

Act I of 2017
on the Code of Administrative Court Procedure

The National Assembly,
respecting the achievements of the historic constitution,
recognising the independence of administrative justice and renewing its national traditions,
recognising the need for independent rules of court procedures enabling the efficient, rapid
and professional adjudication of administrative court actions,
for the purpose of guaranteeing legal protection and procedural remedy against unlawful
acts of public administration through administrative courts; furthermore
in order for the organs of public administration to exercise their powers in compliance with
provisions laid down in Acts, and for their activities to comply with the objectives to be
achieved through those activities,
for the purpose of implementing Article 25 (2) *b*) to *d*) of the Fundamental Law adopts the
following Act:

PART ONE
GENERAL PROVISIONS
CHAPTER I
FUNDAMENTAL PROVISIONS

Section 1 [*Scope of the Act*]

- (1) This Act shall apply to administrative court actions seeking to adjudicate administrative disputes and to other administrative court procedures.
- (2) This Act shall not cover the adjudication of administrative disputes governed by other procedural rules of courts by virtue of an Act.

Section 2 [*The responsibilities of the court*]

- (1) The court shall provide, upon well-founded claims, effective legal protection against infringements caused by administrative activities.
- (2) The court shall adjudicate administrative disputes in fair, concentrated and cost efficient procedures.
- (3) In order to ensure the concentration of proceedings and procedural fairness, the court, in the manner and by the means defined in this Act, shall ensure that the parties and other persons involved in the court procedure can exercise their procedural rights and meet their obligations.
- (4) Unless otherwise provided by this Act, the court shall adjudicate the administrative dispute within the limits of the statement of claim and of the requests and juridical acts submitted by the parties. The court shall assess the requests and statements submitted or presented by the party according to their content and not by their designation.
- (5) In the cases specified by an Act, the court may order *ex officio* an inquiry and the taking of evidence.
- (6) The court shall be required to ensure that parties have the possibility to access all requests and statements submitted in the procedure and to all documents and evidence submitted to the court and to make statements regarding those within an adequate time limit.
- (7) The court shall be required to provide the party having no legal representative with the necessary information on his procedural rights and obligations in the court procedure, the

possibility to submit a request for a patron lawyer and, in justified cases, the participation of a supporter in the procedure.

Section 3 [Obligations of the parties]

(1) The parties shall be required to act in good faith and cooperate with the court in order to bring the procedure to completion in a concentrated manner.

(2) The parties shall be required to present their statements of facts and other statements relating to the facts truthfully.

(3) Unless otherwise provided by an Act, the burden of presenting the facts necessary for the adjudication of the legal dispute and providing data and evidence substantiating such facts shall lie with the parties.

(4)

Section 4 [The administrative dispute]

(1) The subject of the administrative dispute shall be the lawfulness of an act regulated under administrative law and taken by an administrative organ with the aim to alter the legal situation of an entity affected by administrative law or resulting in such an alteration, or the lawfulness of the administrative organ's failure to carry out such an act (hereinafter "administrative activity").

(2) Legal disputes relating to public service and administrative contractual relationships shall also qualify as administrative disputes.

(3) Administrative acts shall include

- a) individual decisions;
- b) administrative measures;
- c) administrative acts of general scope to be applied in a specific case, and not falling under the scope of the Act on law-making;
- d) administrative contracts.

(4) Unless otherwise provided by an Act, no administrative dispute shall take place

- a) concerning government activities, in particular with respect to national defence, aliens policing and foreign affairs,
- b) concerning the lawfulness of an ancillary administrative act serving the purpose of implementing an administrative act,
- c) between parties in hierarchical or managerial legal relationships.

(5) An administrative act of general scope to be applied in a specific case may be the subject of an administrative dispute only as connected to the administrative act during the implementation of which it was applied. An administrative act of general scope to be applied in a specific case may only be itself the subject of an administrative dispute if the infringement is the direct result of the administrative act of general scope being applied or taking effect without any administrative act being implemented.

(6) The court shall not be bound by the designation of the administrative activity as indicated by the parties. The court shall assess *ex officio* the administrative activity according to its content and shall adjudicate it accordingly.

(7) For the purposes of this Act:

1. *administrative organ* means

- a) an organ of state administration and its organisational unit or entity vested with independent functions and powers,
- b) the representative body of a local government and its organ,
- c) the representative body of a national minority self-government and its organ,
- d) a statutory professional body, an institute of higher education and its official or organ vested with independent functions and powers,

e) other organisation or person authorised by the law to carry out administrative acts;

2. *administrative contract* means a contract or an agreement concluded by and between Hungarian administrative organs to perform a public function, as well as contracts defined as such by an Act or government decree;

3. *public service relationship* means a legal relationship that contains specific obligations and rights defined in an Act, established between the state or an organ acting on behalf of the state and a person employed on behalf of the state in order to perform work or provide a service, to serve the public; excluding the service relationship of judges, employees of the judiciary and the prosecution service, as well as the legal relationships of those in employment relationships;

4. *preceding administrative procedure* means the administrative authority procedures or procedures for procedural remedy that were conducted to carry out the administrative act subjected to the legal dispute.

(8) The rules of this Act applicable to administrative organs shall apply to employer organs, whereas the rules applicable to administrative acts shall apply to decisions and measures relating to the public service relationship. The procedure of the Public Service Arbitration Board shall not be considered a preceding administrative procedure.

Section 5 [*Scope of administrative jurisdiction*]

(1) The court shall adjudicate the administrative dispute in an administrative court action.

(2) The court shall adjudicate disputes of public law that fall, by virtue of an Act, under the jurisdiction of administrative courts.

(3) Procedures for reviewing the conflict of a local government decree with other laws and in procedures due to the failure of a local government to fulfil its obligation to legislate shall be adjudicated by the court.

Section 6 [*Applying the provisions of the Code of Civil Procedure*]

The provisions of the Code of Civil Procedure shall only apply to an administrative court action or another court procedure of the administrative court if it is expressly provided by this Act. The provisions of the Code of Civil Procedure shall apply in line with this Act.

CHAPTER II

COURTS

Section 7 [*Administrative courts*]

(1) Courts adjudicating in first instance shall be

- a) the administrative and labour courts,
- b) the regional courts or the Curia in cases specified by an Act.

(2) Courts adjudicating in second instance shall be

a) the regional courts in cases falling under the jurisdiction of the administrative and labour courts, and

b) the Curia in cases falling under the jurisdiction of the regional courts.

(3) The Curia shall proceed as court of review.

Section 8 [*The composition of the court*]

(1) Unless otherwise provided by this Act, the court shall proceed in a panel consisting of three professional judges.

(2) The court panel in its preparatory deliberation may order that a member of the panel proceed as a sole judge if the adjudication of the case is simple both in terms of facts and in terms of the legal aspects.

(3) A sole judge shall proceed in the first instance

- a) in actions for reviewing an administrative act taken in an administrative procedure of two instances,
- b) in actions brought upon a claim disputing a payment obligation not exceeding five million forints,
- c) in actions relating to the entry and residence of persons with the right of free movement and residence and of third-country nationals and in actions relating to asylum,
- d) in actions specified in section 13 (4),
- e) in actions relating to an official verification card, an official certificate and keeping an official register,
- f) in actions against an administrative decision if filed by another participant of the administrative procedure,
- g) in actions relating to an ancillary administrative act,
- h) in actions for failure to act,
- i) in actions relating to a public service relationship,
- j) in other actions specified by this Act.

(4) If justified by the particular complexity of the case, in an action under paragraph (3), the sole judge may order, prior to commencing the hearing, that a panel of three professional judges proceed in the case. No sole judge may proceed in cases that have been referred to a panel.

(5) The regional court as court of second instance shall proceed in a panel of three professional judges.

(6) The Curia shall proceed in a panel of three professional judges. If justified by the particular complexity or outstanding social relevance of the case, the Curia may order that a panel of five professional judges proceed in the case. If justified by the nature of the case, no more than two of the members of a panel of five professional judges are allowed to be professional judges not designated as judges proceeding in administrative cases.

Section 9 [*The rights and obligations of the members of the court*]

(1) A sole judge may take any measures and adopt any decisions within the competence of the court, the court panel or the chair as conferred by an Act.

(2) In cases referred to the court panel, the chair or the judge designated by the chair may take all the measures outside the hearing and may take all decisions, except for the judgment, which are conferred upon the court by an Act. At the hearing, the chair may take measures and adopt decisions that are specifically conferred upon the court by this Act.

Section 10 [*Disqualification*]

(1) Those persons:

- a) who have the right to participate in the court procedure as a party or an interested person,
- b) who participated in performing the administrative activity subject to the dispute,
- c) who are officials, members, founders of the party or the interested person; or who are controlling shareholders of a public company limited by shares which is a party or an interested person; or who are engaged in an employment relationship with the party or the interested person, except for budgetary organs, for five years after the termination of that legal relationship,
- d) who are representatives, supporters or former representatives or supporters, having proceeded in the case before, of the persons under points a), b) or c),
- e) who, according to the Civil Code, are relatives of the persons under points a), b), c) or d),
- f) whose hearing as witnesses was ordered by the court, or who were appointed by the court as experts, or provided an expert opinion,
- g) who conducted a mediation procedure relating to the action,

h) who may not be expected to judge the case objectively for other reasons, shall be disqualified from administering the action and shall not be allowed to participate in it as a judge.

(2) The judge who participated in the court procedures preceding the adoption of the decision challenged by the procedural remedy shall also be disqualified from administering the procedural remedy.

(3) The administrative and labour court

a) the head of which meets a ground for disqualification specified in paragraph (1) *a)* to *e)*, or

b) which may participate in the court procedure as a party or an interested person shall be disqualified from proceeding.

(4) If all the judges or panels of the administrative and labour court meet the grounds for disqualification or the ground for disqualification affects the court as a whole, the matter of disqualification shall be decided upon by the Budapest-Capital Regional Court.

(5) The rules of the Code of Civil Procedure shall apply accordingly to the submission and administration of the application for disqualification in all other respects.

Section 11 [*The junior judge and the court administrator*]

(1) In cases referred to the court of first instance, a junior judge may also act outside the hearing on behalf of a sole judge, the chair or the judge appointed by the chair.

(2) Unless otherwise provided by an Act, the junior judge shall have sole signatory right in the cases specified under paragraph (1). The junior judge may take all the measures and, except for the judgment, may adopt all the decisions conferred upon the court or upon the chair by an Act. The junior judge may, except for an order in a simplified procedure, adopt the order closing the procedure after obtaining the approval of the chair or the judge appointed by the chair.

(3) The junior judge may not decide in matters of interim relief.

(4) In cases specified by an Act or government decree, a court administrator, subject to the management and supervision of the judge, may also act with sole signatory right outside the hearing. In such cases, the provisions on the proceeding of the court as specified in an Act shall apply to the proceeding of a court administrator.

(5) The provisions on the disqualification of judges shall apply to the disqualification of junior judges, court administrators and the keepers of the minutes.

CHAPTER III

MATERIAL JURISDICTION AND TERRITORIAL JURISDICTION

Section 12 [*Material jurisdiction*]

(1) The administrative court actions and other administrative court procedures the adjudication of which is not conferred upon the regional court or the Curia under an Act shall fall under the material jurisdiction of the administrative and labour court.

(2) Except for actions relating to public service relationship, actions relating to the administrative activities of

a) an independent regulatory organ, an autonomous organ of state administration and a government agency under the Act on central organs of state administration, unless otherwise provided by an Act,

b) the railway regulatory organ,

c) the aviation agency and

d) the Hungarian National Bank

shall fall under the material jurisdiction of the regional court.

(3) The regional court shall decide

- a) in procedures for the designation of an administrative organ,
- b) in court procedures relating to the exercise of the right of assembly,
- c) in actions relating to access to classified data, and
- d) in legal disputes concerning statutory professional bodies.

(4) The Curia shall have material jurisdiction regarding

- a) procedures for reviewing the conflict of a local government decree with other laws,
- b) procedures due to the failure of a local government to fulfil its obligation to legislate, and
- c) procedures for establishing the procedural means to remedy a constitutional complaint.

Section 13 [*Territorial jurisdiction*]

(1) If no other court has exclusive territorial jurisdiction over the case, the procedure shall be conducted by the court, under the territorial jurisdiction of which the administrative activity subject to the dispute was performed. If the administrative act subject to the dispute was performed in procedures of more than one instance, the court action shall fall under the territorial jurisdiction of the court, where the administrative act was performed at first instance.

(2) The place of the performance of the administrative activity

- a) shall be the location of the real estate in respect of a right, obligation or legal relationship relating to real estate;
- b) shall be the place where the activity is practised or planned to be practised in respect of notifying or licensing an activity;
- c) shall be, with the exception of those set out in points a) and b), with regard to the administrative activity of a territorial organ of state administration with territorial competence at national level, the domicile or place of residence of the plaintiff and, for a legal person or organisation without a legal personality, the seat of the organisation, and in the absence of such, the seat of the administrative organ;
- d) shall be Pest county in respect of an activity carried out at the seat of an administrative organ that has its seat in the capital but its territorial competence primarily covers Pest county or a part of it;
- e) shall be the seat of the administrative organ in respect of failures to act, with the exception of those specified in points a) to c).

(3) The action shall fall under the territorial jurisdiction of

- a) the Budapest-Capital Administrative and Labour Court in respect of administrative activity carried out in the territory of the capital, Budapest;
- b) the Budapest Environs Administrative and Labour Court in respect of administrative activity carried out in Nógrád County and Pest County;
- c) the Administrative and Labour Court of Debrecen in respect of administrative activity carried out in Hajdú-Bihar County, Jász-Nagykun-Szolnok County and Szabolcs-Szatmár-Bereg County;
- d) the Administrative and Labour Court of Győr in respect of administrative activity carried out in Győr-Moson-Sopron County, Komárom-Esztergom County and Vas County;
- e) the Administrative and Labour Court of Miskolc in respect of administrative activity carried out in Borsod-Abaúj-Zemplén County and Heves County;
- f) the Administrative and Labour Court of Pécs in respect of administrative activity carried out in Baranya County, Somogy County and Tolna County;
- g) the Administrative and Labour Court of Szeged in respect of administrative activity carried out in Bács-Kiskun County, Békés County and Csongrád County;

h) the Administrative and Labour Court of Veszprém in respect of administrative activity carried out in Fejér County, Veszprém County and Zala County.

(4) Actions relating to social security, social or child protection benefits and benefits or support provided by the state employment service shall fall under the territorial jurisdiction of the administrative and labour court where the domestic domicile of the plaintiff is located; for a legal person or organisation without a legal personality, the seat of the organisation; and in the absence of such, where the seat of the administrative organ is located.

(5) An action relating to administrative contracts shall fall under the territorial jurisdiction of the court under paragraph (3), where the contract was concluded. The court with territorial jurisdiction in the action against the principal obligor party under any title shall also have territorial jurisdiction over the claim towards the secondary obligor.

(6) If the administrative activity was performed abroad, the Budapest-Capital Administrative and Labour Court shall have exclusive territorial jurisdiction.

(7) Unless otherwise provided by an Act, for any future legal dispute arising in relation to an administrative contract, the parties may, in an individually negotiated contractual provision of the administrative contract, stipulate the territorial jurisdiction of an administrative and labour court specified in paragraph (3). Unless otherwise provided by an Act or agreed upon by the parties, this court shall have exclusive territorial jurisdiction in all actions arising from the administrative contract. The legal successor shall also be bound by this choice of court.

(8) No choice-of-court clause may be stipulated for cases which, by virtue of an Act, fall under the exclusive territorial jurisdiction of a specific court. The parties may not stipulate the territorial jurisdiction of the Budapest-Capital Administrative and Labour Court for their future legal disputes.

(9) Actions relating to public service relationships shall fall under the territorial jurisdiction of the court having its territorial competence over the place where the work was performed. The plaintiff as a natural person may also bring the action in respect of the public service relationship at the court having territorial jurisdiction over the place where the plaintiff's domicile is located.

(10) If more than one court has territorial jurisdiction over the case, the court to which the statement of claim was first submitted or forwarded shall proceed.

