

Act CL of 2016 on General Public Administration Procedures¹

(10 July 2019)

CHAPTER I

BASIC PRINCIPLES AND SCOPE

1. Basic principles

Section 1

[Role of basic principles]

In administrative proceedings all parties to the proceedings shall apply - consistent with Articles XXIV and XXVIII of the Fundamental Law - the principles and fundamental rules laid down in this Chapter at all stages of the procedure in accordance with the regulations applicable to such parties.

Section 2

[Principle of legality]

(1)) The administrative authority (hereinafter referred to as “authority”) shall exercise its powers delegated by law within the framework thereof, under the principle of due course of the law.

(2) In exercising its powers, the authority shall handle cases:

a) professionally and in good faith, having regard to the objectives of simplicity and cooperation with clients;

b) in due observation of the right to equality before the law and the principle of equal treatment, without undue discrimination, bias or prejudice;

c) inside the time limit provided for by law, within a reasonable timeframe.

Section 3

[Own motion principle]

The authority may open proceedings of its own motion, apart from those which may be opened only upon request. Proceedings opened upon request shall be carried out under the conditions provided for by law. The authority shall, of its own motion, ascertain the relevant facts of the case, define the means and extent of evidentiary procedure, and may review - within the framework of this Act - its own decisions and actions and the decisions and actions of other authorities under its supervision.

Section 4

[Principle of effectiveness]

The authority, in order to be effective, shall organize its activities so as to impose the least amount of expense upon all parties to the proceedings, and to close out the proceedings as fast as possible without prejudice to the requirements for ascertaining the relevant facts of the case, through the integration of advanced technologies.

Section 5

[Basic principles applicable to clients]

(1) Clients shall have the right to make statements and comments at any time during the proceedings.

(2) The authority shall ensure that:

a) clients, and

b) witnesses, official witnesses, experts, interpreters, holders of the subject-matter of inspection and the representatives of clients (hereinafter referred to collectively as “other parties to the proceedings”),

are able to understand their rights and obligations, and shall promote the exercise of client rights.

Section 6

[Principle of good faith, principle of trust]

(1)) All parties to the proceedings are required to act in good faith, and to cooperate with the other parties.

(2)) No one shall be permitted to engage in conduct aimed to mislead the authority, nor to unduly delay the decision-making process or the enforcement procedure.

(3) The good faith of clients and other persons participating in the proceedings shall be presumed. The burden of proof for bad faith lies with the authority.

2. Scope

Section 7

[Administrative action]

(1)) In administrative actions falling within the scope of this Act (hereinafter referred to as “case”) and in regulatory inspections the authority shall apply the provisions of this Act.

(2)) For the purposes of this Act, case means where the authority brings a decision to define a client’s right or obligation, to settle a client’s dispute, to establish a client’s infringement, to verify a fact, status or data (hereinafter referred to collectively as “data”), or to keep records, and where it moves to enforce such decisions.

Section 8

[Connection between general and specific procedural rules]

(1)² This Act shall not apply to:

a) misdemeanor proceedings;

b) election procedures, referendum initiatives and referendum procedures;

c) taxation and customs procedures;

d) asylum and immigration procedures, and - with the exception of the issue of certificates of citizenship - to citizenship proceedings; and

e) competition control proceedings.

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

(3) ³Except for ministerial decrees, supplemental procedural provisions which are in harmony with the provisions of this Act may be prescribed by law.

Section 9

[The authority]

For the purposes of this Act, authority means a body, organization or person empowered by an act, government decree or - in administrative actions of local authorities - municipal decree to exercise official authority, or designated by law to exercise official authority. Cases falling within the competence of the authority may not be transferred.

Section 10

[The client]

(1) Client means any natural or legal person, other entity whose rights or legitimate interests are directly affected by a case, who is the subject of any data contained in official records and registers, or who is subjected to regulatory inspection.

(2)) An act or government decree may define the persons and entities who can be treated as clients - in connection with certain specific types of cases - by operation of law.

Section 11

[Provisions on client succession]

(1) The client may be replaced by its successor defined under civil law, provided that it is not excluded on account of the personal nature of the case or the content of the commitment.

(2)) If the subject matter of the case concerns a right in rem, the substituted client shall be replaced by the new proprietor of the right in rem to which the case relates.

3. Procedural capacity and representation

Section 12

[Procedural capacity]

A natural person client shall be considered to have procedural capacity if construed to have legal capacity with respect to the subject matter of the case.

Section 13

[General rules on representation]

(1)) If the client's physical presence is not mandatory by law,

a) the client may be substituted by his legal representative or by a person designated by the client or his legal representative, and

b) the client may proceed together with his representative.

(2)) Actions of the legal representative on behalf of a legal person shall be construed as personal participation.

(3)) Adverse parties shall not be represented by the same person.

(4) The authority shall dismiss any representative:

a) who is clearly unqualified to provide adequate representation in a case, or

b) who fails to subsequently provide proof of authorization of representation when requested.

(5)) If the representative is dismissed the authority shall call upon the client to proceed in person, or to provide a suitable replacement representative.

(6)) If the client has a representative, and the client does not provide otherwise, the authority shall send the documents to the representative, except for a summons ordering the client's physical presence. As regards the summons ordering the client's physical presence, the authority shall simultaneously inform the representative thereof.

(7) 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. Unless otherwise specified by the client, the authority shall recognize the later action, statement as valid.

(8)) If the client is a natural person who does not have a representative, and

a) whose whereabouts are unknown, or

b) who is unable to handle the case in person,

the acting authority shall appoint a public representative.

Section 14

[Provisions on powers of attorney]

(1) The authorized representative is obliged to verify his power of representation, if it is not available in the register of dispositions. The power of attorney shall be incorporated in an authentic instrument or in a private deed representing conclusive evidence, or recorded in a report.

(2) Unless otherwise implied in the power of attorney, it shall cover all statements and actions relating to the case on hand.

(3) Where the power of representation is terminated by way of withdrawal or rescission, or upon the death of the client or the representative, it shall take effect from the Authority's standpoint upon the time of notification of the authority, and vis-à-vis other clients upon the time of delivery.

CHAPTER II

BASIC PROVISIONS

4. Obligation to act

Section 15

[Obligation to act]

(1) The authority has an obligation to act within its area of jurisdiction in the cases for which it has competence, or on the basis of delegation.

(2)) If the authority fails to abide by its obligation to act, except in the case of exercising the right to remain silent, within the administrative time limit, the supervisory body provided for by law (hereinafter referred to as "supervisory body") shall instruct it to carry out the procedure. If there is no supervisory body, or the supervisory body fails to take action, the court of competent jurisdiction in administrative actions (hereinafter referred to as "administrative court") shall order the authority to carry out the procedure.

5. Jurisdiction

Section 16

[Jurisdiction]

(1) Unless otherwise provided for by law, from the authorities vested with analogous competences, the authority by reference:

a) to the place where the property to which the proceedings pertain is located, in the absence thereof

b) to the designated place where the activities are or planned to be carried out, in the absence thereof

c) to the place where the unlawful act was committed, shall proceed.

(2) Where it is not possible to identify the competent authority according to Subsection (1), the authority in whose area of jurisdiction the requesting client's permanent or habitual residence (hereinafter referred to collectively as "residence"), or registered office, place of business or branch (hereinafter referred to collectively as "registered office") at his discretion, is located shall have competence.

(3) If the client's residence is unknown, or does not have a residence or contact address (hereinafter referred to collectively as "home address") in Hungary, competence under Subsection (2) shall be determined based on the client's last known home address in Hungary.

(4) Where the competent authority cannot be determined having regard to Subsections (1)-(3), unless otherwise provided for by law, the Budapest authority of competent jurisdiction for the case in question shall have competence, or if there are two or more such authorities having equivalent powers, the provisions on jurisdictional dispute shall apply accordingly.

(5) Where several authorities are considered to have competence in a case, it shall be handled by the one where the proceedings were first opened (hereinafter referred to as "precedence").

6. Definition of powers and competences

Section 17⁴

[Definition of powers and competences]

The authority shall - of its own motion - ascertain its powers and competencies during all stage of the proceedings. If either is lacking, and if the authority vested with powers and competences can be identified beyond reasonable doubt, the authority shall refer the case to that authority, or failing this it shall refuse the request or terminate the proceedings.

7. Conflict of competence and jurisdiction

Section 18

[Conflict of competence and jurisdiction]

(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; or

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 without delay, within three days at the latest, in an attempt to resolve the dispute.

(2)) Negotiations shall be initiated by the authority where the proceedings had been opened subsequently, that declared its lack of powers and competence subsequently, or by the one that the client affected requested to hold discussions.

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

a) in connection with any conflict of jurisdiction, by the closest common supervisory body, in the absence of such, the Budapest and county government office of jurisdiction by reference to the area of competence of the authority requesting settlement of the dispute;

b) in connection with any conflict of competencies, by the administrative court.

8. Proceedings outside the area of jurisdiction

Section 19

[Proceedings outside the area of jurisdiction]

(1) The authority shall be authorized to take any procedural step outside its area of jurisdiction, including provisional protective measures.

(2)) If the authority plans to take any procedural step outside its area of jurisdiction, the competent authority shall be informed in advance thereof.

9. Use of language

Section 20

[Official language of the proceedings]

(1) ⁵ In Hungary the official language in administrative proceedings is 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.

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

(3) ⁶ Persons acting on behalf of nationality civil 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 authority. The authority shall translate any decision adopted in Hungarian in connection with an application submitted in the language of a nationality, at the client's request, into the language of the application.

(4) In cases of discrepancy between the Hungarian version and the foreign translation of any decision adopted by the authority, the Hungarian version shall be the authentic one.

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

Section 21

[Use of language by foreigners]

(1) Where the authority opens proceedings of its own motion, which require immediate procedural action involving a person who is not a Hungarian citizen and who does not speak the Hungarian language during his stay in Hungary, or if a natural person requests urgent legal protection from a Hungarian authority, the authority shall take measures to ensure that the client is not prejudiced on account of his lack of command of the Hungarian language.

(2) Any client who cannot speak Hungarian may request the authority to assess his request in his native language or another intermediary language, in which his request is worded, also in cases not mentioned in Subsection (1), provided that the applicant agrees to advance and cover the costs of translation and interpretation.

10. Exclusion

Section 22

[General rules on exclusions]

Any person who is considered biased may not participate in proceedings.

Section 23⁷

[Grounds for exclusion]

(1)) Any person whose right or legitimate interest is directly affected in a case shall be excluded from proceedings pertaining to that case, including any person who has made a testimony or who participated 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 authority whose right or legitimate interest 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.

(4) The notary may not participate in any proceedings,

a) where the impending resolution may impose an obligation or right upon the municipal government of his area of competence, any organ of this municipal government or the mayor, or may result in any commitment on their part relating to the subject-matter of the proceedings; or

b) 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.

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

Section 24

[Decision on exclusion, appointment of a case officer or competent authority]

(1) Where any grounds for exclusion is identified, the case officer shall notify the head of the authority without delay. Grounds for exclusion may be reported by the client as well.

