:

ba) the requirements as to the contents of any provision or condition prescribed by the special authority,

bb) the criteria under which the special authority is required to provide its assessment; furthermore

c) the regulations concerning the participation of special authorities in administrative proceedings, and the detailed procedures for cooperation between the authority of competence to adopt a decision on the merits of the case and the special authority.

(2) The Government is hereby authorized to designate the body carrying out enforcement procedures and the body or bodies of competence for the implementation of measures relating to requests for the enforcement of foreign resolutions.

(3) The Government is hereby authorized to delegate by decree the one-stop government window or one-stop government windows, and to define their powers and responsibilities.

(4) The Government is hereby authorized to delegate the organization referred to in Subsection (3) of Section 169/A and to decree the detailed regulations relating to the administrative services it is delegated to provide.

(5) The Government is hereby authorized to decree the cases where the one-stop government window has authority to proceed in the first instance in addition to the authority vested with powers and jurisdiction under specific other legislation related to the case on hand, and the detailed rules for the procedures of the one-stop government window.

#### *Sections 175.*

(1) The Government is hereby authorized to designate by decree:

a) the supervisory authority for electronic processing operators;

b) the registration entity of administrative dispositions;

c) the providers of mandatory regulated electronic processing services to be provided by the State.

d) the body or bodies of registration of customer ports of entry;

e) the body or bodies operating the customer access registry.

f) the data controller of the personal register of foreign customers of electronic administration services.

(2) The Government is hereby authorized to decree:

a) the detailed regulations for electronic administration and electronic communication;

b) the detailed regulations for using regulated electronic processing services;

c) the scope of responsibilities and the procedures of the supervisory authority for electronic processing operators and the specialist authority referred to in Subsection (5) of Section 161;

d) the detailed requirements relating to the identification of the authority;

e) the special requirements relating to the handling and safeguarding of electronic documents;

f) the rules for determining levels of security and the definition of approved levels of security in the case of the authority;

g) the detailed regulations concerning the functions of the government certification-service-provider; and

h) the special requirements concerning electronic signatures that may be used in electronic administration services, the certificates of electronic signatures and the related services provided in connection with electronic signatures.

(3) The Government is hereby authorized to decree:

a) the detailed rules for the conversion of electronic statements made by means other than writing into electronic statements construed as provided in writing, for making official or standard copies of electronic documents on paper, and for making certified electronic copies of paper-based documents;

b) the detailed regulations for the making and registration of administrative dispositions;

c) the criteria for assessing the level of security in relation to security incidents, and for weighing the impact of security incidents in terms of the nature and the gravity of any harm resulting from such security incidents;

d) the detailed requirements relating to regulated electronic processing services, the detailed procedures for regulated electronic processing services, the scope of regulated electronic administration services which are subject to authorization, and the organizational conditions pertaining to regulated electronic processing services;

e) the human and financial resources required for regulated providers of electronic processing services;

f) the detailed rules relating to the registration of providers of electronic administration services;

g) the detailed regulations relating to electronic payments and settlements.

(4) The minister in charge of information technology is hereby authorized to decree, in agreement with the minister in charge of e-administration and the minister in charge of the judicial system, the requirements for regulated electronic processing services where technical specifications are required.

(5) The minister in charge of e-administration is hereby authorized to decree - in agreement with the minister in charge of taxation and the minister in charge of the judicial system - the amount of administrative service fees payable for the notification and authorization of electronic processing services, and the rules relating to the payment, collection, handling and processing of such fees.

*Section 176.*

*Section 177.*

This Act serves the purpose of compliance with:

a) Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted, and

b) Directive 2011/98/EU of the European Parliament and of the Council of 13 December 2011 on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State.

*Sections 178-187.*

*Section 188.*

*Section 189.*

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