(11) The Budapest-Capital Regional Court shall have exclusive territorial jurisdiction in adjudicating appeals against the decisions of administrative and labour courts and in actions specified in section 12 (2) and (3).

Section 14 [*Examining material jurisdiction and territorial jurisdiction*]

(1) The court shall consider *ex officio* the absence of material and territorial jurisdiction.

(2) If the administrative court establishes material jurisdiction in a case, this decision shall be binding on other courts, except for the court of second instance proceeding in the administrative case and the Curia.

(3) When establishing the territorial jurisdiction of the court, the date of submitting the statement of claim shall be decisive. The territorial jurisdiction of the court shall also be established if the action falls under it due to changes that occurred after the statement of claim was submitted.

(4) The court shall only examine whether the facts presented for the purpose for establishing territorial jurisdiction, or their absence, are in compliance with reality if they contradict public knowledge or the official information obtained by the court or if they are challenged by the opposing party.

Section 15 [*Designating the proceeding court*]

(1) If a conflict of material or territorial jurisdiction arises from final and binding court decisions, or if it cannot be established which court has territorial jurisdiction over the case or

the court with territorial jurisdiction over the case may not proceed due to disqualification, the proceeding court shall be designated within thirty days.

(2) If it cannot be established which court has territorial jurisdiction over the case, the party may submit an application for designation to any administrative and labour court; otherwise the court having proceeded in the case shall be required to submit an application concerning designation *ex officio*.

(3) The court having material jurisdiction and territorial jurisdiction over the case shall be designated and ordered to proceed

a) by the Budapest-Capital Regional Court in the event of conflict of territorial jurisdiction or if it cannot be established which court has territorial jurisdiction over the case or the court with territorial jurisdiction over the case may not proceed due to disqualification,

b) by the Curia in the event of conflict of material jurisdiction.

(4) If the conflict of material jurisdiction arises between an administrative court and another court, the Curia shall decide, sitting in a five-member panel, on the designation. The chair and two members of the panel shall be administrative judges, and the other two members shall be judges specialised in the division affected by the dispute. The composition of the panel and the rules on substitution shall be determined annually in advance in the case allocation.

(5) The court may decide on the matter of designation without hearing the parties.

CHAPTER IV

THE PARTIES AND THE INTERESTED PERSON

Section 16 [*Procedural capacity*]

(1) Anyone who may have rights and obligations pursuant to the rules of civil law or administrative law, as well as an administrative organ vested with own administrative functions and powers, may have the capacity to be a party in a court procedure.

(2) In an action relating to public service relationship, the interest representation organisation of employees and the interest representation organisation of employers may also be parties.

(3) Those who have procedural capacity to act under the rules of Code of Civil Procedure or had the right to proceed in person in the preceding administrative procedure may proceed in person or through a representative in the procedure.

(4) The rules of the Code of Civil Procedure shall apply to the other aspects of the capacity to be a party in a court procedure and the involvement of a supporter, an interpreter and translator.

Section 17 [*The plaintiff*]

The following shall be eligible to bring an action:

a) the person whose right or legitimate interest is directly affected by the administrative activity,

b) the prosecution service or the organ exercising the supervision of legality if the time limit set in its notice expired without yielding any result,

c) the administrative organ that did not participate in the preceding administrative procedure as an authority or specialist authority but whose powers are affected by the administrative activity, and the administrative organ that is a party to the administrative contract (contracting administrative organ),

d) in the cases specified by Acts or government decrees, the non-governmental organisation which has carried out its registered activity to protect a fundamental right or to enforce a public interest for at least a year in the geographical area affected by the administrative activity, if the administrative activity affects its registered activity,

e) in cases specified by an Act, an interest representation organisation or a statutory professional body, the registered activity or the activity stipulated in its deed of foundation of which is affected by the administrative activity if the legitimate interest of the members or group represented by it is directly infringed or jeopardised.

Section 18 [*The defendant*]

(1) Unless otherwise provided by an Act, the action shall be brought against the administrative organ which carried out the administrative activity subject to the legal dispute. Regarding an act taken in an administrative procedure of more than one instance, the administrative organ proceeding at the last instance shall be considered the one carrying out the administrative act.

(2) The status of the administrative organ as defendant shall not be affected if the powers on the basis of which its administrative activity was carried out terminate without being transferred by law to any other administrative organ.

(3) The action relating to the public service relationship shall be brought against the employer organ.

Section 19 [*Joinder of parties*]

(1) An action may be brought by more than one plaintiff if the subject matter of the legal dispute is a common right or obligation which may only be adjudicated as a whole or if the decision adopted in the procedure would affect the co-litigants even if they were not involved in the procedure.

(2) In the event of a joinder of parties under paragraph (1), the procedural acts of any co-litigants in the procedure, except for settlement, recognition, waiver and abandoning the action, shall also affect co-litigants who missed a time limit, a due date or failed to act, provided that the failure was not remedied later. Should the acts or presentations of the co-litigants differ, the court shall consider those by taking the other data of the action into account.

(3) An action may also be brought by more than one plaintiff if the alleged infringements were caused by the same administrative activity, or the disputed administrative activities of the same nature are based on the same legal grounds and the same or similar facts.

(4) An action may be brought against more than one defendant if they carried out the administrative activity together, in particular if the administrative activity of one of them is based on the other's administrative activity which is challenged in the statement of claim, or the activities were implemented in the same preceding administrative procedure.

(5) With regard to joinder of parties under paragraphs (3) and (4), co-litigants shall act independently; no actions or failures to act by any of the co-litigants shall be to the advantage or disadvantage of the other co-litigants.

Section 20 [*The interested person*]

(1) The person whose right or legitimate interest is directly affected by the administrative activity subject to the dispute or by the judgment to be adopted in the procedure may join, as an interested person, the action pending between others. The person who participated in the preceding administrative procedure as a party may also join the action as an interested person.

(2) Unless otherwise provided by this Act, the interested person shall have the same procedural rights and obligations as parties in the administrative court action or in any other administrative court procedure.

(3) The interested person shall be entitled to perform acts in the court procedure without prejudice to the parties' right of disposal, and these acts shall also be effective even if they are contrary to the acts of the parties. It shall be up to the court to decide, taking the other data of the action into account, what influence this contrary act shall have on the adjudication of the case.

(4) The interested person, if known, shall be notified by the court of the possibility to join the action. Simultaneously with the notification, the court shall release, if not yet done, the statement of claim to the interested person. This notification of the possibility of joining the action may be made *ex officio* or at the request of either party in any phase of the procedure until the judgment becomes final and binding.

(5) If the preceding procedure was conducted by also establishing a geographical area, the court may order that the interested persons not having participated in the preceding administrative procedure be informed of the possibility to join the action on the administrative organ's website or in the absence of one, through the channels used most frequently at the given location. It shall be the administrative organ the court orders to publish the notification. The notification of the possibility to join the action shall be considered communicated on the fifteenth day following its publication by the administrative organ.

(6) The court may, upon request or *ex officio*, add to the action, as an interested person, a person whose right or legitimate interest is affected by the judgment to be adopted in the action, if the court considers the participation of that person to be necessary for resolving the legal dispute.

(7) The party may request that someone be added to the action or that a notice of the possibility to join the action be issued within thirty days following the communication of the statement of defence. The order dismissing the request to add someone to the action may be appealed.

Section 21 [*An interested person joining the action*]

(1) Joining the action shall be announced in writing or orally at the hearing. The interested person notified of the possibility of joining the action may announce he is joining the action within fifteen days of the communication of the notice. The failure to meet the time limit may be excused within fifteen days after the expiry of the time limit.

(2) The interested person, simultaneously with announcing he is joining the action, shall indicate the underlying right and legitimate interest, the name of the party whose success in the action the interested person wishes to support and state the reasons for all these matters.

(3) The court shall inform the parties of the interested person's announcement of joining the action without any delay and shall hear, if necessary, the parties before authorising the interested person to join the action.

(4) Unless otherwise provided by this Act, the interested person may carry out procedural acts only after the order authorising him to join the action has become final and binding. This provision shall not hinder procedural acts that are taken in respect of joining the action. Procedural acts carried out and judicial decisions adopted before joining the action was authorised shall also be effective against the interested person, unless otherwise provided by the court.

(5) If joining the action was not well-founded or the underlying right or legitimate interest ceased to exist, the court shall, after hearing the parties and the interested person, exclude the interested person from the action.

(6) The order rejecting the interested person's joining the action and the order excluding someone from the action may be appealed.

(7) In the absence of the administrative act and the notification of the possibility of joining the action, the interested person may also announce he is joining the action in the claim for procedural remedy with the proviso that, after the first instance judgment was adopted, it cannot be requested that a first instance hearing be held. The court having the right to adjudicate the appeal shall decide whether to authorise the interested person to join the action as announced in the claim for procedural remedy.

Section 22 [*Legal succession in the action*]

(1) The legal successor replacing the party or interested person after the statement of claim was submitted in respect of the right, legitimate interest or obligation may join the action.

(2) The consent of the legal predecessor shall be required for the legal successor of the plaintiff and the interested person to join the action. Such consent shall not be required if someone joins the action because the legal predecessor died or dissolved with legal succession; however, legal succession shall be substantiated.

(3) A party may add the legal successor of the other party to the action. The legal successor of the plaintiff may only be added to the court procedure if legal succession occurred due to the death or dissolution with legal succession of the plaintiff. The legal successor of an interested person may only be added to the action if the legal predecessor was added to the action by the court.

(4) The legal successor shall replace his legal predecessor dismissed from the action. Procedural acts and judicial decisions carried out and adopted, respectively, in the action until the legal predecessor was dismissed, shall be effective against the legal successor as well, unless otherwise provided by the court.

(5) If the legal predecessor is not removed from the action, the legal successor shall be involved in the action as a co-litigant of the legal predecessor.

Section 23 [*Procedure regarding legal succession in the action*]

(1) The fact that the legal successor joins the action or is involved to the action shall be announced in writing, or orally at the hearing. The announcement shall be communicated to the parties. The court shall hear the parties before deciding on someone joining the action and on involving someone to the action, as well as on dismissing a legal predecessor from the action.

(2) The order rejecting someone from joining the action or that someone be involved to the action may be appealed.

(3) When a legal successor joins an action or is involved to an action for a reason other than the death or dissolution of the legal predecessor, the court may, at the request of the legal successor and subject to the consent of the other parties, dismiss the legal predecessor from the action.

Section 24 [*Joining an action as co-litigant*]

A person who is entitled to bring the action but to whom the administrative act subject to the dispute was not communicated and who was not informed of the possibility of bringing an action either may join the action as a co-litigant of the plaintiff until the hearing preceding the adoption of the first instance judgment is closed.

Section 25 [*Adding a defendant to the action*]

(1) If the action was not brought against the appropriate administrative organ, the court, by communicating the statement of claim, shall add the administrative organ that had performed the administrative activity subject to the dispute to the action and shall dismiss the previous defendant from the action.

(2) Upon establishing that the action should have been brought against another administrative organ as well, the court shall, by communicating the statement of claim, add this administrative organ to the action.

(3) If the defendant administrative organ has been dissolved or its powers serving as the basis of the administrative activity subject to the dispute were in the meantime conferred upon another administrative organ by law, the court, on the basis of the information provided by the defendant or *ex officio*, shall add the administrative organ upon which the powers affected by the action were conferred to the action. The defendant shall be obliged to notify the court in advance of its dissolution, of the conferring of its powers affected by the action upon another administrative organ, indicating the name of this administrative organ.

(4) If the administrative organ proceeding at the last instance in administrative procedure of multiple instances is dissolved and its powers concerned in the action are terminated as well, the court shall add the organ proceeding at first instance to the action as defendant.

(5) The defendant added to the action shall replace the former defendant. The procedural acts and judicial decisions carried out and adopted respectively up until the addition to the action was authorised shall also be effective against the defendant that has been added to the action, unless otherwise provided by the court.

(6) If the former defendant is not removed from the action, the defendant added to the action shall participate in the action as a co-litigant of that defendant.

(7) At the request of the defendant added to the action, a new hearing shall be held, except if the defendant is managed by or subject to the professional management of the former defendant.

(8) The administrative organ that has been added to the action or dismissed from the action may appeal the order adding it as defendant to the action or dismissing it from the action within eight days. The court may amend or withdraw its order.

CHAPTER V

REPRESENTATION

Section 26 [*Representation*]

(1) The provisions of the Code of Civil Procedure shall apply to representation subject to the derogations contained in this Chapter.

(2) Junior attorneys-at-law and registered junior in-house legal counsel may not proceed, with the exception of accessing documents or requesting or making copies of them, before regional courts and the Curia.

(3) The head, official or employee of the administrative organ may certify his right of representation under the organisational and operational rules of the administrative organ by presenting his card certifying his employment.

(4) The administrative organ which is the defendant may authorise the administrative organ that proceeded at first instance to represent it in the procedure.

(5) The interest representation organisation of employees may proceed as representative in an action related to the public service relationship of its own member.

Section 27 [*Mandatory legal representation*]

(1) Legal representation shall be mandatory before regional courts and the Curia and in actions relating to administrative contracts.

(2) Regarding mandatory legal representation, an official or employee of the administrative organ who has passed a professional examination in law shall also have the right to proceed.

(3) In those cases under paragraph (2), the certificate serving as proof of passing the professional examination in law, the document equivalent to it or the certified true copy of either of them shall be presented to the court or attached to the submission when the representative appears for the first time in the procedural phase in which legal representation is mandatory for the party. If the certificate serving as proof of the professional examination in law, the document equivalent to it or their certified true copy has been presented to the court then this fact shall be recorded in the minutes and the certificate or copies shall not be attached to the documents.

(4) The provisions of the Code of Civil Procedure shall apply to the other aspects of mandatory legal representation.

CHAPTER VI

OTHER GENERAL PROVISIONS

Section 28 *[Submission]*

(1) Submissions shall be filed electronically, by mail or directly to the court. The date of filing the submission by mail shall be the day of posting.

(2) Unless otherwise provided by this Act, the rules on submissions shall apply to the statement of claim, statement of defence, the forwarding of the statement of claim, the documents of the case, and to the claims for procedural remedy.

(3) In all other respects, the general rules of the Code of Civil Procedure shall apply accordingly. Unless otherwise provided by this Act, remedying the deficiencies of submissions shall be regulated by the general provisions of the Code of Civil Procedure.

Section 29 *[Application of electronic technologies and devices]*

(1) The provisions of the Code of Civil Procedure shall apply accordingly to electronic communication.

(2) The provisions of the Code of Civil Procedure shall apply to the electronic communications network, subject to the derogation that if a person interviewed through an electronic communications network does not have an official verification card suitable for proving his identity or a document serving as proof of his right to reside in Hungary, the chair present on the premises of the hearing and the judge conducting the interview shall record, at the beginning and on completion of the interview, the name, place of birth, date of birth and mother's name of the person to be interviewed through an electronic communications network as indicated by him to confirm his identity. The court shall compare the data presented for identification purposes with the data presented in the preceding administrative procedure.

Section 30 *[Fine]*

(1) The amount of the fine that can be imposed in the court procedure shall not exceed one million forints; regarding a natural person, it shall not exceed five hundred thousand forints; and regarding minors, it shall not exceed three hundred thousand forints. The fine may be imposed repeatedly if the same obligation is breached repeatedly. The court may also impose a fine upon the head of the administrative organ instead of again imposing a fine on the administrative organ.

(2) When establishing the amount of the fine, the gravity and consequences of the underlying act and the number and the amount of the previous fines shall be taken into account.

(3) The order imposing the fine may be appealed. The court may amend or withdraw the order.

(4) The fine imposed shall not be converted to imprisonment. The laws governing the fines imposed by courts in criminal cases shall apply to the collection and use of fines.

Section 31 *[Joining and separation]*

(1) With a view to adjudicating procedures jointly, the court, at the request of the parties or *ex officio*, may join procedures of closely related subject matters, pending before it or before another court with the same material jurisdiction. If joining was ordered by more than one court, the court that was the first to decide on joining shall proceed.