(2) The head of the authority shall adopt a decision on the subject of exclusion and shall appoint another case officer if necessary, and shall also decide as to whether the procedural steps taken by the excluded case officer should be

repeated or not. Where any grounds for exclusion is reported by the client, the decision on exclusion lies with the authority, by way of ruling, and it shall communicate such decision to the client as well.

(3) 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 case officer, an administrative penalty may be imposed upon this client in the ruling in which exclusion is refused.

(4) ⁸Where any grounds for exclusion emerges in connection with the head of the competent officer or the authority, the case shall be referred - save as otherwise provided by law - to another authority having similar powers and competences designated by the head of the supervisory body.

(5)) If:

a) there is no other authority available having similar powers and competences,
or

b) the authority has no supervisory body,

the authority that is subject to grounds for exclusion shall proceed.

(6) The authority shall inform the client and the supervisory body where Subsection (5) applies.

(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 proviso that if another officer vested with powers for issuance facilities or one who would be qualified to handle such functions is not available at that authority, the competent officer shall proceed in the case.

(8)) In the administrative actions of local authorities, decisions concerning exclusion shall be adopted in proceedings related to personal involvement as provided for by law.

11. Requests

Section 25

[Rules applicable to requests]

(1) The authority may - by setting a deadline of at least five days - contact another body or person:

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

b) where any data or document that is required for the proceedings is held by others.

(2) The requested body shall refuse to execute the request if it falls outside its powers or competence.

12. General rules on communication

Section 26

[General rules on communication]

(1) The authority shall maintain communication with clients and other parties to the proceedings in writing, by way of electronic means (hereinafter referred to collectively as “written communication”) provided for in the Act on the General Rules for Trust Services and Electronic Transactions (hereinafter referred to as “ET Act”), or in person, electronically by means other than writing (hereinafter referred to collectively as “oral communication”).

(2) Unless otherwise provided for by law, the mode of communication shall be selected by the client relying on information received from the authority. The client shall be authorized to abandon the selected mode of communication and switch to another means of communication available at the authority.

(3)) In any life-threatening or potentially devastating situation the mode of communication shall be selected by the authority.

13. Data processing

Section 27

[Data processing regulations]

(1) ⁹The authority shall be authorized to obtain and process the natural identification data of clients and other parties to the proceedings, personal data specified by the legislation governing the given case, and - unless otherwise provided for by law - other personal data which are considered essential for ascertaining the relevant facts of the case. In proceedings opened upon request it shall be presumed that the client consented to having his personal data processed to the extent necessary for ascertaining the relevant facts of the case, including special data.

(2) The authority shall ensure that statutory secrets (hereinafter referred to as “privileged information”) are not disclosed to the public, and cannot be obtained by unauthorized persons, and that all personal data is sufficiently protected.

(3) ¹⁰ In its proceedings the authority shall be entitled to have access to privileged information - subject to the provisions of other legislation in terms of procedures and scope - as it may be required in the course of its proceedings, and/or which are to be processed with a view to concluding the procedure effectively.

14. Confidential data processing

Section 28

[Confidential data processing]

(1)) In justified cases, the authority shall be entitled to order - upon request or of its own motion - that the natural identification data and home address of the client and other parties to the proceedings to be handled confidentially, if such person could be exposed to extreme danger on account of his part in the proceedings. The ruling shall be communicated to the requesting party.

(2) Experts may request - according to Subsection (1) - that their natural identification data and home address, other than 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, and shall ensure that such restricted data will be kept confidential in the course of procedural steps.

15. Procedural protection of minors, persons of legal age who are deemed incompetent or whose legal capacity has been partially limited, and persons with disabilities

Section 29

[General provisions]

(1) Minors, persons of legal age who are deemed incompetent or whose legal capacity has been partially limited, and persons with disabilities are given special protection in administrative proceedings, for that reason:

a) they may be examined in a hearing only if being interviewed in the presence of other parties to the proceedings would not harm the interest of such persons,

b) they shall be interviewed, if possible, at their place of residence,

c) they may be requested to make a statement personally and may be heard as a witness if his or her condition so permits and there is no other way to obtain his or her personal statement or testimony, and

d) they shall be ensured equal access.

(2)) Any person who is not considered to have legal capacity may be requested to make a statement, and/or may be heard as a witness only if he or she wishes to do so, and if this is approved by his or her legal representative or - in the event of conflict of interest - ad hoc conservator or caretaker officer (hereinafter referred to collectively as "ad hoc conservator"). Oral statement or testimony may be given

only in the presence of the legal representative or ad hoc conservator; a written statement shall be considered valid if signed by the legal representative or ad hoc conservator. In the case of questioning an incompetent witness, the authority shall not warn the witness of the legal consequences of perjury.

(3) 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 hearing impaired person present 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 instead of the hearing.

Section 30

[Specific provisions relating to confidential data processing and limitation of the right of access to documents]

If the client, the witness, the holder of the subject-matter of the inspection or the person under surveillance is a minor, or a person of legal age who is deemed incompetent or whose legal capacity has been partially limited, the authority may order - without being served with an express request to that effect - the confidential treatment of the personal data of such persons and to limit access to documents, in the interest of their protection. The ruling to that effect shall be delivered to the legal representative as well.

Section 31

[Specific provisions relating to summons]

If the person summoned is of limited legal capacity or his or her legal capacity has been partially limited, the authority shall notify the legal representative. If the person summoned is incompetent, the authority shall serve the summons through the legal representative. The legal representative shall provide for the physical presence of the person summoned.

16. Advocate

Section 32

[Advocate]

In the interest of promoting advocated decision-making without prejudice to legal capacity, the advocate appointed by the guardian authority under the Act on the Civil Code (hereinafter referred to as “Civil Code”):

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 - in order to facilitate making a statement and the disclosure of data.

17. Access to the documents of the proceedings

Section 33

[Right of access to documents]

(1) The client shall be allowed access to the documents of the proceedings any time during the proceedings and also after the conclusion thereof.

(2) Witnesses shall be allowed to review the document that contains their testimony; the holder of the subject-matter of the inspection shall be allowed access to 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 disclosure of the data is necessary for the enforcement of his right, or for the fulfillment of his obligation conferred upon him by law, or a court ruling or administrative decision.

(4) The person duly authorized to exercise the right of access to documents shall be allowed to make copies or extracts of these documents, or - subject to a fee

specified in the relevant government decree - may request copies, and the authority shall certify such copies upon request.

(5) Where publicity of a decision is not restricted or excluded by law, upon the conclusion of the proceedings the definitive 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 open new proceedings shall be made available to the general public.

(6) The conditions for access to documents and 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 34

[Limiting the right of access to documents]

(1)) No access shall be allowed to the draft of a decision.

(2)) No access shall be allowed to any document, or a part thereof, that contains any reference to privileged information, or to personal data if the statutory requirements for access to such data are not satisfied, except if lack of knowledge of that data - other than classified information - would impair the person authorized to access such documents in exercising his right provided for by this Act.

(3) Upon request, the authority shall either permit access to documents - including after the conclusion of the proceedings -, or shall refuse access by way of a ruling.

CHAPTER III

ADMINISTRATIVE PROCEEDINGS OPENED UPON REQUEST

18. The application

Section 35

[The application]

(1) Application means a statement made by a client requesting the opening of administrative proceedings or a decision of the authority for the enforcement of a right or legitimate interest.

(2) Except where otherwise provided for by an act or government decree, applications shall be submitted to the authority in writing or in person.

(3) The application shall remain under the client's disposition until the decision rendered on the subject becomes definitive.

(4) The provisions of this Section shall also apply to requests - other than the request for the opening of proceedings - made in connection with the proceedings by either party to the proceedings.

Section 36

[Application contents]

(1) Unless additional requirements are prescribed by law, the application shall contain data required for the identification of the client and his representative, including contact details.

(2) The client may not be required to supply a specialist authority's assessment or a special authority's prior assessment, and - apart from the data required for the identification of the client - any data that is available publicly, or that should be available in some public register set up on the strength of law.

Section 37

[Submission of applications]

(1) Applications shall be submitted with the competent authority or - except where precluded by an act or government decree - at one-stop government windows.

(2) Proceedings are opened on the day following the date of receipt of the application by the competent authority.

Section 38

[Evaluation of applications]

An application shall be assessed based on its contents, even if it fails to coincide with the designation used by the client.

19. Summary proceedings and full hearings

Section 39

[Types of proceedings]

Applications are assessed by the automated decision-making process, in a summary proceeding or full hearing. The use of summary proceedings in certain specific cases may be prohibited by law.

Section 40

[Automated decision-making]

The automated decision-making process may be used if:

- a) so permitted by an act or government decree,
- b) all data and information is at the authority's disposal at the time the application is submitted,
- c) the decision requires no deliberation, and
- d) there is no adverse party.

Section 41

[Summary proceedings]

(1) " Summary proceeding is available if:

a) the relevant facts of the case are ascertained relying on the complete application and its enclosures, and the data at the authority's disposition, and

b) there is no adverse party.

(2)) If the authority finds that either of the requirements set out in Subsection (1) are not satisfied, it shall not hold a summary proceeding, and shall bring a conditional decision or a decision provided for either in Subsection (7) or Subsection (13) of Section 43.

(3)) If the client produces any new evidence without being requested to do so, or submits a motion for the presentment of evidence, this shall be recognized by the authority as an application for full hearing, and it shall determine the application in a full hearing.

*Section 42*¹²

[Evaluation of applications in full hearing]

Within five days following delivery of a decision adopted in an automated decision-making process and in a summary proceeding, the client may request the authority to re-assess his application in a full hearing.

Section 43

[Conditional decisions]

(1) The authority shall bring a conditional decision - in accordance with this Section - within eight days from the time of the opening of proceedings.

(2)) In said conditional decision the authority shall provide:

a) that the authority is liable to pay to the client making the request a sum equal to the duty or fee payable for the proceedings or the administrative service fee payable for administrative proceedings or for services of an administrative nature under the Duties Act (hereinafter referred to as “fee”), or ten thousand forints in the absence thereof;

b) that the client making the request is exempt from the payment of procedural costs;

c) that the client is entitled to exercise the right asserted.

(3) Paragraph *c)* of Subsection (2) shall not apply:

a) to the issue of an official instrument;

b) to the issue of an official certificate;

c) to admission into or removal from, or modifications made in, an official register;

d) in proceedings where a sum is to be determined on the merits of the case depending on the authority’s discretion or upon ascertaining the relevant facts of the case;

e) where the conclusion of an administrative agreement is made possible or prescribed by law in a case; and

f) where so provided by law.

(4) Legal effects shall apply to the decision referred to in Subsection (1) if the authority failed to adopt a decision on the merits of the case within the administrative time limit, and did not dismiss the proceedings. No legal effect lies with the conditional decision adopted before the decision ordering the suspension or establishing the stay of action.

