

## HUNGARY

### Act CL of 2016 on the Code of General Administrative Procedure

#### CHAPTER I

#### FUNDAMENTAL PRINCIPLES AND THE SCOPE OF THE ACT

##### 1. Fundamental principles

###### **Section 1** [*The role of fundamental principles*]

In administrative authority procedures, in harmony with Articles XXIV and XXVIII of the Fundamental Law, all participants in the procedure shall act in accordance with the rules applying to them, and by asserting in each phase of the procedure the fundamental principles and fundamental rules specified under this Chapter.

###### **Section 2** [*Principle of legality*]

(1) The administrative authority (hereinafter “authority”) shall act on the basis of authorisation by law, exercising its powers within the framework of the law and according to their purpose.

(2) When exercising its powers, the authority shall act

a) in compliance with the requirements of professionalism, simplicity, cooperation with the party and the principle of good faith,

b) complying with the requirements of equality before the law and equal treatment, without undue discrimination and partiality,

c) within the time limit specified by law, within a reasonable time.

###### **Section 3** [*Principle of ex officio procedure*]

With the exception of those procedures which may be commenced exclusively upon application, the authority may commence a procedure *ex officio* and it may continue a procedure commenced upon application, subject to the conditions specified by law. It determines *ex officio* the facts of the case and the method for and the scope of taking of evidence, and, in the framework of this Act, it may review its own decisions and procedure, as well as the decisions and procedures of any authority subject to its supervision.

###### **Section 4** [*Principle of efficiency*]

In the interest of efficiency, the authority shall organise its activity in such a manner as to result in the least possible expense for all participants in the procedure and, without prejudice to the requirements of clarifying the facts of the case, for the procedure to be closed as expeditiously as possible with the application of advanced technologies.

###### **Section 5** [*Fundamental principles concerning the party*]

(1) In the course of the procedure, the party may make a statement or observation at any time.

(2) The authority shall ensure that

a) the party and

b) the witness, the official witness, the expert, the interpreter, the holder of the object of the inspection and the party’s representative (hereinafter jointly “other participants in the procedure”)

are aware of their rights and obligations and shall promote the exercise of parties' rights.

**Section 6** [*Principle of good faith and principle of mutual trust*]

(1) All participants in the procedure shall act in good faith and cooperate with the other participants.

(2) Nobody may engage in conduct aimed at deceiving the authorities or unjustifiably delaying the decision-making or enforcement procedure.

(3) In the procedure, the good faith of the party and the other participants in the procedure shall be presumed. It is for the authority to prove bad faith.

## 2. The scope of the Act

**Section 7** [*Administrative cases*]

(1) In the course of its procedures, the authority shall apply the provisions of this Act in administrative cases (hereinafter "case") falling under the scope of this Act, as well as in the course of administrative audits.

(2) For the purposes of this Act, a case means the process in the course of the administration of which the authority, in making its decision, establishes the rights or obligations of the party, adjudicates his legal dispute, establishes his violation of rights, verifies a fact, status or data (hereinafter jointly "data"), or operates a register, as well as enforces decisions concerning these.

**Section 8** [*Relationship between general and special procedural rules*]

(1) The following shall be not covered by this Act:

- a) infraction procedures,
- b) election procedures, initiation of referendums and referendum procedures,
- c) tax and customs administration procedures,
- d) asylum and immigration procedures and, with the exception of the issue of citizenship certificates, citizenship procedures
- e) competition supervision proceedings, and
- f) authority procedures related to the functions of the Hungarian National Bank specified in section 4 (2) and (5) to (9) of Act CXXXIX of 2013 on the Hungarian National Bank and in Act XV of 2014 on trustees and the rules of their activities.

(2) Laws governing administrative authority procedures not listed under paragraph (1) may only derogate from the provisions of this Act if permitted by this Act.

(3) With the exception of laws may establish complementary procedural provisions in accordance with the rules of this Act.

**Section 9** [*The authority*]

For the purposes of this Act, an authority means an organ, organisation or person which (who) has been authorised to exercise public authority by an Act, government decree or, in an administrative case of a local government, by a local government decree, or has been designated by law to exercise public authority. The authority may not be relieved of cases falling within its material competence.

**Section 10** [*The party*]

(1) Party means any natural or legal person or any organisation whose rights or lawful interests are directly affected by the case, with respect to whom a public register holds data or who (which) is subjected to administrative audit.

(2) An Act or government decree may specify, in respect of certain types of cases, the scope of those persons and organisations who (which) are considered parties by virtue of the law.

**Section 11** [*Provisions on party succession*]

(1) Except where excluded on account of the personal nature of the case or the content of the obligation, the departing party shall be replaced by his legal successor under civil law.

(2) Where the subject matter of the case affects a right *in rem*, the departing party shall be replaced by the holder of the right *in rem* affected by the case.

**3. Procedural capacity and representation**

**Section 12** [*Procedural capacity*]

A natural person party shall have procedural capacity if he is considered to have the capacity to act with regard to the subject matter of the case.

**Section 13** [*General rules of representation*]

(1) Where the party is not required by an Act to proceed in person,

a) his statutory representative or the person authorised by him or by his statutory representative may proceed in his stead, or

b) the party and his representative may proceed jointly.

(2) The proceedings of the statutory representative of a legal person shall be deemed as if the legal person proceeded in person.

(3) The same person may not represent parties with opposing interests.

(4) The authority shall reject a representative to proceed, if

a) he is manifestly incapable of providing representation in the case, or

b) he fails to provide proof of entitlement to represent, despite being called upon to remedy that deficiency.

(5) If the representative is rejected, the authority shall call upon the party to act in person or to arrange for a representative capable of providing representation.

(6) Where the party has a representative and the party has not indicated otherwise, the authority shall send documents to the representative, with the exception of the summons to appear in person. The authority shall simultaneously inform the representative of a summons to appear in person.

(7) The authority shall call upon the party to make a statement if, in the course of the procedure, the statements made by the party and the representative or representatives do not coincide or if their other procedural acts are contradictory. Unless the party declares otherwise, the authority shall consider the later act or statement to be valid.

(8) For any natural person party who does not have a representative and

a) whose whereabouts are unknown, or

b) is unable to proceed in the case,

the proceeding authority shall ensure that a guardian *ad litem* is appointed.

**Section 14** [*Rules on authorisation*]

(1) The authorised person shall provide proof of representation unless this is included in the client settings register. Authorisation shall be incorporated in a public deed or a private deed of full probative value, or shall be recorded in the minutes.

(2) Unless the authorisation provides otherwise, it shall extend to all statements and acts related to the procedure.

(3) The termination of an authorisation due to withdrawal, unilateral termination, or the death or termination without legal successor of the party shall be effective towards the authority as of the time the authority is notified, and towards the other parties as of the time the other parties are informed respectively.

## CHAPTER II

### FUNDAMENTAL PROVISIONS

#### 4. Obligation to proceed

##### **Section 15** [*Obligation to proceed*]

(1) Within the area of its territorial competence or on the basis of designation, the authority shall be obliged to proceed in cases falling within its material competence.

(2) Except in the case of legitimate silence, if the authority fails to perform its duty to conduct a procedure within the administrative time limit, its supervisory organ specified by law (hereinafter “supervisory organ”) shall instruct it to conduct the procedure. Where there is no supervisory organ or it takes no action, the court proceeding in administrative court actions (hereinafter “administrative court”) shall oblige the authority to conduct the procedure.

#### 5. Territorial competence

##### **Section 16** [*Territorial competence*]

(1) Unless otherwise provided by law, of the authorities having identical material competence, that authority shall proceed, in the area of territorial competence of which

- a) the real estate being the subject matter of the case lies or, in the absence of such,
- b) the activity is being carried out or intended to be carried out, or, in the absence of such,
- c) the unlawful act was committed.

(2) Where on the basis of paragraph (1), the competent authority cannot be determined, at the choice of the applicant party, the proceeding authority shall be the one having territorial competence over the party’s domicile or place of residence (hereinafter jointly “domicile”) or over its seat, establishment or branch office (hereinafter jointly “seat”).

(3) Where the domicile of the party is unknown or he has no domicile or contact address in Hungary (hereinafter jointly “address”), territorial competence established pursuant to paragraph (2) shall be determined on the basis of the last known address in Hungary of the party.

(4) Where, with regard to paragraphs (1) to (3), the competent authority cannot be determined, unless otherwise provided by law, the authority to proceed shall be the one entitled to proceed in the capital in the given type of case; where there are several authorities in the capital having identical material competences, the provisions governing disputes over territorial competence shall apply accordingly.

(5) Where several authorities have territorial competence in a case, the authority to proceed shall be the one at which the procedure first commenced (hereinafter precedence”).

#### 6. Examination of material and territorial competence

##### **Section 17** [*Examination of competence*]

The authority shall examine *ex officio* its own material and territorial competence in every phase of the procedure. If it detects the absence of either material or territorial competence, and the authority having territorial competence in the case can be established beyond doubt, it shall transfer the case to that authority; in the absence of such an authority, it shall reject the application or terminate the procedure.

## **7. Dispute over material and territorial competence**

### **Section 18** [*Dispute over material and territorial competence*]

- (1) Where, in the same case,
- a) several authorities held that they have material and territorial competence,
  - b) several authorities held that they do not have material and territorial competence, and, consequently, the procedure may not be commenced or is not in progress, or
  - c) a procedure was commenced before several authorities having territorial competence and, on the basis of precedence, it cannot be determined which authority is entitled to proceed,
- the authorities involved shall be obliged to attempt to resolve the dispute among themselves immediately, but within three days at the latest.
- (2) Consultation shall be initiated by the authority at which the procedure commenced later, or by the authority that established the absence of its material and territorial competence later or by the authority to which the party submitted its application for carrying out the consultation.
- (3) Where the procedure referred to under paragraph (1) remains unsuccessful, the proceeding authority shall be designated,
- a) if there is a conflict of territorial competence, within five days by, the closest common supervisory organ or, in the absence of such an organ, by the capital or county government office with territorial competence over the area of operation of the authority requesting the settlement of the dispute,
  - b) if there is a conflict over material competence, by the administrative court.

## **8. Procedure outside the area of territorial competence**

### **Section 19** [*Procedure outside the area of territorial competence*]

- (1) The authority may also carry out procedural acts outside the area of its territorial competence and, in the framework thereof, it may also take provisional security measures.
- (2) Should the authority intend to carry out procedural acts outside the area of its territorial competence then it shall inform the competent authority in advance.

## **9. Language use**

### **Section 20** [*Official language of the procedure*]

- (1) The official language of administrative authority procedures is Hungarian. This shall not preclude the use of another language in the course of the procedures of the consular representative or the minister responsible for foreign policy.
- (2) In addition to Hungarian, the bodies of the settlement, regional and national self-governments of national minorities may determine in a final decision the official language of procedures falling under their material competence.
- (3) A person proceeding on behalf of a national minority organisation and a natural person falling under the scope of the Act on the rights of national minorities may use his national minority language before the authority. At the request of the party, the authority shall translate the decision made in Hungarian on an application submitted in a national minority language into the language of the application.
- (4) Where there is any conflict between the Hungarian text and foreign language text of the authority's decision, the Hungarian language version shall be authentic.

(5) A law may set forth different provisions for the use of languages for the issue of official verification cards and official certificates and for making entries into the public register.

**Section 21** [*Foreign nationals' language use rights*] (1) If the authority commences, *ex officio*, a procedure involving an immediate procedural measure during the stay in Hungary of a foreign natural person party who is not familiar with the Hungarian language, or a natural person party otherwise turns to the Hungarian authority for an immediate protection measure then the authority shall ensure that no prejudice to the party will result from not being familiar with the Hungarian language.

(2) A party who is not familiar with the Hungarian language may request the authority to adjudicate his application prepared in his mother tongue or in an intermediary language in cases not falling under the scope of paragraph (1) as well, provided that he advances and bears the costs of translation and interpretation.

## 10. Exclusion

### **Section 22** [*General rule of exclusion*]

A person who cannot be expected to adjudicate the case in an objective way shall not participate in administering the case.

### **Section 23** [*Grounds for exclusion*]

(1) Anyone whose right or legitimate interest is directly affected by the case, other participants and the supporter shall be excluded from administering the case.

(2) Any person who participated in administering the case on first instance shall be excluded from administering the case on second instance.