(2) The court shall inform the other court by sending its order on joining procedures and that court shall, by applying the provisions on transfer, send the documents of the procedure to the court that ordered the joining.

(3) The court may order that the claims submitted in one action and certain issues to be resolved in the court procedure be decided separately.

Section 32 *[Interruption and suspension of procedure]*

The rules of the Code of Civil Procedure shall apply to interruption and suspension, subject to the derogation that

a) in the event of legal succession in the position of the defendant under law, the procedure shall not be interrupted,

b) the court may take measures to separate the claim that is unaffected by the interruption or suspension, even during the term of interruption and suspension,

c) the court may initiate proceedings at the Court of Justice of the European Union or the Constitutional Court, and may move for the Curia to review the conflict of a local government decree with other laws, even during the term of interruption and suspension,

d) the suspension order may be appealed within eight days following its communication.

Section 33 [*Model action*]

(1) If at least ten actions with the same legal grounds and identical factual basis are launched before the court, the court, ensuring the parties' right to make statements, may decide to adjudicate one of these actions in a model action and suspend the other procedures until the decision closing this procedure is adopted.

(2) The court, if coming to the conclusion that the suspended actions have the same legal and factual aspects as this action, may adjudicate them according to the outcome of the model action without holding hearings. Using evidence taken in the model action shall not prevent the court from ordering evidence to be taken.

(3) The court, while ensuring the parties' right to make statements, may also adjudicate legal disputes under paragraph (1) launched after the judgment of the model action became final by applying the provisions of this section.

Section 34 [*Initiating the procedure of the Court of Justice of the European Union or the Constitutional Court*]

The court, applying the provisions of the Code of Civil Procedure, may initiate *ex officio* or upon request

a) the preliminary ruling procedure at the Court of Justice of the European Union,

b) the Constitutional Court's procedure to establish the conflict of a law, legal provision, public law regulatory instrument or uniformity decision with the Fundamental Law or with an international agreement.

Section 35 [*Costs*]

(1) The provisions of the Code of Civil Procedure shall apply to costs, subject to the derogation that

a) if the prevailing party is the one supported by the interested person, the losing party shall be obliged to pay the litigation costs of the interested person,

b) if the losing party is the one supported by the interested person, the interested person shall pay the part of the successful party's litigation costs incurred in connection with the interested person's participation in the action.

(2) Regarding the application of the provisions on litigation costs, the rules concerning parties shall apply accordingly to the interested person and to parties added to the action by the court.

(3) In a model action, the court may order that the litigation costs arising in the context of taking evidence be advanced or borne, in full or in part, by the state.

(4) In an action relating to a public service relationship, the person employed on behalf of the state shall be entitled to employees' legal aid according to the provisions of the Code of Civil Procedure.

Section 36 [*Applying other general rules of the Code of Civil Procedure*]

(1) The rules of the Code of Civil Procedure shall apply to

a) language use,

- b) the general obligation of the court to take measures and provide information,
- c) the service of documents,
- d) summons,
- e) time limit,
- f) court vacation,
- g) failures and excusing them,
- h) the recording of the material of the procedure,
- i) the access to documents, making copies and data processing,
- j) replacing lost (destroyed) documents,
- k) providing security, and
- l) the violation of the principle of good faith and the obligation to speak the truth.

(2) The provisions of the Code of Civil Procedure shall apply to adjudicating a complaint against the irregularity or the excessive length of the proceedings, subject to the derogation that

a) the complaint submitted against the failure of the administrative and labour court shall be adjudicated by the Budapest-Capital Regional Court,

b) the complaint submitted against the failure of the regional court shall be adjudicated by the Curia,

c) the complaint submitted against the failure of the Curia shall be adjudicated by another panel of the Curia designated for this purpose.

(3) If this Act allows that instead of minutes a memorandum be made, the memorandum shall contain as to where and when it was drawn up, the data necessary to identify those participating in the procedural act and the essence of their statements and the facts established, as well as the name and signature of the person by whom it was prepared.

PART TWO

THE PROCEDURE OF FIRST INSTANCE

CHAPTER VII

THE ACTION

Section 37 [*The statement of claim*]

(1) The action shall be brought by filing a statement of claim containing

- a) the name of the proceeding court,
- b) the plaintiff's name, company registration number or other registration number, address or seat, tax identification number and position in the action, as well as the name, address or seat or, if appropriate, other contact details of his representative,
- c) the defendant's name, seat and position in the procedure, as well as the name, address or seat of his representative, if known,
- d) the data suitable or necessary for identifying as to how and when the administrative activity subject to the dispute was carried out and as to how and when the party concerned became aware of it,
- e) the data from which the material and territorial jurisdiction of the court can be established,
- f) the infringement caused by the administrative activity, presenting the facts and evidence serving as the basis of it, and
- g) the explicit claim requesting the court's decision.

(2) The document or a copy of the document

- a) referred to by the plaintiff as evidence,

b) certifying the right of representation, if a representative is involved, and
c) necessary to certify any fact to be taken into account by the court *ex officio*
shall be attached to the statement of claim.

(3) If the plaintiff has a legal representative in the procedure, the statement of claim shall contain the name and seat of the plaintiff's legal representative; if the legal representative is a law office, the name of the attorney-at-law involved in the case; if there is more than one legal representative, the name, telephone and electronic contact details of the legal representative designated to be served with the official documents, and his telephone and electronic contact details.

(4) The statement of claim that is submitted by five persons at least shall contain the power of attorney granted to the person providing joint legal representation for the plaintiff.

Section 38 [*Types of the statement of claim and the joinder of claims*]

(1) In the action, the court may be requested

a) to set aside, annul or amend an administrative act,
b) to establish that an administrative act was failed to be performed,
c) to prohibit the performance of an administrative act,
d) to order that an obligation arising from an administrative relationship be fulfilled,
e) to order that the damage caused in respect of an administrative contractual relationship or administrative relationship be compensated,
f) to establish an infringement caused by administrative activity or to establish another fact relevant from the perspective of the administrative relationship.

(2) A statement of claim under paragraph (1) f) may be submitted only if it is necessary in order to protect the plaintiff's rights *vis-a-vis* the defendant and, given the nature of the administrative activity or the legal relationship or for some other reasons, a statement of claim under paragraph (1) a) to e) may not be submitted. The court shall examine *ex officio* whether these conditions are met.

(3) More than one claim may be submitted jointly if they arise from the same legal relationship or from legal relationships that are related on the basis of facts and their legal basis.

(4) More than one claim that are contingent or alternative may be submitted if they originate from the same relationship and they are submitted against the same defendant or defendants.

(5) If the claims submitted jointly do not fall under the same administrative court's material or territorial jurisdiction, the court of higher level or, if the courts concerned are at the same level, the court that has exclusive jurisdiction over any of the claims shall proceed.

Section 39 [*Submitting the statement of claim*]

(1) Unless otherwise provided by an Act, the statement of claim shall be submitted to the administrative organ having carried out the administrative act subject to the dispute within thirty days of its communication. Unless otherwise provided by an Act, if the administrative act is not required to be communicated, the statement of claim shall be submitted within thirty days of the date when the party concerned became aware of the act but no later than within one year of the date when the act was performed. Regarding an act implemented in an administrative procedure of more than one instance, the statement of claim shall be submitted to the administrative organ of first instance

(2) A plaintiff proceeding without a legal representative may also submit the statement of claim on the form specified by law.

(3) The statement of claim shall be considered submitted in time if the plaintiff having no legal representative submitted it within the time limit but incorrectly to the court or the organ responsible for legal remedies against the administrative organ (hereinafter "appellate

organ”). In this case, the statement of claim shall be sent without delay to the administrative organ specified in paragraph (1).

(4) The court vacation shall be without prejudice to the time limit for submitting the statement of claim.

(5) *Lis pendens* shall arise upon the submission of the statement of claim.

(6) Unless otherwise provided by an Act, the submission of the statement of claim shall not have suspensory effect on the administrative act becoming effective.

(7)

Section 40 [*Forwarding the statement of claim*]

(1) The statement of claim, together with the documents pertaining to the case, shall be forwarded to the court with material and territorial jurisdiction within fifteen days of the its submission. With regard to an act performed in an administrative procedure of multiple instances, the first instance administrative organ shall forward the statement of claim together with the documents pertaining to the case within five days of its submission to the second instance administrative organ, which shall refer those to the court within twenty-one days of the submission.

(2) The statement of claim containing a request for interim relief, together with the documents pertaining to the case, shall be forwarded to the court within five days of its submission, and if the act was performed in an administrative procedure of multiple instances, within eight days of its submission including the three-day period for its referral to a higher level.

(3) The administrative organ shall make the documents pertaining to the case electronically accessible by the court instead of forwarding them to the court if the information technology conditions necessary for it are available.

(4) The administrative organ shall forward the statement of claim submitted after the time limit, even if the party did not submit an application for excuse.

(5) If the plaintiff submits the statement of claim to the court with a delay, alleging that he submitted it to the administrative organ in compliance with the provisions of this Act, but the statement of claim and the documents of the case were not delivered to the court within the time limit set for forwarding them, the court, simultaneously with sending the statement of claim, shall call upon the administrative organ to make a statement. In this case, the plaintiff shall attach the document, or a copy of it, certifying that the statement of claim was duly submitted.

(6) If the administrative organ did not meet the obligation to refer or forward the statement of claim or did not make a statement as set out in paragraph (5), the court, besides imposing a fine, shall order the administrative organ to refer or forward the documents of the case.

(7) If the statement of claim or the documents contain data that are protected by an Act, this fact shall be indicated in the statement of defence and the documents shall be forwarded accordingly.

(8) The first instance administrative organ shall inform the known interested person of the submission of the statement of claim by forwarding that without delay. If the geographical area covered by the administrative act was established during the preceding procedure, the administrative organ shall inform the interested person not having participated in the preceding administrative procedure of the submission of the statement of claim by publishing the statement of claim on its website or, in the absence of one, through the channels used most frequently at the given location.

Section 41 [*Submitting the statement of claim to the court*]

(1) If the statement of claim is required to be submitted to the court by virtue of an Act, the court, after examining the statement of claim, shall inform the first instance administrative

organ of it without delay. The documents of the case shall be forwarded to the court pursuant to the rules set forth in section 40 (1).

(2) The statement of claim shall be considered submitted in time if a plaintiff having no legal representative in the procedure submitted it within the time limit but incorrectly to the administrative organ or the appellate organ. The statement of claim submitted incorrectly shall be sent to the court without delay.

(3) In legal disputes relating to an administrative contract, the statement of claim shall be submitted to the court.

(4) The statement of claim shall be submitted to the court if the subject matter of the legal dispute relating to the administrative relationship is other than the lawfulness of a decision taken by the Public Service Arbitration Board.

(5) The prosecution service and the organ exercising supervision of legality shall submit the statement of claim to the court.

Section 42 [*Statement of defence*]

(1) The statement of defence is the statement of the defendant in response to the statement of claim, either requesting that the statement of claim be rejected or presenting a defence on the merits. The statement of defence shall include the facts on which it is based and the evidence underlying these facts.

(2) The defendant shall submit the statement of defence simultaneously with forwarding the statement of claim and the documents of the case.

(3) If the statement of claim contains a request for interim relief, the defendant shall only make a statement concerning the request for interim relief when forwarding the statement of claim and the documents of the case. In this case, the defendant shall submit the statement of defence within the time limit set out in section 40 (1).

(4) If the statement of claim does not meet the requirements defined in section 37 or the statement of claim may be rejected, the defendant shall only elaborate on that in the statement of defence.

Section 43 [*Amending the action*]

(1) The plaintiff may amend his claim at the first hearing at the latest. The claim, only within the time limit for bringing an action, may be extended to other provisions of the administrative act that are not challenged by the action and can clearly be separated from the other provisions of the administrative act.

(2) Nevertheless, the provisions of paragraph (1) shall not exclude the party's right to increase or reduce the claim, to extend it to additional amounts that were not demanded originally and to the instalments of additional amounts becoming due during the action, or the right to abandon any of the claims.

Section 44 [*Abandoning the action*]

The plaintiff may abandon the action, regardless of the consent of the defendant, until the hearing is closed. The abandonment of the action may be announced in writing prior to the hearing or orally at the hearing. If the court does not hold a hearing, the party may abandon the action until the court has adopted its judgment.

CHAPTER VIII

MEASURES BASED ON THE STATEMENT OF CLAIM

Section 45 [*Examination of the statement of claim*]

(1) The chair of the panel shall examine the statement of claim without delay but not later than within eight days after it arrived at the court, with a view to decide whether

a) there are deficiencies to be remedied,

- b) the statement of claim is to be transferred,
- c) the statement of claim is to be rejected, or
- d) a request for interim relief is to be decided upon.

(2) The court shall adjudicate the administrative activity conducted in an erroneous form according to the procedure specified for administrative activities of such content and shall issue an order on it. The order may be appealed.

Section 46 [Remedy of deficiencies]

(1) If the statement of claim does not meet the formal requirements provided by an Act, or it was not submitted via a legal representative despite legal representation being mandatory, the court shall call upon the plaintiff to remedy the deficiencies indicated by the court within a short time limit.

(2) In the notice, the court shall inform the plaintiff of how the deficiencies may be remedied and shall warn him of the consequences of the failure to remedy the deficiencies.

(3) If the statement of claim of the plaintiff having no legal representative is incomplete in terms of identifying the defendant, is contradictory or it needs to be supplemented or corrected for any other reasons, the remedy of deficiencies shall only be ordered if the identity of the defendant cannot be established on the basis of the administrative act subject to the dispute or the laws regulating it.

(4) If the statement of claim does not indicate the type of the infringement, this deficiency may be remedied within the time limit for bringing an action.

(5) The court, in addition to calling for remedy of the deficiencies, may impose a fine on the legal representative, if

- a) the statement of claim drawn up by the legal representative does not comply with the formal requirements provided by an Act,
- b) the legal representative did not attach his power of attorney, or
- c) the party represented by him failed to meet his obligation to pay the procedural fees.

(6) If the plaintiff remedies the deficiencies of the statement of claim within the time limit set, the statement of claim shall be considered submitted free of any deficiencies.

Section 47 [Transfer]

(1) If it can be concluded from the statement of claim or its annexes that the case falls under the material jurisdiction or competence of another court or authority, respectively, or that another court has territorial jurisdiction over the action and that court or authority can be identified on the basis of the documents, the court shall transfer the statement of claim to that court or authority. The court shall decide upon the transfer within eight days of the arrival of the statement of claim at the court.

(2) The order on transfer shall be communicated to the parties.

(3) If, in a final and binding decision, a court has already established that it has no material or territorial jurisdiction over the case for any reason, the court proceeding later may not adopt a decision which contradicts that reason and in which, rejecting its own material jurisdiction or territorial jurisdiction, it transfers the case to the court proceeding beforehand.

(4) The transferred statement of claim shall be considered to have been submitted to the court to which it was transferred.

(5) The procedural acts in the action and judicial measures performed and adopted before the transfer shall not be effective unless they are related to the transfer or if the court having material and territorial jurisdiction upholds them at the request or with the consent of the parties.

Section 48 [Rejection]

(1) The court shall reject the statement of claim, if

- a) the international jurisdiction of Hungarian courts is excluded with regard to the action,

b) the claim falls under the material or territorial jurisdiction or competence of another court or authority, respectively, or another court has territorial jurisdiction to proceed in the action, but the rules on transfer cannot be applied due to the absence of the necessary data,

c) the action is brought by a person other than one eligible to do so by law,

d) the plaintiff challenges the lawfulness of an administrative activity, the review of which is excluded by an Act,

e) the plaintiff brings an action without any of the parties having exhausted the administrative legal remedies provided by law against the activity subject to the dispute, or another administrative procedure is required to precede the action,

f) an action for reviewing the lawfulness of that administrative activity is in progress between the parties either before the same or another administrative court,

g) a final and binding decision concerning the lawfulness of the administrative activity subject to the dispute has been adopted on the same legal basis,

h) the party does not have the capacity to be a party in a court procedure or the legal representative of the party was ignored, and this deficiency was not remedied within the time limit set,

i) the plaintiff failed to meet the time limit for bringing an action and does not submit an application for excuse, or the application is rejected by the court,

j) the plaintiff failed to submit the statement of claim within the time limit set for remedying the deficiencies or the re-submitted statement of claim is not free of deficiencies and, for this reason, the statement of claim may not be adjudicated,

k) the plaintiff did not specify the injury caused by the administrative activity within the time limit for bringing an action,

l) the plaintiff subject to the requirement of submitting documents electronically or the legal representative did not submit the statement of claim electronically or they submitted it electronically but not in compliance with the legal provisions.