(5) In the event of the stay of proceedings, suspension or abeyance, the competent authority shall - in due observation of Subsection (7) - bring a conditional decision at the latest on the eighth day following the period of suspension, stay or abeyance of proceedings, ordering the continuation of the

proceedings and providing for the time specified in Subsection (4) calculated without prejudice to the period of stay of proceedings, suspension, or abeyance.

(6) The time limit for the right to appeal against the resolution on the provision under Paragraph c) of Subsection (2) shall begin on the day following the date of delivery and the date when the condition under Subsection (4) occurs.

(7) The authority shall discount the decision referred to in Subsection (1) if, within eight days after the opening of the proceedings:

- a) it dismisses the application;
- b) it terminates the proceedings;
- c) it adopts a decision on the merits of the case;
- d) it suspends or holds the proceedings in abeyance; or
- e) the proceedings are stayed.

(8) ¹³ A conditional decision may not be adopted:

- a) if the decision lies
 - aa) with the central government agency, except for the central office, or
 - ab) with the Magyar Nemzeti Bank (*National Bank of Hungary*);
- b) if the subject matter of the case is a building designed and intended for defense, military or national security purposes.

(9) The conditional decision shall cover the calendar date of the deadline provided for in Subsection (4) hereof.

(10) The authority shall notify the supervisory body when the conditional decision becomes definitive, as well as all parties to whom the decision had been delivered, and shall take measures for having the sum referred to in Paragraph a) of Subsection (2) paid, and for having the duty or administrative service fee the requesting party paid for the proceedings and for the specialist authority's proceedings, and the procedural costs it has advanced refunded.

(11) The specialist authority and the body requested shall, within five days from the date of receipt of notice on the conditional decision under Subsection (10) becomes definitive, provide for the payment of duties and administrative service fee the applicant client is liable to pay in connection with the proceedings, as well as procedural costs which the applicant client is liable to pay to the competent authority.

(12) In the remedy and review process opened in connection with the conditional resolution it shall be determined whether the conditions for exercising the right asserted are satisfied, the provisions of this Section notwithstanding.

(13) ¹⁴ If the decision referred to in Subsection (1) cannot be brought, the authority shall determine the case in a full hearing. The authority shall - where appropriate - contact a specialist authority, provide for what is contained in Paragraphs *d)* and *e)* of Subsection (7), and for the foreseeable procedural steps to the extent required for ascertaining the relevant facts of the case, invites to remedy the deficiencies and shall provide information about the legal effects for exceeding the time limits.

20. Remediating deficiencies

Section 44

[Remediating deficiencies]

If the application:

a) is not in compliance with the requirements provided for by law,

b) is in compliance with the requirements provided for by law, however, it is deemed necessary in connection with any new information that may have emerged in the process of ascertaining the relevant facts,

the competent authority shall advise the applicant on one occasion to remedy the deficiencies within the prescribed time limit, indicating also the legal consequences of non-compliance, except where otherwise provided for by an act or government decree.

21. Related procedures

Section 45

[Related procedures]

(1)) If the decision of the authority is a precondition of a decision that may be brought in another administrative proceedings (hereinafter referred to as “related procedure”), the authority shall notify the client that an application to be submitted to the authority carrying out the related procedure may be submitted with the authority as well.

(2)) If, upon receipt of such information, the client so requests, the authority shall forward its decision, the application received and the evidence in its possession, which may be required for the related procedure, to the authority carrying out the related procedure. The authority carrying out the related procedure shall communicate its decision to the client via the authority.

(3) The authority shall proceed in accordance with Subsections (1) and (2) also if the decision of the authority carrying out the related procedure is necessary for another related procedure. In such cases the authority shall inform the client of all related procedures.

(4)) If the client launches an application for related procedure under Subsection (1)) without submitting an application for a proceeding to be conducted as a precondition for the decision to be rendered in such related procedure (hereinafter referred to as “preliminary procedure”), the authority carrying out the related procedure shall refer the application to the authority of the preliminary procedure.

(5)) If not precluded by law, or unless the client provides otherwise, it shall be presumed that the application for related procedure also constitutes a request for preliminary procedure.

(6) The authority of the preliminary procedure shall send its definitive decision to the authority carrying out the related procedure.

(7) Where any legal consequence is prescribed by law relating to the time of submission of an application for related procedure, in that context the time when the application referred to in Subsection (4) is submitted shall be taken into account, with the proviso that the related procedure shall be opened on the day next of the date of receipt of the definitive decision adopted in the preliminary procedure by the authority carrying out the related procedure.

22. Refusal of applications

Section 46

[Refusal of applications]

(1) The authority shall refuse the application:

a) in the absence of any statutory condition for the opening of the proceedings, and no other legal consequence provided for by this Act applies; or

b) if the court or the authority has already adopted a decision on the merits of the application pertaining to the same right, and the content of the application had not been altered and the applicable legal environment remained the same.

(2) The authority may refuse the application if it does not comply with formal requirements. If the applicant resubmits the application within five days in due compliance with formal requirements, the authority shall carry out the procedure in a full hearing, with the proviso that the application shall be deemed submitted in the original, however, the administrative time limit shall be reckoned from the day following the date when resubmitted.

(3)) If the client resubmits the application as explained in Subsection (2), and a time limit or a deadline is prescribed by law, for the purposes of presentation of the application the time limit and deadline shall be considered met.

(4)) Having the application resubmitted shall be construed as a waiver of the right to appeal the decision of refusal, or the withdrawal thereof.

23. Termination of proceedings

Section 47

[Termination of proceedings]

(1) The authority shall terminate its proceeding if:

a) the application should have been refused, however, the authority obtained information concerning the grounds for refusal following the opening of the proceedings;

b) the applicant client fails to provide a statement as requested by the authority, hence the application cannot be decided and the authority shall not continue the proceeding of its own motion;

c) the proceeding has become devoid of purpose;

d) the client fails to comply with the obligation of advancing procedural costs;

e) the proceeding was opened upon request and all applicant clients have withdrawn their applications, or the adverse parties have given consent, and the proceeding cannot be continued ex officio;

f) the authority finds that another authority has already heard the case, or another authority had been appointed; or

g) where final decision in the proceeding requires the preliminary judgment of an issue (hereinafter referred to as “incidental question”) where the decision lies with a court or another body, and the client fails to comply with the Authority’s request for initiating such proceeding.

(2)) In the case provided for in Paragraph *f)* of Subsection (1), the authority shall withdraw the decision where appropriate, and shall inter alia communicate this decision to the authority handling the case previously or to the designated authority.

24. Suspension and stay of proceedings

Section 48

[Suspension of proceedings]

(1) The authority shall suspend its proceedings if:

a) the incidental question falls within court jurisdiction;

b) in the given case a foreign body shall be consulted.

(2)) An act may provide that proceedings may be suspended where the decision concerning the incidental question lies with another body, or 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.

(3)) If the client has the right to initiate proceedings before the court or another body, the authority shall advise the client to do so within the prescribed time limit.

(4)) In the cases under Paragraph *a)* of Subsection (1) and Subsection (2), the authority shall adopt a decision as to merits upon the client's, or clients' where applicable, request.

(5) The authority shall communicate its ruling on suspension to the court, or the body referred to in Subsection (2) as well, with the proviso that it shall give notice concerning the conclusion of proceedings.

Section 49

[Stay of proceedings]

(1) The proceedings shall be stayed where so requested by the client, provided it is not excluded by law, or if requested jointly by the clients where two or more clients are involved.

(2) The proceedings shall be continued at the request of either of the clients. After a period of six-month stay, proceedings which are opened upon request only shall be terminated. Where proceedings are terminated the authority shall so inform those parties to whom the resolution would be delivered.

25. Administrative time limit and calculation of other time limits

Section 50

[Administrative time limit]

(1) Unless otherwise provided by an act, the administrative time limit shall begin on the date of the opening of proceedings.

(2) The administrative time limit shall be:

a) twenty-four hours in the case of automated decision-making;

b) eight days for summary proceedings;

c) sixty days for full hearings.

(3)) A period longer than the administrative time limit specified in Paragraph *c)* of Subsection (2) may be established by an act, and a shorter period may be established by legal regulation.

(4)) Inside the administrative time limit the delivery of decisions shall be provided for as well.

(5) The administrative time limit shall not include:

a) the duration of suspension, stay of proceedings; and

b) the duration of default or delay of the client, where a conditional decision may not be adopted.

(6) Where the time limit for the execution of a procedural step is not specified by an act or government decree, the authority, the client and other parties to the proceedings shall take action without delay, at the latest within eight days, for having the procedural step in question executed or the ruling adopted.

(7) The authority, if a collective body, shall adopt a decision in cases falling within its competence within the administrative time limit, or if this is not possible, during the first meeting past that time limit.

(8)) A case shall be given priority:

a) if the client is a minor and his interest appears to be in jeopardy,

b) it is necessary for the prevention of a life-threatening or potentially devastating situation,

c) if the authority imposed provisional protective measures, or

d) if otherwise required for reasons of public security or public order, or due to national security considerations.

(9)) If less than fifteen days remain from the time limit, further procedural steps shall be given priority.

Section 51

[Exceeding the time limit]

If the authority:

a) fails to adopt a conditional decision within the prescribed time limit,

b) exceeds the administrative time limit, and there was no reason to adopt a conditional decision, or

c) unreasonably discounts the automated decision-making process or summary proceeding,

the authority is liable to pay to the applicant client a sum equal to the duty or fee payable for the proceedings, or ten thousand forints in the absence thereof, who is exempted from the payment of procedural costs as well.

Section 52

[Calculation of time limits]

(1) The time limit defined in 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, and the day of proclamation.

(2) Where a time limit is defined in months or 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) The time limit defined in hours begins in the first minute of the hour following the underlying action.

(4)) If the last day of a time limit falls on a day that is declared an official holiday for the authority, the time limit - except for the administrative time limit - shall expire on the next working day.

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

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

26. Application for justification

Section 53

[Submission of application for justification]

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

(2) The application for justification shall be adjudged by the authority proceeding at the time of the omission. Justification for failure to meet the deadline for appeal shall be adjudged by the body which hears the appeal.

(3) The application for justification shall be submitted after the time of becoming aware of the default or from the time the obstruction is eliminated, at the latest inside the time period calculated from the deadline omitted or the last day of the time limit prescribed for the procedural step to which the justification pertains, not exceeding forty-five days.

(4)) In the event of failure to comply with the time limit, the action omitted shall be performed simultaneously with the submission of the application for justification, if it is possible.

(5)) No application for justification shall be accepted for failure to comply with the time limit for the submission of justification and for procedural steps repeated upon request.

Section 54

[Legal effect for the acceptance of application for justification]

If the authority accepts the justification, the unobserved deadline or time limit shall be considered met, hence, if necessary, it shall reverse or withdraw its decision, and/or shall repeat certain procedural steps.