(3) An authority whose right or legitimate interest is directly affected by the case shall be excluded from administering it. The authority shall not be excluded on the grounds that a payment obligation established in the final decision is carried out to the account designated by the authority.

(4) The local government clerk shall be excluded from administering a case in which the local government, its organ or the mayor operating within the area of territorial competence of the clerk is a party.

(5) An authority, the head of which is subject to any ground for exclusion shall be excluded from administering the case.

**Section 24** [*Decision on exclusion; designation of the case administrator or the proceeding authority*]

(1) Should the case administrator identify grounds for exclusion, he shall report the existence of such grounds for exclusion to the head of the authority. Grounds for exclusion may also be reported by the party.

(2) The head of the authority shall decide on the issue of exclusion and, where necessary, designate another case administrator and also decide as to whether the procedural acts performed by the excluded case administrator should be repeated. Where the grounds for exclusion were reported by the party, the authority shall decide in the form of a procedural decision and communicate it to the party.

(3) Where the notification of the grounds for exclusion made by the party is manifestly unfounded or the party again makes an unfounded notification in the same procedure for the exclusion of the same case administrator, an administrative fine may be imposed upon him in the procedural decision rejecting exclusion.

(4) Where grounds for exclusion arise in connection with the authority, in the absence of any law providing otherwise, another authority with identical material competence designated by the head of the supervisory organ shall proceed.

(5) Where

a) there is no other authority with identical material competence that may be designated, or

b) the authority has no supervisory organ,

the authority in relation to which grounds for exclusion emerged shall proceed.

(6) The authority shall inform the party and the supervisory organ of a case under paragraph (5).

(7) The rules on exclusion shall apply accordingly to the members and heads of bodies proceeding in the case, and to the head of the authority proceeding in the case who is vested with the power to issue official written documents, with the proviso that, where no other person vested with the power to issue official written documents or one who could be vested with such power is available at the authority, the person who exercises that power shall proceed.

(8) In the administrative cases of local governments, decisions on exclusion shall be subject to the procedure pertaining to personal involvement as specified in an Act.

### **11. Request for administrative assistance**

#### **Section 25** [*Rules on requests for administrative assistance*]

(1) By setting a time limit of at least five days, the authority may seek assistance from another organ or person if

a) a procedural act must be performed outside the area of the territorial competence of the requesting authority, or

b) another party is in possession of the data or document necessary for the purposes of the procedure.

(2) The requested organ shall refuse to comply with the request for administrative assistance if the request does not fall within its material or territorial competence.

### **12. General rules on communication**

#### **Section 26** [*General rules on communication*]

(1) The authority shall maintain contact with the party and the participants in the procedure in writing or through electronic means as specified under the Act CCXXII of 2015 on the general rules on electronic administration and trust services (hereinafter the “Eüsztv.”) (hereinafter jointly “in writing”), or in person or through an electronic form not deemed to be in writing (hereinafter jointly “orally”).

(2) Unless otherwise provided by an Act, the form of communication shall be chosen by the party, based on the information received from the authority. The party may divert to another form of communication from the one chosen if available at the authority.

(3) In an event threatening life or to cause serious damage, the form of communication shall be chosen by the authority.

### **13. Data management**

#### **Section 27** [*Rules on data management*]

(1) The authority shall be entitled to learn and manage the main personal identification data of the party and other participants in the procedure and the personal data specified under the Act regulating the relevant type of case, as well as, unless an Act provides otherwise, other personal data essential for clarifying the facts of the case. In procedures commenced upon application, it shall be presumed that the

applicant party has given his consent for the personal data necessary to clarify the facts of the case, including his sensitive data, to be managed.

(2) The authority shall ensure that no secrets protected by an Act (hereinafter “protected data”) are divulged to the public or become known to unauthorised persons and that the protection of personal data is guaranteed.

(3) The authority may, in the course of its procedure, learn, in the manner and within the scope specified by law, those protected data which are related to its procedure or the management of which is necessary for successfully conducting the procedure.

## **14. Confidential management of data**

### **Section 28** [*Confidential management of data*]

(1) Where justified, the authority shall, upon application or *ex officio*, order the confidential management of the main personal identification data and address of the party and other participants in the procedure if they may suffer seriously detrimental consequences due to their participation in the procedure. The procedural decision shall be communicated to the person who submitted the application.

(2) The expert may request, pursuant to paragraph (1), the confidential management of his main personal identification data and address not featured among his publicly available data recorded in the register of judicial experts.

(3) The authority shall keep the main personal identification data and addresses separate and confidential in the case file and shall ensure that the confidentially managed data do not become accessible in the course of procedural acts.

## **15. Procedural protection of minors, persons of full legal age having no or partially limited capacity to act, and persons with disabilities**

### **Section 29** [*General rules*]

(1) Minors, persons of full legal age having no or partially limited capacity to act and persons with disabilities shall be entitled to increased protection in administrative authority procedures, therefore

a) they may only be interviewed at a hearing if interviewing them in the presence of other persons participating in the procedure does not violate their interests,

b) they shall, where possible, be interviewed at their domicile,

c) they may only be called upon to make a statement in person and they may only be heard as witnesses if their circumstances so allow and their personal statements or witness testimonies cannot be substituted by any other means, and,

d) they shall be guaranteed equal access.

(2) A person having no capacity to act may only be called upon to make a statement or may only be heard as a witness if he wishes to make a statement or a witness testimony and his statutory representative or, in the event of a conflict of interest, his *ad hoc* custodian or *ad hoc* guardian (hereinafter jointly “*ad hoc* custodian”) consents to this. An oral statement or a witness testimony may only be made in the presence of the statutory representative or the *ad hoc* custodian; written statements must be signed by the statutory representative or the *ad hoc* custodian. When interviewing a witness having no capacity to act, the authority shall not advise the witness on the consequences of perjury.

(3) Where the party or another participant in the procedure is hearing-impaired then he shall, at his request, be heard using the services of a sign language interpreter, otherwise the hearing-impaired person present may, instead of being interviewed, also make a statement in writing. Where the party or another participant



in the procedure is deaf-blind then he shall, at his request, be interviewed using the services of a sign language interpreter. If the party or another participant in the procedure who is present is speech-impaired then he may, at his request, make a statement in writing instead of being interviewed.

**Section 30** [*Special provisions on the confidential management of data and the restriction of the right of access to files*]

In order to protect the rights and interests of minors, persons of full legal age having no or partially limited capacity to act, where any of the above is a party, witness, holder of the object of the inspection or a person under surveillance, the authority may order, even in the absence of such an application, the confidential management of the data of the person affected and the restriction of the right of access to files. The relevant procedural decision shall also be communicated to the statutory representative.

**Section 31** [*Special provisions on summons*]

Where the person summoned has limited capacity to act or has partially limited capacity to act, the authority shall inform his statutory representative. Where the person summoned has no capacity to act, the authority shall summon him through his statutory representative. The statutory representative shall ensure the appearance of the person summoned.

## 16. The supporter

**Section 32** [*The supporter*]

For purposes of promoting supported decision-making not affecting the capacity to act, the supporter appointed by the guardianship authority, pursuant to the Act on the Civil Code (hereinafter the "Ptk."),

a) may be present simultaneously with the supported person at each procedural act, including a closed hearing; however, his absence shall not be an obstacle to the performance of the procedural act or to the continuation of the procedure,

b) may, in the interest of facilitating statements and providing data, consult with the supported person in a manner not disturbing the order of the procedural act.

## 17. Right of access to files in the procedure

**Section 33** [*The right of access to files*]

(1) At every phase of the procedure and after its conclusion, the party may access the files created in the course of the procedure.

(2) The witness may access the files containing his witness testimony and the holder of the object of the inspection may access the files created in relation to the inspection.

(3) A third party may only access files containing personal data or protected data if he provides proof that becoming familiar with the data is necessary for the assertion of his right or for the performance of his obligation imposed by law, a court decision or a final decision by an authority.

(4) In the course of access to files, the person entitled thereto may make copies or excerpts or he may, for a fee specified in a government decree, request copies which shall, upon request, be authenticated by the authority.

(5) If no Act restricts or excludes access to the decision then, following the conclusion of the procedure, a version of the final decision with administrative finality not containing any personal data or protected data, as well as the procedural decision annulling the final decision of first instance and instructing the authority

which adopted the final decision of first instance to carry out a new procedure, may be accessed by anyone without restriction.

(6) For individual types of cases, an Act may determine additional conditions applicable to accessing files, as well as the categories of persons entitled to access files pursuant to paragraph (3).

**Section 34** [*Limitations on the right of access to files*]

(1) Drafts of decisions shall not be accessed.

(2) A file or a part of a file, from which a conclusion may be drawn as to protected data or to personal data the conditions of the access to which as specified in an Act are not fulfilled, may not be accessed, except where not having access to the data, excluding classified data, would impede a person entitled to access files in exercising his rights as provided under this Act.

(3) The authority shall, upon an application, ensure the access to the files, even after the conclusion of the procedure, or shall dismiss that application in a procedural decision.

*CHAPTER III*

*AUTHORITY PROCEDURE COMMENCED UPON APPLICATION*

**18. The application**

**Section 35** [*The application*]

(1) The application shall be a statement made by the party in which he requests that an authority procedure be carried out or a decision be made by the authority for the purpose of asserting his right or legitimate interest.

(2) Unless an Act or government decree provides otherwise, the application may be submitted to the authority in writing or in person.

(3) The party may freely avail of his application until the decision made on the application has reached administrative finality.

(4) The provisions of this section shall apply accordingly, in addition to the application to commence the procedure, to all other applications submitted by the participants in the procedure in relation to it.

**Section 36** [*The contents of the application*]

(1) Unless the law provides for additional requirements, the application shall contain the data information necessary for the identification of the party and his representative and contact details.

(2) The party may not be required to attach the statement of a specialist authority or a preliminary statement of a specialist authority to his application and, with the exception of the data necessary for the identification of the party, he may not be required to submit data that is considered to be public information or that must be recorded in a publicly certified register established by law.

**Section 37** [*Submission of the application*]

(1) The application may be submitted to the authority having territorial competence or, unless precluded by an Act or government decree, to a government window.

(2) The procedure commences on the day following the arrival of the application at the proceeding authority.

**Section 38** [*Adjudicating the application*]

The application shall be adjudicated on the basis of its content, even if that does not coincide with the designation used by the party.

## 19. Summary procedure and full procedure

### **Section 39** [*Types of procedures*]

The application shall be adjudicated in an automatic decision-making procedure, a summary procedure or a full procedure. For certain cases, an Act may exclude the application of a summary procedure.

### **Section 40** [*Automatic decision-making*]

Automatic decision-making shall apply if

- a) it is permitted by an Act or government decree,
- b) all data are available to the authority at the time of the submission of the application,
- c) decision-making does not require deliberation, and
- d) there is no party with opposing interests.

### **Section 41** [*Summary procedure*]

(1) Summary procedure shall apply, if

- a) the facts of the case are clear on the basis of the complete submitted application and its attachments, as well as the data available to the authority, and
- b) there is no party with opposing interests.

(2) Where the authority establishes that any condition listed under paragraph (1) is not met, it shall refrain from applying the rules of summary procedure, and shall make a decision with suspensive effect or a decision as specified under section 43 (7) or (13).

(3) Where the party submits a new piece of evidence or makes a motion to present evidence without being called upon to do so then the authority shall consider this to be an application requesting a full procedure to be performed and it shall adjudicate the application in a full procedure.

### **Section 42** [*Adjudicating an application in a full procedure*]

If no appeal lies against a decision made in an automatic decision-making procedure or summary procedure, the party may request the authority, within five days following the communication of the decision, to reconsider his application in a full procedure.

### **Section 43** [*Decision with suspensive effect*]

(1) The authority shall, in accordance with the provisions under this section, make a decision with suspensive effect within eight days from the commencement of the procedure.

(2) In the decision with suspensive effect, the authority shall decide whether

- a) the authority shall pay to the applicant party an amount equal to the fee payable for the procedure or, pursuant to the Act on duties, to the administrative service fee for administrative procedures or for making recourse to services of an administrative nature (hereinafter "fee"), or, in the absence of such, ten thousand forints,
- b) the applicant party shall be exempt from payment of the procedural costs,
- c) the party shall be entitled to exercise the right he applied for.