(2) The court shall take into account paragraph (1) a) to j) *ex officio* during the entire procedure.

(3) The court shall communicate the order rejecting the statement of claim to the plaintiff and shall inform the defendant of this measure. After the measure has become final and binding, the court shall inform of it those who were notified by the administrative organ of the submission of the statement of claim.

(4) The order rejecting the statement of claim may be appealed.

Section 49 [*Maintaining legal effects pertaining to the submission of the statement of claim*]

(1) The legal effects pertaining to the submission of the statement of claim shall be maintained if the court rejected the statement of claim submitted by a plaintiff with no legal representative pursuant to section 48 (1) k) or l) and the plaintiff re-submits the statement of claim, except for the annexes having been appropriately attached before, in accordance with the provisions of this Act, within eight days after the rejecting decision became final and binding.

(2) The legal effects pertaining to the submission of the statement of claim shall be maintained if the civil law court rejected the plaintiff claim falling under the material jurisdiction of an administrative court because

a) it contained a joinder of claims that is not permitted, or

b) the data required for the transfer of the statement of claim could not be established

and the plaintiff submits the statement of claim in accordance with the provisions of this Act to the court having material and territorial jurisdiction within thirty days after the rejecting decision became final and binding.

(3) For the plaintiff's failure to meet the time limit set out in paragraphs (1) and (2) no application for excuse may be submitted.

CHAPTER IX

INTERIM RELIEF

Section 50 [*Application for interim relief*]

(1) The person whose right or legitimate interest is infringed by the administrative activity, or the situation if maintained that resulted from the administrative activity may submit an application for interim relief to the court having material and territorial jurisdiction at any phase of the procedure with a view to averting an imminent threat of detriment, provisionally settling the disputed relationship or maintaining the status giving rise to the legal dispute.

(2) In the context of interim relief it may be requested that

- a) suspensory effect be ordered,
- b) suspensory effect be dissolved,
- c) an provisional measure be taken, or
- d) preliminary taking of evidence be ordered.

(3) The application shall be submitted to the court if it is not submitted together with the statement of claim. The court shall inform the defendant of the submission of the application without delay but not later than within three days.

(4) In the application, the reasons justifying interim relief shall be identified in detail and the documents certifying those reasons shall be attached. The facts underlying the application shall be substantiated.

(5) The defendant shall notify the organ enforcing the administrative act of the application for the enforcement of the administrative act without delay but not later than within three days.

(6) Interim relief shall not be guaranteed if the administrative act

- a) serves the purpose of enforcing a final and binding court decision,
- b) establishes an obligation pertaining to economic and material services related to the civil protection service or national defence obligations, or
- c) relates to designating the operating and protective areas of facilities and real estate for national defence and military purposes.

Section 51 [*The procedure and decision of the court*]

(1) The court panel shall decide upon the application for interim relief within fifteen days of its receipt by the court. Deficiencies may not be remedied.

(2) If called upon by the court, the parties may make a statement in response to the application over the phone or through an electronic form not deemed to be in writing, not qualifying as written means, of which the court shall draw up a memorandum. The court may order that the parties be heard, if needed.

(3) Based on the principle of proportionality, the court shall assess, from the aspect of public interest and all the parties, whether the consequences of not granting interim relief outweighs the disadvantage caused by granting it.

(4) The court may make granting the application conditional on security being provided.

(5) The order adopted in the matter of interim relief may be appealed within eight days of its communication; the appeal shall be decided upon by the court of second instance within eight days. The order rejecting the claim re-submitted on the same factual and legal grounds after the rejection of the first claim may not be appealed.

(6) The court panel may amend or withdraw its order adopted in the matter of interim relief, after hearing the parties if possible, until an appeal against the order has been forwarded.

(7) If the court panel did not set it aside during the procedure at the request of the parties or *ex officio*, the order granting interim relief shall become ineffective upon the decision closing the procedure becoming final and binding. The court may set a date other than that; however, such date shall precede or fall on the last day of the time limit open for the submission of the claim for procedural remedy.

(8) If the court rejects the statement of claim submitted within the time limit, the order granting interim relief shall remain effective until the expiration of the term in which the legal effects pertaining to the submission of the statement of claim are to be maintained.

(9) The court panel may apply more than one means of interim relief during the procedure. In the statement of reasons of the order granting interim relief, reference shall be made to its connection to the means of interim relief ordered previously.

Section 52 [*Ordering suspensory effect*]

(1) If the submission of the statement of claim has no suspensory effect, the court may order it to have partial or full suspensory effect. If suspensory effect is ordered, the administrative act may not be enforced, no entitlement may be exercised on the basis of it and it may not take effect in any other manner.

(2) No acts may be enforced from when the organ carrying out the enforcement becomes aware of the application until when the application is decided on but at the latest until the time limit for its adjudication expires, except if the administrative organ declared its act to be immediately enforceable. Unless otherwise provided by the court, the acts of enforcement carried out until the organ carrying out enforcement becomes aware of the application shall remain effective.

Section 53 [*Dissolving suspensory effect*]

The suspensory effect entailed by the submission of the statement of claim may be dissolved partially or in full by the court. If the suspensory effect is dissolved, the administrative act may be enforced, entitlements may be exercised on the basis of it and it may also take effect in any other manner.

Section 54 [*Provisional measure*]

(1) If ordering or dissolving suspensory effect is not sufficient to provide interim relief, the court may take any measure, within the limits of the decision to be adopted in the court procedure and of Acts, to provide protection immediately.

(2) It is justified to take evidence concerning the provisional measure if the application may not be decided upon in the absence of those evidence.

(3) Unless otherwise provided by the court, the time limit for performance shall be counted from the day following the communication of the provisional measure.

Section 55 [*Preliminary taking of evidence*]

(1) The court shall order a preliminary taking of evidence if it may be reasonably assumed that

a) taking evidence could not be conclusive or would cause significant difficulties if carried out in a later phase of the procedure, or

b) the preliminary taking of evidence facilitates the action being completed within a reasonable time.

(2) The facts to be proved, the evidence relating to them and the circumstances upon which the preliminary taking of evidence is justified shall be indicated in the application.

(3) The rules on taking evidence shall apply accordingly to the preliminary taking of evidence. The results of the preliminary taking of evidence may be used in the action by any party and interested person.

(4) The rules on litigation costs shall apply to the costs of the preliminary taking of evidence.

(5) The order granting the request for a preliminary taking of evidence may not be appealed.

CHAPTER X

PREPARATORY ARRANGEMENTS FOR THE ACTION

Section 56 [*The preparatory session of the panel*]

(1) If it is not required to proceed under section 45 (1) *a*) to *c*) or the party has met the obligation to remedy the deficiencies, the chair of the panel shall refer the statement of claim to the preparatory session of the panel.

(2) The session of the panel shall be held within fifteen days of the receipt of the statement of claim by the court. If the statement of claim becomes suitable for the hearing to be held only after the measures taken by the court, the time limit set for holding the session of the panel shall be counted from this date.

(3) If the statement of claim is to be submitted to the court, the preparatory session of the panel shall be held within fifteen days after the court has received the statement of defence.

(4) If the conditions set out in this Act are met, the court panel may order that a member of the panel proceed as a sole judge in the action.

(5) A memorandum shall be drawn up of the session of the panel.

Section 57 [*Measures in the course of preparatory arrangements for the action*]

(1) For the purpose of preparing the hearing and proceeding within a reasonable time, the court shall take all the necessary measures to ensure that the action can be adjudicated on the merits in one hearing. Measures may be taken before setting the date of the hearing or any time during the procedure if necessary.

(2) On the basis of paragraph (1), the court

a) may order the taking of evidence,

b) may obtain documents from other courts or authorities,

c) may order the hearing of the parties,

d) may attempt to create a settlement between the parties,

e)

(3) Upon becoming aware of the statement of claim or the document attached to it containing classified data, the court shall request *ex officio* the classifier to obtain permission to access the document.

(4) If the hearing date is not set when the measures under paragraphs (2) and (3) are taken, the court, when taking the measure, shall serve the plaintiff and the interested person with the statement of defence.

Section 58 [*Setting the date of the hearing*]

(1) The court shall set the hearing date not later than within thirty days after having received the statement of claim.

(2) The first hearing shall be set for a date that allows for the hearing to be held within sixty days of the receipt of the statement of claim by the court. If the statement of claim makes it suitable for the hearing to be set only upon the measures of the court, the time limit set for the hearing to be held shall be counted from this date.

(3) Unless otherwise provided by an Act, the hearing shall be held in the official premises of the court. For important reasons, the hearing may be set to be held at another place as well.

(4) The date of the first hearing shall be set at a date that allows for the statement of defence to be communicated to the plaintiff not less than fifteen days prior to the hearing. In urgent cases, the court may order that the hearing be held at an earlier date.

Section 59 [*Summons to the hearing*]

(1) The court shall summon the parties to the hearing held in the action. The submissions that have not been communicated earlier shall be attached to the summons. The submission shall not be communicated to the party submitting it.

(2) In the summons, the party

a) shall be called upon to bring to the hearing the documents pertaining to the case that he has not attached previously,

b) shall be informed that he may proceed only through a representative as specified in the Code of Civil Procedure if failing to appear in person at the hearing and

c) shall be warned of the legal consequences of the failure to be present at the hearing.

(3) A party of minor age having not reached the age of fourteen, whose appearance is necessary, shall be summoned through his legal representative with the notice that the legal representative is obliged to ensure that the minor appears at the hearing. The court shall inform the legal representative of having summoned the minor party having reached the age of fourteen to the hearing, even if the legal representative has been also summoned to the hearing.

(4) The court may summon the party to appear in person at the hearing.

Section 60 [*Statements made prior to the hearing*]

(1) The court, in the summons, shall inform the plaintiff and the interested person that they may make statements in response to the statement of defence in writing prior to the hearing and shall warn the parties that they can make an oral statement only at the hearing.

(2) The court shall set a time limit, of not less than fifteen days, for making the statements prior to the hearing. The court may ignore a statement submitted after the time limit has expired.

Section 61 [*Ordering the taking of evidence*]

The court may order that evidence be taken even before the first hearing and may summon a witness or an expert to the first hearing.

Section 62 [*Obtaining documents*]

(1) If the documents indispensable for the legal dispute to be settled are not amongst the annexes to the statement of claim or statement of defence and the party cannot obtain them, the court shall request *ex officio* the issuer of the document to provide them.

(2) If obtaining the documents is likely to take longer than sixty days, the court may suspend the procedure until the court receives the documents. The date of the hearing shall be set without delay after the documents have arrived.

(3) The court shall decide upon the application for interim relief before suspending the procedure.

Section 63 [*Interview outside a hearing*]

(1) The court shall summon the party who is required to be interviewed in person pursuant to the provisions of an Act, to the interview. The court shall inform the parties of the interview and shall present at the hearing the minutes taken in the personal interview.

(2) The court may order that the party be interviewed through an electronic communications network.

(3) The party may proceed through his representative at the interview; however, he shall make the statement in person.

Section 64 [*An attempt to create a settlement*]

The court may attempt to create a settlement between the parties even before the date of the hearing is set.

CHAPTER XI

SETTLEMENT AND MEDIATION

1 Settlement

Section 65 [*Creating a settlement*]

(1) If the subject of the action allows it and it is not excluded by law, the court shall attempt to create a settlement between the parties, if, considering the circumstances of the case, it is likely to be achieved within a reasonable time.

(2) In order to facilitate the settlement, the court

a) shall inform the parties of the advantages and conditions of a settlement,

b) shall inform the parties of the essence of and the possibility and conditions of resorting to a mediation procedure,

c) may present to the parties the settlement it proposes in writing during the preparatory arrangements for the action or included in the minutes at the hearing, or

d) may summon the parties to attempt to conclude a settlement.

Section 66 [*The content of the settlement*]

(1) In the settlement, the parties may agree as to how to close the administrative dispute or some of the disputed issues as appropriate for them if it complies with legal provisions. In the settlement, the parties may also agree as to how to remedy the infringement caused by the administrative activity.

(2) In the settlement, the parties and the interested persons may also undertake obligations, even under civil law, relating to the administrative activity subject to the action that were not covered by the administrative act subject to the dispute or do not fall under the material competence of the defendant, and they may also agree upon omitting the enforcement of the administrative act subject to the dispute.

(3) The settlement shall not be valid if concluded without the interested person participating in it or approving its text, except if, according to the court, the settlement does not affect the rights or legitimate interest of the interested person.

(4) If the settlement does not comply with the legal provisions, the court shall refuse to approve it and shall continue the procedure. The order refusing the approval of the settlement may be appealed, which does not have suspensory effect on the continuation of the procedure.

Section 67 [*The order approving the settlement*]

(1) If the content of the settlement is complying with legal provisions, the court shall approve the settlement by including it in an order. The court shall annul, set aside or amend the administrative act subject to the dispute in accordance with the provisions of the settlement.

(2) A settlement approved by the court shall have the same effect as a judgment.

(3) If the settlement does not cover the payment of litigation costs, the parties shall bear their own costs. The court shall decide on the bearing of the costs advanced by the state and on the court fees subject to deferred payment in view of the proportion to which the parties are to be considered as losing the action according to the settlement.

(4) The order approving the settlement may be appealed. The parties having concluded the approved settlement may not appeal it.

Section 68 [*Settlement concerning an administrative contract*]

(1) In the course of the action, the parties may enter into a settlement in which the administrative contract is amended in order to eliminate the reason for setting the contract aside.

(2) The appeal against the order approving the amendment of the contract shall not have suspensory effect on the amendment taking effect.

(3) The effective date of the amendment of the administrative contract, if not agreed upon by the parties, shall be decided by the court, taking into account the reasonable time necessary

for the continuous and undisturbed performance of the public function subject to the administrative contract or for completing the investment.

2. Court mediation

Section 69 [*Conditions of mediation*]

(1) The court shall order mediation if the parties and the interested persons have consented to it. During mediation, the parties and interested persons make an attempt to settle, the legal dispute with the involvement of the court

(2) The court shall suspend the procedure until mediation has been completed but for two months at most. The order suspending the procedure may only be appealed by a person who has not consented to mediation.

Section 70 [*Rules of mediation*]

(1) The provisions of the Act on mediation shall apply to court mediators and their activity accordingly. The court mediator shall not be a member of the panel that hears the case.

(2) Upon completing mediation, the court mediator

a) shall put the concluded settlement in writing and send it to the proceeding court,

b) shall inform the proceeding court that mediation was inconclusive if no settlement has been concluded or if any of the parties has requested so.

(3) The proceeding court shall examine the settlement and, if it complies with the laws, incorporate it into an order with the effect of a judgment.

(4) If mediation is completed without a settlement covering the whole legal dispute, the proceeding court shall continue the procedure under the general rules.

(5) The party shall not use the information that was disclosed to him during the mediation in the course of the action or otherwise.

(6) Unless otherwise provided by the settlement, the parties shall bear their own costs arising from mediation.

CHAPTER XII

THE HEARING

Section 71 [*Chairing the hearing*]

(1) The hearing shall be led by the chair.

(2) The chair

a) shall guard the dignity and orderliness of the hearing,

b) shall draw attention to the facts not clarified, that they are required to be interpreted, or supplemented and that contradictions are required to be resolved as well,

c) shall make sure that the parties and interested persons present their statements of facts, make their statements and submit their motions for evidence in time,

d) shall discuss the factual and legal aspects of the legal dispute with the parties,

e) shall inform the parties of relevant facts of public knowledge or known by the court in its official capacity that are relevant for the case,

f) shall determine the sequence of acts of evidence taking and hearing parties while being entitled to be the first to ask questions from the witness and the expert,

g) may give the floor to the members of the proceeding panel at any time during the hearing.