27. Participation of specialist authorities

Section 55

[Specialist authority proceedings]

(1)) An act or a government decree on the delegation of specialist authorities may - on the basis of overriding reasons relating to the public interest - require the authority of competence to adopt a decision on the merits of the case to obtain the binding assessment decision of another authority (hereinafter referred to as “specialist authority”) concerning the specific issue, and within the time limit defined therein.

(2) Unless otherwise provided for in this Act, the provisions on authorities and the provisions on decisions shall apply mutatis mutandis, respectively, to specialist

authorities and their assessment decisions. The provisions on administrative time limits shall only apply to the specialist authority's prior assessment.

(3) The specialist authority need not be consulted if the request has to be refused.

(4) The specialist authority's decision may be challenged in the context of an appeal submitted against the decision adopted in conclusion of the proceedings.

(5) The authority and the specialist authority, and the specialist authorities shall consult with one another in determining the conditions for the execution of requests.

Section 56

[Specialist authority's assessment]

(1)) If the specialist authority subsequently finds its assessment unlawful, it may alter the assessment on one occasion before the date when the authority's resolution or ruling for the termination of the proceedings becomes definitive.

(2)) If the specialist authority is not consulted, it shall discuss the issue with the authority after becoming aware thereof and shall provide an assessment depending on the outcome thereof. The specialist authority shall communicate its assessment to the Authority's supervisory body as well.

Section 57

[Prior assessment of the specialist authority]

If not precluded by an act or government decree, the specialist authority shall provide a prior assessment upon the client's request submitted before the opening of the proceedings subject to the provisions pertaining to procedures for the specialist authority's assessment. The specialist authority's prior assessment enclosed with the application shall be issued within one year to date, unless a different duration is provided for by an act or government decree. Where a prior assessment is enclosed with the application, the authority shall use it as the specialist authority's assessment.

28. Summons

Section 58

[General rules relating to summons]

(1) Where it is necessary to interview a person in connection with a proceeding, the authority shall summon this person to appear at the place and time indicated. If the person summoned is unable to appear before the authority due to his/her age, health condition or other reasonable cause, the person summoned may be heard at his/her habitual residence.

(2) The summons shall be served - save where the relevant circumstances indicate otherwise - upon the person summoned at least five days before the scheduled date of the hearing.

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

Section 59

[Venue of summons]

(1) The authority shall summon the person who does not reside, or the legal representative of an organization that is not established, in its area of jurisdiction to its head offices if:

- a)* so prescribed by law;
- b)* summoned to participate in discussions or negotiations;
- c)* having the interview conducted by way of request would impair the procedural rights of either of the clients;
- d)* at the residence of the person to be interviewed there is no authority that is sufficiently knowledgeable to take the necessary procedural steps; or
- e)* so requested by the person summoned.

(2)) An authority whose competence covers Budapest may summon persons from the whole of Budapest.

Section 60

[Obligation of the person summoned to appear]

(1)) If the person summoned:

a) fails to comply with the legitimate summons, or leaves the place of the proceedings without permission before being interviewed, and is unable to provide reasonable justification in advance as to the reason for his absence, or to offer sufficient proof subsequently, or

b) if he appears for the interview in a condition unsuitable to be interviewed without offering an adequate reason,

such person may be subject to an administrative penalty.

(2)) If the person summoned fails to appear and fails to offer a proper excuse, he may be taken into custody and presented by the police. The arrest warrant shall be subject to the public prosecutor's prior consent requested by the head of the authority.

(3) If the authority is aware that a person whose arrest has been warranted is a member of the regular force of the Hungarian Armed Forces or commissioned member of a law enforcement agency, the relevant commanding officer shall be contacted to carry out the arrest.

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

(5)) If the corporate representative of a legal person or other organization failed to appear for the interview as summoned, and the legal representative refuses to reveal the name of the representative at the Authority's request, an administrative penalty may be imposed upon the requested legal representative,

or the legal person or other organization. In that case the requested legal representative may be arrested as well.

29. Notification of procedural step

Section 61

[Notification of procedural step]

(1) If it is not necessary to summon a client, the authority shall inform the client about 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 procedural step but his appearance is not mandatory. The notice - save where the relevant circumstances indicate otherwise - shall be delivered to the client at least five days in advance.

(2) The specialist authority shall be notified concerning the procedural step at least five days in advance, where it concerns its powers and responsibilities.

30. Ascertaining the relevant facts of the case

Section 62

[Ascertaining the relevant facts of the case]

(1) If the information available is insufficient for bringing a decision, the authority shall initiate a procedure for taking evidence.

(2) In administrative proceedings all evidence shall be admissible that is suitable for ascertaining the relevant facts of the case. Any evidence illegally obtained by the authority shall be inadmissible.

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

(4) The authority shall be free to define the means and extent of the evidentiary procedure, and shall assess the evidence available at its own discretion.

(5)) An act or government decree may, on the basis of overriding reasons relating to the public interest, make the use of a specific document or other deed to be used as means of evidence mandatory.

31. Client statements

Section 63

[Client statements]

If deemed necessary to ascertain the relevant facts of the case the authority may request the client to make a statement.

Section 64

[Special role of client statements]

(1)) If not precluded by law, the client's statement shall be admissible as a substitute for any unavailable evidence, if obtaining such evidence is impossible.

(2)) If the client or his representative provides any false information that is considered material for the case on hand in spite of his knowledge otherwise, or suppresses such information - except where Subsection (2) or Paragraphs *b*) and *c*) of Subsection (3) of Section 66 apply -, or fails to comply with the disclosure requirement for reasons other than those illustrated under Subsection (2) of Section 105, he may be subject to an administrative penalty.

(3)) In the case under Subsection (1) the authority shall provide the client with a warning of his rights and obligations, and of the legal consequences of perjury and for providing any evidence that is falsified or forged.

32. Documents

Section 65

[Provisions applicable to documents]

(1) The authority, where considered necessary in ascertaining the relevant facts of the case, and it cannot be obtained pursuant to the ET Act - except where Subsection (2) of Section 36 applies - may request the client to present some document or other instrument.

(2) Except where otherwise provided for by an act or government decree, documents may also be submitted in copies, if the client provides a statement to confirm that they are true copies of the originals.

(3) Where there is any doubt as to the authenticity or contents of an authentic instrument of foreign origin, the authority shall request the client to present a recertified authentic instrument made out abroad.

(4)) If the client supplies a certified translation of a document made out in a language other than Hungarian enclosed with such document, the authority shall accept it as translated.

33. Witness

Section 66

[General provisions applicable to witnesses]

(1)) Subject to the exception specified in this Act, a person summoned as a witness must testify.

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

a) if he/she is unlikely to give any admissible evidence;

b) if he/she was not released from the obligation of confidentiality concerning any privileged information.

(3) The witness may refuse to testify if:

a) a family member - as provided for in the Civil Code - of either of the parties (hereinafter referred to as "family member");

b) it would implicate the witness himself or his/her family member in some criminal activity;

c) the witness is a media content provider provided for in the Act on Freedom of the Press and on the Basic Rules Relating to Media Content (hereinafter referred to as “media content provider”), or any person it employs under contract of employment or some other form of employment relationship - including after the termination of such relationship -, and his testimony would expose the identity of any person who supplies information relating to the media content provided; or

d) protected by diplomatic immunities.

Section 67

[Interview of witnesses]

(1) Before the interview the authority shall establish the witness’s identity. The authority shall call upon the witness to state his/her relation with the clients, and whether or not he/she is biased, and shall advise the witness of his/her rights and obligations and of the legal consequences of perjury.

(2)) A witness not yet interviewed may not be present when questioning the client, another witness or an expert.

(3) Examination of a witness shall be conducted according to the provisions on hearings even if the authority interviews the witness without a hearing.

(4) Examination 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/her testimony in writing after or instead of the examination.

(6)) If the witness makes his/her testimony in writing without or after the interview, the written 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/her testimony in writing and when reciting the obstacles in giving evidence and of the legal consequences of perjury.

34. Inspection

Section 68

[General provisions relating to inspections]

(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) The holder of the subject-matter of the inspection and the person mentioned in Subsection (1) shall be notified in advance of the inspection if it does not jeopardize the success of the inspection.

(3) The absence of the holder of the subject-matter of the inspection shall not prevent the inspection, if his presence is not necessary.

(4) 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 69

[Carrying out the inspection]

(1)) 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 - if known - shall be notified at the same time.

(2) During the inspection the officer of the authority on the scene shall - in particular - be empowered:

a) to enter the premises, building and other establishment affected by the inspection;

b) to examine any document, article or work process;

c) to request information, and/or

d) to take samples.

Section 70

[Inspection conducted prior to instant procedural steps]

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

(2)) Police assistance shall be provided in accordance with the relevant provisions of the Act on the Police pertaining to participation in the execution of enforcement procedures, at the Authority's request - without preliminary referral - promptly, at the place and for the duration specified by the authority.

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

(4)¹⁵ When conducting an inspection in the manner specified in Subsection (3) the public prosecutor shall be notified in advance - immediately upon the authority's decision to conduct an inspection -, and it shall be carried out with police assistance and in the presence of an official witness if possible. The public prosecutor, if in disagreement with the inspection, shall prohibit it.

35. Expert

Section 71

[Provisions relating to the appointment of an expert]

(1) An expert shall be consulted or an expert opinion shall be obtained - with a prescribed time limit of at least fifteen days - if special knowledge is required in the case for establishing a material fact or other circumstance, and if the competent authority does not have sufficient expertise.

(2) No expert may be appointed if the opinion of a specialist authority is to be obtained for the subject matter in question.

(3) The provisions of Section 23 shall apply to the disqualification of experts *mutatis mutandis*.

Section 72

[General provisions relating to expert examinations]

(1) An act may provide for ordering a client to participate in expert examination.

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

(3) Having regard to matters not regulated herein the provisions of the Act on the Activities of Forensic Experts shall apply to experts.

36. Interpreter

Section 73

[Interpreter]

(1) If the case officer does not speak the foreign language of the client or any other party to the proceeding, an interpreter shall be engaged.

(2) An officer of the authority having competence in the case, who is not involved in that case, and any person present at the site of the inspection who is able to speak a foreign language may be used as an interpreter if deemed essential for ascertaining the relevant facts of the case.

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

37. Hearing

Section 74

[Hearing]

(1) The authority shall hold a hearing:

a) if it is deemed necessary to interview the parties collectively to ascertain the relevant facts of the case, against the adverse party, in proceedings opened upon request (hereinafter referred to as “action in dispute”);

b) where the nature of the case so permits, in proceedings held with the adverse parties in attendance; or

c) if it is necessary to hear collectively all parties to the proceeding in order to ascertain the relevant facts of the case.

(2) The authority may decide to hold a hearing within the framework of an on-site inspection, provided that the necessary conditions are fulfilled.

(3) The client may present a motion for the presentment of evidence and may address questions to the person interviewed.

(4) A person who disturbs the hearing shall 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.

38. Negotiated settlement

Section 75

[Negotiated settlement]

If the authority holds a hearing, at the hearing the authority shall attempt to mediate a settlement between the adverse parties.