(3) Paragraph (2) c) shall not apply to

- a) issuing an official certificate,
- b) issuing an official verification card,
- c) making an entry to, deletion from or amendment in a public register,
- d) procedures where, on the merits of the case, an amount must be determined at the discretion of the authority or conditional upon clarifying the facts of the case,

*e)* where, in the case at hand, a law permits or prescribes entering into an authoritative contract, and

*f)* where an Act so provides.

(4) The decision specified under paragraph (1) shall produce legal effects if, by the expiry of the administrative time limit, the authority has not made a decision on the merits of the authority case and it has not terminated the procedure. A decision with suspensive effect made before a decision ordering the suspension or establishing the staying of the procedure shall not produce legal effects.

(5) In the event of stay or suspension of the procedure, or keeping it pending, the proceeding authority shall, through the proper application of paragraph (7), make a decision with suspensive effect on the eighth day at the latest following the end of the stay, suspension or having kept it pending, on the continuation of the procedure and providing the date specified in paragraph (4) calculated regardless of the period of stay, suspension or being pending.

(6) The time limit for legal remedy against a final decision containing the provision pursuant to paragraph (2) *c)* shall begin on the day following the communication of the final decision and the date the conditions specified under paragraph (4) are met.

(7) The authority shall refrain from making a decision specified under paragraph (1) where, within eight days from the commencement of the procedure,

*a)* it rejects the application,

*b)* it terminates the procedure,

*c)* it makes a decision on the merits,

*d)* it suspends the procedure or keeps the administration of the submission as pending, or

*e)* the procedure is stayed.

(8) No decision with suspensive effect may be made if

*a)* the decision falls under the material competence of

*aa)* a central state administration organ or its head, with the exception of a central agency, or

*ab)* the Hungarian National Bank,

*b)* the subject matter of the case is a structure used for national defence and military purposes or for the purposes of national security.

(9) The decision with suspensive effect shall contain the date under paragraph (4), specified as a calendar day.

(10) The authority shall inform its supervisory organ and those to whom it communicated the decision of the fact that the decision with suspensive effect reached administrative finality, and shall take measures for the payment of the amount pursuant to paragraph (2) *a)*, as well as for refunding the fees or charges paid by the applicant for the procedure and for the procedure of the specialist authority and the procedural costs advanced by the applicant.

(11) In the case specified under paragraph (10), the specialist authority and the requested organ shall, within five days from the communication of the fact that the decision reached administrative finality, take measures for the payment to the proceeding authority of the fees and charges incurred with respect to the procedure of the authority, payable by the applicant party, and of the procedural costs incurred with respect to the procedure of the authority, payable by the applicant party.

(12) In the appeal and review procedure regarding the final decision with suspensive effect, it shall be examined whether the conditions for exercising the right applied for are met, notwithstanding the provisions of this section.

(13) If no decision pursuant to paragraph (1) may be made, the authority shall administer the case in a full procedure. The authority shall, where necessary, request a specialist authority to provide assistance; it shall decide on the issues specified under paragraph (7) *d*) and *e*), and the procedural acts expected to be necessary for clarifying the facts of the case; it shall issue a notice for the deficiencies to be remedied; furthermore, it shall provide information on the legal consequences of failing to meet a time limit.

## **20. Remedy of deficiencies**

### **Section 44** [*Remedy of deficiencies*]

Where the application

*a*) fails to comply with the requirements set out in law, or

*b*) complies with the requirements set out in law but, with regard to the new data occurred in the course of clarifying the facts of the case, it proves to be necessary,

the proceeding authority shall call upon the party on one occasion to remedy deficiencies, setting a time limit and warning him of the legal consequences of a failure to comply, unless an Act or government decree provides otherwise.

## **21. The associated procedure**

### **Section 45** [*The associated procedure*]

(1) Where the decision of the authority is a condition for a decision to be brought in another authority procedure (hereinafter “associated procedure”), the authority shall inform the party that the application to be submitted to the authority proceeding in the associated procedure may also be submitted to this authority.

(2) Where, on the basis of this information, the party so requests, the authority shall transfer its decision, the application submitted to this authority and pieces of evidence in its possession and relevant for the associated procedure to the authority proceeding in the associated procedure. The authority proceeding in the associated procedure shall communicate its decision to the party via the authority.

(3) The authority shall proceed pursuant to paragraphs (1) and (2) also where the decision of the authority proceeding in the associated procedure is necessary for conducting another associated procedure. In such instances, the authority shall inform the party of all associated procedures.

(4) Where the party submitted the application for an associated procedure as defined under paragraph (1) without having submitted his application for a procedure forming the condition for the decision to be made in the associated procedure (hereinafter “preceding procedure”), the authority proceeding in the associated procedure shall transfer the application to the authority proceeding in the preceding procedure.

(5) Unless excluded by law or otherwise stated by the party, his application for carrying out the associated procedure shall also be considered to be an application for carrying out the preceding procedure.

(6) The authority proceeding in the preceding procedure shall send its decision, once it has reached administrative finality, to the authority proceeding in the associated procedure.

(7) Where the law attaches legal consequences to it, the date of the submission of the application for the associated procedure pursuant to paragraph (4) shall be taken into consideration, with the proviso that the associated procedure shall commence on the day following the arrival at the authority proceeding in the associated procedure of the decision with administrative finality made in the preceding procedure.

## **22. Rejection of the application**

### **Section 46** [*Rejection of the application*]

- (1) The authority shall reject the application if
- a) a condition specified by law for the commencement of the procedure is not met and this Act does not attach further legal consequences thereto, or
  - b) an application for the assertion of the same right has already been adjudicated, on the merits, by the court or the authority and the contents of the application and the relevant legal regulations have not changed.
- (2) The authority may reject the application if it has not been submitted in the prescribed form. If the applicant resubmits his application within five days in the prescribed form, the authority shall carry out the procedure in a full procedure, with the proviso that the application shall be considered to have been submitted on the date of the original submission, but the administrative time limit shall be calculated from the day of resubmission.
- (3) Where the party resubmits his application pursuant to paragraph (2) and the law sets a time limit or a due date then, with regard to the submission of the application, the time limit and the due date shall be considered to have been met upon submission.
- (4) Resubmission shall constitute a waiver of the right to appeal against the rejecting decision or a withdrawal from appeal.

## **23. Termination of the procedure**

### **Section 47** [*Termination of the procedure*]

- (1) The authority shall terminate the procedure if
- a) the application should have been rejected, but the authority obtained information concerning the grounds for rejection following the commencement of the procedure,
  - b) the applicant party makes no statement after being called upon by the authority to do so and the application cannot be adjudicated in its absence, and the authority does not continue the procedure *ex officio*,
  - c) the procedure has become redundant,
  - d) the party fails to comply with his obligation to advance procedural costs,
  - e) the procedure was commenced upon application and each applicant party has withdrawn his application, all parties with opposing interests, if any, consented to the withdrawal and the procedure may not be continued *ex officio*,
  - f) the authority establishes that another authority has already proceeded in the case or another authority has been designated, or
  - g) the decision on the merits of the case depends on the prior adjudication of a question (hereinafter “preliminary question”) which falls under the material competence of a court or another organ, and the party fails to comply with the call of the authority to commence the procedure.
- (2) In the instance under paragraph (1)f), the authority shall, where necessary, revoke its decision and communicate this decision to the authority which proceeded earlier or was designated for the case.

## **24. Suspension and stay of the procedure**

### **Section 48** [*Suspension of the procedure*]

- (1) The authority shall suspend the procedure if
- a) the preliminary question falls under the material competence of a court, or

b) a foreign organ must be requested to assist in the case.

(2) An Act may provide for the suspension of the procedure where the preliminary question falls under the material competence of another organ or if it cannot be reasonably decided in the absence of another decision closely related to the given case made by the same authority.

(3) Where the party is entitled to commence a procedure before a court or another organ, the authority shall call upon him to do so, setting an appropriate time limit.

(4) In the instances specified under paragraph (1) a) and under paragraph (2), upon the application of the party (or if there are more than one party, upon their joint application), the authority shall make a decision on the merits.

(5) The authority shall communicate its procedural decision on the suspension of the procedure to the court or the organ specified under paragraph (2) with a request to be informed of the conclusion of the procedure.

**Section 49** [*Stay of the procedure*]

(1) Unless excluded by law, the procedure shall be stayed if so requested by the party or, if there are more than one party, jointly by the parties.

(2) The procedure shall be continued upon the application of any party. After a stay of six months, a procedure which may only be continued upon application shall terminate. The authority shall inform those to whom it would otherwise communicate its final decision of the fact of the termination.

**25. Administrative time limit and calculation of the time limit**

**Section 50** [*The administrative time limit*]

(1) Unless provided otherwise by an Act, the administrative time limit shall start on the day of the commencement of the procedure.

- (2) The administrative time limit shall be
- a) twenty-four hours for automatic decision-making,
  - b) eight days in a summary procedure,
  - c) sixty days in a full procedure.

(3) An administrative time limit longer than the time limit specified under paragraph (2) c) may be determined by an Act, a shorter time limit may be determined by law.

(4) Within the administrative time limit, measures shall also be taken to communicate the decision.

(5) The administrative time limit shall not include the period of time

- a) of the suspension and the stay of the procedure, and
- b) of the failure or delay of the party, if no decision with suspensive effect is allowed to be made.

(6) Where no Act or government decree contains a provision on the time limit for the performance of a procedural act, the authority, the party and the other participants in the procedure shall, immediately but no later than within eight days, ensure that the procedural act is performed, or the procedural decision is made.

(7) Where the authority is a collegiate body, it shall make its decision in the case falling under its material competence within the administrative time limit or, where this is not possible, at its first meeting following the expiry of the time limit.

(8) The case shall be administered as a matter of priority if

- a) the interests of a minor party are in jeopardy,
- b) it is justified by the prevention of a life-threatening situation or an event threatening to cause serious damage,

c) the authority has taken provisional security measures, or  
d) it is otherwise necessary in the interests of public safety, public order or national security.

(9) Where less than fifteen days remain until the end of the time limit, further procedural acts shall be performed as a matter of priority.

**Section 51** [*Exceeding the time limit*]

Where the authority

a) does not make a decision with suspensive effect within the time limit,  
b) exceeds the administrative time limit and a decision with suspensive effect was not allowed to be made, or  
c) disregards, without justification, the provisions on automatic decision-making or on summary procedure,

it shall pay the amount corresponding to the fees or charges payable for carrying out the procedure or, in their absence, ten thousand forints to the applicant party who is also exempted from paying any procedural costs.

**Section 52** [*Calculation of the time limit*]

(1) A time limit determined 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 communication, service, posting and removal of a public notice, and the day of public announcement.

(2) A time limit determined in months or years shall expire on the day which, based on its number, corresponds to the starting day or, if there is no corresponding day in the month of the expiry of the time limit, on the last day of the month.

(3) The time limit determined in hours shall start to run in the first minute of the hour following the act underlying the commencement of the time limit.

(4) Where the last day of a time limit falls on a day on which work does not take place at the authority, the time limit shall expire on the next working day, with the exception of the administrative time limit.

(5) The time of filing a submission or a request for administrative assistance mailed by post shall be the day of posting. The acquisition of a right bound to a specific day shall take place at the beginning of that day. The legal consequence of a failure to meet a time limit or of a delay shall occur upon the expiry of the last day of the time limit.

(6) In the event of doubt, the time limit shall be considered to have been met.

## **26. Application for excuse**

**Section 53** [*Submission of the application for excuse*]

(1) Any person who failed, through no fault of his own, to meet a due date or a time limit in the course of the procedure may submit an application for excuse.

(2) The application for excuse shall be adjudicated by the authority in the procedure of which the failure occurred. The application for excuse related to a failure to meet a time limit set for legal remedy shall be adjudicated by the organ which adjudicates the application for legal remedy.

(3) The application for excuse may be submitted after becoming aware of the failure or after the removal of the obstacle but, at the latest, within a time limit corresponding to the time limit prescribed for the procedural act being the object of the application for excuse, calculated from the due date or the last day of the time limit, but within forty-five days at the latest.



(4) Where a time limit has not been met, the act left unperformed shall be performed simultaneously with the submission of the application for excuse, if the conditions for it are met.

(5) No application for excuse shall be available for failure to meet the time limit for the application for excuse or of the procedural act repeated on the basis of the application.

**Section 54** [*Legal effect of the acceptance of the application for excuse*]

Where the authority grants the application for excuse, it shall consider the due date or time limit not met to have been met and it shall, where necessary, amend or revoke its decision, or otherwise repeat certain procedural act.

## **27. Involvement of specialist authorities**

**Section 55** [*Procedure of the specialist authority*]

(1) On the basis of a compelling reason of public interest, an Act or a government decree designating specialist authorities may prescribe for an authority entitled to make a decision on the merits of the case to obtain the mandatory statement of another authority (hereinafter “specialist authority”) on the issue and within the time limit determined therein.

(2) Unless otherwise provided by this Act, the provisions on the authority shall apply to the specialist authority, and those on the decision to the statement of the specialist authority, accordingly. The provisions on the administrative time limit shall only be applied in the event of a preliminary statement of a specialist authority.

(3) The specialist authority need not be involved if the application is to be rejected.

(4) The decision of the specialist authority may be contested in the framework of the legal remedy against the decision concluding the procedure.

(5) The authority and the specialist authority, on the one hand, and the specialist authorities among themselves, on the other hand, shall determine the conditions of granting the application by way of consultation.

**Section 56** [*Statement of the specialist authority*]

(1) Where the specialist authority subsequently notices that its statement is in violation of the law, it may amend its statement once, until the final decision of the authority or its procedural decision terminating the procedure has reached administrative finality.

(2) The specialist authority, if it has not been invited, shall, after becoming aware of this fact, consult with the authority and deliver its statement with attention to the results of this consultation. The specialist authority shall also communicate its statement to the supervisory organ of the authority.

**Section 57** [*Preliminary statement of a specialist authority*]

Unless excluded by an Act or government decree, the specialist authority shall deliver, regarding the application of the party that was submitted before the commencement of the procedure, a preliminary statement, applying the provisions on the statements of specialist authorities accordingly. A preliminary statement, not older than one year, of a specialist authority may be attached to the application, unless an Act or government decree specifies another period. The authority shall use the preliminary statement of a specialist authority submitted together with the application as a statement of the specialist authority.

## 28. Summons

### **Section 58** *[General rules on summons]*

(1) Where it is necessary to interview someone in person in the course of the procedure, the authority shall oblige that person to appear at the location and at the time specified. If, due to his age, health condition or for another legitimate reason, the person summoned cannot appear before the authority, he may also be heard at his place of residence.

(2) The summons shall be communicated in a way that the person summoned, unless the circumstances of the case require otherwise, learns about it at least five days before the interview.

(3) The summons shall indicate in what case and in what capacity the authority intends to interview the summoned person. The person summoned shall be warned of the consequences of failure to appear.

### **Section 59** *[The location to which summoned]*

(1) The authority may summon a person not having a domicile or the statutory representative of an organisation not having a seat within the area of territorial competence of the authority to its seat if

- a) this is prescribed by law,
- b) the purpose of the summons is participation in a hearing or consultation,
- c) an interview by way of a request for administrative assistance would prejudice the procedural rights of any of the parties,
- d) no authority which possesses the appropriate specialist knowledge and would be able to perform the necessary procedural act operates at the domicile of the person to be summoned, or
- e) this is requested by the person summoned.

(2) An authority operating in the capital may issue summonses over the entire area of the capital.

### **Section 60** *[The summoned person's obligation to appear]*

(1) If the person summoned

a) fails to comply with a regular summons, or leaves the location of the procedure without permission before being interviewed, and fails to justify his absence with good cause in advance or fails to provide a proper excuse subsequently, or

b) appears, upon being summoned, in a state in which he cannot be interviewed, and he fails to provide an excuse for this circumstance,  
an administrative fine may be imposed on him.

(2) Where the person summoned has failed to appear upon the summons and has not provided an excuse, his enforced appearance may be carried out by the police. The prior consent of the prosecutor, requested by the head of the authority, shall be required for the performance of the enforced appearance.

(3) Where the authority is aware that a person, whose enforced appearance is intended, is a member on active service of the Hungarian Defence Forces or a professional member of a law enforcement body, the commander in charge shall be contacted in order to carry out the enforced appearance.

(4) Where the person summoned provides a reasonable excuse for his absence or departure, the authority shall revoke the procedural decision on administrative fine and for enforced appearance.

(5) Where the organisational representative of a legal person or another organisation failed to comply with a summons and the statutory representative does not, after being called upon by the authority, communicate the name of the

representative, an administrative fine may be imposed on the statutory representative called upon or the legal person or other organisation. In such a case the appearance of the statutory representative called upon may also be enforced.

### **29. Notification about a procedural act**

#### **Section 61** [*Notification about a procedural act*]

(1) Where summoning the party is not necessary, the authority shall inform the party about the interview of the witness and the expert, the inspection and the hearing, including the information that he may participate in the procedural act but his presence is not mandatory. The notice shall be communicated in a way that the party, unless the circumstances of the case require otherwise, receives it at least five days in advance.

(2) Where the action is related to its functions and powers, the specialist authority shall be informed of the procedural act at least five days in advance.

### **30. Clarifying the facts of the case**

#### **Section 62** [*Clarifying the facts of the case*]

(1) Where the information available is insufficient to make a decision, the authority shall carry out a procedure for taking of evidence.

(2) In the authority procedure any piece of evidence that serves to clarify the facts of the case may be used. No piece of evidence obtained by the authority in violation of the law may be used as evidence.

(3) Facts of which the authority has official knowledge and facts of common knowledge need not be proven.

(4) The authority shall be free to select the manner of the taking of evidence and it shall evaluate the pieces of evidence available by its free conviction.

(5) In certain cases, an Act or government decree may, on the basis of a compelling reason of public interest, prescribe the mandatory use of certain official documents or other documents as evidence.

### **31. Party statement**

#### **Section 63** [*The party statement*]

Where clarifying the facts of the case so requires, the authority may call upon the party to make a statement.

#### **Section 64** [*The special role of the party statement*]

(1) Unless excluded by law, the party may, by making a statement, replace a missing piece of evidence if it is not possible to obtain it.

(2) Except where he satisfies a condition specified under section 66 (2) or (3) b) and c), if the party or his representative, against his better knowledge, misrepresents or withholds a fact relevant for the case, or if he fails, without any grounds specified under section 105 (2), to provide data within the scope of the mandatory provision of data, an administrative fine may be imposed on him.

(3) In the case described in paragraph (1), the authority shall warn the party of his rights and obligations and the legal consequences of the provision of false, falsified or untrue evidence.

## 32. Documents

### **Section 65** [*Rules on documents*]

(1) Where clarifying the facts of the case so requires and it may not be obtained on the basis of the Eüsztv., the authority may, with the exceptions specified under section 36 (2), call upon the party to produce an official document or other document.

(2) Unless an Act or government decree provides otherwise, the party may also submit a copy of the document if he declares that it is a true copy of the original in every respect.

(3) Where doubts arise as to the authenticity or the contents of an authentic instrument issued abroad, the authority shall call upon the party to produce the authentic instrument issued abroad authenticated by apostille.

(4) Where the party also attaches the certified translation of a document issued in a language other than Hungarian, the authority shall accept it with the contents of the translation.

## 33. Witness

### **Section 66** [*General provisions on witnesses*]

(1) A person summoned as a witness, with the exceptions specified under this Act, shall be obliged to provide witness testimony.

(2) A person shall not be interviewed as a witness

a) if he is unlikely to make a statement admissible as evidence,

b) on a fact deemed to be protected data, if he has not been exempted from the obligation of confidentiality.

(3) The witness may refuse to provide witness testimony if

a) he is a relative of any of the parties, pursuant to the Ptk. (hereinafter “relative”),

b) he would, by his statement, implicate himself or his relative in having committed a criminal offence,

c) he is a media content provider pursuant to the Act on the freedom of the press and the fundamental rules of media content (hereinafter “media content provider”), or a person who is in an employment relationship or another legal relationship aimed at the performance of work, even after the cessation of his legal relationship, and, by providing his witness testimony, he would divulge the identity of a person passing him information in relation to the activity of providing media content, or

d) he is a person protected by diplomatic immunity.

### **Section 67** [*Interviewing the witness*]

(1) At the beginning of the interview, the authority shall determine the personal identity of the witness. The authority shall call upon the witness to declare what his relationship with the parties is, whether he is biased, and at the same time shall also warn him of his rights, his obligations and the legal consequences of perjury.

(2) A witness not yet interviewed may not be present at the interview of the party, another witness and the expert.

(3) The rules governing the hearing shall apply to the interview, even where the authority interviews the party outside the hearing.

(4) The party or any other participants in the procedure shall not be present at the witness interview if the witness makes a witness testimony on protected data or if the confidential management of the main personal identification data and the address of the witness has been ordered.

(5) The authority may allow the witness to provide witness testimony in writing following his interview, or instead of it.

(6) Where the witness provides witness testimony in writing, without having been interviewed or following his interview, it must be clear from the written witness testimony that the witness made his statement in the knowledge of the impediments to making a statement and of the consequences of perjury. The authority shall inform the witness thereof, simultaneously with giving permission to provide witness testimony in writing, while warning him of the impediments to providing testimony and of the consequences of perjury.

### **34. Inspection**

#### **Section 68** *[General rules on the inspection]*

(1) Where the inspection or observation of a movable property or a real estate (hereinafter jointly “object of the inspection”) or of a person is necessary for clarifying the facts of the case, the authority may order an inspection.

(2) Unless it jeopardises the efficiency of the inspection, the holder of the object of the inspection and the person specified under paragraph (1) shall be informed of the inspection in advance.

(3) Unless his presence is inevitable, the absence of the holder of the object of the inspection shall not be an obstacle to carrying out an inspection.

(4) Unless the confidential management of the main personal identification data and the address of the holder of the object of the inspection has been ordered, the party may be present at the inspection.

#### **Section 69** *[Carrying out the inspection]*

(1) In the course of carrying out the inspection, simultaneously with notifying the known owner, the holder of the object of the inspection may be obliged to produce the object of the inspection or to allow the party to enter the location of the inspection.

(2) In the course of the inspection, the proceeding member of the authority shall be entitled to, in particular,

- a) enter the area, building and other facility affected by the inspection,
- b) examine any document, object or work process,
- c) request information, and
- d) take samples.

#### **Section 70** *[Inspection carried out in the interest of an immediate procedural act]*

(1) For the purpose of carrying out an inspection effectively and safely, the authority may request the assistance of the police.

(2) Upon a request from the authority, the police shall, without having received a prior request for administrative assistance, immediately ensure assistance at the location and for the duration indicated by the authority, in accordance with the provisions of the Act on the police on assistance in carrying out an enforcement procedure.

(3) Where on-site inspection is necessary in a life-threatening situation or an event threatening to cause serious damage, for the purposes of an immediate procedural act or where it is permitted for compelling reasons by an Act, the authority may carry out the inspection by opening a locked area, building or room, even against the will of the persons present there.

(4) The prosecutor shall be informed in advance of the performance of the inspection in the manner specified under paragraph (3), immediately after the

decision by the authority to perform the inspection was made, and the assistance of the police and, where possible, of an official witness shall be requested. If the prosecutor disagrees with its performance, he shall prohibit the inspection.

### **35. Expert**

#### **Section 71** [*Rules on the appointment of an expert*]

(1) An expert shall be interviewed or, while setting a time limit of at least fifteen days, an expert statement shall be requested, if particular specialist knowledge is necessary to establish an important fact or another circumstance in the case and the proceeding authority does not possess the required specialist knowledge.

(2) Where the statement of a specialist authority is to be obtained on the same professional issue, no expert shall be appointed.

(3) The provisions of section 23 shall apply accordingly to the exclusion of experts.

#### **Section 72** [*General rules on the expert examination*]

(1) An Act may provide that the party must assist in the expert examination.

(2) Prior to his delivering the statement, the expert shall be warned of the legal consequences of delivering a false statement.

(3) The provisions of the Act on judicial experts shall apply to experts on issues not regulated herein.

### **36. Interpreter**

#### **Section 73** [*The interpreter*]

(1) Where the case administrator is not familiar with the foreign language used by the party or another participant in the procedure, an interpreter shall be engaged.

(2) A member of the proceeding authority who does not proceed in the case or, where it is essential to clarify the facts of the case, a person present at the location of the examination who speaks the foreign language may be resorted to as an interpreter.

(3) In all other respects, the provisions on experts shall apply to interpreters.

### **37. Hearing**

#### **Section 74** [*The hearing*]

(1) The authority shall conduct a hearing

a) in a procedure commenced upon application against a party with opposing interests (hereinafter “dispute procedure”) if jointly interviewing the parties is necessary for clarifying the facts of the case,

b) in a procedure with the participation of parties with opposing interests if the nature of the case allows it, or

c) if jointly interviewing the persons participating in the procedure is necessary for clarifying the facts of the case.

(2) Where the conditions are met, the authority may also conduct a hearing in the framework of an on-site inspection.

(3) The party may make a motion to produce evidence and may pose questions to the person being interviewed.

(4) Whoever disturbs the order of the hearing shall be called to order by the person heading the hearing and, in the event of repeated or more serious disruptive conduct, he may be expelled or an administrative fine may be imposed on him.

### **38. Settlement attempt**

#### **Section 75** [*Settlement attempt*]

If it holds a hearing, the authority shall attempt to reach a settlement between the parties with opposing interests.

### **39. Disclosure of evidence to the party**

#### **Section 76** [*Disclosure of evidence to the party*]

Where the authority, while carrying out a procedure for taking of evidence, failed to ensure that the party had access to all pieces of evidence, it shall, upon conclusion of the procedure, notify the party that he may acquaint himself with the evidence, in compliance with the provisions on access to files, and make additional motions to produce evidence.

### **40. Consequences of obstructing the procedure**

#### **Section 77** [*Consequences of obstructing the procedure*]

(1) Whoever fails to comply with his obligation due to his own fault shall be obliged by the authority to reimburse the extra costs incurred and an administrative fine may be imposed on him.

(2) The minimum amount of the administrative fine is ten thousand forints in each instance; and, unless provided otherwise by an Act, a maximum amount of five hundred thousand forints shall apply to natural persons and one million forints shall apply to legal persons or other organisations.

(3) When imposing the administrative fine, the authority shall take into consideration

- a) the gravity of the unlawful conduct,
- b) the financial status and income of the person affected, if such data are available, and
- c) the number and amounts of previous fines if administrative fines have been imposed repeatedly in the same procedure.

### **41. The recording of procedural acts**

#### **Section 78** [*The recording of procedural acts*]

(1) Minutes shall be prepared of an oral application if not granted immediately, as well as of a procedural act carried out for the purpose of clarifying the facts of the case, provided that the party or any other participant of the procedure takes part in it; otherwise a memorandum shall be drawn up.

(2) The memorandum shall contain the location and time at which it was drawn up, the data necessary for the identification of the persons participating in the given procedural act, the substance of their statements, and the findings made in the course of conducting the act to clarify the facts of the case. The minutes shall further contain warning on rights and obligations.

(3) The memorandum shall be signed by the person drawing it up; each page of the minutes shall be signed by the persons participating in the procedural act.

(4) The authority may make audio visual recordings of individual procedural act. Where such a recording is made, only the data necessary for the identification of the persons participating in the procedural act and the location and time of the recording shall be specified in the minutes.

**Section 79** [*The official witness*]

(1) In the course of carrying out a security measure, inspection, seizure, impoundment and an administrative audit, the authority may resort to an official witness who shall confirm the events and facts experienced by him in the course of the procedural act. Nobody may be obliged to act as an official witness.

(2) The following may not act as an official witness: the party, a relative or representative of the party, persons engaged in a public service relationship or any other legal relationship aiming at the performance of work, entered into with the proceeding authority, and persons lacking procedural capacity.

(3) The official witness shall be warned of his rights and obligations prior to the procedural act. The official witness shall be entitled to the reimbursement of costs according to the provisions on the reimbursement of the costs incurred by witnesses.

(4) The official witness shall be bound by the obligation of confidentiality with regard to the facts and data he learnt of in the course of the procedural act; the proceeding authority, the authority entitled to adjudicate the appeal (hereinafter “second instance authority”) or a court may exempt him from this obligation in respect of facts, data and circumstances pertaining to the subject matter of the case.

*CHAPTER IV*

*DECISIONS OF THE AUTHORITY*

**42. Final decisions and procedural decisions**

**Section 80** [*The forms of decision*]

(1) The decision shall be a final decision or a procedural decision. With the exception specified under paragraph (4), the authority shall adopt a final decision on the merits of the case, while other decisions adopted in the course of the procedure shall be procedural decisions.

(2) Where the authority refrains from adopting a final decision within the administrative time limit (legitimate silence), the party shall be entitled to exercise the right applied for. Legitimate silence shall be allowed if

a) it is not excluded by an Act or government decree in a case which may be administered through automatic decision-making,

b) an Act or government decree so provides in a case which may be administered in a summary procedure,

c) an Act or government decree so provides in a full procedure and there are no grounds to make a decision with suspensive effect and there is no party with opposing interests in the case.

(3) In the event of legitimate silence, the authority shall enter the acquired right upon the application as well as on the duplicate copy of the application in the party’s possession, or otherwise it shall issue a copy of the original held by the authority to the party.

(4) Where the purpose of the procedure is to increase, without consideration, the financial support payable to beneficiaries specified by law to a level specified by law, the authority shall refrain from making a final decision.

**Section 81** [*The content and form of the decision*]

(1) The decision shall contain all data necessary for the identification of the proceeding authority, the parties and the case and, further, the operative part, including information related to the decision of the authority, the statement of the specialist authority, the recourse to legal remedy and the procedural costs accrued, and the statement of the reasons of the decision, including the determined facts of the



case, the pieces of evidence, the statement of the reasons of the statement of the specialist authority, the reasons for deliberation and for the decision and the references to the legal provisions upon which the decision is based.

(2) A simplified decision which dispenses with the information on legal remedy and includes only the references to the legal provisions upon which the decision is based, may be made

a) if the authority fully grants the application and there is no party with opposing interests in the case, or the decision does not affect the right or legitimate interests of the party with opposing interests, or

b) on the approval of the settlement.

(3) Only a simplified decision containing only the references to the legal provisions upon which the procedural decision concerned is based may be made on a procedural decision which may not be appealed independently.

(4) The authority shall draw up the decision in a separate official document, record it in the minutes or enter it on the file.

(5) In a case requiring an immediate procedural act, putting the decision in writing may be dispensed with and the decision may be communicated to the party orally. In these cases the authority shall put the decision in writing and communicate it subsequently.

### **43. Administrative finality of the decision of the authority**

#### **Section 82** *[Administrative finality of the decision]*

(1) The decision of the authority shall reach administrative finality if, with the exceptions specified in this Act, the decision cannot be amended by the authority anymore. The administrative finality shall arise upon the communication of the decision.

(2) Where an Act permits appeals in the given type of case, the decision of the authority shall reach administrative finality if

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

b) the right of appeal has been waived or the appeal has been withdrawn, or

c) the second instance authority has upheld the decision of the authority of first instance, upon communication of the decision of second instance.

(3) Where the right of appeal is waived or the appeal is withdrawn, the decision shall reach administrative finality

a) upon communication of the decision of first instance, if, subject to granting the application, the party had waived his right of appeal before the decision was communicated, and there is no party with opposing interests in the case,

b) on the day of the arrival to the authority of the last waiver or withdrawal, if, within the time limit for appeal, each person entitled to appeal waives his right to appeal or withdraws his appeal.

(4) Where the appeal procedure is terminated, the authority's decision of first instance that is contestable through appeal shall reach administrative finality on the day the procedural decision terminating the appeal procedure reaches administrative finality.

(5) The provisions of the decision of first instance, not involved in the appeal, shall reach administrative finality according to paragraphs (2) to (4), if

a) only another participant in the procedure has appealed the provision of the decision which affected him, or

b) only certain provisions of the decision have been appealed and, due to the nature of the case, adjudication of the appeal does not affect the provisions not contested in the appeal.

#### **44. The approval of the settlement**

##### **Section 83** [*The approval of the settlement*]

Where the settlement attempt is successful or the parties reach a settlement and that settlement complies with the Fundamental Law and other laws, and it specifies the time limit for performance and the bearing of procedural costs, the authority shall approve it and adopt it in a final decision.

#### **45. Immediate enforceability**

##### **Section 84** [*Immediate enforceability*]

The authority shall declare a decision immediately enforceable if

- a) it is necessary for the prevention, avoidance or mitigation of the harmful consequences of a life-threatening situation, an event threatening to cause serious damage or a serious violation of personality rights,
- b) it is necessary in the interest of national security, national defence or public safety or the protection of public interest,
- c) the decision provides for the maintenance or care of a person, or
- d) making an urgent entry in the public register is prescribed by law.

#### **46. Communication of the decision**

##### **Section 85** [*General rules on the communication of the decision*]

(1) The authority shall communicate the final decision to the party, those regarding whom the decision contains a provision, and the specialist authority which acted in the case.

(2) The authority shall communicate the procedural decision to those regarding whom the decision contains a provision and whose rights or legitimate interests it affects. At the request of the party, the authority shall, on one occasion, issue a copy of the order not communicated to the party, free of fees or charges.

(3) In the case of written correspondence, the authority shall serve the decision as an official document, or by electronic means specified in the Eüsztv.

(4) Unless excluded by law, the decision may also be communicated orally to the persons specified under paragraphs (1) and (2). The fact and the date of the communication shall be recorded on the document which must be signed. Where a person specified under paragraph (1) or (2) so requests, the authority shall send him the decision communicated orally in writing as well.

(5) Unless provided otherwise by an Act or government decree, the day of the communication of the decision

- a) shall be the day on which it has been communicated in writing or orally, or
- b) shall be the fifteenth day following the posting of a public notice.

(6) Where, in a life-threatening situation or an event threatening to cause serious damage, or on the basis of a provision of an Act, the authority does not communicate the decision in the manner specified under this Act, it shall also send the decision in writing. In such cases, for the sole purpose of the calculation of the time limit for legal remedy, the day of the communication of the decision shall be the day of the communication in writing.

**Section 86** [*Rules on the service of documents*]

(1) A document communicated non-electronically shall be considered served on the day of the delivery attempt if the addressee refused receipt. Where the service of the document was unsuccessful because it was returned to the authority from the address or seat of the addressee recorded in the public register,

a) marked “nem kereste” (“unclaimed”), the document shall be considered served on the fifth working day following the second service attempt,

b) marked “ismeretlen” (“unknown”) or “elköltözött” (“moved”), the document shall be considered served on the fifth working day following the service attempt.

(2) Where the addressee becomes aware that the authority considers the document sent to him as served, he may, within fifteen days from becoming aware of this fact, but within forty-five days from the communication at the latest, lodge an objection.

(3) The authority shall uphold the objection if the addressee has been unable to receive the document because

a) service took place in violation of the laws governing the service of official documents, or was irregular for other reasons, or

b) he was unable, for reasons not mentioned under point a) and through no fault of his own, to receive the document.

(4) Addressees other than natural persons may lodge an objection only where service was irregular.

(5) The objection shall contain those facts and circumstances which substantiate the irregular nature of the service or substantiate the lack of fault on his part. Where the authority upholds the objection, the provisions on the applications for excuse shall apply.

(6) The objection shall be adjudicated by the authority that issued the document being the subject of the service.

(7) Service by official process server shall be governed by the provisions under this section.

**Section 87** [*Provisions on the authorised recipient*]

(1) The party shall be obliged, upon first making contact, together with the submission of the authorisation to receive mail for the party, to name the authorised recipient, if

a) he has no address or seat in Hungary,

b) he has not named a representative, and

c) keeping contact by electronic means is not applicable.

(2) The authorised recipient shall receive the decisions and documents made in the procedure to be communicated to the party and forward these to the party.

(3) A decision addressed to the party and duly communicated to the authorised recipient shall be considered as communicated to the party on the fifteenth day following its communication to the authorised recipient.

(4) If posting a public notice is possible and the decision determines a duty to be performed by the party or deprives him of or restricts his fundamental rights, a recipient guardian *ad litem* may be appointed for the purposes of attempting to communicate the decision; the recipient guardian *ad litem* shall be responsible for locating the party's place of residence and serving the decision to him.

(5) Where the recipient guardian *ad litem* failed to serve the decision, it shall be considered served on the day the recipient guardian *ad litem* notifies the authority, which appointed him, of the failure of service, but not later than on the fifteenth day following the date of appointment.

(6) In the event of successful service, the recipient guardian *ad litem* shall immediately inform the authority, which had appointed him, of the date of the successful service and the party's place of residence.

**Section 88** [*Communication by public notice*]

(1) The communication shall be performed by public notice where

- a) the party's whereabouts are unknown,
- b) service is obstructed by another insurmountable obstacle or any attempt at delivery seems futile already at the outset, or
- c) it is prescribed by an Act or government decree.

(2) The public notice shall contain

- a) the date of posting the public notice, and if it is published on a website, the date of publication,
- b) the name of the proceeding authority,
- c) the number and subject matter of the case,
- d) the name and last known address (seat) of the party; and,
- e) the notice that the authority has made a decision in the case but its service has failed and the party or his representative may therefore collect the decision at the authority.

(3) The public notice shall be posted on the bulletin board and the website of the authority.

**Section 89** [*Public announcement*]

(1) Where the circle of parties cannot be precisely established or it is prescribed by an Act or government decree, the authority shall publicly announce the communication on the decision. The announcement shall, along with the content specified under section 88 (2) a) to d) contain

- a) the operative part of the decision and the summary of its statement of reasons, and
- b) the notice that the decision may be inspected at the authority.

(2) The announcement shall be posted on the bulletin board and website of the authority.

(3) The authority shall publicly announce a decision which has reached administrative finality or which has been declared immediately enforceable,

- a) which may be contested by an action in the public interest,
- b) which the authority made in the interests of the prevention, avoidance or mitigation of the harmful consequences of a life-threatening situation or an event threatening to cause serious damage, affecting a broad or indeterminate circle of persons, or
- c) which the authority made in the interests of the preservation of public safety or for the compelling reason of the protection of public order, environmental protection or nature conservation.

(4) The authority shall publicly announce a final decision with administrative finality made in a procedure involving the participation of more than fifty parties after it reached administrative finality or been declared immediately enforceable.

## **47. Rectification and supplementation of the decision**

**Section 90** [*Rectification of the decision*]

(1) Where there is a typing error or a calculation error in the decision which does not affect the merits of the case, the authority shall rectify the decision.

(2) The authority shall communicate the rectification to those to whom it has communicated the original decision.

(3) The same legal remedy shall be available against the rectified part of the decision as the one available against the original decision.

**Section 91** *[Supplementation of the decision]*

(1) Where the decision is lacking a mandatory element prescribed by law or fails to address an issue related to the merits of the case, the authority shall supplement the decision.

(2) The decision shall not be supplemented if one year has elapsed since the date when the decision reached administrative finality.

(3) The authority shall communicate the supplement in a consolidated decision, replacing the decision where possible.

(4) The same legal remedy shall be available against the supplement as the one available against the original decision.

(5) The supplement shall be communicated to those to whom the supplemented decision has been communicated.

## **48. Authoritative contract**

**Section 92** *[Entering into an authoritative contract]*

(1) The law may permit or prescribe the authority to enter, instead of making a decision, into a written authoritative contract with the party, for the purposes of resolving a case falling within its material competence in a way that is beneficial to the public interest and the party. The authoritative contract shall be an administrative contract.

(2) The authoritative contract shall contain the parties to the contract, the subject matter of the contract, the obligations undertaken and the rights guaranteed by the parties, the findings included in the statement of the specialist authority, the legal consequences of a breach of contract, the resolution of disputes arising in relation to performance, the provisions and data prescribed in the law that permits or prescribes the conclusion of the contract and the agreement of the parties on issues they consider to be essential.

(3) Where the party undertakes to perform an obligation which he may not otherwise be compelled to by final decision of the authority, the party shall make a declaration in the authoritative contract so that, if he breaches the contract, he submits, with respect to this additional obligation, to the legal consequence specified under section 93 (3).

(4) The authority shall also communicate the contract to the other parties who may, within fifteen days, initiate its amendment. If this is omitted, the non-contracting party may contest the contract before the administrative court within thirty days.

**Section 93** *[Amendment and performance of the authoritative contract]*

(1) Where a new fact of significance from the perspective of the case arises, or in the event of a substantial change of the circumstances that existed at the time of entering into the contract, any of the parties may initiate the amendment of the contract.

(2) If the amendment fails, any of the parties may turn to the administrative court; this shall not, however, affect the fulfilment or enforcement of the authoritative contract.

(3) Where the contracting party breaches the contract, the authority shall take measures for the enforcement of the legal consequences of the breach to which the party agreed in the contract and, where necessary, it shall commence the enforcement procedure.

(4) Where the authority fails to fulfil the authoritative contract, the contracting party may, in the event his call for fulfilment of the contract is not complied with, turn to the administrative court within thirty days from when he became aware of the breach.

(5) For issues concerning an authoritative contract not regulated in this Act, the provisions of the law governing the authoritative contract shall apply, in the absence of which the general provisions of the Ptk. on contracts shall apply.

## CHAPTER V

### OFFICIAL CERTIFICATE, OFFICIAL VERIFICATION CARD AND OFFICIAL REGISTER

#### 49. Common provisions

**Section 94** *[General provisions on official certificates, official verification cards and official registers]*

(1) The provisions of this Act shall apply to procedures related to official certificates, official verification cards and official registers subject to the derogations provided for in this Chapter.

(2) The official certificate, the official verification card and the entry in the official register shall be administrative decisions.

#### 50. Official certificate

**Section 95** *[Rules on the official certificate]*

(1) In cases specified by law, the authority shall, upon the application of the party, issue an official certificate to certify data, also indicating the purpose of its use.

(2) Where the authority has revoked the official certificate, the administrative decision thereon shall also be sent to the authority or organ in the procedure of which the party used or intended to use the official certificate.

(3) The authority shall refuse to issue an official certificate if the party applies for the certification of untrue data or data which are not in the possession of the authority.

#### 51. Official verification card

**Section 96** *[Rules on the official verification card]*

For the routine certification of the data or rights of the party, the authority shall, in the cases and with the data specified by law, issue an official verification card to the party.

#### 52. Official register

**Section 97** *[Rules on the official register]*

(1) The authority shall operate an official register of the data specified by law if  
a) making an entry in the register, its modification or deletion from the register creates, amends or terminates the rights and obligations of the party, or

b) the purpose of operating the register is the authentic certification and attestation of the data included therein

(publicly certified official register).

(2) The good faith of a person who, on the basis of the authenticity of the official register and relying on the data in it, acquires a right shall be presumed, unless otherwise provided by an Act. Until proven to the contrary, the data recorded in the

official register shall be presumed to exist whereas data deleted from the official register shall be presumed not to exist.

(3) The provisions on decisions, set forth in sections 80 to 82 and section 86, shall not apply to *ex officio* entries into the official register allowing no deliberation, and the decision shall reach administrative finality on the day it is entered in the register.

(4) The party's time limit for submitting the application for legal remedy shall begin to run when the fact of entry or the decision rejecting entry was communicated to the party.

## CHAPTER VI

### ADMINISTRATIVE AUDIT

#### 53. General rules

##### **Section 98** [*Application of the rules on authority procedure*]

The provisions of this Act on authority procedure shall apply to administrative audits subject to the derogations provided for in this Chapter.

##### **Section 99** [*The object of administrative audit*]

The authority shall, within the scope of its material competence, audit compliance with provisions of the law as well as the fulfilment of enforceable decisions.

#### 54. Carrying out the administrative audit

##### **Section 100** [*General rules on the commencement of an administrative audit*]

(1) An administrative audit shall be commenced *ex officio*; the authority shall carry it out according to the provisions on *ex officio* procedures.

(2) The party may also request his administrative audit, except where

a) at the time of submitting the application an administrative audit in that respect or a procedure related to the audit is in progress before the authority,

b) the authority otherwise regularly conducts audits at the party,

c) it is excluded by an Act, or

d) in the course of an audit carried out based on an application by the same party within one year prior to the submission of the new application, the authority revealed no violation of law, except if the application has been submitted for a reason or circumstance that arose after the audit was carried out.

#### 55. The conclusion of the administrative audit

##### **Section 101** [*General provisions on the conclusion of an administrative audit*]

(1) Where the authority reveals a violation of law in the course of the administrative audit,

a) it shall commence the procedure, or

b) if the procedure on account of the violation of law revealed pertains to the territorial competence of another organ, the authority shall initiate the procedure at that organ.

(2) Where, in the course of the administrative audit carried out upon the application of the party, the authority finds no violation of law, it shall issue an official certificate certifying this fact. The authority shall issue an official certificate on the results of the administrative audit conducted *ex officio*, if requested by the party.

##### **Section 102** [*Special provisions on the performance of a continuous audit task*]

Where the authority continuously performs an audit task at the party, the prior notification of the party may be dispensed with.

## CHAPTER VII

### EX OFFICIO PROCEDURE

#### **Section 103** [*Ex officio procedure*]

(1) The provisions of this Act on procedures commenced upon application shall apply to *ex officio* procedures, subject to the derogations in this Chapter.

(2) Stay of *ex officio* procedures shall not be applicable and the authority shall not make a decision on the merits, even in the event of a suspension, upon the application of the party or the joint application of parties. The procedure shall not be terminated if the party fails to comply with his duty to advance procedural costs.

(3) In *ex officio* procedures, only the duration of any suspension of the procedure is excluded from the administrative time limit.

(4) Where, in an *ex officio* procedure, the authority exceeds the administrative time limit by a factor of two then, except to establish the fact of the violation of law and to impose the obligation to terminate the unlawful conduct or restore the lawful situation, it shall not apply any legal consequence. In such an event no new procedure shall be commenced against the same party on the same factual and legal basis.

#### **Section 104** [*Commencement of the procedure*]

(1) The authority shall, in the area of its territorial competence, commence the procedure *ex officio* if

- a) it becomes aware of a circumstance which is the underlying reason to commence the procedure,
- b) it has been obliged by a court to do so,
- c) it has been ordered by its supervisory organ to do so,
- d) it becomes aware of a life-threatening situation or an event threatening to cause serious damage, or
- e) it is otherwise prescribed by law.

(2) The provisions on *ex officio* procedures shall apply to procedures where the authority continues, *ex officio*, the procedure commenced upon the application of the party.

(3) The *ex officio* procedure shall commence on the day of conducting the first procedural act; the authority shall notify the known party of such commencement. In those exceptional cases, where

- a) the authority makes a decision or terminates the procedure within eight days from its commencement,
- b) it is excluded by an Act for reasons of national defence, national security or public safety, or
- c) it would frustrate the success of the procedure,  
no notification shall be required.

(4) The notification shall include

a) the subject matter of the case, the case number, the date of commencement of the procedure and the administrative time limit, the periods not to be included in the administrative time limit, the name of the administrator of the case and his contact information at the authority, and

b) the information on the rights and obligations of parties.

(5) Where the administrative audit has revealed a violation of law and the conditions for making a decision are otherwise met, the authority shall make a decision on the merits of the case and inform the party present immediately.



(6) Where the decision does not require deliberation, the authority may also carry out an *ex officio* procedure in the framework of automatic decision-making.

## **56. Party's obligation to provide data**

### **Section 105** [*Party's obligation to provide data in ex officio procedures*]

(1) In an *ex officio* procedure, if called upon by the authority, the party is obliged to provide the data necessary for making a decision on the merits. An Act or government decree may specify legal consequences for failure to comply with the obligation to provide data or for the provision of untrue data.

(2) The party may refuse to provide data if he would also be entitled to refuse to provide a witness testimony on the same subject.

## *CHAPTER VIII*

### *SPECIAL PROVISIONS ON CERTAIN ADMINISTRATIVE MEASURES*

## **57. Provisional measure**

### **Section 106** [*Provisional measure*]

(1) Without regard to its scope of material and territorial competence, the authority shall take *ex officio* the provisional measure in the absence of which the delay would result in insurmountable damage, danger or an insurmountable violation of personality rights. The authority shall inform the competent authority of the measure taken without delay.

(2) The authority shall communicate its procedural decision on the provisional measure taken *ex officio* to the party and to the competent authority, which shall, in turn, review the necessity of the provisional measure and take action where necessary.

(3) When reviewing the provisional measure, the principle of the protection of exercised rights that were acquired in good faith shall not apply.

## **58. Security measures**

### **Section 107** [*Security measures*]

(1) If the later performance of the obligation which is the subject of the procedure is in jeopardy then, prior to the expiry of the time limit for performance, within five days following the occurrence of the circumstance giving rise to it, the authority shall order, as a security measure, that the monetary claim be secured, or it shall impound or seize the specific item.

(2) The security measure shall be carried out by the organ performing the enforcement.

(3) The order on security measures shall be revoked if

a) it had been ordered for securing a monetary claim and this amount has been deposited with the decision-making authority or the organ performing the enforcement,

b) it had been ordered for securing a specific act and the obligor has confirmed beyond doubt that he has taken all preparatory steps for voluntary performance, which is now only obstructed by the security measure, or

c) the reason for it being ordered has otherwise ceased.

(4) Where it may reasonably be assumed that the performance of the obligation that can be ordered in the decision on the merits is in jeopardy, the authority shall, within

three days, take the measures specified under paragraph (1) as provisional security measures.

(5) The provisional security measure shall cease to be effective when the decision concluding the procedure reaches administrative finality.

## **59. Impoundment and seizure**

### **Section 108** [*General rules on impoundment and seizure*]

(1) If the facts of the case cannot be clarified otherwise or would involve significant delay, or the omission of impoundment would jeopardise the success of clarifying the facts of the case, the authority is entitled to impound an item in the possession of the holder (hereinafter “impoundment”). An item cannot be impounded if it is necessary for the maintenance of the life or the health of its holder, or for ensuring an income which is otherwise indispensable for securing his living conditions. The authority shall seize such an item and leave it in the custody of the holder, who may use it for its designated purpose.

(2) In the interest of impounding the item, its holder shall be ordered to hand over the item. No person shall be obliged to hand over the item if, in connection with the grounds for refusal, he may refuse to provide witness testimony or who has not been exempted from the obligation of confidentiality with respect to the protected data.

(3) Where the person obliged to hand over the item fails to do so, the authority shall perform impoundment with the involvement of the police and shall impose an administrative fine on the person obliged to hand over the item.

(4) The performance of impoundment shall be governed by the provisions on inspection, with the difference that the holder of the object of the inspection shall mean the holder of the impounded item. In other respects, the provisions of the Act on judicial enforcement (hereinafter the “Vht.”) shall apply accordingly to impoundment and seizure.

### **Section 109** [*Termination of impoundment and release of the item*]

(1) The authority shall terminate the impoundment if

- a) the grounds for ordering it have ceased,
- b) the authority terminated the procedure, or
- c) it made a decision on the merits of the case.

(2) Unless provided otherwise by an Act, an item impounded but no longer needed to clarify the facts of the case shall be released to the person from whom it had been impounded. If it initiates a procedure which falls under the material competence of another organ, the authority shall hand over the impounded documents and pieces of physical evidence which are necessary for carrying out the procedure, to the requested organ.

(3) Where it is clear from the circumstances of the case that the person from whom the item had been impounded is not entitled to possess the item, the authority shall release the item to the person who has filed a legitimate claim for it.

(4) Where the item may no longer be released in kind, compensation shall be paid calculated by taking the sales price accrued from the preliminary sale of the item as a basis, reduced by the costs of its handling and storage, and increased by the default interest in the meaning of the Ptk. calculated for the period of time up to repayment (hereinafter “lawful interest”). The beneficiary may assert claims exceeding this amount according to the provisions of civil law. Where the impoundment was unfounded, the sales price accrued from the preliminary sale of the item may not be reduced by the costs of the handling and storage of the item.

**Section 110** [*The sale of the impounded item; its destruction*]

(1) With the exception of perishable items, no preliminary sale of the impounded item shall take place.

(2) Where no legitimate claim had been filed for the release of the item within three months from such a call from the authority, the impounded item may be sold.

(3) The sale price accrued from the sale of the impounded item shall replace the item.

(4) If the impounded item is of no value or the sale was unsuccessful, the item shall be destroyed following the termination of impoundment. The owner and the holder of the impounded item shall jointly and severally be liable for the costs of the destruction.

**CHAPTER IX**

**LEGAL REMEDY**

**Section 111** [*Application of the provisions on legal remedy*]

The provisions of this Act shall apply to legal remedy procedures subject to the derogations in this Chapter.

**Section 112** [*Right to legal remedy*]

An independent legal remedy shall be available against the administrative decision of the authority. An independent legal remedy shall be available against the procedural decision of the authority where this is permitted by an Act; the right to legal remedy against an order may otherwise be exercised in the framework of the legal remedy against the administrative decision or, in its absence, in the framework of the legal remedy against the order terminating the procedure.

**Section 113** [*Legal remedy procedures*]

(1) The legal remedy procedures commenced upon application shall be

- a) the administrative court actions,
- b) the appeal procedures.

(2) The legal remedy procedures *ex officio* shall be

- a) the amendment of a decision or its revocation within the authority's material competence,
- b) the supervisory procedure,
- c) the procedure commenced upon the intervention or action of the prosecutor according to the Act on prosecution service.

**60. Administrative court actions**

**Section 114** [*Possibility for administrative court action*]

(1) With the exception of procedural decisions that may not be contested in an independent appeal, the party may bring an administrative court action against a decision with administrative finality. An administrative court action may be brought against a decision contestable by appeal if any entitled person has appealed and the appeal has been adjudicated.

(2) Where the time limit determined in the intervention of the prosecutor for the termination of the violation of law elapsed without any result, the prosecutor may bring an administrative court action against the authority's decision with administrative finality, or, if the authority failed to perform its obligation to proceed, to oblige the authority to carry out that procedure.

## **61. Amendment or revocation of the decision on the basis of the statement of claim**

**Section 115** [*Amendment or revocation of the decision on the basis of the statement of claim*]

(1) Where, on the basis of the statement of claim, the authority establishes that its decision is in violation of the law, it shall amend or revoke that decision.

(2) Where it agrees with the content of the statement of claim and there is no party with opposing interests in the case, the authority may also revoke a decision which is not in violation of the law or it may amend the decision according to the content of the statement of claim.

(3) Where, on the basis of the statement of claim, the specialist authority amends its statement, the authority shall amend or revoke its decision accordingly.

(4) The decision may be revoked or amended once.

## **62. Appeal**

**Section 116** [*General rules of appeal*]

(1) Where an Act expressly permits it, the party or whoever the decision contains a provision on may appeal against the decision of first instance.

(2) Appeal shall be available if the administrative decision was made by

a) the head of the district office or, with the exception of the representative body, an organ of the local government, or

b) the local organ of a law enforcement organ.

(3) Independent appeal shall be available against a procedural decision of first instance

a) on an provisional security measure,

b) on the legal status of the party or on legal succession,

c) rejecting the application,

d) terminating the procedure,

e) concerning the suspension or stay of the procedure,

f) imposing an administrative fine,

g) rejecting an application for excuse, submitted for failure to meet the time limit for appeal,

h) ordering impoundment or seizure, as well as rejecting the application for the termination of either of these,

i) rejecting an application for asserting the right of access to files,

j) concerning an application to restrict the right of access to files, and

k) concerning the establishment and bearing of procedural costs, on rejecting an application for cost exemption, on amending or revoking the cost exemption.

(4) In the cases under paragraphs (1) and (2), no appeal shall lie

a) against a decision of first instance brought by the head of a central state administrative organ, with the exception of the central agency,

b) against a decision made by the representative body in an administrative case of the local government,

c) against a procedural decision adopted by the authority of second instance against which independent appeal is available,

d) where there is no designated authority of second instance,

e) where the case has been declared to be of special significance from the aspect of national economy,

f) where enforcement has been ordered on the basis of an authoritative contract.

(5) In the cases under paragraphs (1), no appeal shall lie if it is excluded by an Act.

**Section 117** [*Suspensive effect of the appeal*]

(1) Where the authority had not declared the decision to be immediately enforceable, the appeal shall have a suspensive effect on the enforcement of the decision, subject to the exceptions listed under paragraph (2).

(2) Appeal against a procedural decision on a provisional security measure or on granting an application to restrict access to files shall have no suspensive effect.

**Section 118** [*Filing of the appeal*]

(1) Appeal shall only admissible in relation to the contested decision, on grounds that are substantively and directly related to it, and only with reference to the infringement of a right or interest directly resulting from the decision.

(2) The appeal shall set forth the grounds for it. In the appeal, new facts may only be referred to if the party had not been aware of them in the procedure of first instance or if he had not made a reference to them through no fault of his own.

(3) The appeal shall be filed with the authority that made the decision, within fifteen days of the communication of the decision.

(4) The person entitled to appeal may waive his right to appeal within the time limit in which an appeal may be filed. The waiver of the right to appeal may not be withdrawn; the waiver shall otherwise be governed by the provisions on the application.

**Section 119** [*Special rules of appeal*]

(1) In the event that, on the basis of the appeal, the authority establishes that its decision is in violation of the law then it shall amend or revoke that decision.

(2) Where it agrees with the content of the appeal and there is no party with opposing interests in the case, the authority may also revoke the decision which is not in violation of the law or it may amend the decision according to the content of the appeal.

(3) Where the authority does not revoke the contested decision or does not amend, correct or supplement it according to the appeal, the authority shall, following the elapse of the time limit for appeal, forward the appeal with all documents of the case to the authority of second instance designated by law.

(4) The appeal shall be adjudicated by the authority of second instance, which shall examine the decision contested by the appeal and the preceding procedure. In the course of its procedure, the authority of second instance shall not be bound by the content of the appeal.

(5) The authority of second instance shall uphold the decision, or it shall amend or annul it due to infringement of the interests referred to in the appeal or in the event of a violation of the law.

(6) Where the data available is not sufficient for adopting the decision or where it is necessary for other reasons, the authority of second instance shall clarify the facts of the case and adopt the decision.

(7) Where all appellants have withdrawn their appeals, the authority of second instance shall terminate the appeal procedure.

### **63. Amendment or revocation of the decision**

**Section 120** [*Amendment or revocation of the decision*]

(1) Where the authority establishes that its decision that has not been adjudicated by the authority of second instance, the supervisory organ or the administrative court

is in violation of the law, it shall amend or revoke its decision, not more than once, within one year from its communication.

(2) Unless otherwise provided by an Act or government decree, and with the exception of an incorrect entry in the official verification card or the official certificate, the decision may not be amended or revoked if that amendment or revocation would violate an exercised right that was acquired in good faith.

## **64. Supervisory procedure**

### **Section 121** [*General rules of supervisory procedure*]

(1) The supervisory organ may, *ex officio*, examine the procedure and decision of the authority proceeding in the case, and it shall accordingly

- a) take the measure necessary to eliminate the unlawful omission, or
- b) exercise the supervisory power regulated under paragraph (2).

(2) Where the decision of the authority is in violation of the law, the supervisory organ shall, not more than once, amend or annul it and, where necessary, order the authority which adopted the decision to carry out a new procedure.

(3) The decision of the authority shall not be amended and it shall not be annulled if

- a) it has been adjudicated by the administrative court on the merits,
- b) grounds for nullity exist but the time specified under section 123 has elapsed,
- c) in the absence of grounds for nullity, it would violate the party's exercised right that was acquired in good faith, or
- d) a period of five years calculated from the date when the decision specifying an obligation reached administrative finality, or, where longer, from the last day of the time limit for performance, elapsed.

(4) The decision adopted in the supervisory procedure may be contested before the administrative court.

## **65. Intervention and action by the prosecutor**

### **Section 122** [*Intervention and action of the prosecutor*]

Where the prosecutor, on the basis of the Act on the prosecution service, makes an intervention or, if the intervention remains unsuccessful, takes action, the authority may, without limitation, amend (modify) or revoke (annul) its own decision, which was challenged by the prosecutor, even if the law concerning the administrative authority procedure otherwise restricts or excludes this.

## **66. Nullity**

### **Section 123** [*General provisions on nullity*]

(1) In the course of procedures regulated in this Chapter, the decision shall be annulled or revoked and, where necessary, a new procedure shall be carried out, if

- a) with the exception of any provisional measure, the case does not fall under the material competence of the proceeding authority,
- b) the decision was adopted without the obligatory request to the specialist authority for administrative assistance or by disregarding the statement of the specialist authority,
- c) the collegiate body which adopted the decision was not formed in conformity with the law, did not have a quorum or did not have the majority required for making the decision,

*d)* the content of the decision was influenced by a criminal offence, provided that it has been established by a final and binding judgement that a criminal offence was committed or passing such a judgement was not excluded due to lack of evidence,

*e)* the prosecutor postponed filing the indictment and the period of postponement has elapsed successfully,

*f)* the content of the decision is contrary to a decision of the administrative court adopted in the given case,

*g)* another party should have been added to the procedure, or

*h)* a serious procedural violation is qualified as a reason for nullity by an Act.

(2) With the exceptions set out in paragraph (3), the decision may not be annulled even if there are grounds for nullity, where

*a)* it would violate the party's exercised right acquired in good faith and a period of three years elapsed since the decision reached administrative finality,

*b)* a period of five years elapsed, in the case of a decision specifying an obligation, since it reached administrative finality or, where it is longer, from the last day of the time limit for performance; or in the event of a decision specifying a continuous obligation, from the last performance, or

*c)* it was consented to according to section 56 (2) by the specialist authority which was disregarded or whose administrative assistance failed to be requested.

(3) Where grounds for nullity as specified under paragraph (1) *d)* and *e)* exist, the decision may be annulled without any time restriction if this does not affect an exercised right that was acquired in good faith.

## CHAPTER X

### PROCEDURAL COSTS; ADVANCING AND BEARING PROCEDURAL COSTS

#### 67. General rules on procedural costs

##### **Section 124** [*Procedural costs*]

All costs accrued in the course of the proceedings shall be procedural costs.

#### 68. Bearing of procedural costs

##### **Section 125** [*General rule on bearing procedural costs*]

(1) Unless provided otherwise by an Act, the costs of the procedure shall be borne by the party by whom they were incurred.

(2) The participant in the procedure shall bear the costs caused by his unlawful conduct.

(3) Costs that no one can be obliged to bear shall be borne by the proceeding authority.

##### **Section 126** [*Bearing the procedural costs by the party*]

(1) Where several parties share the same interest, they shall be jointly and severally liable for bearing the costs of the procedure.

(2) In a dispute procedure, the authority shall oblige

*a)* the applicant party to bear the costs of the procedure if the application is rejected,

*b)* the party with opposing interests to bear the costs of the procedure if the application is granted.

(3) Where the administrative decision grants the application in part only, the authority shall oblige the applicant party and the party with opposing interests to bear the procedural costs proportionally.

**Section 127** [*Bearing the procedural costs by the proceeding authority and other persons participating in the procedure*]

(1) Procedural costs incurred in the procedure of the organ or person requested to provide assistance shall be reimbursed by the requesting authority.

(2) The proceeding authority shall bear the costs of translation and interpretation incurred on the basis of section 21 (1) related to language use.

**69. Advancement of procedural costs**

**Section 128** [*General rules on the advancement of procedural costs*]

(1) In a procedure commenced upon application, the procedural costs shall, unless the law provides otherwise, be advanced by the applicant party. Where several parties share the same interest, they shall be jointly and severally liable for advancing the costs of the procedure.

(2) The party may not be obliged to advance procedural costs which are included in the fees.

(3) Costs related to the procedure for taking of evidence shall be advanced by the party which makes the motion to produce evidence.

(4) Costs related to police assistance shall be advanced by the authority requesting the assistance.

(5) The authority shall make a decision on the advancement of costs at the time they are incurred; where, however, the costs incurred amount to a significant sum or where it is otherwise justified, the authority may order the party to preliminarily deposit the amount foreseeably required to cover the costs with the authority.

(6) In procedures commenced or continued *ex officio*, procedural costs shall be advanced by the authority, with the exception of costs related to the appearance of the party, the costs of the person acting in the representation of the party, translation costs which are not to be borne by the authority, and mailing costs and document forwarding costs incurred by other participants in the procedure.

**70. Decision on bearing procedural costs**

**Section 129** [*Decision on bearing procedural costs*]

(1) The authority shall determine the procedural costs in precise figures and it shall make a decision on bearing the costs and, where necessary, the reimbursement of advanced costs.

(2) The amount of procedural costs shall be determined with attention to the pieces of evidence substantiating it.

(3) Where the amount of procedural costs is unreasonably high, the authority shall determine a lower amount.

**71. Cost exemption**

**Section 130** [*General rules on cost exemption*]

(1) For purposes of alleviating the assertion of his rights or for other compelling reasons specified by an Act, the authority may grant exemption from costs to any natural person party, who, on account of his earnings, income and financial situation, is unable to bear any or part of the procedural costs.

(2) Cost exemption means a full or partial exemption from the advancement and bearing of procedural costs.

(3) Cost exemption extends, from the time the application is submitted, to the entire duration of the procedure, as well as the enforcement procedure. The authority



advances procedural costs which the party would otherwise have been obliged to advance and were incurred in the period of time between the time of the first submission by the party of the application for cost exemption and the time when the decision on it reaches administrative finality.

(4) The authority shall communicate the procedural decision on the permission, amendment or revocation of cost exemption to the participating authorities, the procedure of which involves an obligation to pay fees or charges.

(5) An Act, government decree or local government decree shall determine those types of cases where the party is entitled to cost exemption.

## *CHAPTER XI*

### *ENFORCEMENT*

#### **Section 131** [*General rules of enforcement*]

(1) The provisions of this Act shall apply to the enforcement procedure subject to the derogations provided for in this Chapter.

(2) Unless otherwise provided by this Act, the Vht. shall apply. If enforcement is carried out by the national tax authority, the provisions of this Act on enforcement shall not apply to its proceeding.

(3) Unless this Chapter provides otherwise, a court mentioned by the Vht. shall be read as an authority ordering enforcement, a court bailiff as an organ performing enforcement, an enforceable document as an enforceable decision, and a debtor as an obligor. Where the Vht. provides for performance to a deposit account of a court bailiff, performance shall be carried out to the account of the organ performing the enforcement. The provisions of this Act shall apply to the advancement and bearing of costs incurred in the course of the enforcement procedure, and for the imposition of administrative fines in the enforcement procedure.

(4) An objection to the procedure of the organ carrying out the enforcement shall be adjudicated by its supervisory organ or, in its absence, it shall be adjudicated by the administrative court.

(5) The provisions of the Vht. on the electronic auction of movable and immovable property shall apply if the enforcement is carried out by an independent court bailiff.

## **72. Enforceable decisions**

#### **Section 132** [*Enforceable decisions*]

If the obligor has failed to comply with an obligation specified in the final decision of the authority, the decision may be enforced.

## **73. Ordering the enforcement**

#### **Section 133** [*General rules of ordering the enforcement*]

(1) Unless provided otherwise by an Act or government decree, the enforcement shall be ordered by the authority which made the decision; with regard to a decision of second instance, enforcement shall be ordered by the authority of first instance.

(2) The authority shall order enforcement *ex officio* or upon the application of the beneficiary. The authority shall order enforcement within five days of the enforceability of the decision or the receipt of an application to order enforcement, and it shall communicate the decision to the organ carrying out enforcement.

## **74. Carrying out enforcement**

#### **Section 134** [*General rules on carrying out enforcement*]

(1) The enforcement shall be carried out by the national tax authority unless provided otherwise by an Act, government decree or, in an administrative case of a local government, a local government decree.

(2) The organ carrying out enforcement may enter into a contract for enforcement with an independent court bailiff, but only the authority ordering the enforcement is entitled to make a procedural decision in the course of the enforcement.

## **75. Late payment surcharges**

### **Section 135** [*Rules on late payment surcharges*]

The obligor shall pay to the beneficiary late payment surcharges equivalent to the lawful interest for failure to comply with his payment obligation within the time limit, as well as for the costs advanced by the state for the period of the advancement.

## **76. Suspension of enforcement**

### **Section 136** [*General rules on suspending enforcement*]

(1) Enforcement may be suspended by the authority ordering it or by the authority of second instance.

(2) Enforcement shall also be suspended if

a) an action of replevin is in progress in relation to the asset subject to enforcement, or the court bailiff had seized the asset earlier for the enforcement of another claim, provided that there is no other asset that can be seized,

b) an objection has been submitted against the document considered as served and the facts and circumstances presented therein make granting the objection likely,

c) the obligor has died or ceased to exist, then until the procedural decision on legal succession reaches administrative finality,

d) it has been initiated by the prosecutor in his intervention filed against the enforceable decision,

e) to continue enforcement would lead to a life-threatening situation or irreparable damage, or the suspension is necessary for reasons of public health or public safety, or

f) it is prescribed by law.

(3) The organ carrying out enforcement shall inform the authority ordering enforcement of the reason for suspension learnt and of the option of terminating suspension.

(4) The authority ordering enforcement may, upon the application of the obligor, exceptionally suspend enforcement if the obligor provides proof of the legitimate circumstance underlying the suspension and no administrative fine has been imposed on the obligor in the course of the enforcement procedure.

(5) Where the circumstance underlying the suspension has ceased to exist, the authority ordering the enforcement shall make a decision on the continuation of enforcement.

## **77. Termination of enforcement**

### **Section 137** [*General rules on termination of enforcement*]

(1) The authority ordering enforcement shall also terminate the enforcement if

a) the beneficiary requests the termination of the enforcement and this does not infringe the rights of others,

b) the claim has lapsed and the termination of the enforcement is requested by the obligor, or

c) further acts of enforcement in the procedure are not expected to yield results.

(2) The organ carrying out enforcement shall inform the authority which ordered the enforcement of the reasons for termination coming to its knowledge and of the conclusion of enforcement.

## **78. Lapse of the right to enforcement**

### **Section 138** [*Lapse of the right to enforcement*]

(1) The right to enforcement shall lapse three years after the last day of the time limit for performance. An Act or government decree may determine a shorter limitation period.

(2) The limitation period shall be suspended during the suspension of enforcement, as well as during payment concessions permitted in the enforcement procedure and during the ongoing enforcement of payment obligations.

(3) The limitation period of enforcement shall be interrupted by any act of enforcement. However, an administrative decision shall not be enforceable after six years from the date specified under paragraph (1).

## *CHAPTER XII*

### *FINAL PROVISIONS*

## **79. Authorising provisions**

### **Section 139** [*Authorisations given to the Government*]

The Government shall be authorised to determine in a decree the provisions on

a) the scope of procedural costs and determining the cost exemption, as well as the extent of fees related to the access to files and the payment of costs,

b) the designation of the specialist authority to be involved in the case where required by a compelling reason of public interest.

### **Section 140** [*Authorisations given to the ministers*]

The minister responsible for justice shall be authorised to determine in a decree

a) the provisions on the storing and sale of items impounded or seized in the course of the administrative authority procedures, as well as on the deposit with the authority,

b) in agreement with the minister responsible for public finances, the provisions on the allowances payable to interpreters participating in the administrative authority procedures,

c) the provisions on costs chargeable by witnesses and official witnesses, in agreement with the minister responsible for public finances, and

d) in agreement with the minister responsible for public finances and the minister responsible for social inclusion, the provisions on the allowances payable to sign language interpreters.

## **80. Entry into force**

### **Section 141** [*Entry into force of the Act*]

This Act shall enter into force on 1 January 2018.

### **Section 142**

## **81. Transitional provisions**

### **Section 143** [*Transitional provisions*]

(1) The provisions of this Act shall apply to procedures commenced or repeated after its entry into force.

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

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

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

(3) For the purposes of this Act, final and binding decisions of the authority issued pursuant to Act CXL of 2004 on the general rules of administrative authority proceedings and services shall be considered to be decisions with administrative finality. For the purposes of this Act, where the law mentions

a) the final and binding decision of an administrative authority, it shall be construed as the decision with administrative finality of the authority,

b) Act CXL of 2004 on the general rules of administrative authority proceedings and services, it shall be read as this Act,

c) the judicial review of the decision of the authority, it shall be construed as an administrative court action,

d) administrative assistance in Hungary, it shall be construed as a request for administrative assistance,

e) dismissal of the application without examination on the merits, it shall be construed as rejection of the application,

f) seizure, it shall be construed as seizure or impoundment,

g) publication of the decision, it shall be construed as the public announcement of the decision.

## **82. The official abbreviated designation of the Act**

### **Section 144** [*The official abbreviated designation of the Act*]

The abbreviated designation of this Act, to be used in other laws, is Ákr.

MINISTRY OF JUSTICE  
HUNGARY