(3) The provisions of the Code of Civil Procedure shall apply accordingly to determining whether the hearing is to be public or closed, to recordings and case management.

Section 72 [*Progress of the hearing*]

(1) After opening the hearing, the chair of the panel or the judge designated by the chair shall present the statement of claim, the statement of defence, the statements of the parties submitted before the hearing, and the documents relating to the case to the extent necessary.

(2) After the presentation, the parties may make observations concerning what was heard and may ask for further presentations, present their own submissions and supplement their own applications and statements.

(3) At the hearing, the parties may make statements orally. The court shall, in consideration of the circumstances of the case, set a reasonable time frame for presenting an oral statement.

(4) If the subject and circumstances of the dispute allows it, the court shall make an attempt to create a settlement between the parties after the statements of the parties were made, subject to the condition that all the parties and interested persons are present, or gave their consent to it in advance.

(5) The hearing may also be held in the absence of the party duly summoned, and his failure to be present shall not affect the adoption and announcement of the judgment.

Section 73 [*Postponing the hearing*]

(1) The hearing may be postponed only in justified cases with the reasons provided. If the hearing is postponed, the court shall notify of it those summoned in advance if possible and simultaneously shall set the new hearing date.

(2) If the party duly summoned to be heard in person failed to be present at the hearing or is present only through his representative, the hearing may be postponed for this reason only if the hearing of the person is a substantial precondition for deciding on the merits.

(3) If the representative of the party cannot prove his right of representation at the hearing, the court may only postpone the hearing for this reason if the action cannot be decided on the basis of the available documents. If the person present as a representative fails to prove his right of representation within eight days, or the party fails to authorise another representative and neither does he proceed in person, the court shall adopt a judgment at the repeated hearing if the conditions for this are met.

(4) If the hearing needs to be postponed due to the failure of the party duly summoned, the costs of the repeated hearing shall be borne by the party who failed to act, regardless of him succeeding or losing in the action.

(5) At the joint and justified request of the parties, the court may postpone the hearing once for no longer than sixty days if the court is of the opinion that the postponement enhances that the dispute is resolved within a reasonable time.

Section 74 [*Change in the judges*]

If, during the continued hearing, the composition of the proceeding panel has changed, the chair shall present the applications submitted by the parties, the minutes taken at previous hearings and other documents pertaining to the action. The parties may make observations concerning this presentation.

Section 75 [*Taking of evidence at the hearing*]

(1) If the court orders the taking of evidence during the preparatory arrangements of the hearing, the chair of the panel shall make sure that the means of proof are available at the hearing.

(2) At the hearing, the parties may make observations orally concerning the results of evidence-taking. If the hearing needs to be postponed due to the necessity of further evidence taking, the court may set a time limit not shorter than fifteen days for the submission of a written statement.

Section 76 [*The closure of the hearing*]

(1) If the action has become mature for a decision, the court shall warn the parties of the fact that the hearing is to be closed after their summary statements have been made.

(2) The court may reopen the closed hearing before announcing the decision if a question requires further discussions. The hearing shall be reopened and a new hearing date shall be set if there was a change in the judges between the hearing being closed and the decision being adopted.

CHAPTER XIII

DECISION WITHOUT A HEARING

Section 77 [*Decision without a hearing*]

(1) If none of the parties requested a hearing and nor does the court find it necessary, the court shall decide the case on the merits without a hearing.

(2) The plaintiff may request a hearing in the statement of claim, and the defendant may request a hearing in the statement of defence. A hearing may be requested in the application for joining the action or within fifteen days from the date when someone was involved or added to the action. Application for excuse for failing to request a hearing may not be submitted.

(3) The court may adjudicate the action without a hearing if the defendant acknowledges the claim as fully grounded before the first hearing or the administrative act has such essential deficiencies as to form that it must be considered non-existent.

(4) The action may not be decided without a hearing if, with the exception of taking documentary evidence, evidence taking is necessary. If taking evidence becomes necessary in the course of adjudication without a hearing, the court shall set a date for the hearing to adjudicate the action.

(5) If the action is to be decided without a hearing, the court, simultaneously with communicating the statement of defence to the parties, shall set a time limit, a period not shorter than fifteen days, for submissions. The court may set a time limit not shorter than fifteen days for the parties to submit their responses to the submissions and to submit other submissions with the proviso that this time limit shall preferably fall within the time limit for setting the date of the first hearing.

(6) Procedural acts which may be performed at the first hearing at the latest may be performed within the time limit set by the court pursuant to paragraph (5); in the absence of that, until the judgment is adopted.

(7) The court may summon the parties and the interested persons to attempt to reach a settlement.

CHAPTER XIV

TAKING EVIDENCE

Section 78 [*Procedural rules of taking evidence*]

(1) The provisions of the Code of Civil Procedure shall apply to taking evidence subject to derogations set out in this Chapter.

(2) The court shall evaluate the evidence separately and jointly, comparing them with the facts established in the preceding administrative procedure.

(3) A motion for evidence may be submitted and means of proof may be made available at the first hearing at the latest.

(4) The plaintiff or the interested person may invoke a fact or circumstance that existed already during the preceding administrative procedure but was left unconsidered if the fact or circumstance was not taken into account in the preceding administrative procedure despite being invoked by the plaintiff or interested person, or if it was not known to the plaintiff or

interested person for reasons beyond his control or he did not invoke that for reasons beyond his control.

(5) The court may order the taking of evidence *ex officio*

a) with respect to evidence substantiating a fact or circumstance which the court is required to take into account *ex officio*,

b) if an infringement jeopardising the interests of a minor or a person entitled to disability allowance is invoked, or

c) if it is provided by an Act.

(6) The court shall inform the parties of the taking of evidence ordered *ex officio* and call upon them to submit their observations and the evidence related thereto, or evidence as specified by the court.

Section 79 [*The obligation to prove*]

(1) If the preceding administrative procedure was commenced *ex officio* and the party demonstrates that the facts established in that procedure are not well-founded, are incomplete or contradict the documents, the court shall oblige the administrative organ to provide evidence substantiating the truthfulness of those facts.

(2) In an action relating to a public service relationship, the administrative organ shall provide evidence concerning

a) the content of the administrative acts of general scope, the instructions, and the documents generated by the administrative organ within its operational scope and being necessary for deciding the legal dispute,

b) the appropriateness of the challenged calculations related to the benefit applied for, and

c) the payment of benefit in respect of pay-related disputes.

Section 80 [*Assigning the judicial expert appointed in the preceding administrative procedure*]

(1) The expert opinion of the judicial expert appointed in the preceding administrative procedure shall be considered the expert opinion of a court-appointed expert. The judicial expert appointed in the preceding administrative procedure shall primarily be assigned as an expert for the same specialist question in the court procedure.

(2) If, pursuant to paragraph (1), assigning an expert is necessary, the court shall appoint the expert and shall communicate the written expert opinion generated in the preceding administrative procedure to the party to whom it was not previously disclosed.

(3) After the judicial expert appointed in the preceding administrative procedure has been assigned, no party-appointed expert or expert appointed in another procedure shall be assigned in respect of the same question.

(4) The rules of the Code of Civil Procedure on experts appointed by the court shall apply to judicial experts assigned in the preceding administrative procedure.

CHAPTER XV

TERMINATION OF PROCEDURES

Section 81 [*Termination*]

(1) The court shall terminate the procedure at any phase of it if

a) the statement of claim should have been rejected pursuant to section 48 (1) a) to i),

b) the plaintiff did not have a legal representative and this deficiency was not remedied within the time limit set or within the extended time limit or until the closure of the hearing held immediately after the expiry of the time limit at the latest,

c) the plaintiff has abandoned his action,

d) the court rejects the application for joining the action or the request to involve someone to the action due to the death or dissolution of the plaintiff,

e) the deceased or dissolved plaintiff has no legal successor or the legal successor does not join the action or is not added to the action,

f) the plaintiff required to have a legal representative in the procedure has no legal representation or his legal representation has been terminated, and, despite being called upon to do so, he does not arrange to replace it within the time limit set by an Act or the court,

g) the administrative organ or its appellate organ has remedied the infringement according to the statement of claim,

h) the court, at the request of the defendant, obliged the plaintiff of foreign nationality to provide security for covering litigation costs but the plaintiff did not provide the security within the time limit set or the extended time limit, or by the closure of the hearing held immediately after the expiry of the time limit at the latest.

(2) If, in the course of the procedure, the case must be transferred due to the absence of material competence or territorial jurisdiction, the court shall terminate the procedure and proceed according to the rules on transfer.

(3) If the court terminates the procedure pursuant to paragraph (1) b), the legal effects of bringing an action shall be maintained if the plaintiff duly re-submits the statement of claim within eight days from the date when the terminating order becomes final and binding. No application for excuse may be submitted for the failure to meet this time limit.

(4) If the procedure should be terminated pursuant to paragraph (1) c) to e) or g) and the court ordered an inquiry or the taking of evidence *ex officio*, the court, before terminating the procedure, may, by sending the statement of claim and the statement of defence, call upon the prosecution service to join the action, simultaneously with providing information on the circumstances under which inquiry was ordered *ex officio*. If the prosecution service does not join the action within the time limit set in the notice, the court shall terminate the procedure. No application for excuse may be submitted for the failure to meet the time limit for joining the action.

(5) The order terminating the procedure may be appealed, except for the points listed in paragraph (2).

Section 82 [*Termination due to the failure of the plaintiff*]

The court may terminate the procedure if the plaintiff fails to appear at the hearing that was set at his request or is not available via the contact details provided by him and the defendant does not request that the procedure be continued.

Section 83 [*Remedying the violation of rights in an administrative procedure*]

(1) The competent administrative organ, if launching a procedure to remedy the violation of rights alleged in the statement of claim, shall notify the court thereof without delay. The court shall suspend its procedure until the administrative procedure is completed.

(2) The commencement of the administrative procedure pursuant to paragraph (1) shall be notified to the court at the first hearing at the latest; if inquiry or evidence taking has been ordered *ex officio*, such notification shall take place within fifteen days after the order was communicated.

(3) The administrative organ shall inform the court immediately of the act taken to remedy the infringement. The copy of the decision or another document otherwise underlying the act shall be attached to the notice.

(4) The administrative organ, if failing to complete the procedure launched to remedy the infringement within thirty days, shall inform the court of this and of the procedural acts taken. The court may continue the procedure on the basis of the content of the notification or in the absence of such notification. If the administrative organ does not provide information within

thirty days after the suspensory order was communicated, the court shall continue the procedure. No application for excuse may be submitted for the failure to provide information.

(5) The court shall call upon the plaintiff to make a statement regarding the act taken by the administrative organ to remedy the infringement. If, according to the statement of the plaintiff, the action does not satisfy his claim, the plaintiff may extend his action to the act taken to remedy the infringement.

(6) If the plaintiff fails to make a statement within the time limit set by the court and the act to remedy the infringement satisfied the claim, the court shall terminate the procedure and shall oblige the defendant to pay the litigation costs of the plaintiff and the interested person supporting the plaintiff. The court shall decide upon the costs burdening the administrative organ due to the partial termination of the procedure in its decision closing the procedure.

(7) If the administrative organ remedies the infringement within the time limit for submitting the statement of defence, this shall be included in the statement of defence, and a copy of the decision taken to remedy the infringement, or a document otherwise substantiating the act shall be attached to the statement of defence.

PART THREE

DECISIONS

CHAPTER XVI

DECISIONS OF THE COURT

Section 84 [*Types of decisions*]

(1) The court shall deliver a judgment concerning the merits of the action, whereas it shall issue an order in any other question arising in the course of the action.

(2) The rules of the Code of Civil Procedure shall apply to the decisions subject to the derogations set out in this part.

(3) The court shall order the organ that provides for the operation of the administrative organ carrying out the administrative activity to pay the amount established by the court in its decision.

Section 85 [*Limitations of the court's power of decision*]

(1) The court shall review the lawfulness of the administrative activity within the limits of the claim.

(2) Unless otherwise provided by an Act, the court shall review the lawfulness of the administrative activity in accordance with the facts prevailing at the time of its implementation.

(3) The court shall take into account *ex officio*

a) the grounds of nullity or other grounds of invalidity set out in an Act concerning the administrative act subject to the dispute, furthermore any substantial deficiencies as to form for which the administrative act is to be considered non-existent,

b) the administrative act based on a legal provision that is not applicable in the case,

c) other facts or circumstances specified by an Act.

(4) The court shall inform the parties of ordering an *ex officio* inquiry, and simultaneously call upon the parties to submit their observations and the evidence underlying those or the evidence determined by the court.

(5) Concerning the lawfulness of an administrative act carried out within the administrative organ's discretionary power, the court shall also review whether the administrative organ exercised its power within the limits of its authorisation to proceed under its discretionary

power and whether the aspects and the causality of the assessment may be established from the document containing the administrative act.

(6) The court, when adopting a decision, with the exception under paragraph (7), shall not be bound by the decisions of any other authority or the disciplinary decision or the statement of facts established in those.

(7) If the consequences of a criminal offence having been adjudicated in a final and binding judgment shall be decided upon in an administrative court action, the court may not establish that the convict did not commit the criminal offence of which he was charged.

Section 86 [Judgment]

(1) All the claims enforced in the action shall be decided upon in the judgment.

(2) The court may decide on certain claims or certain parts of the claims that can be adjudicated separately in a partial judgment if no further hearing is required in this respect.

(3) The court may decide on the lawfulness of the administrative activity or may establish the existence of a right enforced in the action in an interlocutory judgment if the dispute can be separated regarding the lawfulness of the administrative activity or the existence of the right enforced through the action and the claim the party is entitled to under that right or the amount of the payment obligation imposed upon him.

(4) The court shall provide the administrative organ with categorical guidance covering all the relevant points of remedying the infringement established, in connection with the new procedure ordered in the judgment (hereinafter "repeated procedure") or the performance of the act.

(5) The court shall make the operative part of the announced judgment available for the parties in the court's office as of the first working day following its announcement.

Section 87 [Simplified judgment]

(1) If the statement of facts as established in the administrative act was not challenged in the action and the court did not order an inquiry or taking evidence *ex officio*, the statement of facts may be omitted from the statement of reasons of the judgment.

(2) In the simplified judgment, explicit reference shall be made to the circumstances enabling certain parts of the statement of reasons to be omitted and to the grounds for passing a simplified judgment. Amongst the documents, the simplified judgment shall be handled together with the administrative act, the facts of which were accepted by the court as the basis of its judgment.

Section 88 [Dismissal of the claim]

(1) The court shall dismiss the claim, if

- a) the claim is unfounded,
- b) no direct violation of the right or legitimate interest of the plaintiff can be established,
- c) the procedural infringement did not have a relevant impact on the evaluation of the case on the merits.

(2) The court shall, if dismissing the claim pursuant to paragraph (1) c), decide accordingly upon bearing costs.

Section 89 [Judgment granting the claim]

(1) If establishing the infringement on the basis of the action or *ex officio*, the court

- a) shall amend, annul or set aside the administrative act,
- b) shall, in addition to annulling or setting aside the administrative act, oblige the administrative organ to conduct a new procedure, if necessary,
- c) shall find against the administrative organ.

(2) The court may combine the specific legal consequences specified in paragraph (1). An Act may also provide for other legal consequences.

(3) If an infringement is established, the court shall *ex officio* oblige the administrative organ to eliminate the unlawful consequences entailed by that activity.

Section 90 [*Amendment*]

(1) The court shall amend the unlawful administrative act if it is possible by the nature of the case, the facts are properly clarified and the legal dispute may be ultimately settled on the basis of the data available.

(2) If the nature of the case makes it possible, the court may also amend the administrative act if the administrative organ in the repeated procedure took an act that is contrary to the court's final and binding judgment.

(3) Amendment shall not be allowed

- a) for an administrative act under Section 4 (3) c),
- b) for an administrative act taken, under the law, by assessing specific circumstances,
- c) for an administrative act relating to a payment affecting the budget based on exercising discretionary power, or
- d) if it is excluded by an Act.