39. Presentation of evidence to the client

Section 76

[Presentment of evidence to the client]

If the authority has conducted a procedure for taking evidence in the case, and failed to ensure access for the client to all evidence, it shall notify the client upon completion thereof enabling him to have access - subject to the regulations governing access to documents - to all evidence and to present a request for additional evidence.

40. Consequences for obstruction of proceedings

Section 77

[Consequences for obstruction of proceedings]

(1) Any person who committed a breach of any obligation for reasons within his control shall be ordered by the authority to cover any resulting extra expenses or may be imposed an administrative penalty.

(2) The minimum amount of administrative penalty is ten thousand forints for each violation, and the maximum amount shall be - unless otherwise provided for by an act - five hundred thousand forints for natural persons and one million forints for legal persons or other entities.

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

a) the gravity of the infringement;

b) the financial situation and income of the person affected, if there is sufficient data and information available; and

c) the number and extent of previous penalties if the administrative penalty is reimposed in the same proceedings.

41. Recording procedural steps

Section 78

[Recording procedural steps]

(1)) An oral request - if not promptly executed - and any procedural step performed with a view to ascertaining the relevant facts of the case shall be recorded in a report if attended by the client or any other party, or shall be recorded in other cases.

(2) Those records shall contain the place and the date where and when drawn up, data required for the identification of the persons who participated in the procedural action, the essence of their statements, and the findings made while carrying out the action relating to ascertaining the relevant facts of the case. Additionally, the report shall contain an indication of rights and obligations.

(3) The record shall be signed by the recorder, and the report shall be signed - on all pages - by the persons who participated in the procedural action.

(4) The authority shall be entitled to make video and sound recordings on specific procedural actions. If recorded in that fashion, it shall suffice to indicate in the report the data required for the identification of the persons who participated in the procedural action, and the place and the date where and when it was made.

Section 79

[Official witness]

(1)¹⁶ The authority shall have the right to carry out protective measures and to conduct inspections, seizures, sequestration and regulatory inspections in the presence of an official witness so as to corroborate the events taking place in carrying out the procedural action and to give account of the facts he has witnessed. No one may be compelled to serve as an official witness.

(2) The client, any family member or the representative of the client, persons engaged with the competent authority in a public service or other similar relationship for the performance of work, and persons lacking procedural capacity may not function in the capacity of official witness.

(3)) Prior to carrying out the procedural action, the official witness shall be advised of his rights and obligations. The official witness shall be entitled to compensation according to the provisions governing the reimbursement of the expenses of witnesses.

(4) The official witness is bound by confidentiality with regard to every fact and data about which he gains knowledge during the course of the procedural action, from which he may be released by the competent authority, the authority of appellate jurisdiction (hereinafter referred to as “authority of second instance”) or the court in respect of the facts, data and circumstance which pertain to the given case.

CHAPTER IV

DECISIONS OF THE AUTHORITY

42. Resolutions and rulings

Section 80

[Forms of decisions]

(1)) A decision may take the form of a resolution or ruling. Except as specified in Subsection (4), the authority shall adopt a resolution on the merits, and shall deliver other decisions during the process in the form of a ruling.

(2) The client shall be considered to have been authorized to exercise the right asserted if the authority decided no to adopt a resolution within the prescribed administrative time limit (right to remain silent). The right to remain silent may be exercised if:

a) not precluded by an act or government decree in cases where automated decision-making process may be employed;

b) so ordered by an act or government decree in cases where summary proceeding may be employed;

c) so ordered by an act or government decree in full hearings, where a conditional decision may not be adopted and there is no adverse party in the case.

(3) Where the right to remain silent is exercised the authority shall enter the acquired right on the application, and on the duplicate copy of the application held by the client, or the client shall be supplied a duplicate of the copy held by the authority.

(4) 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.

Section 81

[Content and form of decisions]

(1)) A decision shall contain all data and information required for the identification of the competent authority, the clients and the case, the operative part - including the Authority's decision, the assessment of a specialist authority, information for seeking legal remedy and the procedural costs incurred -, and ascertained facts of the case, the evidence available, explanation for the specialist authority's assessment, the reasons for deliberation and the decision, and the specific statutory provisions on the basis of which the decision was adopted.

(2)) A simplified decision may be adopted without any information as to remedy, showing in the statement of reasons only the specific statutes underlying the decision:

a) if 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 legitimate interest of the adverse party, or

b) on the approval of a settlement.

(3)) A simplified decision may be adopted in relation to rulings which cannot be appealed separately, showing in the statement of reasons only the specific statutory provisions underlying the decision.

(4) The authority shall deliver the decision worded in the form of a separate document, record it in a report or enter it on the case file.

(5)) In cases where instant procedural actions are required, prior transcription of the decision is not required, and it may be delivered to the client orally as well. In such cases the authority shall transcribe and deliver the decision subsequently.

43. Definitiveness of the authority's decisions

Section 82

[Definitive decisions]

(1)) The Authority's decision shall be considered definitive if the authority is no longer permitted to amend it, save as provided for in this Act. A decision shall be considered definitive upon delivery.

(2)) If, by an act, the right to appeal lies in specific types of cases, the Authority's decision shall become definitive if:

a) it was not appealed, and the time limit for appeal has expired;

b) the right to appeal was waived or the appeal was withdrawn; or

c) the authority of second instance sustained the decision of the authority of first instance, upon delivery of the appellate decision.

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

a) upon delivery of the decision of 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 before the deadline for appeal.

(4) If the appellate procedure is terminated, the authority's decision of first instance that can be appealed shall become definitive on the day when the ruling on termination of the appellate procedure becomes definitive.

(5) Any provisions of a decision of first instance uncontested by the appeal shall be declared definitive in accordance with Subsections (2)-(4) if:

a) only another party to the proceedings appealed any provision of the decision that pertains to him; or

b) 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.

44. Approval of a settlement

Section 83

[Approval of a settlement]

If a settlement is agreed upon or if the clients enter into an agreement, and the settlement is in conformity with the Fundamental Law and other legislation, it provides also for the performance deadlines and for covering procedural costs, the authority shall approve it and shall transcribe it in a resolution.

45. Immediate enforceability

Section 84

[Immediate enforceability]

The authority shall declare a decision immediately enforceable if:

a) it is necessary to prevent, eliminate any life-threatening or potentially devastating situation, or a severe violation of rights relating to personality, or to mitigate the detrimental consequences thereof;

b) considered necessary for reasons of national security, defense or public security, or for the protection of public interests;

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

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

46. Delivery of decisions

Section 85

[General rules on the delivery of decisions]

(1) The authority shall deliver its resolutions to the clients, to persons in respect of whom it contains provisions. and the specialist authorities involved in the case.

(2) The authority shall deliver its rulings to the parties in respect of whom it contains provisions and whose rights or legitimate interests are affected. The authority shall provide a copy of any ruling that was not delivered to the client free of any duties or charges once, upon request.

(3) Where communication is maintained in writing the authority shall deliver its decisions in the form of an official document, or by way of electronic communication provided for in the ET Act.

(4)) If not excluded by law, the decision may be delivered orally as well to the person referred to in Subsections (1) and (2). Delivery and the date thereof shall be entered on the document and it must be signed. At the request of the person referred to in Subsections (1) and (2), the authority shall send a written copy of the decision that was delivered orally.

(5) Unless otherwise provided by an act or government decree, the decision shall be considered delivered:

a) on the day when delivered orally or in writing, or

b) on the fifteenth day after the date when the public notice was posted.

(6) Where in a life-threatening or potentially devastating situation, and 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 in writing as well. In those cases the decision shall be considered delivered on the day when delivered in writing, exclusively for the purpose of calculating the time limits for the right to appeal.

Section 86

[Provisions relating to service]

(1) Documents delivered by means other than electronic shall be considered served on the day of attempted delivery if the addressee refused to accept it. Where delivery failed for the document is returned to the authority from the addressee's home address or registered address shown in the official register:

a) marked "nem kereste" (*unclaimed*), the document shall be considered served on the fifth working day following the day of the second attempt of delivery,

b) marked "ismeretlen" (*addressee unknown*) or "elköltözött" (*addressee moved*), the document shall be considered served on the fifth working day following the day of attempted delivery.

(2) When the addressee becomes aware that the authority considers a document sent to him served, he may lodge an objection within fifteen days from the time of becoming aware, at the latest within forty-five days of the date of delivery.

(3) The authority shall accept the objection if the addressee was unable to collect the document alleging:

a) that service was carried out in violation of the provisions of specific other legislation on the service of official documents, or it was illegitimate for other reasons, or

b) that he was unable to collect the document for reasons not covered by Paragraph *a)* for reasons beyond his control.

(4)) If the addressee is not a natural person, an objection may be filed only if service took place unlawfully.

(5) The objection shall specify the facts and other evidence to demonstrate the alleged infringement in the service of process or to demonstrate that the addressee is not at fault. If the authority accepts the objection, the rules on justifications shall apply.

(6) The objection shall be determined by the authority from which the document presumed served originates.

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

Section 87

[Provisions relating to agents for service of process]

(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 residence 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 forward them to the client.

(3) 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.

(4) Where a decision is to be delivered by way of substituted service of process, 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 decision, whose responsibility shall include to identify the client's habitual residence and to having the decision delivered.

(5)) If the administrator for service of process fails, 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.

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

Section 88

[Substituted service of process]

(1)) A document shall be served by way of posted notice if:

- a) the client's whereabouts is unknown;
- b) service cannot be carried out due to other insurmountable obstacles, or if making an attempt appears to offer no results; or
- c) so prescribed by an act or government decree.

(2) The public notice contains:

- a) the date of posting, in the case of publication on website, the date of publication;
- b) the name of the competent authority;
- c) the case number and the subject matter of the case;
- 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 prevented from delivering it, therefore, it is available for the client or his authorized representative to collect it at the authority.

(3) The authority shall post the public notice on its bulletin board and on its website.

Section 89

[Proclamation]

(1) Where clients cannot be precisely identified, or if so prescribed by an act or government decree, the authority shall make the communication on its decision available in the public domain by way of proclamation. In addition to what is contained in Paragraphs *a)-d)* of Subsection (2) of Section 88, the communication shall contain:

a) the operative part of the decision and a brief of the statement of reasons;
and

b) a notice indicating that the decision is available for review at the authority.

(2) The authority shall post the communication on its bulletin board and on its website.

(3) The authority shall proclaim its definitive or immediately enforceable decisions:

a) that can be challenged by action brought in the public interest;

b) adopted with a view to preventing, eliminating any life-threatening or potentially devastating situation effecting a large number or a broad range of people that cannot be accurately defined, or to mitigate any detrimental consequences of such situations; or

c) adopted with a view to maintaining public security or for significant reasons of public order, land and environmental protection or nature preservation.

(4) The authority shall proclaim its definitive or immediately enforceable resolutions where at least fifty clients are involved in the proceedings.

47. Correction and supplementing of decisions

Section 90

[Correction of decisions]

(1) Where a decision contains any typing error or a calculation error, the authority shall correct it if it has no effect on the case as to merits.