Section 91 [*Amending the amount of a payment obligation*]

(1) The amendment may be implemented even without the court establishing the amount of the payment obligation prevailing after amendment but providing accurate guidance in the judgment as to its calculation.

(2) The administrative organ shall, after the communication of the judgment of the court, calculate the exact amount of the payment obligation promptly but not later than within fifteen days and shall inform the court, the plaintiff and the interested person of that. The plaintiff and the interested person may dispute the accuracy of the calculation within eight days and, if the objection is well-founded, the court may order that the payment obligation be recalculated.

(3) The amount of the payment obligation shall become part of the judgment upon the court's approval. The time limit for submitting an application for procedural remedy shall start on the day following the order approving the amount of the payment obligation. Otherwise, no procedural remedy lies against the calculation made by the administrative authority.

Section 92 [*Annulling or setting aside an administrative act*]

(1) The court shall annul the administrative act with retroactive effect as of the date of its communication, if

- a) the administrative act is null and void or invalid on grounds specified by law, or has an essential deficiency as to form for which it is to be considered not to exist,
 - b) the infringement caused by the violation of substantial rules of the preceding administrative procedure cannot be remedied in the action,
 - c) the administrative organ based its act solely on legal provisions not applicable in the case,
- or

d) amending the administrative act is not allowed.

(2) If justified by the protection of public interest, legal certainty or an especially important interest of the persons affected by the judgment, the court shall set aside the administrative act, indicating the exact date when it becomes ineffective. Annulment referred to in the Act shall be understood to refer to setting aside as well.

Section 93 [*Declaratory judgment*]

The court shall declare the infringement in its judgment if amendment, annulment or imposing an obligation is not possible and the plaintiff or the interested person has an important interest in the infringement being declared, or a violation of rights can in this way be averted.

Section 94 [*Judgment in an action relating to an administrative contract*]

(1) If the laws regulating administrative contracts do not provide for a legal consequence, when declaring an infringement, the court, taking into account the legitimate interests of those concerned and the public interest relating to the safety and continuity of the performance of a public function

- a) shall set aside or amend the unlawful administrative contract or any of its clauses,
- b) shall annul the administrative contract on the grounds of nullity if the contracting administrative organ did not have the authority to conclude the administrative contract, or the administrative contract was signed by a person with no right of representation,
- c) shall impose an obligation to restore the lawfulness of the administrative contract or to fulfil the administrative contract, or
- d) shall impose an obligation to compensate for the damage caused in connection with the administrative contractual relationship.

(2) The court may also set aside a contractual provision that is affected by what has been set aside and is closely related thereto.

(3) The court shall determine the effect of the amendment of the administrative contract or any of its provisions, taking into account the reasonable time necessary for the continuous and undisturbed performance of a public function subject to the administrative contract, or for the completion of the investment.

(4) The court's judgment shall cover simultaneous contracting procedures carried out by the contracting administrative organ for concluding administrative contracts on the same subject as the challenged contract. The contractual provision declared unlawful in the judgment of the court shall not be applied and the parties shall be obliged to amend the administrative contract in accordance with the court's judgment. In the lack of compliance, either party or interested person may bring an action with the court within thirty days of becoming aware of that failure but not later than within six months following the date when the court's judgment becomes final and binding.

(5) If the court establishes that the administrative contract is unlawful but there is an overriding public interest in the fulfilment of the administrative contract, the court may declare the administrative contract lawful with retroactive effect as of the date of its conclusion. If there is a ground for nullity, the administrative contract may not be declared lawful.

(6) Economic interests directly related to the administrative contract, in particular the costs arising from late performance, from conducting a new contracting proceeding or from a possible change in the contracting party, or a payment obligation arising from the contract being unlawful shall not be considered an overriding public interest. Other economic interests relating to the lawfulness of the contract may be considered an overriding public interest if the establishment of the unlawfulness of the administrative contract would lead to gravely disproportionate consequences.

(7) Annulment shall not be ordered if the organ having the powers to conclude the administrative contract or the person having the right to represent subsequently approves the administrative contract with the same content.

Section 95 [*Judgment in the action brought against a decision taken by the Public Service Arbitration Board*]

(1) The court shall decide the dispute on the merits in its judgment; the Public Service Arbitration Board, with the exception specified in paragraph (2), may not be ordered to conduct a new procedure.

(2) The court

a) shall annul the decision of the Public Service Arbitration Board and oblige the Public Service Arbitration Board to conduct a new procedure if the formation of the proceeding

panel was not in compliance with legal provisions, or a person disqualified from the procedure took part in adopting the decision,

b) shall annul the part of the Public Service Arbitration Board's decision that is affected by the infringement and, if necessary, shall oblige the Public Service Arbitration Board to conduct a new procedure if it exceeded its powers or established the absence of its competence unlawfully.

(3) The court shall send the final and binding judgment to the Public Service Arbitration Board.

CHAPTER XVII

THE LEGAL EFFECTS AND ENFORCEMENT OF DECISIONS

Section 96 [*Res judicata effect*]

The legal effect of the judgment adopted in the matter of reviewing the lawfulness of an administrative activity shall prevent the parties from bringing a new action for reviewing the lawfulness of the same administrative activity or to challenge it in any other way.

Section 97 [*Implementation of decisions*]

(1) In the absence of a time limit for implementation, the decision of the court shall be implemented on the day following the day when it becomes final and binding, and it shall be enforceable as of the same date.

(2) The court may set a time limit for implementation in its decision, and in this case, the decision may be enforced as of the expiry of the time limit for implementation. The time limit for implementation with the provisions of the decision shall commence on the day following the day when the decision becomes final and binding.

(3) The administrative organ shall conduct the repeated procedure or carry out the administrative act within the time limit set in the final and binding decision or in the absence of such, within the time limit specified by law.

(4) The proceeding administrative organs shall be bound by the operative part of the decision and the statement of reasons in the repeated procedure and in the course of performing the act ordered in the decision of the court.

Section 98 [*Preliminary enforceability*]

(1) The decision declared preliminarily enforceable may be enforced before it becomes final.

(2) If it is required by an Act, the court shall declare *ex officio* the decision to be preliminarily enforceable. The court, upon request, shall declare the decision preliminarily enforceable by applying the rules of interim relief accordingly.

(3) Preliminary enforceability of the judgment shall be ordered in the judgment.

(4) Ordering preliminary enforceability may be made conditional upon providing security. The security shall be refunded when the decision becomes final and binding or when preliminary enforcement is terminated.

(5) The decision on preliminary enforceability may be appealed within eight days.

(6) The preliminary enforceability of a decision that has already been set aside or amended by the competent court in a non-final judgment may not be ordered.

(7) If the court of second instance sets aside or amends the decision that was ordered to be subjected to preliminary enforcement, the court of second instance shall also decide as to how to settle the situation arising from preliminary enforcement.

PART FOUR

LEGAL REMEDIES AND THE PROCEDURE TO FOLLOW IN CASE OF A CONSTITUTIONAL COMPLAINT

CHAPTER XVIII

APPEAL

3. Appealing a judgment

Section 99 [*Grounds for appeal and the rules of procedure*]

(1) If it is allowed by law, the party and the interested person may appeal the judgment on the grounds of violation of the law, and so can those affected by the judgment concerning that part of the judgment.

(2) Unless otherwise provided by an Act, the judgment of the regional court, if adopted at first instance, may be appealed.

(3) The rules on first instance proceedings and decisions shall be applied to second instance proceedings subject to the derogations contained in this Chapter.

Section 100 [*The content of the appeal*]

(1) Unless otherwise provided by an Act, the appeal shall be filed with the first instance court within fifteen days of the communication of the judgment.

(2) The appeal, in addition to the general rules concerning submissions, shall contain

a) the number of the judgment challenged in the appeal,

b) the violation of the law upon which the appeal is based, with the accurate indication of the legal provision, and

c) the explicit request to the second instance court to decide.

(3) In the appeal, new facts or evidence may be presented only if the appellant became aware of it after the first instance judgment was adopted and, if taken into account, it would result in a decision more favourable to the appellant.

(4) New facts or evidence or taking evidence omitted by the first instance court may only be presented or moved for if aiming to confirm that the first instance judgment violates the law.

(5) The appeal shall not be modified after the expiry of the time limit for appeal. The appeal may be withdrawn until the second instance court has adopted its decision or, if a hearing is held, the court has retreated to deliberate. The bearing of costs incurred thus shall be decided upon by the second instance court.

(6) Unless otherwise provided by an Act, the appeal shall have a suspensory effect on the taking effect of the judgment. An application for interim relief may also be submitted simultaneously with the appeal.

Section 101 [*Leapfrog appeal*]

(1) If the first instance decision was adopted by the administrative and labour court, the parties, in a joint application attached to the appeal against the decision, may request that the appeal submitted for a breach of substantive law be decided by the Curia.

(2) The Curia shall accept the leapfrog appeal if the appeal is based on a violation of substantive law that is of fundamental importance in ensuring the uniformity of case law.

(3) The Curia shall decide whether to accept the leapfrog appeal in sitting as a panel within thirty days.

(4) The Curia, if it does not accept the leapfrog appeal, shall send it to the second instance court to decide.

Section 102 [*Measures of the first instance court upon the appeal*]

The court having proceeded in first instance shall reject the appeal if

a) it was submitted by a person other than one of those entitled to,

- b) it relates to a decision against which appeal is excluded by virtue of an Act,
- c) it was late and no application for excuse has been submitted by the person entitled to do so,
- d) the person having the right to appeal is under the obligation to submit documents electronically but submitted the appeal through non-electronic means, or on a form other than the mandatory electronic form, or without indicating his electronic contact details.

Section 103 [*Referral of the appeal*]

(1) If the time limit for submitting the appeal has expired or an appeal has been submitted by all having the right to do so, the court of first instance shall refer the appeal, together with the documents relating to the case, to the court of second instance within eight days.

(2) If an application for interim relief was submitted, the appeal shall be referred within three days after its delivery.

(3) If, in addition to the appeal, the party or interested person submits an excuse for failing to appear at the hearing leading to the adoption of the decision or failing to meet the time limit, the appeal shall only be referred to the court of second instance if the application for excuse has been rejected.

Section 104 [*Measures of the court of second instance upon the appeal*]

(1) The court of second instance, when examining the appeal, shall proceed in compliance with the rules on the examination of the statement of claim. If the appeal fails to comply with section 100 (2) or is required to be supplemented or corrected for some other reason, the chair of the panel shall arrange for the deficiencies to be remedied. Deficiencies regarding section 100 (2) may not be remedied.

(2) The appeal shall not be rejected on the grounds that the legal provision indicated in the appeal is not the appropriate one provided that the violation of the law referred to in the appeal is correct as to its content.

Section 105 [*Counter-appeal and cross-appeal*]

(1) The opposing party of the party submitting the appeal and the interested person may submit a counter-appeal or a cross-appeal within eight days of the communication of the appeal.

(2) If the appeal is rejected or withdrawn, the counter-appeal submitted against the appeal or the cross-appeal, with the exception of those cross-appeals that were submitted within the time limit for submitting an appeal, shall become ineffective.

(3) The rules on appeals shall apply accordingly to cross appeals.

Section 106 [*The suspension of the procedure*]

If the court of first instance conducts a procedure upon an application for correcting or supplementing the judgment or upon an application for excuse, the court of second instance may suspend its procedure until the decision on the matter of correcting or supplementing the decision is adopted or the decision on the application for excuse becomes final and binding.

Section 107 [*The hearing*]

(1) The party may request a hearing in the appeal and in the counter-appeal. No application for excuse may be submitted for failing to meet the time limit.

(2) If not excluded by the circumstances of the case, the date of the first hearing shall be set to allow for the hearing to be held within three months of the appeal being submitted.

(3) In the summons, those summoned shall be warned of the fact that their absence does not prevent the adjudication of the appeal. No application for excuse may be submitted by those duly summoned for failing to appear at the hearing. The court, if considering it necessary to hear any of those not present, may postpone the hearing once by setting a new hearing date.

(4) After opening the appeal hearing, the chair of the panel or the judge designated by the chair of the panel shall make known the judgment of the first instance court, the appeal,

counter-appeal or cross-appeal. The members of the court and the party may request further information from the documents.

(5) In the second instance proceedings, the order against which an appeal may be submitted under the rules on first instance proceedings, and the order rejecting the appeal shall be issued, with a statement of reasons, by the Curia sitting in a panel.

(6) If, in the second instance proceedings, it would be justified to impose a fine for violating the requirement of acting in good faith, the second instance court, instead of imposing a fine, may overlook the act violating the requirement of acting in good faith.

Section 108 [*Limits of the second instance inquiry*]

(1) The court of second instance may review the judgment, except for ordering *ex officio* taking evidence and inquiry, only within the limits of the appeal, the counter-appeal and the cross-appeal.

(2) The court of second instance shall review together with the judgment of the court of first instance all other decisions taken in the action, except for those which may be appealed separately.

Section 109 [*Deciding on the merits of the case*]

(1) If the judgment challenged in the appeal is in compliance with the law or the infringement involved did not affect the merits of the case, the court of second instance shall uphold the contested judgment.

(2) In the event of infringement, the court of second instance shall amend the judgment of the court of first instance as a whole or in part, by upholding or setting aside certain provisions of the judgment.

Section 110 [*Setting aside the first instant judgment*]

(1) The court of second instance, regardless of the limits of the appeal, cross-appeal and counter-appeal, shall set aside the first instance judgment in its order and shall order the court of first instance to conduct a new procedure and adopt a new decision if

- a) the first instance court was not duly constituted,
- b) a judge meeting a ground for disqualification participated in adopting the judgment, or
- c) the judgment contains deficiencies as to form that cannot be remedied and that render the judgment unsuitable for substantive review.

(2) The court of second instance shall set aside the first instance judgment by an order and order the first instance court to conduct a new procedure and adopt a new decision if the violation of the substantial rules of first instance proceedings had an effect on the adjudication of the action that cannot be remedied in the second instance proceedings.

(3) If ordering the first instance court to conduct a new procedure and adopt a new decision, the second instance court, in the order on setting aside the decision, shall provide guidance as to the conducting of the new procedure and the court of first instance shall be bound by it. In this case, the second instance court shall only establish the amount of the costs incurred in the second instance proceedings and the bearing of costs shall be decided upon by the court adopting the new decision.

(4) If the court of second instance terminates the procedure, it shall set aside the judgment of the court of first instance in full or with respect to that part for which the grounds for termination are met.

(5) In its order approving the settlement, the court of second instance shall set aside the part of the contested judgment covered by the settlement.

Section 111 [*Other provisions relating to the decisions of the court of second instance*]

(1) In the decision closing the second instance proceedings, the name of the first instance court and the case number of the decision challenged by the appeal shall also be indicated.

(2) If the first instance judgment is in compliance with the laws, the court shall deliver a simplified judgment in the statement of reasons of which, besides listing the laws applied, reference should only be made to this fact.

(3) After completing the second instance proceedings, the court shall send the documents to the first instance court within thirty days, which, within eight days after receiving the documents, shall communicate to the parties the decision closing the second instance proceedings.

(4) If a new procedure is ordered, the court, if holding a hearing, shall make known the decision adopted by the court of second instance after opening the hearing.

4. Appealing an order

Section 112 [*Appealing the order of the court*]

(1) The order of the court, in cases specified by this Act, may be appealed by the party, the interested person, and the person affected by the order; the latter may appeal the part of the order that affects him.

(2) A first instance order adopted in the second instance proceedings may be appealed if it may be subject to appeal according to the rules of the first instance proceedings. The order of the Curia may not be appealed.

(3) The rules of appealing judgments shall apply to appealing orders, subject to the derogations contained in this subtitle.

Section 113 [*Measures of the first instance court*]

(1) The first instance court, if not bound by the order challenged in the appeal, may also satisfy the appeal. In this case, the appeal shall not be referred any further.

(2) If the appeal is not in compliance with the provisions of this Act, or it is required to be supplemented or corrected for some other reason, the court having proceeded in the first instance shall take measures to remedy the deficiencies.

(3) The court of first instance shall inform the opposing party and the interested person of the appeal by sending it with the warning that they may submit observations to the first instance court within eight days after the appeal is communicated. In justified cases, the time limit may be shortened.

(4) No cross-appeal may be submitted.

(5) The court of first instance shall refer the documents, together with the observations submitted to the court of second instance, not later than the expiry of the time limit for the submitting observations.

Section 114 [*Adjudicating the appeal*]

(1) The court of second instance shall adjudicate the appeal without a hearing, but shall hear the parties if necessary. Unless otherwise provided by this Act, the court of second instance shall decide within thirty days after the appeal was referred to it.

(2) The second instance court

a) shall amend the order violating the law, or

b) shall set aside the order violating the law if the procedural act contained in the order is not allowed.

(3) If the data required for the amendment are not available, the second instance court shall set aside the order and shall order the first instance court to issue a new order.

(4) If the second instance court finds that the order of the court of first instance terminating the procedure is violating the law, it shall set aside that order and order the court of first instance to conduct the procedure and adopt a new decision.

(5) If the second instance court upholds the first instance order for the grounds it is based upon, the statement of reasons shall refer only to this fact.

CHAPTER XIX

EXTRAORDINARY PROCEDURAL REMEDIES

5. Review

Section 115 [*Grounds for and the procedural rules of review*]

(1) The party and the interested person may submit, on the grounds of violation of the law, a review application against the final and binding judgment or final and binding order rejecting the statement of claim or terminating the procedure and so can those affected by a provision of a decision with regard to this part of the decision.

(2) The rules on appeal shall apply to review subject to the derogations specified in this Chapter.

Section 116 [*Decisions excluded from review*]

Review shall not be allowed

a) against decisions becoming final and binding in first instance, except if appeal is excluded by an Act,

b) if the party did not exercise his right to appeal and the court of second instance upheld the first instance decision upon the appeal of the other party,

c) if it relates only to the provisions of the final and binding decision on the payment of interest, litigation costs, the time limit for implementation or payment in instalments,

d) against the decisions of the Curia,

e) if it is excluded by an Act in a specifically justified case.

Section 117 [*Review application*]

(1) The review application shall be submitted through a legal representative to the court of first instance that adopted the decision, within thirty days after the communication of the final and binding decision. An application for excuse for failing to meet the time limit may be submitted within fifteen days after the expiry of the time limit.

(2) The Curia shall decide, in a reasoned order, upon the rejection of the review application sitting in a panel.

(3) No new legal basis or no new fact that was not subject in the first and second instance proceedings may be raised in the review application.

Section 118 [*Decision on the admissibility of the review application*]

(1) The Curia shall find the review application admissible if reviewing the violation of the law that affects the merits of the case is justified

a) by the need to ensure the uniformity of jurisprudence or its further development,

b) due to the specific gravity or social relevance of the legal issue raised ,

c) due to the need for the preliminary ruling procedure at the Court of Justice of the European Union, or

d) because the decision contains a provision that deviates from the published case law of the Curia.

(2) The Curia, sitting in a three-member panel, shall decide upon the admissibility or rejection of the review application without a hearing within thirty days after the application was referred to it. The order rejecting the review application shall be reasoned.

(3) The Curia shall communicate the order issued in the matter of admissibility to the person having submitted the review application.

(4) The order on accepting the review application shall be communicated and, at the same time, the review application shall be sent to the opposing party of the party having submitted the application and to the interested person who may submit a counter-application for review

or cross-application for review regarding the matters for which the application was accepted within eight days from the date of its communication.

Section 119 [*Scope of the review application*]

(1) Submitting the review application shall not have suspensory effect on the court decision requested to be reviewed and the underlying administrative act.

(2) An application for interim relief may also be submitted simultaneously with the review application. If the review application contains a request for interim relief, the court of first instance shall promptly arrange for the referral of the documents to the Curia. The Curia shall decide upon the application for interim relief at the latest in its order on accepting the application.

Section 120 [*Procedural acts*]

(1) If a constitutional complaint was submitted against the final and binding judgment or the law serving as legal basis of the final and binding judgment, the Curia shall inform the Constitutional Court on the review procedure.

(2) The Curia shall communicate the opinion of the Prosecutor General to be provided by virtue of law to the parties and the interested persons who may make observations to that opinion within the time limit set.

(3) If a procedure for the uniformity of jurisprudence is commenced in the course of adjudicating the review application, the Curia may suspend the procedure until the procedure for the uniformity of jurisprudence is completed. The Curia may amend the order concerning suspension.

(4) If the review application against an interlocutory judgment is admissible, the Curia may suspend the court procedure affected *ex officio*. The Curia may amend the order concerning suspension.

(5) Taking evidence shall not be allowed in the review procedure; the Curia, when deciding upon the review application, shall adopt a decision on the basis of the documents and evidence that were available at the time when the final and binding decision was adopted.

Section 121 [*Review decision*]

(1) If the decision requested to be reviewed is violating the law in a way that affects the merits of the case, the Curia shall set aside the final and binding decision in full or in part and, if necessary, shall order the first or second instance court that proceeded in the case to conduct a new procedure and adopt a new decision. If necessary, in its judgment, the Curia shall set aside the final and binding decision with effect covering the administrative act as well and shall order the administrative organ to conduct a new procedure.

(2) If the decision requested to be reviewed complies with the laws or its breach of procedural rules did not affect the merits of the case, the Curia shall uphold the decision subject to the dispute.

(3) If the Prosecutor General has provided an opinion in the action, the Curia shall send the review decision to the Prosecutor General.

(4) Simplified judgments may not be adopted in the review procedure.

6. Retrial

Section 122 [*Rules of retrial procedure*]

(1) The final and binding judgment and the final and binding decision on the merits closing the procedure may be retried in line with the rules of the Code of Civil Procedure.

(2) The court shall reject the request for retrial if retrial is excluded by an Act.

(3) In a request for retrying a decision on a public service relationship, if submitted later than six months after the decision became final and binding, the restoration of the relationship and employment in the original position or at the original workplace may not be claimed.

Claims for payment may not be submitted for periods beyond the period of six months prior to the submission of the request for retrial.

(4) If the party has submitted a request for retrying the final and binding court judgment that orders the administrative organ to conduct a new procedure, the court of first instance shall inform the administrative organ obliged to conduct a new procedure of the initiation of a retrial procedure, and the administrative organ, if ordered so by the court, shall suspend the repeated procedure, otherwise may suspend the repeated procedure.

CHAPTER XX

PROCEDURE TO FOLLOW IN RESPECT OF A CONSTITUTIONAL COMPLAINT

Section 123 [*Rules of procedure to follow in respect of a constitutional complaint*]

(1) The rules of the Code of Civil Procedure shall apply to the procedure to follow in respect of a constitutional complaint, subject to the derogations provided in this Chapter.

(2) If the Constitutional Court annulled the decision of the court, the Curia, with the exception contained in paragraph (3), shall order the court having proceeded in first or second instance to conduct a new procedure or shall order that a new decision be adopted in the matter of the request for retrial. The Curia shall dispense with ordering that a new procedure be conducted if the infringement cannot be remedied.

(3) If the Constitutional Court has annulled the court decision together with the administrative act subject to that decision, the Curia, simultaneously with the communication of the decision of the Constitutional Court, shall inform the administrative organ having taken the annulled decision of it so that necessary arrangements can be made, and shall also inform the complainant of it.

PART FIVE

SPECIAL ADMINISTRATIVE COURT ACTIONS AND OTHER ADMINISTRATIVE COURT PROCEDURES

CHAPTER XXI

SIMPLIFIED PROCEDURE

Section 124 [*The basis and procedural rules of the simplified procedure*]

(1) In simplified actions, the provisions of this Act shall apply subject to the derogations contained in this Chapter.

(2) Unless otherwise provided by an Act, the court shall proceed by a simplified procedure

a) in actions relating to an official verification card, official certificate and official register except for the land registry,

b) in actions launched exclusively upon the claims of other participants in the authority procedure,

c) in actions related to an ancillary administrative act,

d) in actions relating to the right of assembly, except for dispersal.

(3) The court may adjudicate the action in a simplified procedure if so requested by the plaintiff in the statement of claim and not objected by the defendant in the statement of defence. In this case, the court shall issue an order on adjudicating the case in a simplified procedure.

(4) The court shall, at any time during the procedure, order that the procedure be continued under the general rules if it is necessary to ensure fair trial or the simplified procedure was ordered due to the erroneous qualification of the administrative activity.

(5) In a simplified procedure, the court shall proceed according to the rules on adjudication without a hearing.

Section 125 [*Measures in the course of simplified procedures*]

If it enables the procedure to be completed in a concentrated manner and cost-effectively, the court

- a) shall dispense with holding a preparatory panel session,
- b) shall draw up a memorandum instead of recording procedural acts and may also dispense with calling upon the persons concerned to make statements concerning the requests to supplement the record or the memorandum,
- c) may set for procedural acts, except for the appeal, time limits deviating from those specified in an Act,
- d) may accept that a statement be made electronically through channels ensuring audio connection instead of being made orally.

Section 126 [*Decisions*]

(1) In the course of a simplified procedure, the court may also take a simplified judgment if the statement of facts contained in the challenged administrative act or the first instance administrative act is complete and clear.

(2) Orders issued in simplified procedures may be appealed within eight days of their communication.

(3) The judgment delivered in a simplified procedure may not be appealed.

CHAPTER XXII

ACTION FOR FAILURE TO ACT

Section 127 [*The basis and procedural rules of the action for failure to act*]

In an action due to the failure of an administrative organ to carry out an administrative act as provided by law (hereinafter “failure to act”), the rules of simplified procedures specified in this Act shall apply, subject to the derogations contained in this Chapter.

Section 128 [*Bringing an action*]

(1) The action for failure to act may be brought by

- a) the party or the person whose rights were affected directly by the failure to act,
- b) the prosecution service or the organ exercising the supervision of legality, if the time limit set in its notice was inconclusive.

(2) The statement of claim shall be filed with the court within ninety days after the plaintiff became aware that the administrative procedure to remedy the failure to act was inconclusive or, in the case of the failure to act by the appellate organ, within ninety days after the expiry of the time limit for the appellate organ to take measures, but not later than within one year after the expiry of the time limit for implementing the administrative act. In the absence of an appellate organ, the statement of claim shall be filed with the court within one year after the expiry of the time limit for implementing the administrative act.

(3) The statement of claim, in addition to the general requirements, shall contain

- a) the time and the case in which the plaintiff resorted to the administrative organ,
- b) the procedural acts which, according to the knowledge of the plaintiff, were performed by the administrative organ that failed to act,
- c) the laws and circumstances substantiating the obligation of the administrative organ to proceed, adopt a decision or perform certain functions,
- d) the reasons giving rise to the establishment of the failure to act, and

e) a reference to the fact that a procedure to remedy the failure to act was launched and to the procedural act taken as part of the procedure to remedy the failure to act, of which the applicant has become aware.

(4) The statement of claim shall not be rejected if the appellate organ failed to comply with its obligation provided by the law to remedy the failure to act.

Section 129 [*Judgment establishing failure to act*]

(1) The court shall establish the failure to act if the administrative organ did not meet its obligation provided by the law to carry out the administrative act within the relevant time limit.

(2) The court shall also establish the failure to act if the administrative organ is required to carry out an act upon a compelling reason of public interest or the action was filed by the organ exercising the review of legality.

(3) If the court establishes the failure to act, the organ that failed to act shall be obliged to implement the failed act within the relevant time limit specified by law or, in the absence of such, within thirty days.

(4) The judgment adopted in the action for failure to act may be appealed.

CHAPTER XXIII

ACTION FOR IMPOSING AN OBLIGATION

7. Common rules on actions for imposing an obligation

Section 130 [*Grounds for the action for imposing an obligation*]

(1) If the statement of claim includes a claim specified in section 38 (1) d) to e) (hereinafter jointly “claim for imposing an obligation”), the provisions of this Act shall apply subject to the derogations under this Chapter. The statement of claim shall include the value of the dispute as well.

(2) In the procedure launched upon a claim challenging the decision of the Public Service Arbitration Board, the rules of first instance proceedings specified in this Act shall apply subject to the derogations specified in an Act and in this Chapter. The action shall be filed against the party with opposing interests.

(3) The statement of claim under paragraph (2) shall be filed with the Public Service Arbitration Board. The Arbitration Board shall forward the statement of claim, together with the case files, to the court within fifteen days. The court shall communicate the statement of claim to the defendant immediately after examining it.

Section 131 [*Procedural rules on actions for imposing an obligation*]

(1) The statement of defence shall be submitted within thirty days of the submission of the statement of claim or its communication to the defendant.

(2) Staying of procedure may be ordered in accordance with the rules of the Code of Civil Procedure if it is requested jointly by the parties. The procedure shall be stayed as of the date when the application was received by the court.

(3) The rules of the Code of Civil Procedure shall apply to determining the value of the subject matter of the action. The rules of the Code of Civil Procedure concerning labour law actions shall also apply to determining the value of the subject matter in actions relating to public service relationship.

(4) The plaintiff may amend his action until the hearing is closed subject to the condition that the claim enforced through the amended action arises from the same legal relationship.

(5) A motion for evidence may be submitted and means of proof may be made available in the context of the claim for imposing an obligation within the time limit set by the court, or in the absence of that, until the hearing is closed.

(6) In an action commenced upon a claim challenging the decision of the Public Service Arbitration Board, the party may not rely on a fact, circumstance or evidence which was not a subject of the Public Service Arbitration Board's procedure, except if the Public Service Arbitration Board failed to consider it despite the party having relied on it, or the party was not aware of it or did not rely on it for a reason beyond his control.

(7) In actions for imposing an obligation that are based on payment order procedures, the court shall proceed by applying accordingly the rules of the Code of Civil Procedure on actions relating to payment order procedures.

Section 132 [*Counter-claim and set-off*]

(1) The defendant, not later than at the first hearing, may lodge a counter-claim if the right to be enforced in it originates from the same legal relationship or from another relationship related to that relationship contained in the plaintiff's claim, or the claim subject to the counter-claim is suitable for set-off against the claim of the plaintiff. The rules on the statement of claim shall apply accordingly to the counter-claim.

(2) The plaintiff may request the rejection of the counter-claim in his response to the counter-claim or may submit defence on the merits. The court may set a time limit of not less than fifteen days for submitting the response to the counter-claim.

(3) The court may reject the counter-claim in an order if it is evident that the defendant, when submitting it, violated the requirement of acting in good faith.

(4) After the first hearing, a request for set-off may only be submitted if

- a) the opposing party acknowledges the claim to be set off,
- b) the claim to be set off can be proved by a public deed or a private deed of full probative value,
- c) the claim requested to be set off became due after this date, or
- d) the party substantiates that he became aware of the claim or it becoming due after this date.

(5) A request for set-off may be submitted in the second instance proceedings only if the claim is acknowledged by the opposing party or the claim requested to be set off became due after the closure of the first instance hearing.

(6) If the action is amended, the defendant shall have the right to submit a counter-claim not later than within fifteen days of the communication of the amended action. In exceptionally justified cases, the court may set a time limit not longer than thirty days for submitting the counter-claim in writing.

(7) If the defendant has submitted a counter-claim, the plaintiff may abandon his action subject to the consent of the defendant.

Section 133 [*Judgment imposing an obligation*]

(1) The court, if granting the claim for imposing an obligation, shall find against the administrative organ in its judgment imposing an obligation within the limits of the law.

(2) The rules of the Code of Civil Procedure shall apply to the *res judicata* effect of the judgment imposing an obligation and to the subsequent action.

(3) The judgment imposing an obligation may be appealed.

(4) Preliminary enforceability shall apply to

- a) judgments in which the court finds against the defendant concerning a claim recognised by the defendant,
- b) judgments ordering payment that is based on an obligation undertaken in a public deed or a private deed of full probative value, if all the underlying circumstances were evidenced by such a deed.

8. Further special rules for actions launched against a party other than an administrative organ

Section 134 *[Bringing an action]*

(1) The administrative organ may enforce its claim relating to an administrative contract or public service relationship in an action regulated under this Chapter.