(2) The authority shall inform all parties to whom the original decision was delivered concerning the correction.

(3) The corrected part of the decision is subject to the same remedy procedure as the original decision.

Section 91

[Supplementing decisions]

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

(2)) A decision may not be supplemented after one year following the date when the decision became definitive.

(3) The authority shall install the addendum incorporated in a codified version, by issuing a replacement one if possible.

(4) The addendum 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.

48. Administrative agreement

Section 92

[Entering into an administrative agreement]

(1) The authority should be allowed or ordered by law to enter into an administrative agreement with the client, instead of passing a resolution, with a view to settlement in cases within its competence that is best suitable for the public and for the client alike. Administrative agreements are agreements concluded by the authority.

(2) The administrative agreement shall contain the contracting parties, the subject matter of the agreement, the commitments assumed and rights afforded by the parties, the conditions laid down in the specialist authority's assessment, the legal consequences of non-performance, the settlement of disputes arising out of or in connection with performance, the conditions and details set out in the law under which conclusion of the contract is permitted or required, and any agreement in matters considered material by the parties.

(3)) If the client undertakes a commitment for which he cannot otherwise be compelled by way of administrative decision, the client shall make a statement in the administrative agreement that he agrees to abide - within the framework of the administrative agreement - by the legal consequences set out in Subsection (3) of Section 93 for breach of contract with respect to the extra commitment for the event of his breach of the agreement.

(4) The authority shall inform the other clients concerning the contract, where such clients may initiate with the authority within fifteen days to have the contract amended. In the absence thereof, a client who is not a party to the agreement may contest the agreement before the administrative court within thirty days.

Section 93

[Amendment and performance of administrative agreements]

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

(2)) If the amendment fails to materialize either of the parties may bring action before the administrative court, this, however, shall not affect the implementation and/or enforcement of the administrative agreement.

(3)) If the client who is a party to the agreement breaches the conditions laid down in the agreement, the authority shall take action for having the legal consequences of non-performance fixed in the agreement enforced, and shall launch the enforcement procedure if considered necessary.

(4)) If the authority fails to fulfill the administrative agreement as agreed and fails to comply with the contracting client's notice requiring performance, the client may bring action before the administrative court within thirty days following the day of gaining knowledge of the authority's breach of the agreement.

(5)) In matters not regulated in this Act regarding administrative agreements the statutory provisions governing administrative agreements, or in the absence thereof, the general provisions of the Civil Code pertaining to contracts shall be applied.

CHAPTER V

OFFICIAL INSTRUMENTS, CERTIFICATES, RECORDS AND REGISTERS

49. Common provisions

Section 94

[General rules applicable to official instruments, certificates, records and registers

(1) The provisions of this Act shall apply to proceedings relating to official instruments, certificates, records and registers subject to the derogations set out in this Chapter.

(2) Official instruments, certificates and entries made into official records and registers shall function as resolutions.

50. Official instruments

Section 95

[Provisions relating to official instruments]

(1) In cases provided for by law, the authority shall issue, at the client's request, official instruments for the verification of a certain data, with the purpose of use indicated.

(2) Where the official instrument has been withdrawn by the authority, the resolution shall be sent to any authority, body where the client used or attempted to use the official instrument in question in front of this authority.

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

51. Official certificates

Section 96

[Provisions relating to official certificates]

The authority shall issue an official certificate in cases provided for by law - containing the information prescribed therein - as regular proof of the data or rights of the client.

52. Official records and registers

Section 97

[Provisions relating to official records and registers]

(1) The authority shall keep the data specified by law in official records and registers if:

a) making entries in records and registers, the amendment and deletion thereof creates, changes or terminates specific rights and obligations of clients, or

b) the purpose of keeping such records and registers is to offer authentic proof or confirmation of data therein contained

(official public register).

(2) Unless otherwise provided for by an act, 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. Pending proof to the contrary, data contained in the official registers shall be presumed to exist, and data deleted from the official registers shall be presumed not to exist.

(3)) Having regard to entries made ex officio into the official registers without deliberation, the provisions of Sections 80-82 and Section 86 pertaining to resolutions shall not apply, and the decision shall become definitive on the day of entry.

(4) The time limit for lodging an appeal shall commence at the time the client is informed about the entry or when the resolution on the refusal thereof is delivered to the client.

CHAPTER VI

REGULATORY INSPECTION

53. General rules

Section 98

[Application of the provisions relating to administrative proceedings]

The provisions of this Act on administrative proceedings shall apply to regulatory inspections subject to the derogations set out in this Chapter.

Section 99

[Subject matter of regulatory inspections]

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

54. Conduct of regulatory inspections

Section 100

[General provisions on the opening of regulatory inspections]

(1)) Regulatory inspections are opened ex officio and conducted by the authority in own motion proceedings.

(2)) Regulatory inspections may also be requested by clients, except if:

a) another regulatory inspection is already in progress before the authority in respect of the same case at the time the request is submitted, or another procedure is pending on the basis thereof,

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

c) it is precluded by law, or

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

55. Conclusion of regulatory inspections

Section 101

[General rules relating to the conclusion of regulatory inspections]

(1) Where the regulatory inspection finds any infringement:

a) the authority shall open proceedings, or

b) if the infringement uncovered falls within the jurisdiction of another body, the authority shall initiate the proceedings of that body.

(2) Where the authority finds no infringement during the regulatory inspection conducted at the client's request, it shall make out an official instrument to that effect. In the own motion regulatory inspections, the authority shall issue an official instrument on its findings at the client's request.

Section 102

[Specific provisions relating to ongoing control procedures]

If the authority conducts control procedures at a client on a regular basis, prior notification of the client is not required.

CHAPTER VII

OWN MOTION PROCEEDINGS

Section 103

[Own motion proceedings]

(1)) In respect of own motion proceedings, the provisions of this Act on requested proceedings shall apply subject to the derogations set out in this Chapter.

(2)) Own motion proceedings shall not be stayed, and the authority shall not adopt a decision as to merits upon the client's, or clients' where applicable, request even in the case of suspension. The proceedings may not be terminated if the client fails to advance procedural costs.

(3) In own motion proceedings, only the duration of suspension shall not be included in the administrative time limit.

(4)) In own motion proceedings if the authority has exceeded twice the duration of the administrative time limit, apart from establishing the infringement, and from issuing an order for bringing the infringement to an end or for ensuring that legality is restored, no other sanctions may be imposed. In that case new proceedings may not be opened against the same client, under the same considerations of fact and law.

Section 104

[Opening the proceedings]

(1) The authority shall open proceedings of its own motion within its area of jurisdiction if:

a) it learns about any circumstance giving rise to initiating proceedings;

b) so ordered by the court;

c) so instructed by its supervisory body;

d) it gains knowledge of a life-threatening or potentially devastating situation;
or

e) otherwise prescribed by law.

(2) The regulations governing own motion proceedings shall apply to proceedings opened at the client's request that are continued by the authority *ex officio*.

(3) Own motion proceedings shall commence on the day when the first procedural step is executed, of which the client, if known, shall be notified by the authority. The notice may be omitted only if:

a) the authority adopts a decision within eight days following the opening of the proceedings, or terminates the proceedings;

b) prohibited by law for national defense, national security considerations and for reasons of public security; or

c) it would jeopardize the success of the proceedings.

(4) 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, the durations which are not included in the administrative time limit, the name and contact information of the case officer; and

b) information about the client's rights and obligations.

(5) If the regulatory inspection finds an infringement, and the conditions for making a decision are otherwise satisfied, the authority shall adopt a decision on the merits of the case, and shall deliver such decision to the client, if present, without delay.

(6) If the decision requires no deliberation, the authority shall have the option to conduct own motion proceedings in an automated decision-making process.

56. Reporting obligations of clients

Section 105

[Reporting obligations of clients in ex officio proceedings]

(1) In proceedings opened ex officio the client shall - when requested by the authority - disclose the data necessary for reaching a decision on the merits.

Failure to comply with the obligations of disclosure, or if supplying false information, may be sanctioned on the strength of an act or government decree.

(2) Data disclosure may be refused by the client if he would have the right to refuse to testify under the same circumstances.

CHAPTER VIII

SPECIFIC RULES IN RELATION TO CERTAIN REGULATORY ACTIONS

57. Provisional measures

Section 106

[Provisional measures]

(1) The authority - irrespective of its competence and jurisdiction - shall take provisional measures of its own motion, without which any delay is likely to result in insurmountable damage, danger or irremediable violation of rights relating to personality. The authority shall inform without delay the competent authority concerning the action taken.

(2) The authority shall deliver its ruling concerning the provisional measures taken of its own motion to the client, and also to the competent authority, that will conduct an inquiry as to the necessity of the provisional measures, and shall take the action if considered appropriate.

(3) When conducting a review with respect to provisional measures the protection of rights acquired and exercised in good faith shall not apply.

58. Protective measures

Section 107

[Protective measures]

(1) Where subsequent performance of an obligation to which the proceedings pertain appears to be jeopardized, the authority shall order the implementation of protective measures before the performance deadline, within five days from the occurrence of the underlying reasons, such as a pledge of security for pecuniary claims or the seizure or sequestration of specific assets.

(2)) Protective measures shall be executed 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 decision-making authority or 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 appropriate measures within reason for voluntary performance, and the protective measure constitutes the only hindrance remaining; or

c) the grounds therefor no longer exist.

(4)) If there is reasonable cause to suggest that fulfillment of an obligation that may be ordered in the decision on the merits is at serious risk, the authority shall introduce the measures provided for in Subsection (1) - in the form of provisional protective measures - within three days.

(5) The provisional protective measure shall be abolished when the decision adopted in conclusion of the proceedings becomes definitive.

59. Sequestration and seizure

Section 108

[General rules relating to sequestration and seizure]

(1)) If there is no other way to ascertain the relevant facts of the case or it would take an unreasonably long time, or if discounting sequestration may endanger the

success of ascertaining the relevant facts of the case, the authority shall have power to remove one's property from one's possession (hereinafter referred to as "sequestration"). A property may not be sequestered if it is essential for preserving the life or health of its holder, or if used for the purpose of otherwise indispensable acquisition of income for maintaining his/her living conditions. The authority shall seize such property, and shall leave it in the custody of the holder for use for its intended purpose.

(2)) In order to implement sequestration the holder of the property shall be advised to surrender the property. A person who has the right to refuse to testify may not be ordered to surrender the property in relation to the ground for refusal, nor any person who was not released from the obligation of confidentiality concerning any privileged information.

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

(4) The provisions on inspections shall also apply to sequestration, with the proviso that the provisions pertaining to the holder of the subject-matter of the inspection shall apply to the holder of the sequestered property. In other respects the provisions of the Act on Judicial Enforcement (hereinafter referred to as "JEA") shall apply mutatis mutandis to sequestration and seizure.

Section 109

[Termination of sequestration and release of property]

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

- a) when the grounds therefor no longer exist,
- b) if the authority terminated the proceedings, or
- c) if a decision has been adopted on the merits of a case.

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

(3) Where it is evident on the basis of the relevant circumstances that the person from whom the property was sequestered 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)) If the property cannot be released in its physical substance, compensation shall be provided based on the consideration received from the early sale of the seized property, less the costs of storage and handling, with default interest provided for in the Civil Code added up to the time of compensation (hereinafter referred to as “statutory interest”). Any additional claim the holder of the property may have can be enforced under civil law. Where sequestration was subsequently found unsubstantiated, the costs of storage and handling may not be deducted from the amount of consideration received from the early sale of the seized property.

Section 110

[Sale, destruction of sequestered property]

(1) With the exception of perishable goods, sequestered property may not be sold in advance.

(2)) If no rightful claim is made for collecting a sequestered property within three months from the time of notice made by the authority, the sequestered property may be sold.

(3) The consideration received from the sale of the sequestered property shall take the place of the sequestered property.

(4)) If the sequestered property is of no value, or if sale of the asset was unsuccessful, it shall be destroyed following the termination of sequestration. The owner and the holder of the sequestered property shall be jointly and severally liable for the costs of destruction.

CHAPTER IX

LEGAL REMEDIES

Section 111

[Application of the rules on remedies]

The provisions of this Act shall apply to appeal procedures subject to the derogations provided for in this Chapter.

Section 112

[Right to judicial remedy]

Resolutions of the authority may be appealed separately. A ruling of the authority may be appealed separately if permitted by an act, in other cases the right to seek remedy 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 113

[Redress procedures]

(1)) Redress procedures available upon request are:

- a) administrative actions;
- b) appeal procedures.

(2)) Own motion redress procedures are available:

a) in the form of the amendment or withdrawal of decisions by virtue of the authority's office,

b) within the framework of supervisory proceedings,

c) upon prosecutor's intervention and action provided for in the Act on the Prosecution Service.

60. Administrative actions

Section 114

[Applicability of administrative actions]

(1) With the exception of rulings which cannot be appealed separately, clients may bring administrative action against definitive decisions. If the decision can be appealed, an administrative action may be brought if either of the entitled parties filed an appeal and the appeal has already been determined.

(2)) In the event of non-compliance with the deadline prescribed by the prosecutor in his intervention for bringing the infringement to an end, the public prosecutor may bring administrative action against the authority's definitive decision, or in the event of the authority's failure to execute its obligation to act, for ordering the authority to act.

61. Amendment or withdrawal of decisions based on a statement of claim

Section 115

[Amendment or withdrawal of decisions based on a statement of claim]

(1) The authority, if it finds upon receipt of a statement of claim that its decision is unlawful, shall amend or withdraw the decision in question.

(2)) If in agreement with the statement of claim and there is no adverse party involved in the case, the authority may withdraw its decision nonetheless, or amend it as requested by the client in the statement of claim.

(3)) If the specialist authority amends its assessment decision based on a statement of claim, the authority shall amend its decision accordingly, or withdraw it.

(4)) A decision may be withdrawn, reversed once.

62. Appeals

Section 116

[General rules applicable to appeals]

(1) The client or a party in respect of whom the decision contains provisions may appeal such decision of first instance only if expressly authorized by an act.

(2)) A resolution may be appealed if it was brought:

a) by the head of a district (Budapest district) office, or a body of a municipal government, other than the council of representatives; or

b) by the local branch of a law enforcement agency.

(3)) A appeal may be lodged separately against a ruling of first instance:

a) on provisional protective measures;

b) on the client's status or succession;

c) on the refusal of an application;

d) on the termination of proceedings;

e) on the suspension or stay of proceedings;

f) on imposing an administrative penalty;

g) on the refusal of justification for failure to observe the deadline for filing an appeal;

h) on ordering sequestration or seizure, or on refusal of a request for the termination thereof;

i) on the refusal of a request for exercising the right of access to documents;

j) on a request for limiting the right of access to documents; and

k) on establishing and for the bearing of procedural costs, on the refusal of applications for exemption from costs, and on the reversal or withdrawal of exemption from costs.

(4)) An appeal may not be lodged even in the cases provided for in Subsections (1) and (2):

a) where the decision of first instance was adopted by the head of the central government agency, except for the central office;

b) against the decisions of the council of representatives taken in administrative actions of local authorities;

c) against the ruling of the authority of second instance that can be appealed separately;

d) if no authority of second instance has been appointed;

e) in cases given preferential status for national economy considerations;

f) if enforcement was ordered under administrative agreement.

(5) ¹⁷An appeal may not be lodged even in the cases provided for in Subsection (2), when lodging an appeal is excluded by law.

Section 117

[Suspensory effect of an appeal]

(1)) If the authority did not declare a decision immediately enforceable, the appeal shall have a suspensory effect on the enforcement of the decision, except as provided in Subsection (2).

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

Section 118

[Lodging an appeal]

(1)) An appeal may be lodged only with respect to the decision contested, for reasons which are factually and directly related, and it must be based on any infringement or harm directly resulting from the decision.

(2) The appeal shall be reasoned. In the appeal only new facts may be introduced, that of which the client was unaware during the proceedings of first instance, or was unable to rely on such facts for reasons beyond his control.

(3) The appeal shall be lodged with the authority that has brought the decision within fifteen days following the date of delivery of the decision.

(4) The person entitled to appeal may waive his right to do so within the time limit in which an appeal must be filed. The waiver of the right to appeal may not be withdrawn, and it shall be governed by the provisions on applications in other respects.

Section 119

[Specific provisions relating to appeals]

(1) The authority, if it finds on appeal that its decision is unlawful, shall amend or withdraw the decision in question.

(2)) If in agreement with the appeal and there is no adverse party involved in the case, the authority may withdraw its decision nonetheless, or amend it as requested by the client in the appeal.

(3)) If the authority refuses to withdraw the contested decision, or to amend, revise or supplement it consistent with the appeal, the authority shall refer the

appeal to the authority of second instance - delegated by law - with all documents attached following the deadline for appeal.

(4) The appeal shall be determined by the authority of second instance, upon reviewing the contested decision and the process leading to it. The authority of second instance is not bound by the arguments set out in the appeal.

(5) The authority of second instance shall either sustain the decision on account of the alleged harm shown in the appeal, or shall reverse or annul the decision in case of an infringement.

(6)) If the information for bringing a decision is insufficient, or if otherwise deemed necessary, the authority of second instance shall ascertain the relevant facts of the case and shall adopt a decision.

(7) The authority of second instance shall terminate the appeal proceedings if all appeals have been withdrawn.

63. Amendment or withdrawal of decisions

Section 120

[Amendment or withdrawal of decisions]

(1)) If the authority finds that its decision that has not been judged by the authority of second instance, supervisory body or administrative court is unlawful, it shall amend or withdraw the decision in question, on one occasion at most, within one year from the date when it was delivered.

(2) Unless otherwise provided for by an act or government decree, with the exception of erroneous entries in official certificates and instruments, a decision may not be amended or withdrawn if it would compromise any right that was acquired and exercised in good faith.

64. Supervisory procedure

Section 121

[General rules applicable to supervisory procedures]

(1) The supervisory body shall have powers to examine the proceedings of the competent authority, and its decision, of its own motion and shall consequently:

- a) take the measures necessary to eliminate the nonfeasance, if any; and/or
- b) exercise the supervisory powers governed under Subsection (2).

(2)) If the decision of the authority is found to be unlawful, the supervisory body may reverse or annul such decision on one occasion at most, and shall - if necessary - order the decision-making authority to open new proceedings.

(3) The authority's decision may not be reversed and may not be annulled if:

- a) it has been heard and determined in substance by an administrative court;
- b) where any grounds for nullity applies the time referred to in Section 123 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; or
- d) if a period of five years has elapsed from the definitive date of a decision that confers any obligation, or from the last day of the time limit for performance, whichever is longer.

(4) Decisions adopted in supervisory procedures may be challenged before an administrative court.

65. Prosecutor's intervention and action

Section 122

[Prosecutor's intervention and action]

If the public prosecutor intervenes pursuant to the Act on the Prosecution Service, or takes action if the intervention fails, the authority may amend (modify) its decision impugned by the prosecutor without restrictions, or may withdraw

(annul) such decision even if any restriction or prohibition by the legislation on administrative proceedings apply.

66. Nullity

Section 123

[General rules on nullity]

(1)¹⁸ In the proceedings governed under this Chapter, the decision shall be annulled or withdrawn, and if necessary new proceedings shall be opened if:

a) the acting authority has no competence for the case, except for provisional measures;

b) it was adopted without having consulted the specialist authority as required, or without taking into consideration the assessment of the specialist authority;

c) the collective body adopting the decision was not established according to regulation, did not have a quorum, or did not have the voting percentage required;

d) ¹⁹the contents of the 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) ²⁰if indictment has been postponed by the public prosecutor, and such postponement has effectively elapsed;

f) it is contrary to the decision of the administrative court brought in the given case;

g) other clients should have joined the action; or

h) certain grave procedural violations are proclaimed as grounds for nullity by an act.

(2) With the exception set out in Subsection (3), 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 decision became definitive;

b) if a period of five years has elapsed from the time the decision that confers any obligation became definitive, 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; or

c) if the specialist authority excluded or ignored has given consent according to Subsection (2) of Section 56.

(3) Where the grounds for nullity referred to in Paragraphs d) and e) 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.

CHAPTER X

PROCEDURAL COSTS, PREPAYMENT AND BEARING OF COSTS

67. General rules relating to procedural costs

Section 124

[Procedural costs]

Procedural costs cover all costs arising over the course of proceedings.

68. Bearing procedural costs

Section 125

[General rules on the bearing of procedural costs]

(1) Unless otherwise prescribed by an act, the costs of proceedings shall be borne by the person who incurred them.

(2)) Any costs resulting from the unlawful conduct of either of the parties to the proceeding shall be borne by that party.

(3)) Procedural costs that cannot be charged to anyone shall be borne by the competent authority.

Section 126

[Procedural costs charged to clients]

(1)) If more than one client of the same interest is involved, they shall be jointly and severally liable for the bearing of procedural costs.

(2)) In actions in dispute the authority shall charge procedural costs to:

a) the client if his application is refused;

b) the adverse party if the decision is in favor of the client.

(3)) If the decision is in favor of the application only in part, the authority shall order the client and the adverse party to bear the costs proportionately.

Section 127

[Bearing of procedural costs by the authority and other parties to the proceedings]

(1) The procedural costs incurred in the proceedings of the requested authority or person shall be covered by the requesting authority.

(2) The competent authority shall cover the costs of translation and interpretation under Subsection (1) of Section 21.

69. Prepayment of procedural costs

Section 128

[General rules relating to the prepayment of procedural costs]

(1)) In proceedings opened upon request, procedural costs shall be advanced by the requesting client, unless otherwise prescribed by law. If more than one client of the same interest is involved, they shall be jointly and severally liable for advancing the procedural costs.

(2) The client may not be ordered to advance any procedural costs that is already covered by the fee.

(3) The costs of the procedure for taking evidence shall be advanced by the party requesting the evidence.

(4) The costs of police assistance shall be advanced by the authority requesting such assistance.

(5) The authority shall decide concerning prepayments at the time of occurrence of the costs, however, where the costs will be substantial, or if so justified by other reasons, the authority may order the party affected to deposit beforehand the sum estimated to cover such costs with the authority.

(6)) In proceedings opened or conducted on the authority's own initiative, procedural costs shall be advanced by the authority, except for the costs incurred in connection with the client's appearance, the costs of the client's representative, translation costs not to be borne by the authorities, and the costs of postage and document transmission incurred by the client and other parties to the proceeding.

70. Decision on the bearing of procedural costs

Section 129

[Decision on the bearing of procedural costs]

(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 where applicable.

(2) The amount of procedural costs shall be determined based on the underlying evidence available.

(3) The authority shall reduce the amount of procedural costs if they are considered unreasonably high.

71. Exemption from costs

Section 130

[General provisions relating to cost exemption]

(1) The authority may grant exemption from costs to any natural person client who - due to his income and financial situation - is unable to pay all or part of the procedural costs, with a view to easing the burden on such a person in enforcing his rights, or for other material reasons provided for by an act.

(2) Exemption from costs means total or partial exemption from advancing and bearing procedural costs.

(3) Exemption from costs covers the entire period of proceedings from the time the application is submitted and applies to enforcement procedures. The authority shall advance the procedural costs arising between the time when the client submitted an application for exemption for the first time and the definitive date of the decision on granting exemption, that should have been advanced by the client.

(4) 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.

(5) Certain types of cases may be defined by an act, government decree or municipal decree where the client is granted cost exemption.

CHAPTER XI

ENFORCEMENT

Section 131

[General rules of enforcement]

(1) The provisions of this Act shall apply to enforcement procedures subject to the derogations set out in this Chapter.

(2) ²¹ In the absence of any provision of this Act to the contrary, the JEA shall be applied.

(3) 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 ordering the enforcement, the body carrying out the enforcement procedure, enforceable decisions and obligor. 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 to prepayments and bearing of costs and the imposition of administrative penalties in enforcement procedures the provisions of this Act shall apply.

(4)) A demurrer of enforcement lodged in connection with the actions of the body carrying out the enforcement procedure shall be determined by the supervisory body, or the administrative court in the absence thereof.

(5) The provisions of the JEA relating to electronic auctions of movable and immovable property shall apply when the procedure is carried out by an independent court bailiff.

72. Enforceable decisions

Section 132²²

[Enforceable decisions]

If the obligor fails to comply with the authority's instruction set out in its definitive decision, it shall be deemed enforceable.

73. Order of enforcement

Section 133

[General rules applicable to orders of enforcement]

(1) Unless otherwise provided for by an act or government decree, enforcement shall be ordered by the decision-making authority, or by the authority of the first instance in case of a decision of the second instance.

(2) The authority shall order enforcement of its own initiative or upon the obligor's request. The authority shall order enforcement within five days from the time when the decision becomes enforceable, or from the date of receipt of the application for ordering the enforcement and shall notify the decision also to the body carrying out the enforcement procedure.

74. Implementation of enforcement

Section 134

[General rules applicable to the implementation of enforcement]

(1) Unless otherwise provided for by an act or government decree, or a municipal decree in administrative actions of local authorities, enforcement procedures shall be carried out by the state tax authority.

(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 ordering the enforcement shall have competence to adopt a ruling in the process.

75. Default interest

Section 135

[Provisions on default interest]

The obligor, if he fails to satisfy his money payment obligation in due time, and on any expense advanced by the State, for the duration of the advancement, shall pay default interest to the obligee at the rate of statutory interest.

76. Suspension of enforcement

Section 136

[General rules on the suspension of enforcement]

(1)) An enforcement procedure may be suspended by the authority ordering the enforcement or the authority of second instance.

(2) The enforcement procedure shall be suspended also 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 seized;

b) an objection against the presumption of service has been lodged and the facts and other circumstances presented in the objection appear strong enough for the objection to be approved;

c) the obligor has died or has been terminated, up to the date when the ruling on succession becomes definitive;

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; or

f) so prescribed by law.

(3) The body carrying out the enforcement procedure shall notify the authority ordering the enforcement concerning the grounds for suspension of which it is aware, including the possibility for ending the suspension.

(4) The authority ordering 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 subject to administrative penalty during the enforcement procedure.

(5)) If the grounds for suspension had been eliminated, the authority ordering the enforcement shall decide on the continuation of the enforcement.

77. Termination of enforcement procedures

Section 137

[General rules on the termination of enforcement procedures]

(1) The authority ordering the enforcement shall terminate the enforcement procedure even if:

a) the obligee requested the enforcement procedure to be terminated, provided that this does not adversely affect the rights of others;

b) the debt was time-barred, and termination of enforcement was requested by the obligor; or

c) further procedural steps are not expected to bring any results.

(2) The body carrying out the enforcement procedure shall notify the authority ordering the enforcement concerning the grounds for termination of which it is aware, and of the termination of the enforcement procedure.

78. Term of limitation of the right of enforcement

Section 138

[Term of limitation of the right of enforcement]

(1) The term of limitation of a right of enforcement shall expire after three years from the last day of the time limit for performance. A shorter term of limitation may be established by an act or government decree.

(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. However, six years after the time specified in Subsection (1) the resolution may not be executed.

CHAPTER XII CLOSING

PROVISIONS

79. Authorizations

Section 139

[Authorizations given to the Government]

The Government is hereby authorized to decree the regulations:

a) concerning procedural costs, cost exemptions, and charges connected to the right of access to documents and the payment of such charges;²³

b) on the delegation of specialist authorities for participating in cases where overriding reasons relating to the public interest apply.²⁴

Section 140

[Authorizations given to ministers]

The minister in charge of the judicial system is hereby authorized to decree:

a) the regulations for the storage and sale of assets sequestered or seized during administrative proceedings, and relating to the authorities' deposit accounts;²⁵

b) in agreement with the minister in charge of public finances, the regulations governing the remuneration of interpreters participating in administrative proceedings;²⁶

c) in agreement with the minister in charge of public finances, the regulations relating to eligible expenses of witnesses and official witnesses; and

d) ²⁷ the regulations concerning the remuneration of sign language interpreters in agreement with the minister in charge of public finances and the minister in charge of social and pension policy.²⁸

80. Entry into force

Section 141

[Entry into force of this Act]

This Act shall enter into force on 1 January 2018.

Section 142²⁹

81. Transitional provisions

Section 143

[Transitional provisions]

(1) The provisions of this Act shall apply to proceedings opened after the date of entry into force thereof and to reopened cases.

(2) The provisions of this Act applicable to enforcement shall also apply to enforcement procedures:

a) not yet ordered at the time of entry into force of this Act; and

b) in progress at the time of entry into force of this Act.

(3)³⁰ Final decisions of authorities issued before the time of entry into force of this Act shall be construed as definitive decisions for the purposes of this Act. For the purposes of this Act any reference made in legislation:

a) to the final decision of an administrative authority shall be construed as the authority's definitive decision;

b) to Act CXL of 2004 on the General Rules of Administrative Proceedings and Services shall be construed as this Act;

c) to the judicial review of the authority's decision shall be construed as an administrative action;

d) to national legal assistance shall be construed as a request;

e) to the rejection of an application without any examination as to its substance shall be construed as refusal of the application;

f) to seizure shall be construed as seizure and/or sequestration;

g) to the public disclosure of a decision shall be construed as proclamation of the decision.

82. Official abbreviation of this Act

Section 144

[Official abbreviation of this Act]

The abbreviated form of this Act shall be referred to in other legislation as "Ákr. - Administrative Procedure Act".

¹ The Act was adopted by the National Assembly at its session on 6 December 2016. Day of promulgation: 14 December 2016.

² The text of Article 8 Section (1) is the text as set out in Article 11 of Act CXCI of 2017.

³ The text of Article 8 (3) is the text as set out in Article 24 of Act CLXXIX of 2017.

⁴ The text of Article 17 is the text as amended by Article 25 a) of Act CLXXIX of 2017.

⁵ The text of Article 20 (1) is the text as amended by Article 25 b) of Act CLXXIX of 2017.

⁶ The text of Article 20 (3) is the text as amended by Article 25 c) of Act CLXXIX of 2017.

⁷ The text of Article 23 is the text as set out in Article 23 (2) of Act CLXXIX of 2017.

⁸ The text of Article 24 (4) is the text as amended by Article 25 d) of Act CLXXIX of 2017

⁹ The text of Article 27 (1) is the text as set out in Article 155 of Act XXXIV OF 2019.

-
- ¹⁰ Article 27 (3) is an amendment according to Article 156 of Act XXXIV of 2019.
- ¹¹ The text of Article 41 (1) is the text as set out in Article 522 (2) of Act L of 2017.
- ¹² The text of Article 42 is the text as set out in Article 76 (1) of Act CLXXXVI of 2017.
- ¹³ The text of Article 43 (8) is the text as set out in Article 23 (3) of Act CLXXXVI of 2017.
- ¹⁴ Article 43 (13) is an amendment according to Article 25 e) of Act CLXXIV of 2017.
- ¹⁵ The text of Article 70 (4) is the text as set out in Article 522 (3) of Act L of 2017.
- ¹⁶ Article 79 (1) is an amendment according to Article 523 a) of Act L of 2017.
- ¹⁷ Article 116 (5) was enacted by Article 76 (2) of Act CLXXXVI of 2017.
- ¹⁸ The text of Article 123 (1) is the text as set out in Article 522 (4) of Act L of 2017.
- ¹⁹ Article 123 (1) d) is an amendment according to Article 500 a) of Act CXCVII of 2017.
- ²⁰ Article 123 (1) e) is an amendment according to Article 500 b) of Act CXCVII of 2017.
- ²¹ The text of Article 131 (2) is the text as set out in Article 251 of Act CLIX of 2017.
- ²² Article 132 is an amendment according to Article 523 b) of Act L of 2017.
- ²³ See Government Decree 469/2017. (XII. 28.)
- ²⁴ See Government Decree 531/2017. (XII. 29.)
- ²⁵ See Ministry of Justice Decree (IM) 18/2017. (XII. 15.)
- ²⁶ See Ministry of Justice Decree (IM) 23/2017. (XII. 22.)
- ²⁷ Article 140 d) is an amendment according to Article 159 of Act LXVI of 2019.
- ²⁸ See Ministry of Justice Decree (IM) 23/2017. (XII. 22.)
- ²⁹ Based on Article 12 (2) of Act CXXX of 2010, Article 142 was repealed.
- ³⁰ The text of Article 143 (3) is the text as set out in Article 23 (4) of Act CLXXIX of 2017.

Hungarian Official Journal Publisher

With regard to texts available on the National Archives of Legislative Gazette, publisher reserves all rights.