(2) The action shall be brought against the natural person or legal person not qualifying as an administrative organ against whom the administrative organ enforces a claim.

(3) Unless otherwise provided by an Act, the statement of claim shall be filed with the court within ninety days of the plaintiff becoming aware of the fact or circumstance underlying the claim to be enforced in the action.

(4) If the law provides for that a preliminary procedure be conducted in connection with the enforcement of the claim, the statement of claim shall be filed with the court within thirty days of the communication of the decision closing the procedure to the plaintiff.

(5) The action may be joined to the action pending between the same parties under the general rules if the subject matters of the actions are related.

(6) The court, simultaneously with notifying the defendant of the consequences of failing to submit a written response to the statement of claim or failing to appear at the hearing, shall communicate the statement of claim to the defendant; furthermore, it shall inform the defendant of the possibility of recognising the claim and the consequences of that acknowledgement.

Section 135 *[Response to the statement of claim]*

(1) The defendant, within thirty days of the statement of claim being communicated to him, may submit a response to the statement of claim in writing, recognising the action or introducing a formal defence to terminate the procedure or a defence on the merits. The response to the statement of claim shall contain the facts and the evidence underlying them.

(2) The court may, at the defendant's justified request that was delivered to the court within the time limit, extend the time limit for submitting a response to the statement of claim in writing by not more than fifteen days.

(3) The defendant may request a hearing in the response to the statement of claim. Application for excuse for failing to request a hearing may not be submitted.

MINISTRY OF JUSTICE

CHAPTER XXIV

SUPERVISORY ACTIONS AGAINST STATUTORY PROFESSIONAL BODIES

Section 136 *[Grounds for and procedural rules of supervisory actions against statutory professional bodies]*

(1) The rules of this Act on simplified procedures, subject to the derogations under this Chapter, shall apply to actions filed by the administrative organ exercising the review of legality over the statutory professional body or by the prosecution service exercising the control of legality (hereinafter jointly "the organ exercising the supervision of legality over the statutory professional body") after the notice for legality issued by them was inconclusive

(2) The statement of claim shall be submitted to the court within thirty days after the time limit set in the notice expired without any result.

Section 137 *[Judgment]*

(1) Beyond the legal consequences generally applicable under this Act, the court, if establishing the infringement alleged in the motion

a) may order that the organ of the statutory professional body authorised to remedy the infringement be convened in order to restore the legality of its operation,

b) may suspend the activity of the statutory professional body or official violating the law until legality is restored, or

c) may appoint an administrator to ensure and supervise the legality of operation of the statutory professional body.

(2) The court may apply the legal consequences provided by the general rules of this Act and those defined in paragraph (1) jointly as well.

(3) The court may also apply the legal consequences under paragraph (1) if, in an action filed under the general rules, the organ exercising supervision of legality over the statutory professional body submits a request to that effect as an interested person.

Section 138 [*Appointing an administrator*]

(1) The organ exercising supervision of legality over the statutory professional body may propose the appointment of an administrator in the statement of claim. The court shall not be bound by this proposal.

(2) Those who may not hold an office in the statutory professional body and are under the direct control of the defendant statutory professional body shall not be appointed as administrators. An Act may specify further grounds for conflict of interest.

(3) The administrator, while carrying out his activities in this capacity, shall not be given instructions concerning his activity and shall not be subject to adverse legal consequences by the statutory professional body.

(4) The court shall set a time limit for restoring legality, shall determine the tasks of the administrator, and if necessary shall appoint a new administrator with or without discharging the former administrator.

(5) The administrator shall inform the court and the organ exercising the supervision of legality of the statutory professional body and the results thereof. The reimbursement of costs payable to the administrator shall be established by the court and shall be borne by the statutory professional body subjected to his administration.

CHAPTER XXV

*PROCEDURES TO REVIEW THE CONFLICT OF A LOCAL GOVERNMENT DECREE
WITH OTHER LAWS AND PROCEDURES DUE TO THE LOCAL GOVERNMENT'S
FAILURE TO FULFILL ITS DUTY TO LEGISLATE*

9. Common provisions

Section 139 [*Applying general rules*]

(1) The provisions of this Act shall apply to procedures for reviewing the conflict of local government decrees with other laws and to procedures due to the failure of a local government to fulfil its obligation based on an Act to legislate, subject to derogations under this Chapter and taking the specificities of norm control into account.

(2) If the subject matter of the procedure of the administrative and labour court is a normative decision of the representative body of a local government or the failure of complying with the obligation to adopt such a normative decision, the provisions of this Chapter shall apply with the proviso that reference in this Chapter to the Curia shall be construed as reference to the administrative and labour court.

Section 140 [*Motion*]

(1) Procedures regulated in this Chapter shall be launched upon a motion, to which the rules on the statement of claim shall apply. This motion and claims subject to the general rules may not be joined.

(2) The motion shall be submitted to the Curia.

Section 141 [*The procedure of the Curia*]

- (1) The Commissioner for Fundamental Rights may proceed in person.
- (2) The Curia shall adjudicate the motion without a hearing; however, in justified cases, it may decide to adjudicate the motion at a hearing.
- (3) The Curia shall adopt a decision within ninety days of the receipt of the motion. In justified cases, the Curia may extend this time limit once by thirty days at most, except if temporary prohibition has been ordered on application.
- (4) In procedures regulated under this Chapter, the parties shall be entitled to cost exemption, and they shall bear their own costs.

Section 142 [*Decision and publication*]

- (1) The Curia shall decide upon the merits of the motion in a decision, and on any other question occurring during the procedure in an order. Rules on judgments shall apply accordingly to decisions.
- (2) If the conflict of the local government decree with other laws or the failure of the local government to fulfil its obligation to legislate based on an Act cannot be established, the Curia shall dismiss the motion.
- (3) The Curia, by setting a time limit, shall order the decision to be published in the same way as was the local government decree.
- (4) The Curia shall ensure that its decision is published on its website.

10. The procedure to review the conflict of a local government decree with another law

Section 143 [*Motion*]

- (1) The procedure to review the conflict of a local government decree with another law may be requested by an organ so authorised by an Act.
- (2) The motion for reviewing the conflict of a local government decree with another law shall include
 - a) the local government decree to be reviewed by the Curia,
 - b) the indication of the provision of the local government decree that is allegedly violating of the law,
 - c) the legal provision breached by the local government decree, and
 - d) the reason why the person submitting the motion considers the given provision to be violating the law.
- (3) The Curia may also review the conflict with another law of any other provision of the local government decree that is closely related to the disputed provision.

Section 144 [*The motion of a judge*]

If the court, in a proceeding pending before it, is required to apply a provision of a local government decree that it finds to be in conflict with another law then, in addition to suspending the court procedure, it shall move the Curia to commence its procedure to review the conflict of the local government decree with another law. The order suspending the court procedure may not be appealed.

Section 145 [*Temporary prohibition on application*]

- (1) The Curia, applying the rules on interim relief accordingly, may order, upon request or *ex officio*, the temporary prohibition of the application of the local government decree.
- (2) The order on temporary prohibition of the application of the local government decree or of a provision of it shall be published according to the rules governing the publication of a local government decree, and it shall be published in the official gazette. The Curia shall arrange for the publication of the order as a matter of priority.
- (3) The local government decree or its provision subject to temporary prohibition of application shall not be applied until the day following the publication of the final and binding decision.

(4) When ordering a temporary prohibition of application, the Curia shall proceed as a matter of priority.

Section 146 [*Decision on the of the conflict of the local government decree with another law*]

(1) If establishing that the local government decree or a provision of it conflicts with another law, the Curia

- a) shall annul the local government decree or its provision,
- b) shall establish that the local government decree or a provision of it, having been set aside after the procedure was instituted, is in conflict with another law, or
- c) shall order that the local government decree, or a provision of it, already promulgated but not yet entered into force does not enter into force.

(2) The Curia orders the publication of its decision under paragraph (1) in the official gazette.

(3) The annulled local government decree or its provision shall be ineffective as of the day following the publication of the court's decision in the official gazette and shall not be applicable as of this day and the local government decree or its provision that has been promulgated but not yet effective shall not enter into force.

(4) The court may, derogating from paragraph (3), set the date when the local government decree or its provision is to be repealed if it is justified by legal certainty or the protection of the fundamental rights of those falling under the scope of the local government decree.

(5) The decision of the Curia shall be binding on all.

Section 147 [*General prohibition of application*]

(1) If the local government decree or its provision was annulled or its being in conflict with another law was established upon a judge's motion, the local government decree or its annulled provision shall not be applicable in the specific case pending before the court, nor shall it be applicable in any specific case pending before any court at the date when the local government decree or its provision is annulled.

(2) The Curia shall order that the general prohibition of application be dispensed with if it is justified by the protection of public interest, legal certainty or by the protection of the fundamental rights of those falling under the scope of the decree.

11. Procedure due to the failure of the local government to fulfil its obligation to legislate

Section 148 [*Motion*]

(1) The procedure due to the failure of the local government to fulfil its obligation based on law to legislate may be requested by the organ exercising supervision of legality over the local government.

(2) The motion to establish the failure to fulfil the obligation to legislate shall include

- a) indication of the legal provision being the basis of the obligation of the local government to legislate,
- b) the reason why the person submitting the motion considers that the failure to fulfil the obligation to legislate can be established,
- c) the local government decree relating to the failure to fulfil the obligation to legislate, which is necessary for adjudicating the failure.

Section 149 [*Decision concerning the failure to legislate*]

(1) If establishing that the local government has failed its obligation based on law to legislate, the Curia, in its decision, shall order the local government to comply with its legislative obligation, setting a time limit for it.

(2) The decision of the Curia shall be binding on both the organ exercising the supervision of legality and on the local government.

Section 150 [*Authorisation to adopt a local government decree or a normative decision*]

(1) Following a motion submitted by the organ exercising supervision of legality after the time limit set for complying with the obligation to legislate has expired without result, if the Curia establishes that the local government failed to comply with the obligation to legislate, it shall authorise the head of the organ exercising the supervision of legality to adopt the local government decree or normative decision on behalf of the local government.

(2) The Curia shall order the publication of the authorising decision in the official gazette. After publication, the local government shall not have the possibility to remedy the failure to comply with its obligation to legislate.

(3) The decision of the Curia shall be binding on both the organ exercising the supervision of legality and on the local government.

CHAPTER XXVI

*THE PROCEDURE TO ENFORCE COMPLIANCE WITH A JUDGMENT ORDERING A
NEW PROCEDURE OR ESTABLISHING FAILURE TO ACT*

Section 151 [*Request for enforcing implementation*]

(1) The plaintiff or the interested person, within ninety days after the expiry of the time limit set for implementation, may submit a request to the court having passed the first instance decision to enforce implementation if the administrative organ, within the time limit set for implementation, did not meet

a) the requirements contained in the final and binding decision of the court ordering a new procedure or

b) its obligation arising from the judgment establishing the failure to act.

(2) The rules of simplified procedures shall apply to procedures instituted upon requests for enforcing implementation, subject to the derogations contained under this Chapter.

(3) On the basis of the request, the court, by setting a time limit within fifteen days, shall call upon the administrative organ to comply with its obligation or to justify its non-compliance, and send the underlying documents simultaneously.

(4) If the administrative organ complies with its obligation in accordance with the notice, the court shall terminate the procedure and shall oblige the administrative organ to reimburse the costs of the applicant.

(5) The rules of this Chapter shall apply even if enforcing an obligation ordered by a final and binding court decision does not fall under the scope of the Act on judicial enforcement.

Section 152 [*Fine for non-compliance*]

(1) If the administrative organ fails to justify its failure to implement the judgment or the justification is not founded, the court, in addition to obliging the administrative organ to reimburse the costs of the applicant, shall impose a fine for non-compliance.

(2) The amount of the fine for non-compliance may be set between one hundred thousand and ten million forints, depending on the circumstances of the case and the gravity of the breach of the obligations. The fine for non-compliance may be imposed repeatedly if the obligation is not complied with within a reasonable time.

(3) The court, instead of or in addition to imposing a fine for non-compliance repeatedly, may impose a fine on the head of the administrative organ in an amount established in view of the circumstances of the case and the gravity of the breach of the obligation.

(4) The order imposing fine for non-compliance may be appealed within eight days, which is to be decided upon by the court within fifteen days.

(5) The rules on fines shall apply to the other aspects of the fine for non-compliance.

Section 153 *[Measures]*

(1) In addition to imposing a fine for non-compliance, in an order, the court

a) shall designate another organ with identical material competence to proceed, and, at the same time, shall oblige the administrative organ to bear the costs of the procedure,

b) shall authorise the organ exercising the supervision of legality over the administrative organ to duly implement the judgment establishing failure to act, and simultaneously shall oblige the administrative organ to bear the costs of implementation, or

c) if the legal consequences under points *a)* and *b)* cannot be applied, may take a provisional measure, to be in effect until the judgment is implemented, if it is possible given the nature of the case and the data available.

(2) If the organ designated under paragraph (1) *a)* fails to comply with its procedural obligation, the enforcement of implementation may be requested pursuant to the rules under this chapter.

CHAPTER XXVII

PROCEDURE TO DESIGNATE AN ADMINISTRATIVE ORGAN

Section 154 *[Rules of the designation procedure]*

(1) The court may be requested to designate an organ with material and territorial competence, if more than one administrative organ has established its material competence or the lack of it, and due to the latter, no administrative authority procedure may be commenced or no such procedure is in progress.

(2) The request for designation may be submitted to the court by the administrative organ involved in the dispute concerning material competence or the person whose right or legitimate interest is connected with the dispute concerning material competence.

(3) The court, sitting in a panel of three professional judges, shall decide on the designation in an order issued within thirty days of the submission of the request.

(4) Retrial may not be requested concerning the order closing the designation procedure.

(5) The rules on simplified procedures shall apply to the other aspects of the designation procedure.

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Section 155 *[Authorising provisions]*

The minister responsible for justice shall be authorised to establish the rules on the form on which the statement of claim may be submitted.

Section 156 *[Entry into force]*

This Act shall enter into force on 1 January 2018.

Section 157 *[Transitional provisions]*

(1) This Act shall apply to procedures instituted upon a statement of claim submitted on 1 January 2018 or later.

(2) The appeals against decisions adopted by the administrative and labour courts in administrative matters submitted on 1 January 2018 or later shall be adjudicated by the regional court as a court of second instance according to this Act.

(3) Administrative cases under Section 12 (2) and (3) of this Act in progress in first instance on 31 December 2017, and cases under Section 12(2) and (3) of this Act completed in first instance in which further measures falling within the competence of the court of first instance

are required to be taken, shall be sent by the administration and labour court to the competent regional court as a court of first instance pursuant to this Act.

(4) The administrative cases under paragraphs (2) and (3) shall be sent immediately but not later than 1 February 2018

(5) The administrative cases in progress at first instance on 31 December 2018, and cases completed at the first instance in which further measures falling within the competence of the court of first instance shall be taken, shall be sent to the administrative and labour court having competence pursuant to this Act not later than 1 February 2019

(6) When sending cases pursuant to paragraphs (3) to (5), the rules on transfer shall not be applied.

(7) Where a law provides for that the rules of Chapter XX or the rules on administrative court actions of Act III of 1952 on the Code of Civil Procedure be applied, it shall mean the application of the Code of Administrative Court Procedure, and where a law allows for judicial review, it shall mean administrative court action.

Section 158 [*Abbreviated designation*]

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

Section 159 [*Provision referring to the requirements of the European Union law*]

This Act serves the purpose of compliance with the following legal acts of the European Union:

1. Council Directive 92/13/EEC of 25 February 1992 coordinating the laws, regulations and administrative provisions relating to the application of Community rules on the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors;

2. Directive 97/55/EC of European Parliament and of the Council of 6 October 1997 amending Directive 84/450/EEC concerning misleading advertising so as to include comparative advertising;

3. Directive 2002/73/EC of the European Parliament and of the Council of 23 September 2002 amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions;

4. Council Directive 2003/8/EC of 27 January 2003 to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes;

5. Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC;

6. Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council,

7. Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status,

8. Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010,

9. Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection.