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Ministry of Justice

LAW
ON GENERAL ADMINISTRATIVE
PROCEDURE

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LAW ON GENERAL ADMINISTRATIVE PROCEDURE

Part One GENERAL PROVISIONS

Chapter I BASIC PRINCIPLES

Application of the Law

Article 1

Government authorities, territorial and local self-government authorities shall act in compliance with the present Law in administrative matters where they, directly applying the legal regulations, decide on the rights, obligations or legal interests of natural persons, legal persons or other parties, exercise administrative control, issue public documents, and perform other activities specified herein.

Article 2

Companies and other organisations shall also act in compliance with the present Law in exercise of their legally granted public powers when making decisions or performing other activities referred to in Article 1 hereof.

Article 3

The legal provisions, which due to the specific character of administrative matters in certain administrative domains provide for the necessary exceptions to the rules of the general administrative procedure, shall comply with the basic principles specified herein.

Article 4

Certain terms used in this Law shall have the following meanings:

- 1) The authority conducting the procedure and/or deciding in administrative matters shall be understood to mean an administrative authority and other government authority, territorial and local self-government authority, as well as a company and other organisation entrusted by law with exercise of public powers (hereinafter referred to as the authority);
- 2) An administrative matter shall be any individual uncontested situation of public interest where the need to establish the authoritative rule of conduct arises directly from legal regulations.
- 3) Official records shall be understood to mean the records established under the law or other regulation used for organised registration of data or facts intended for specific purposes or for the needs of specific users.

Principle of Legality

Article 5

- (1) The authorities acting in administrative matters shall adopt decisions pursuant to the law and other regulations.
- (2) In administrative matters in which an authority is legally empowered to make discretionary decisions, the decision shall remain within the scope and the purpose for which the powers have been given.

Principle of Protection of Civil Rights and Protection of Public Interest

Article 6

- (1) When conducting a procedure and deciding in administrative matters, the authorities shall as much as possible facilitate the protection and exercise of the rights and legal interests of the parties to the procedure, ensuring that the exercise of their rights and legal interests is not detrimental to the rights and legal interests of other persons or in contravention of the legally established public interests.
- (2) When an authorised officer, taking into account the existing facts, learns or determines that a party or other participant in the procedure has a valid cause for exercise of a right or a legal interest, the officer shall bring this to their attention.
- (3) In case obligations are imposed on the parties and other participants in the procedure by virtue of law, the measures to be applied to them shall be the measures provided for under the relevant regulations that are more favourable for them if such measures are sufficient to achieve the purpose of the law.

Principle of Efficiency

Article 7

The authorities conducting procedures and deciding in administrative matters shall ensure efficient, high-quality and complete exercise and protection of rights and legal interests of natural persons, legal persons or other parties.

Principle of Truth

Article 8

All facts and circumstances of relevance for adoption of a lawful and fair decision shall be accurately established in the procedure.

Principle of Conducting Hearings

Article 9

- (1) Before adopting a decision in the procedure, the parties must be allowed to make a statement concerning the facts and circumstances of relevance for decision-making.
- (2) The decision may be adopted without prior hearing of the parties only in the cases specified under the law.

Principle of Admission of Evidence

Article 10

The authorised officer shall at his/her own discretion determine which facts are to be admitted as evidence on the basis of a conscientious and careful assessment of each piece of evidence

individually and the body of evidence as a whole, as well as on the basis of the outcome of the entire procedure.

Principle of Independent Decision-Making

Article 11

- (1) The authority shall conduct the procedure and decide independently, within the powers defined by law or other regulation.
- (2) The authorised officer shall establish the facts and circumstances independently and shall use such facts and circumstances as a basis for applying regulations to a specific case.

Principle of Two Instances (Right to Appeal)

Article 12

- (1) The parties shall have the right to file an appeal against a decision adopted in the first instance.
- (2) The law may only exceptionally prohibit filing of an appeal in specific administrative matters, provided that the protection of rights and legal interests of the parties, i.e. the protection of legality, is otherwise ensured.
- (3) Where there are no second-instance authorities, an appeal against a decision adopted in the first instance may be filed only in the cases specified under the law. Such law shall also specify the authority which is to decide on such appeals.
- (4) Under the provisions of this Law, the party shall have the right to file an appeal in the cases when the first-instance authority has failed to adopt a decision on the party's claim within the specified period of time (silence of the administration).
- (5) No appeal against a decision adopted in the second instance shall be allowed.

Principle of Finality of Decisions

Article 13

A decision against which no appeal may be filed or no administrative procedure instituted (a final decision) and which grants certain rights or imposes certain obligations on a party may be annulled, cancelled or amended only in the cases specified under the law.

If the party's claim is rejected in a final decision, a different decision may not be adopted in the same case, unless the facts of the case or its legal status have changed.

Principle of Cost-Effectiveness

Article 14

The procedure shall be conducted without delay and at the lowest possible cost for the parties and other participants in the procedure, yet to ensure that the facts which are essential for adoption of a lawful and fair decision are accurately and completely established.

Principle of Assistance to the Parties

Article 15

The authority conducting the procedure shall ensure that the ignorance and illiteracy of the parties and other participants in the procedure do not prejudice the rights they enjoy under the law.

Use of Language and Alphabet in the Procedure

Article 16

- (1) The relevant authority shall conduct the procedure in the Serbian language using the Cyrillic alphabet, while the Latin alphabet shall be used in accordance with the law. In the regions where the language of a specific national minority is in official use, as specified under the law, the procedure shall also be conducted in the language and alphabet of that national minority.
- (2) If the procedure is not conducted in the language of the parties or other participants in the procedure, they shall be provided with the translation of the procedure into their language by an interpreter and shall be served summons and other documents in their own language and alphabet.

Chapter II

JURISDICTION

1. Subject Matter and Territorial Jurisdiction

Article 17

The subject matter jurisdiction for deciding in an administrative procedure shall be determined in accordance with the regulations governing the relevant administrative area and/or in accordance with the regulations establishing the jurisdiction of specific authorities.

Article 18

The authorities specified under the law or other regulations shall have subject matter jurisdiction for deciding in administrative matters in the first instance.

Article 19

- (1) An authority may not take over a particular administrative matter from within the jurisdiction of another authority and decide thereon, except where provided so by law and under the conditions prescribed by that law.
- (2) The authority having jurisdiction in a particular administrative matter may, by virtue of its legal powers, delegate its decision-making powers to another authority.

Article 20

The subject matter and territorial jurisdiction may not be changed by an agreement between the parties, agreement between the authority and the parties, or agreement between the authorities, unless otherwise provided for under the law.

Article 21

- (1) Territorial jurisdiction shall be determined:
 - 1) in administrative matters relating to real estate – according to the location thereof;
 - 2) in administrative matters relating to the affairs falling within the jurisdiction of a government authority, territorial and local self-government authority, and in administrative matters relating to the business activities of a company or other legal person – according to the location of the seat of the authority, company, or other legal person. In administrative matters relating to the business activities of a corporate unit operating outside the company seat – according to the location of the corporate unit.

- 3) in administrative matters relating to the activities of an entrepreneur or other natural person who is or should be professionally engaged in an activity, but does not have the status of an entrepreneur – according to the location of the seat or the place where the activity is or should be performed;
 - 4) in other administrative matters – according to the place of residence of the party. Where there is more than one party to the procedure, the jurisdiction shall be determined according to the party against whom the claim is made. If the party's place of residence is not in the Republic of Serbia, the jurisdiction shall be determined according to his/her domicile, and if the party's domicile is also outside the Republic of Serbia – according to his/her last place of residence or domicile in the Republic of Serbia;
 - 5) in case the territorial jurisdiction cannot be determined in keeping with the provisions of items 1 to 4 of this paragraph, it shall be determined according to the place where the cause for the procedure arose.
- (2) In the matters relating to watercraft or aircraft or where the cause for the procedure arose aboard a watercraft or an aircraft, the territorial jurisdiction shall be determined according to the home port of the watercraft or the home airport of the aircraft.

Article 22

- (1) Where, according to the provisions of Article 21 hereof, two or more authorities have territorial jurisdiction in the same case, the jurisdiction shall go to the authority which was the first to institute the procedure. The authorities sharing the territorial jurisdiction may agree as to which authority shall conduct the procedure.
- (2) Each authority having territorial jurisdiction shall, on its respective territory, perform those actions required under the procedure that must not be delayed.

Article 23

The authority that has instituted the procedure on account of its territorial jurisdiction shall retain the jurisdiction even if circumstances occur during the procedure under which other authority would have the territorial jurisdiction. The authority that has instituted the procedure may assign the case to the authority which has become territorially competent under the new circumstances if the procedure is thereby significantly facilitated, particularly for the party concerned.

Article 24

- (1) The authority shall ex officio control its subject matter and territorial jurisdiction for the duration of the procedure.
- (2) If the authority finds that it is not competent for deciding in a particular administrative matter, it shall proceed in the manner set forth in Article 56, paragraphs 3 and 4 hereof.
- (3) If a non-competent authority has performed an action required under the procedure, the competent authority to which the administrative matter has been assigned shall decide whether or not to repeat the action.

2. Parties Enjoying Diplomatic Immunity

Article 25

- (1) With respect to jurisdiction of the authority in the matters in which a party is a foreign citizen enjoying diplomatic immunity, a foreign country or an international organisation, the rules of international law shall be applicable.
- (2) Where there is doubt as to the existence and the scope of diplomatic immunity, the authority responsible for foreign affairs shall provide the relevant clarification.

- (3) Official proceedings concerning the persons enjoying diplomatic immunity shall be performed through the authority responsible for foreign affairs.

3. Territorial Limits of Jurisdiction

Article 26

- (1) An authority shall perform official proceedings within the boundaries of its territory.
- (2) Where an official proceeding is to be performed outside the authority's territory and there is a risk of delay, the authority shall be allowed to perform the proceeding outside its territory. It shall forthwith notify thereof the authority on whose territory it has performed the proceeding.
- (3) Official proceedings in buildings or other premises used by the Army of Serbia and Montenegro shall be performed upon prior notification and approval of the competent military officer.
- (4) Official extraterritorial proceedings shall be performed through the authority responsible for foreign affairs.

4. Conflict of Jurisdiction

Article 27

- (1) The conflict of jurisdiction between the authorities deciding in the administrative procedure and the judicial authorities shall be resolved by the Constitutional Court of the Republic of Serbia.
- (2) Other conflicts of jurisdiction shall be resolved by the authority specified under the law.

Article 28

- (1) When two authorities declare themselves as having jurisdiction or not having jurisdiction in the same administrative matter, the proposal for resolution of the conflict of jurisdiction shall be submitted by the authority that was the last to declare its jurisdiction. The proposal may also be submitted by a party to the procedure.
- (2) The authority resolving the conflict of jurisdiction shall simultaneously annul the decision adopted in the administrative matter by the non-competent authority, i.e. it shall annul the conclusion by the non-competent authority declaring its competence in the matter and deliver the case file to the competent authority.
- (3) A party may not file an appeal or initiate an administrative dispute proceeding against the decision resolving the conflict of jurisdiction.
- (4) The provision of Article 22, paragraph 2 hereof shall be applied accordingly in the event of conflict of jurisdiction.

Article 29

- (1) If a conflicting authority believes that any of its rights has been violated by the decision resolving the conflict of jurisdiction, it may file an appeal. In case the conflict has been resolved by the court or the Government, an appeal may not be filed.
- (2) Where the authority responsible for deciding the appeal referred to in paragraph 1 of this Article finds that the decision resolving the conflict of jurisdiction is not based on the relevant regulations, it shall resolve the relations arising therefrom between the authority filing the appeal and the authority declared as having jurisdiction by the decision resolving the conflict of jurisdiction, ensuring the rights pertaining to the authority filing the appeal under the relevant regulations. The decision on the appeal shall be deemed a first-instance decision.

5. Legal Assistance

Article 30

- (1) Where certain actions in the procedure need to be taken outside the territory of the competent authority, this authority shall make a request to the authority having jurisdiction over the territory where the action is to be taken.
- (2) The authority responsible for deciding in an administrative matter may, for the purpose of easier and faster performance of the required action or avoidance of unnecessary expenses, entrust the action in the procedure to other authority authorised for performance of such actions.

Article 31

- (1) The authorities shall be obliged to provide each other legal assistance in the administrative procedure. The assistance shall be requested in an official document.
- (2) The authority requested for assistance referred to in paragraph 1 of this Article shall proceed upon the request without delay, but not later than 30 days from the date of receipt of the official request.
- (3) Legal assistance for performance of certain actions in the procedure may also be requested from the court in accordance with the relevant regulations. Exceptionally, the authority deciding in administrative matters may request the court to deliver the documents necessary for conducting the administrative procedure. The court shall be obliged to comply with this request, provided it does not interfere with the court proceedings. The court may specify the time period in which the documents are to be returned.
- (4) The provisions of international agreements shall apply to legal assistance in relations with international authorities, and if there are no such agreements, the principle of reciprocity shall be applicable. Where there is doubt as to the existence of reciprocity, the authority responsible for foreign affairs shall provide the relevant clarification.
- (5) Authorities shall render legal assistance to international authorities in the manner specified under the law. An authority shall deny legal assistance in case it is requested to perform an action which is in contravention of the public order. The action which is the subject of the request of an international authority may also be performed in the manner requested by the international authority, provided that such procedure is not in contravention of the public order.
- (6) If the possibility of direct communication with international authorities is not provided for under international agreements, authorities shall communicate with international authorities through the authority responsible for foreign affairs.

6. Exclusion

Article 32

The officer deciding in administrative matters or performing certain actions in the procedure shall be excluded in the following cases:

- 1) if he/she is a party, co-agent or co-obligor, witness, expert witness, attorney, or legal representative of a party in the case for which the procedure is conducted;
- 2) if he/she is in lineal relation to a party, to the representative or attorney of a party or in collateral relation up to and including the fourth degree, or if he/she is a spouse, a common-law spouse, or an in-law up to and including the second degree, even if the marriage or the common-law marriage has broken down;
- 3) if his/her relationship with a party, the representative or attorney of a party is one of a guardian, adoptive parent, adoptive child or foster parent;
- 4) if he/she has participated in conduct of the procedure or adoption of a decision in the first instance.

Article 33

The officer who is to decide in a certain administrative matter or who is to perform a certain action in the procedure shall discontinue any further work on that case and notify the authority responsible for deciding on the exclusion, as soon as he/she learns of any of the grounds for exclusion referred to in Article 32 hereof. If the officer deems that there are other circumstances justifying his/her exclusion, he/she shall, without interrupting his/her work, notify the same authority thereof.

Article 34

- (1) A party may request exclusion of an officer on the grounds set forth in Article 32 hereof, as well as in case there are other circumstances that raise doubts as to his/her impartiality. In his/her request the party shall state the circumstances on account of which he/she believes that there are grounds for exclusion.
- (2) The officer whose exclusion has been requested by the party on any of the grounds set forth in Article 32 hereof may not perform any actions in the procedure pending the decision on that request, save for the actions that must not be delayed.

Article 35

- (1) The exclusion of an officer shall be decided upon by the official in charge of the relevant authority.
- (2) The exclusion of the official in charge of the relevant authority shall be decided upon by the authority specified under the law.
- (3) The decision on any exclusion shall be adopted in the form of a conclusion.

Article 36

- (1) The conclusion on exclusion shall designate another officer to decide in the administrative matter or perform certain actions in the procedure relating to the case in which the exclusion has been imposed.
- (2) No appeal against the conclusion on exclusion shall be allowed.

Article 37

- (1) The provisions of this Law governing the exclusion shall apply accordingly to members of collegiate bodies.
- (2) The conclusion on the exclusion of a member of a collegiate body shall be adopted by that body.

Article 38

- (1) The provisions of this Law governing the exclusion shall apply accordingly to recording secretaries.
- (2) The conclusion on the exclusion of a recording secretary shall be adopted by the officer conducting the procedure.

Chapter III

PARTIES AND THEIR REPRESENTATION

1. Parties

Article 39

A party is a person at whose request a procedure has been instituted or against whom a procedure is conducted or who is entitled to participate in the procedure for the purpose of protection of his/her rights or legal interests.

Article 40

- (1) A party to the procedure may be any natural or legal person.
- (2) A government authority, a territorial and local self-government authority, an organisation, a local community, a group of people, etc., who do not have the status of a legal person, may be parties to the procedure if they are holders of rights and obligations or legal interests which are to be decided in the procedure.

Article 41

A person requesting to participate in the procedure (interested party) shall be obliged to precisely state the nature of his/her legal interest in his/her request.

Article 42

- (1) When legally empowered to protect the legality or represent the public interest, the public prosecutor or the public attorney shall, within the scope of such powers, have the rights and obligations of a party to the procedure.
- (2) The authorities referred to in paragraph 1 of this Article shall not have broader powers than the parties, unless such powers have been granted to them under the law.

2. Procedural Capacity and Legal Representation

Article 43

- (1) A party having full legal competence may perform actions in the procedure (procedural capacity).
- (2) A party lacking procedural capacity shall perform actions in the procedure through his/her legal representative. The legal representative shall be assigned by virtue of the law or the relevant by-law adopted by the competent government authority.
- (3) A legal person shall perform actions in the procedure through its legal representative or authorised representative who shall be assigned by virtue of the relevant by-law adopted by that legal person, unless already assigned in the relevant by-law of the competent government authority.
- (4) A government authority shall perform actions in the procedure through a statutorily authorised representative; an organisation without the status of a legal person – through a person assigned in accordance with the relevant by-law of the organisation; and a local community, a group of people, etc., without the status of a legal person – through a person authorised by them, unless otherwise provided for in the relevant regulation.
- (5) When the authority conducting the procedure ascertains that the legal representative of a person under guardianship does not demonstrate due attention in his/her representation, it shall notify the guardian thereof.

Article 44

- (1) The authority shall ex officio ensure that during the entire procedure the person appearing as a party is allowed to be a party to the procedure and that the party is represented by his/her legal representative or authorised representative.
- (2) If a party dies during the procedure or a legal person dissolves, the procedure may be terminated or continued, depending on the nature of the administrative matter that is the subject of the procedure. Where, due to the nature of the matter, the procedure may not continue, the authority shall terminate the procedure by adopting a conclusion against which an appeal may be filed.

3. Temporary Representative

Article 45

- (1) If a party lacking procedural capacity has no legal representative, or if an action is to be taken against a person whose place of residence or domicile is unknown and who is without an attorney, the authority conducting the procedure shall assign a temporary representative to that party where it is urgent to resolve the case and conduct the procedure. The authority shall forthwith notify the guardian, and in case the temporary representative has been assigned to a person whose place of residence or domicile is unknown, it shall post the conclusion on its notice board or in the official journal.
- (2) If a legal person, organisation, local community, group of people, etc., without the status of a legal person do not have a legal representative or an authorised representative or an attorney, the authority conducting the procedure shall, under the conditions in paragraph 1 of this Article, assign a temporary representative to that party and shall forthwith notify the party thereof. A temporary representative shall, as a rule, be assigned to a legal person from among the officers of that legal person.
- (3) A temporary representative shall also be assigned in the manner specified in paragraphs 1 and 2 of this Article when an urgent action needs to be performed and it is not possible to timely summon the party or his/her legal representative, authorised representative, or attorney. The party, his/her legal representative, authorised representative, or attorney shall forthwith be notified thereof.
- (4) A person assigned as a temporary representative shall be obliged to assume the representation, which he/she may refuse only for the reasons stipulated in the relevant regulations. A temporary representative shall only participate in the procedure for which he/she is explicitly assigned and only until the appearance of a legal representative or authorised representative, or the party or his/her attorney.

4. Joint Representative or Joint Attorney

Article 46

- (1) Unless otherwise provided for under the relevant regulations, two or more parties may jointly act in the same case. In that case, they shall specify the person to act as their joint representative or appoint a joint attorney.
- (2) The authority conducting the procedure may, unless prohibited by the relevant regulations, adopt a conclusion ordering the parties participating in the procedure with identical claims to specify within a certain period the person from among their ranks who shall represent them or to appoint a joint attorney. If the parties fail to comply with such conclusion, the authority conducting the procedure may assign a legal representative, authorised representative or joint attorney, in which case the joint representative or joint attorney shall retain that status until the appointment of another by the parties. The parties shall be entitled to file an appeal against such conclusion, which shall not stay the enforcement thereof.

- (3) Regardless of assignment of a joint representative or joint attorney, each party shall reserve the right to act as a party to the procedure, to make statements, and to file appeals independently and use other legal remedies.

5. Attorney

Article 47

- (1) A party or his/her legal representative may appoint an attorney to represent the party in the procedure, except in the actions where the party is required to make statements in person.
- (2) Actions in the procedure that are performed by the attorney within his/her powers shall have the same legal effect as if performed by the party or his/her legal representative.
- (3) Notwithstanding the attorney, a party may make statements in person and statements may also be requested directly from a party.
- (4) A party that is present when his/her attorney makes an oral statement may immediately after the statement is made change or revoke the statement of his/her attorney. In case of a discrepancy between the written or oral statements of the party and his/her attorney relating to the facts of the case, the authority conducting the procedure shall consider both statements within the meaning of Article 10 hereof.

Article 48

- (1) The attorney may be any person having full legal competence, except persons engaged in illegal practice of law.
- (2) If the attorney is a person engaged in illegal practice of law, the authority shall prohibit further representation by such attorney and forthwith notify the party and the public prosecutor of competent jurisdiction.
- (3) An appeal may be filed against the conclusion prohibiting further representation, but it shall not stay the enforcement thereof.

Article 49

- (1) The power of attorney may be granted in written form or may be read into the record. If no record is taken of the procedure, the oral power of attorney shall be recorded in the case file.
- (2) A party who is illiterate or unable to sign documents shall put his/her thumb impression on the written power of attorney in lieu of a signature. Where the power of attorney is issued to a person other than an attorney, it must be certified by the relevant authority.
- (3) Exceptionally, the officer conducting the procedure or performing specific actions in the procedure may permit a family member of the party or a member of his/her household or a fellow co-worker of the party to perform a certain action as a representative of the party without the submitted power of attorney, in case there is no doubt as to the existence and the scope of the power of attorney. If such a person submits a request for institution of a procedure or makes a statement contrary to the party's earlier statement in the procedure, he/she shall be requested to submit his/her power of attorney within a specified period of time.

Article 50

- (1) A power of attorney may be granted in the form of a private document.
- (2) If a power of attorney has been granted in the form of a private document and doubts are raised as to its authenticity, the submission of a certified power of attorney may be ordered.
- (3) The accuracy of a power of attorney shall be examined ex officio and any deficiencies of a written power of attorney shall be remedied in accordance with the provision of Article 58 hereof. However, the officer conducting the procedure may allow the attorney acting under a deficient power of attorney to perform urgent actions in the procedure.

Article 51

- (1) The scope of a power of attorney shall depend on its contents. A power of attorney may be granted for the entire procedure or only for individual actions, and it may be limited in time.
- (2) A power of attorney shall not be terminated upon the death of a party, the loss of his/her procedural capacity or the replacement of his/her legal representative. However, the legal successor of the party or his/her new legal representative may revoke the earlier power of attorney.
- (3) The provisions of the law governing the litigation procedure shall be applied accordingly to the matters relating to powers of attorney that have not been regulated by the provisions of this Law.

Article 52

The provisions of this Law relating to the parties shall be applied accordingly to their legal representatives, authorised representatives, attorneys, temporary representatives, joint representatives and joint attorneys.

Article 53

- (1) In the administrative matters for which expert knowledge of the issues related to the subject of the procedure is required, the party shall be allowed to bring an expert to provide counselling and advice to him/her (expert assistant). This person shall not represent the party.
- (2) The party may not bring as an expert assistant any person lacking legal competence or any person engaged in illegal practice of law.

Chapter IV

COMMUNICATION BETWEEN AUTHORITIES AND PARTIES

1. Submissions

Article 54

- (1) Submissions shall be understood to mean requests, data processing forms, motions, reports, petitions, appeals, objections and other communications addressed to the authorities by the parties.
- (2) Submissions shall, as a rule, be delivered by hand or sent by mail in written form or read into the record. They may also be sent by telegraph or telefax, unless specified otherwise. Short and urgent communications may be made by telephone, depending on the nature of the matter.
- (3) Submissions may also be made by electronic mail. The manner and the procedure for electronic submissions shall be regulated by the ministry responsible for state administration.

Article 55

A submission shall be made to the authority responsible for receipt of submissions, and may be delivered every working day during working hours. The delivery of submissions that are made orally and that are not limited in time or urgent may be scheduled only for certain hours during working hours or for certain days. Each authority shall post the notice of the time schedule for delivery of such submissions in a prominent place on its premises.

Article 56

- (1) The authority responsible for the receipt of submissions shall be obliged to receive the submission delivered to it or enter the orally communicated submission into the record.
- (2) The officer who has received a submission shall, upon oral request of the person delivering the submission, confirm the receipt of the submission. No fee shall be charged for such confirmation.
- (3) If an authority is not competent for the receipt of submissions, the relevant officer of that authority shall advise the person delivering the submission and refer him/her to the competent authority. If, nevertheless, the person delivering a submission insists on its receipt by that authority, the relevant officer shall be obliged to receive the submission. If the authority finds that it is not competent to proceed upon such submission, it shall adopt a conclusion rejecting the submission on account of non-competence.
- (4) When an authority receives a submission by mail for which it is not competent and it is beyond doubt which authority is competent for the receipt thereof, it shall forthwith send the submission to the competent authority or to the court and shall notify the party thereof. In case the authority which has received a submission is unable to establish which authority is competent for proceeding thereupon, it shall forthwith adopt a conclusion rejecting the submission on account of non-competence and immediately serve the conclusion on the party.
- (5) An appeal may be filed against the conclusion adopted in compliance with the provisions of paragraphs 3 and 4 of this Article.
- (6) If an authority receives by mail an action for initiation of an administrative dispute proceeding, it shall forthwith deliver it to the court of competent jurisdiction and notify the person who has filed the action.

Article 57

- (1) A submission must be intelligible and it should, for the processing purposes, in particular include the following information: the designation of the authority it is addressed to, the case to which the request or motion refers, the identity of the agent, representative or attorney, if any, as well as the name, surname and place of residence or domicile (address), or the name and seat of the company of the person making the submission or his/her agent, representative or attorney.
- (2) The person making a submission shall be obliged to sign it. Exceptionally, a submission may be signed on behalf of the person making it by his/her spouse, one of his/her parents, his/her son or daughter, or the attorney who has drafted the submission under the authorisation of the party. The person signing the submission shall have to affix his/her name and address on it.
- (3) If the person making a submission is illiterate or unable to sign, the submission shall be signed by a literate person who shall affix his/her name and address on it.
- (4) An electronic submission shall be signed by electronic signature with an authentication in the manner specified in the relevant regulation of the ministry responsible for state administration.

Article 58

- (1) If a submission contains a formal deficiency preventing its processing, or if it is unintelligible or incomplete, the authority that has received the submission shall do everything in its power to have the deficiency eliminated by the person who has made the submission and shall set the time period within which the deficiency should be eliminated. This may be communicated to the person who has made the submission by telephone or orally if such person happens to be with the authority which is to communicate to him/her that the submission is deficient. The authority shall make a note of such communication on the document.
- (2) In case the person who has made the submission eliminates the deficiencies within the specified period, the submission shall be deemed properly made from the start. In case the person who has made the submission fails to eliminate the deficiencies within the specified

period and thus make its processing impossible, the authority shall adopt a conclusion rejecting the submission. A warning of this particular consequence shall be given to the person who has made the submission in the call for correction of the submission. An appeal may be filed against the conclusion rejecting the submission.

- (3) When a submission is sent by telegraph or telefax or when a communication is received by telephone and there is doubt as to whether the submission has been made by the person whose name is indicated on the telegraph or telefax message or whether it has been communicated by the person who has identified himself/herself by telephone, the authority shall initiate the procedure for establishment of these facts. If the facts are not established or if the deficiencies are not remedied, the authority shall proceed in the manner laid down in paragraph 2 of this Article. An appeal may be filed against the conclusion by the authority to reject the submission.

Article 59

Where a submission contains several claims that must be decided separately, the authority that has received the submission shall consider the claims it is competent for and shall handle the remaining claims as specified in Article 56, paragraph 4 hereof.

2. Summons

Article 60

- (1) The authority conducting the procedure shall be authorised to summon a person whose presence in the procedure is necessary and who resides on its territory. As a rule, the summoning may not be performed for the decisions, conclusions, or communications that can be delivered by mail or in another manner more suitable for the person to whom the communication is to be delivered.
- (2) A person residing outside the territory of the authority conducting the procedure may be summoned for a hearing if the procedure will be accelerated or facilitated by doing so, provided that the appearance of the summoned person does not entail considerable expenses or waste of his/her time.
- (3) The summons shall be delivered in a written form, unless otherwise specified in the relevant regulations.

Article 61

- (1) A written summons shall specify the name of the authority which has issued the summons, the name, surname and address of the person summoned, the place, the date and, whenever possible, the time the summoned person is due to appear, the case for which he/she is summoned and in what capacity (as a party, witness, expert witness, etc.), and what auxiliary instruments and evidence the summoned person is to obtain or produce. The summons shall state whether the summoned person is required to appear in person or he/she may send an attorney to represent him/her, and shall warn the summoned person that in case he/she is prevented from responding to the summons he/she shall be obliged to notify thereof the authority that has issued the summons. The summoned person shall also be warned of the consequences of failure to respond to the summons or to submit the notification that he/she is prevented to appear.
- (2) The summons to a hearing may call upon the party to submit written and other evidence and may inform the party that he/she may call witnesses he/she intends to call.
- (3) Whenever applicable, it may be left at the discretion of the summoned person to submit the required written statement within a specified period, instead of appearing in person.

Article 62

- (1) When summoning a person, the authority shall be careful to call the person whose presence is required to appear at a time that least interferes with his/her regular work.
- (2) No person shall be summoned to appear during the night, except in urgent and emergency cases.

Article 63

- (1) The summoned person shall be under obligation to respond to the summons.
- (2) If the summoned person has been unable to appear due to illness or for other valid reason, he/she shall immediately after the receipt of the summons notify thereof the authority that has issued the summons, and if the reason for absence occurs later – immediately upon learning of the reason.
- (3) If the person who has been served the summons by personal delivery (Article 77) fails to respond and justify his/her absence, he/she may be apprehended and fined up to 5,000 dinars. Such measure shall be taken only if indicated so in the summons. If costs are incurred in the procedure due to the unjustified absence of the summoned person, the person who has failed to appear may be ordered to bear those costs. The conclusion on the apprehension, pronouncement of a fine, and payment of costs shall be adopted by the officer conducting the procedure in agreement with the officer authorised to decide in administrative matters, and with the requested authority – in agreement with the head of that authority or the officer authorised to decide in similar administrative matters. An appeal may be filed against such conclusion.
- (4) If a member of the Army of Serbia and Montenegro or a member of the police fails to respond to the summons, the authority shall request the competent command or the competent authority to bring him/her in and may fine him/her pursuant to paragraph 3 of this Article or may order him/her to bear the costs incurred by his/her absence.

3. Record

Article 64

- (1) A record shall be taken of the hearing or other significant actions in the procedure, as well as of significant oral statements of the parties or third parties in the procedure.
- (2) As a rule, a record shall not be taken of less significant actions and statements of the parties and third parties that have no major impact on resolution of the administrative matter, of the administration of the procedure, communications, official remarks, oral instructions and findings, as well as of circumstances relating only to the internal activities of the authority conducting the procedure. In such cases, a note shall be made on the document with the date on which it was made and verified by the officer who has made the note. It is not necessary to take a record of oral requests of a party that are decided in a summary procedure and granted, but only to note such requests in the prescribed manner.

Article 65

- (1) The following information shall be entered into the record: the name of the authority performing the action, the date and time of the action, the case in which it is performed, and the names of the officers, the parties in attendance and their agents, attorneys, or representatives.
- (2) The record shall contain an accurate and brief outline of the course and the content of the actions performed in the procedure and the statements made. The record should at the same time be limited to what is relevant to the administrative matter which is the subject of the procedure. All documents that have for any purpose been used in the hearing shall be entered into the record. If necessary, such documents shall be attached to the record.

- (3) The statements made by the parties, witnesses, expert witnesses and other persons involved in the procedure, which are of relevance to the resolution of the administrative matter, shall be entered into the record as accurately as possible and, if necessary, in own words. All conclusions adopted in the course of the procedure shall also be entered into the record.
- (4) If a hearing is conducted with the help of an interpreter, the language used by the person heard and the identity of the interpreter shall be entered into the record.
- (5) A record shall be kept in the course of an official action. If the action cannot be completed on the same day, the daily progress shall be entered into the same record for each day and the record shall be duly signed.
- (6) If the action for which the record is kept could not be performed without interruptions, the record shall state all the interruptions.
- (7) If plans, outlines, drawings, photographs, etc., have been made or obtained in the course of the action, they shall be verified and attached to the record.
- (8) The regulations may specify that in certain matters the record may be kept in the form of a book or other instrument.
- (9) A record may also be taken using the relevant equipment for recording the course of the procedure. In that case, the record must be drawn up in written form not later than three days from the completion of the recording. The written record shall be delivered to the parties. If the parties fail to make objections to the record within three days from its receipt, it shall be deemed that they have no objection to the record.

Article 66

- (1) A record shall be kept accurately and no deletions shall be made therein. Any text that has been crossed must remain legible before the conclusion of the record and must be verified by the signature of the officer conducting the procedure.
- (2) The already signed record shall not be supplemented or modified. Any supplements to the already signed record may be attached as annexes to the record.

Article 67

- (1) Prior to its conclusion, the record shall be read out to the parties heard and other persons participating in the procedure. These persons shall have the right to examine the record and make objections. Thereafter, it shall be stated at the end of the record that the record has been read out and no objection has been made, or if objections have been made, their content shall be briefly outlined. The record shall then be signed by the person who has participated in the procedure and shall be finally verified by the officer who has conducted the procedure and the recording secretary, if any.
- (2) If a record contains the hearing of more than one person, each of them shall sign the part of the record where his/her statement has been entered.
- (3) In the event of confrontation of witnesses, the part of the record relating thereto shall be signed by the confronted witnesses.
- (4) If a record has more than one page, the pages shall be numbered. Each page shall be signed by the officer conducting the procedure and the person whose statement has been entered at the bottom of the page.
- (5) Any supplements to the already concluded record shall be signed and verified again.
- (6) If the person who is to sign the record is illiterate or unable to sign, a literate person shall sign the record instead and affix his/her own signature. The signatory shall not be the officer conducting the procedure or the recording secretary.
- (7) If a person refuses to sign the record or departs before the conclusion thereof, such action shall be entered into the record together with the reason for denying the signature.

Article 68

- (1) A record drawn up in accordance with the provisions of Article 67 hereof shall be a public document. A record shall serve as evidence of the course and content of the procedure and the statements made, except for the parts of the record to which a person heard has put forward an objection that they have not been properly drawn up.
- (2) It shall be permitted to document the inaccuracy of the record.

Article 69

- (1) When a collegiate body decides in the procedure, a special record shall be drawn up of the deliberation and the voting. When an appeal has been unanimously decided in the procedure, it is not necessary to draw up a record of the deliberation and the voting, but the relevant note may be made on the document.
- (2) In addition to the information on the composition of the collegiate body, a record of the deliberation and the voting shall also contain the designation of the case and a brief summary of what has been decided, as well as separate opinions, if any. The record shall be signed by the chairperson and the recording secretary.

4. Inspection of Documents and Information on Progress of Procedure

Article 70

- (1) The parties shall have the right to inspect the case file and to transcribe or photocopy the necessary documents at their own expense. The inspection and transcription or photocopying of documents shall be supervised by the designated officer.
- (2) The right to inspect documents and to transcribe or photocopy certain documents at their own expense shall be granted to any third party who has made credible their legal interest.
- (3) The request to inspect and transcribe or photocopy documents may also be submitted orally. The authority may request the persons referred to in paragraph 2 of this Article to provide a written or oral explanation of the existence of their legal interest.
- (4) The record of the deliberation and the voting, official reports and draft decisions or the documents treated as confidential may not be inspected, transcribed, or copied if it would jeopardise the purpose of the procedure or if it is contrary to the public interest or the justified interest of one of the parties or third parties.
- (5) The inspection of parts of the documents treated as confidential may not be denied if they are used as grounds for decision-making.
- (6) A party and any third party who has made credible their legal interest in the procedure, as well as any interested government authorities, shall have the right to be notified of the progress of the procedure.
- (7) An appeal may be filed against the conclusion rejecting the requests from paragraphs 1 to 5 of this Article, even if the conclusion is not issued in written form. The appeal may be filed immediately after the notification of the conclusion, but not later than within 24 hours from the notification. The appeal shall be decided within 48 hours from the time of its filing.

Chapter V

SERVICE OF PROCESS

1. Method of Service

Article 71

- (1) Written documents (summons, decisions, conclusions and other official documents) shall, as a rule, be served on the addressee.
- (2) Documents shall be served by mail, telefax or by electronic means or delivered by the relevant authority through its designated officer. The addressee may be summoned to receive the documents only in exceptional cases when required by the nature or importance of the documents to be served.
- (3) The method of service shall be specified by the authority whose document is to be served.

Article 72

- (1) Documents shall be served on working days, during daytime hours.
- (2) The authority whose document is to be served may for particularly important reasons decide that the document is to be served on a Sunday or public holiday, or at night in case of urgency.
- (3) The service by mail or by electronic means may be made on Sundays and public holidays.

Article 73

- (1) Documents shall, as a rule, be served to the home, office or workplace of the addressee, and in case the addressee is an attorney – to his/her law firm.
- (2) Documents may also be served outside the premises referred to in paragraph 1 of this Article if the addressee agrees to receive the documents there. If there are no such premises, documents may be served on the addressee wherever he/she is located.

2. Substituted Service

Article 74

- (1) When the addressee is not in his/her apartment at the time of service, the service shall be made by delivery of the document to an adult member of his/her household.
- (2) If the service is made at the workplace of the addressee and the addressee is not there, the service shall be made to his/her co-worker if the co-worker agrees to receive the document. The service to an attorney may be made by delivery of the document to a person employed in the attorney's office.
- (3) The service referred to in paragraphs 1 and 2 of this Article may not be made on a person involved in the same procedure but with opposing interests.

Article 75

- (1) If it is established that the addressee is absent and that the persons referred to in Article 74 hereof cannot deliver the document to him/her in due time, the document shall be returned to the authority that has issued it with an indication of the addressee's whereabouts.
- (2) If it is not possible to determine the place of residence or domicile of an addressee, the authority that has issued the document shall assign a temporary representative to the addressee pursuant to Article 45 hereof and serve the document on that representative.

Article 76

- (1) If it is not possible to make the service in the manner specified in Article 74 hereof and it has not been established that the addressee is absent, the process server shall deliver the document to the relevant authority on whose territory the place of residence or domicile of the addressee is located, or send it by mail in his/her place of residence if the service is made by mail. The server shall attach a written notification of where the document can be found to the door of the apartment, office or workplace of the addressee, and the service shall thereby be deemed made. The server shall specify the reason for such delivery on the notification and the document that was to be served and shall note down the date when the notification was attached to the door and sign it.
- (2) The authority that has ordered the service shall be notified of the service made in the manner specified in paragraph 1 of this Article.

3. Obligation of Personal Service

Article 77

- (1) The service shall be made on the addressee by personal delivery where such delivery is prescribed by this Law or other regulation, where a non-extendable deadline starts from the date of delivery, or where such delivery is particularly specified by the ordering authority. The documents shall be deemed personally served on an attorney upon their delivery to the attorney or to a person employed in the attorney's office.
- (2) In case the person on whom a document is to be personally served is not at his/her apartment, office or workplace, or no employee is found in the attorney's office, and no information is available to establish that the addressee is absent, the server shall return the document to the post office or the sending authority. The server shall leave a written notification for the addressee in the mailbox or at the door of the apartment, office, workplace or other convenient place, stating where the document can be found with a warning that it must be taken within 15 days.
- (3) The server shall be obliged to sign the notification referred to in paragraph 2 of this Article and make a note on the document, which he/she returns to the post office or the relevant authority, indicating where he/she has left the notification.
- (4) The service shall be deemed made when the addressee receives the document. If the addressee fails to receive the document, the service shall be deemed made upon expiry of the fifteenth day from the date of leaving the notification.
- (5) If it is established that the person referred to in paragraph 2 hereof is absent, the server shall return the document to the issuing authority which shall order the service again upon learning that the addressee has returned, but not later than within 30 days from the date when the document was returned to the authority. After expiry of this period, the document shall be served on the agent for acceptance of service.
- (6) Any person who will be absent for more than 30 days shall be obliged to appoint an agent for acceptance of service and notify thereof the authority conducting the procedure.
- (7) If the agent referred to in paragraph 6 of this Article has not been appointed, the service shall be repeated in the manner set forth in paragraphs 2 and 4 of this Article.
- (8) The addressee on whom the service is made in the manner set forth in this Article may substantiate his/her absence that is longer than 30 days by presenting valid reasons why he/she was unable to receive the documents or may appoint an agent for acceptance of service. If the addressee can justify his/her absence, he/she shall be entitled to request restitution.

4. Specific Cases of Service

1) Service on Legal Representative and Attorney

Article 78

- (1) The service of process on the legal representative or attorney of the party shall be made in the manner set forth in Articles 71 to 77 hereof.
- (2) Where several parties have a common legal representative or attorney in the same case, documents for all parties shall be served on their legal representative or attorney. Where a party has several attorneys, it shall suffice to make the service only on one of them.

2) Service on Agent for Acceptance of Service

Article 79

- (1) A party may authorise a certain person to receive all documents to be served for him/her. When the party notifies the authority conducting the procedure of this authorisation, the authority shall make all services on that agent (agent for acceptance of service).
- (2) The agent for acceptance of service shall send every document to the party without delay.
- (3) Where direct delivery to a party, his/her legal representative or attorney would significantly delay the procedure, the officer conducting the procedure may order the party to appoint an agent for acceptance of service in the seat of the authority for a specific case and for a specific period of time. If the party fails to comply with this order, the authority may proceed in accordance with Article 45 hereof.
- (4) Where a party or his/her legal representative is abroad and is without an attorney in the Republic of Serbia, the party shall at the time of service of the first document be called upon to appoint an attorney or agent for acceptance of service within a specified period of time. The party shall also be notified that, if he/she fails to appoint an attorney within the specified period, an agent for acceptance of service or a temporary representative shall be assigned to him/her ex officio.
- (5) A document shall be deemed served on the addressee upon its delivery to the agent for acceptance of service.

Article 80

- (1) Where several parties who jointly participate in the procedure with identical claims have no common attorney, they shall, at the time of the first action in the procedure, report to the authority their common agent for acceptance of service, if possible one who resides in the place where the seat of the authority is located. Pending the reporting of the common agent for acceptance of service, such agent shall be deemed the party among them who is first signed or specified in their first common submission. If it is not possible to appoint an attorney in this way, the officer conducting the procedure may appoint any of the parties as their attorney. If there is a large number of parties or if they are from different places, the parties may report and the officer may assign several such attorneys and specify which of them shall represent which party.
- (2) The common agent for acceptance of service shall be obliged to notify all the parties without delay of the document he/she has received on their behalf and provide them with the opportunity to examine, transcribe and verify the document which, as a rule, he/she is to safekeep.
- (3) All addressees shall be specified in the document served on the agent for acceptance of service.

3) Service on Government Authorities, Companies and Other Legal Persons

Article 81

- (1) The service on government authorities, companies and other legal persons shall be made by delivery of documents to the officer or person appointed for receipt of documents, unless otherwise specified for specific cases.
- (2) If an organization, local community, group of people, etc. without the status of a legal person (Article 40, paragraph 2) participate in the procedure, the service shall be made by delivery of the document to the person authorised by them or assigned to them (Article 43, paragraph 4).
- (3) If the process server does not find the addressee during specified working hours, he/she may make the service on any person employed with the government authority, company, or other legal person referred to in paragraph 1 of this Article that he/she finds on the premises.

4) Service on Other Persons

Article 82

- (1) The service on persons who are abroad and persons in the country who enjoy diplomatic immunity shall be made through the authority responsible for foreign affairs, unless otherwise specified in the relevant international agreement.
- (2) The service of registry documents, certificates, confirmations and other documents issued at the request of a party may be made directly on citizens abroad. The service of other documents shall be made through diplomatic and consular representative offices of Serbia and Montenegro.
- (3) The service on members of the Army of Serbia and Montenegro or members of the police and on persons employed in the field of overland, river, maritime and aerial transport may also be made through the relevant command or authority, or through the company or other legal person they are employed with.

Article 83

The service on imprisoned persons shall be made through the administration of the institution they are held in.

5) Service by Publication

Article 84

In case there is a large number of persons who are not known to the authority or who cannot be identified at the time of service, the service shall be made by posting a public announcement on the notice board of the issuing authority. The service shall be deemed made upon expiry of 15 days from the date when the announcement was posted on the notice board, unless the issuing authority specifies a longer period. In addition to posting the announcement on the notice board, the authority may also publish the announcement in the daily press or other media or in another customary manner.

6) Refusal of Acceptance

Article 85

- (1) In case the addressee or an adult member of his/her household refuses to accept a document without a legal cause, or if a document is refused by an employee in a government authority, company or other legal person or law firm, or by the person appointed to receive documents by an organisation, local community, group of people, etc., who do not have the status of a legal person (Article 40, paragraph 2), the server of the document shall leave it in the apartment or office where the relevant person is employed or attach it to the door of the apartment or office.

- (2) When the service has been made in the manner specified in paragraph 1 of this Article, the server shall note the date, time and reason for refusal of acceptance on the delivery note, as well as the place where he/she has left the document, whereupon the service shall be deemed made.

7) Change of Residence, Domicile or Seat

Article 86

- (1) When the parties or their legal representatives change their place of residence, domicile, or seat in the course of the procedure, they shall forthwith notify thereof the authority conducting the procedure.
- (2) If they fail to do so and the process server cannot find out where they have moved, the authority shall decide that all further service of process on such parties be made by posting the relevant documents on the notice board of the authority conducting the procedure.
- (3) The service shall be deemed made upon expiry of eight days from the date of posting the relevant documents on the notice board of the authority conducting the procedure.
- (4) When an attorney or agent for acceptance of service changes his/her place of residence or domicile in the course of the procedure and fails to notify the authority conducting the procedure, the service shall be made as if the attorney had not been appointed.

5. Delivery Note

Article 87

- (1) The acknowledgement of service made (delivery note) shall be signed by the recipient and the server. The recipient shall in his/her own hand write down the date of receipt on the delivery note.
- (2) If the recipient is illiterate or unable to sign, the process server shall write down his/her name and the date of service on the delivery note and shall note down the reasons why the recipient has failed to sign.
- (3) If the recipient refuses to sign the delivery note, the process server shall note the refusal on the delivery note and write down the date of service in letters, whereby the service shall be deemed duly made.
- (4) If the service has been made on one of the persons referred to in Article 74 hereof, the process server shall write down on the delivery note the name of the person on whom the document has been served and the relation of that person to the addressee.
- (5) If the service has been made pursuant to Article 76 hereof, the process server shall write down on the delivery note the date of announcement and the date of delivery of the document to the competent authority on whose territory the place of residence or domicile of the addressee is located or the date of delivery to the post office in his/her place of residence or domicile.

6. Errors in Service

Article 88

- (1) In the event of an error in the service of process, the service shall be deemed made on the date established as the date on which the addressee actually received the relevant documents.
- (2) In case the delivery note is missing, the service may be proven by other means.

Chapter VI

TIME LIMITS

Article 89

- (1) Time limits may be specified for taking certain actions in the procedure.
- (2) Where the time limits are not specified by law or other regulation, they shall be set by the officer conducting the procedure in view of the circumstances of the case.
- (3) The time limit set by the officer conducting the procedure, as well as the time limit specified by regulations, for which the possibility of extension is provided, may be extended upon a petition of the interested party submitted prior to the expiry of the time limit, provided however that there are valid reasons for the extension.

Article 90

- (1) Time limits shall be set in days, months and years, and may also be set in hours.
- (2) When a time limit is set in days, the day when the service or announcement was made, i.e. the day from which the time limit is to be reckoned, shall not be included in the time limit. The first subsequent day shall be taken as the beginning of the time limit. A time limit that is set in months or years shall end upon the expiry of the day, month or year which by its number corresponds to the day the service or announcement was made, i.e. the day from which the time limit is to be reckoned. If there is no such day in the last month, the time limit shall end on the last day of that month.
- (3) The end of a time limit may also be set on a specific calendar day.

Article 91

- (1) Sundays and public holidays shall not suspend the commencement and duration of the set time period.
- (2) If the last day of a time limit falls on a Sunday, public holiday, or other non-working day for the authority before which the action is to be taken, the time limit shall expire at the end of the first subsequent working day.

Article 92

- (1) A submission shall be deemed made within the relevant time limit if it is received by the receiving authority before the expiry of the time limit.
- (2) If a submission is sent by registered mail, telegraph or telefax, the date of delivery to the post office or the date of receipt of the fax shall be deemed date of submission to the receiving authority.
- (3) An electronic submission shall be deemed timely made if the authority or the information system for delivery and notification has received it before the expiry of the time limit or if the party has sent it before the expiry of the time limit and can provide proof thereof.
- (4) For persons serving in the Yugoslav Army, the date of delivery of the submission to the military unit or military institution or command shall be deemed date of submission to the receiving authority.
- (5) For imprisoned persons, the date of delivery of the submission to the administration of the institution they are held in shall be deemed date of submission to the receiving authority.
- (6) If the authority has set the day for deliberation on a submission the party is obliged to file and has called upon the party to file the submission before a specific date, the authority shall be obliged to take into consideration any submission received before the commencement of deliberation.

Chapter VII
REINSTATEMENT

Article 93

- (1) If a party has valid reasons for failure to perform an action in the procedure within the specified time period on account of which he/she has been excluded from performance of that action, the party shall, at his/her request, be granted reinstatement.
- (2) Reinstatement shall be granted at the request of the party who has failed to file a submission within the specified time period in case when out of ignorance or due to a plain error the party has timely mailed or delivered the submission to a non-competent authority.
- (3) Reinstatement shall also be granted when a party exceeded the time limit due to a plain error, but the competent authority has nevertheless received the submission not later than three days after the expiry of the time limit, in case the party could lose any of his/her rights due to such delay.

Article 94

- (1) In his/her request for reinstatement, the party shall present the circumstances that prevented him/her from performing the action within the specified time period and make them appear at least credible.
- (2) A request for reinstatement may not be based on the circumstances that the authority has already dismissed as insufficient for the extension of the time period or adjournment of the hearing.
- (3) If the reinstatement is requested because of failure to file a submission, the submission shall be enclosed with the request.

Article 95

- (1) A request for reinstatement shall be submitted within eight days from the date when the reason for failure ceased to exist, and in case the party has only later learned of the failure – from the date of learning thereof.
- (2) Reinstatement may not be requested after the expiry of three months from the date of failure.
- (3) In case of failure to file a request for reinstatement within the specified time period, reinstatement may not be requested on account of such failure.

Article 96

- (1) A request for reinstatement shall be filed with the authority before which the action was to be performed.
- (2) The authority before which the action was to be performed shall adopt a conclusion to decide on the request for reinstatement.
- (3) Untimely requests for reinstatement shall be dismissed without further procedure.
- (4) If the facts supporting a request for reinstatement are generally known, the authority may decide on that request without hearing the opposing party.

Article 97

- (1) No appeal may be filed against a conclusion granting reinstatement, unless the reinstatement has been granted upon an untimely or illegitimate request (Article 95, paragraph 3).
- (2) An appeal may be filed against a conclusion rejecting the request for reinstatement, save in case the conclusion has been adopted by a second-instance authority.
- (3) An appeal may not be filed against a decision on the request for reinstatement adopted by the second-instance authority responsible for deciding the main matter.

Article 98

- (1) A request for reinstatement shall not suspend the course of the procedure, but the authority responsible for deciding on that request may temporarily suspend the procedure pending the finality of the decision on the request.
- (2) When reinstatement is granted, the procedure shall be reinstated to the status before the failure and all decisions and conclusions adopted by the authority in relation to the failure shall become null and void.

Chapter VIII

MAINTENANCE OF ORDER

Article 99

- (1) The officer conducting the procedure shall maintain order during the procedure.
- (2) The official shall be authorised to warn the persons disturbing the work of the authority and specify the measures necessary to maintain order.
- (3) Persons who attend the administrative procedure must not carry arms or dangerous instruments. If such persons possess any arms or dangerous instruments, they shall be obliged to hand them over to the officer conducting the procedure. Otherwise, they shall not be allowed to attend the procedure. Upon completion of the procedure, the arms or dangerous instruments shall be returned to the persons who handed them over to the officer.

Article 100

- (1) Any person who, in spite of a reprimand, continues to disturb order or behaves improperly in the course of the procedure may be removed. A person participating in the procedure may be removed only after being previously warned that he/she shall be removed and after being presented with the legal consequences of such a measure. Removal caused by disturbance of order or impropriety shall be ordered by the officer conducting the procedure.
- (2) Where, pursuant to paragraph 1 of this Article, a party who is without an attorney is removed or where the attorney whose appointer is not present is removed, the officer conducting the procedure shall invite the party to be removed to appoint his/her attorney. If the invited party fails to comply, the officer may adjourn the procedure at the expense of the party who has refused to appoint an attorney or, if necessary, may personally assign an attorney to that party. Such an attorney may represent the party only in the procedure from which the party has been removed.

Article 101

- (1) Any party who in the course of the procedure seriously disturbs order or commits a gross impropriety may, in addition to the removal from the procedure, be fined up to 5,000 dinars for violation of the procedural discipline.
- (2) The fine referred to in paragraph 1 of this Article shall not exclude criminal, tort or disciplinary liability.
- (3) The fine referred to in paragraph 1 of this Article may be imposed upon a party whose submission seriously impairs the reputation of the authority or officer conducting the procedure.

Article 102

- (1) The fine for actions referred to in Article 101, paragraph 1 hereof shall be pronounced by the officer conducting the procedure, and for actions stipulated in Article 101, paragraph 3 – by the authority conducting the procedure.

- (2) An appeal may be filed against the decision to impose a fine. The appeal against the decision to impose a fine for disturbance of order shall not stay the enforcement of the fine.

Chapter IX

COSTS OF THE PROCEDURE

1. Costs of the Authority and Parties to the Procedure

Article 103

- (1) Special out-of-pocket expenses of the authority conducting the procedure, such as travel expenses of officers, expenditures for witnesses, expert witnesses, interpreters or translators, costs of on-site investigation, advertisements, etc., incurred in the course of an administrative procedure, shall be, as a rule, borne by the party who has instituted the entire procedure.
- (2) Where a party participating in the procedure incurs costs for certain actions in the procedure due to his/her fault or wantonness, he/she shall be obliged to pay such costs.
- (3) Where the procedure that has been instituted ex officio is concluded by a ruling in favour of the party, the costs of the procedure shall be borne by the authority that has instituted the procedure.

Article 104

- (1) Each party to the administrative procedure shall, as a rule, bear their own costs of the procedure, such as travel expenses, costs of time spent in court, costs of fees, legal representation and expert assistance.
- (2) Where two or more parties with opposing interests participate in the procedure, the party that has instituted the procedure ending in a ruling against him/her shall be obliged to compensate the opposing party for the reasonable costs incurred in the procedure. Should it happen that, in such a case, one party has only partially succeeded in his/her claim, he/she shall compensate the opposing party in proportion to the unsuccessful part of his/her claim. The party who incurred costs to the opposing party in the procedure through wanton acts shall be obliged to reimburse such costs.
- (3) The claim for compensation of costs pursuant to the provisions of paragraphs 2 and 3 of this Article must be submitted in due time so as to enable the authority conducting the procedure to adopt a decision resolving the claim. Otherwise, the party shall forfeit the right to compensation of costs. The officer conducting the procedure shall be obliged to bring this to the attention of the party.
- (4) Each of the parties to the procedure shall bear their own costs of the procedure which ended in settlement, unless otherwise specified in the settlement.
- (5) The costs which are incurred by the party and third parties to the procedure that has been instituted ex officio, but which do not result from the actions of the party or third parties in the procedure, shall be borne by the relevant authority.

Article 105

The costs of the enforcement procedure shall be borne by the judgement debtor. If such costs cannot be collected from the judgement debtor, the costs shall be borne by the party who has proposed the enforcement.

Article 106

If the procedure is instituted at the request of a party and it can be determined with certainty that the party will incur special out-of-pocket expenses (related to the on-site investigation, expert

witnesses, arrival of witnesses, etc.), the authority conducting the procedure may adopt a conclusion determining that the party should deposit the amount necessary for coverage of such costs in advance. If the party fails to deposit the amount within the specified time period, the authority may decide not to continue with the presentation of such evidence or to suspend the procedure, unless the continuation thereof is in the public interest.

Article 107

- (1) In the decision by the procedure is concluded, the deciding authority shall specify who shall bear the costs of the procedure, the amount of such costs, and in whose favour and within which period the payment is to be made.
- (2) The decision shall specify whether or not the party bearing the costs shall have to reimburse the costs of the opposing party (Article 104, paragraphs 2 and 3).
- (3) Where the costs of procedure are borne by several parties, they shall be equally or proportionately distributed between the parties.
- (4) Where the authority does not allocate the costs in its decision, the decision shall specify that the relevant conclusion shall be adopted to decide on the costs.

Article 108

- (1) Witnesses, expert witnesses, interpreters and officers shall be entitled to a prescribed compensation for travelling expenses. If they are entitled to earnings in that period of time, they shall also be entitled to a prescribed compensation for the loss of earnings. In addition to the prescribed compensation, expert witnesses and interpreters shall be entitled to a special remuneration for the provided expert opinion or interpretation.
- (2) Witnesses, expert witnesses and interpreters shall be obliged to submit their claims for compensation or remuneration at the time of the hearing or at the time of providing their expert opinion or interpretation, or else they shall forfeit that right. The officer conducting the procedure shall be obliged to bring this to the attention of the relevant witness, expert witness, or interpreter.
- (3) The authority conducting the procedure shall adopt a conclusion to determine the amount of compensation or remuneration and specify who shall be responsible for its payment and within which period of time. An appeal may be filed against this conclusion. This conclusion shall represent the grounds for enforcement (enforceable title).

Article 109

Compensations to officers shall be governed by the relevant regulations.

2. Exemption from Payment of Costs

Article 110

- (1) The authority conducting the procedure may exempt a party from payment of costs, either in full or in part, if it finds that such costs cannot be borne without prejudice to the necessary sustenance of the party or his/her family. The authority shall adopt such a conclusion at the request of the party, on the basis of a certificate of means issued by the competent authority.
- (2) Exemption from payment of costs shall also apply to exemption from fees and expenses of the authority conducting the procedure, such as travelling expenses of officers, expenses for witnesses, expert witnesses and interpreters, on-site investigation, advertisements, etc., as well as to exemption from depositing a security for coverage of the costs.
- (3) Foreign citizens shall be exempted from payment of costs when provided so in the relevant international agreement, and if there is no such agreement, the principle of reciprocity shall apply. Where there is doubt as to the existence of reciprocity, the authority responsible for foreign affairs shall provide the relevant clarification.

Article 111

The authority conducting the procedure may in the course of the procedure cancel the conclusion on exemption from payment of costs if it establishes that the reasons for which a party has been exempted from payment of costs no longer exist.

Article 112

A party may file an appeal against the conclusion rejecting the party's request for exemption from payment of costs, as well as against the conclusion referred to in Article 111 hereof.

Part Two

FIRST-INSTANCE PROCEDURE

Chapter X

INSTITUTION OF PROCEDURE AND CLAIMS BY PARTIES

1. Institution of Procedure

Article 113

The competent authority shall institute a procedure either ex officio or at the request of a party.

Article 114

- (1) The competent authority shall institute a procedure ex officio where provided so by law or other regulation and where it establishes or learns that, in view of the existing facts, a procedure should be instituted for protection of the public interest.
- (2) When instituting a procedure ex officio, the authority shall also take into consideration any petitions made by citizens and organisations as well as the warnings given by the competent authorities.

Article 115

- (1) A procedure shall be instituted as soon as the competent authority performs any action to that end.
- (2) If the authority finds on the basis of the request submitted by the party that there are no grounds for instituting a procedure, it shall adopt a conclusion rejecting the party's request. An appeal may be filed against such conclusion.
- (3) It shall be deemed that there are no grounds for instituting a procedure in the following cases:
 - 1) if the subject of the procedure is not an administrative matter;
 - 2) if the party submitting the request is not the rightful claimant or the holder of a legal interest;
 - 3) if a request that is conditional upon a specified time limit has not been submitted within such time limit,
 - 4) if another administrative procedure or court proceeding has already been instituted in the same administrative matter, or if a final decision has already been adopted in that administrative matter under which a right of the party has been recognised or an obligation imposed;

- 5) if a decision has been issued in the same administrative matter rejecting the party's claim and no changes in the legal and factual situation have taken place in the meantime.
- (4) The authority may reject the party's request in the course of the procedure if it establishes the existence of the grounds referred to in paragraph 3 of this Article.

Article 116

In administrative matters in which, under the law or by nature of things, the party's request is required in order to institute and conduct the procedure, the authority may institute and conduct the procedure only upon such request.

2. Joinder

Article 117

- (1) If the rights or obligations of the parties to the procedure are founded on the same or similar facts and on the same legal basis and if the authority conducting the procedure has subject matter jurisdiction in all cases, a single procedure may be instituted and conducted even when the rights and obligations belong to several parties.
- (2) One or more parties to the procedure may exercise several different claims in the same procedure under the same terms and conditions.
- (3) The authority shall adopt a separate conclusion on conducting a single procedure in the cases referred to in paragraphs 1 and 2 of this Article. An appeal may be filed against such conclusion, unless it has been adopted by a second-instance authority.

Article 118

The authority may institute an administrative procedure by public announcement addressed to several persons whose identity is not known to the authority or cannot be established, but who may have the status of parties to the procedure if the claim towards all of them is substantially the same.

Article 119

- (1) Where pursuant to Article 117 hereof a single procedure is conducted or where a procedure has been instituted by public announcement pursuant to Article 118 hereof, each party shall act independently in the procedure.
- (2) The conclusions under which measures are taken towards the parties to the procedure referred to in paragraph 1 of this Article shall specify which of the measures refer to which party, unless the parties jointly participate in the procedure with identical claims or unless otherwise provided for under the law.

3. Modification of Claims

Article 120

- (1) Once the procedure has been instituted, the party may, pending the first-instance decision, extend the filed claim or file another claim instead, whether or not the extended or modified claim is founded on the same legal basis, provided that such claim is based on substantially the same facts.
- (2) In case the authority conducting the procedure does not allow any extension or modification of the claim, it shall adopt a conclusion to that effect. An appeal may be filed against that conclusion.

4. Withdrawal of Claims

Article 121

- (1) A party may withdraw his/her claim during the entire procedure. Upon adoption of the second-instance decision, the party may not withdraw his/her claim.
- (2) Where the procedure has been instituted at the request of the party who then withdraws his/her claim, the authority conducting the procedure shall adopt a conclusion suspending the procedure. The opposing party, if any, shall be notified thereof.
- (3) If further continuation of the procedure is in the public interest or if it is requested by the opposing party, the authority shall continue the procedure.
- (4) Where the procedure has been instituted ex officio, the authority may suspend it. If the procedure concerning the same administrative matter could also be instituted at the request of a party, the procedure shall be continued if requested by the party.
- (5) An appeal may be filed against the conclusion suspending the procedure.

Article 122

- (1) A party may withdraw his/her claim by submitting a statement to that effect to the authority conducting the procedure. The party may cancel his/her statement of withdrawal of claims in the period before the authority conducting the procedure adopts a conclusion suspending the procedure and serves it on the party.
- (2) Individual actions or failure to act by a party may be considered as his/her withdrawal of claims only in the cases specified under the law.
- (3) If a party has withdrawn his/her claim after the first-instance decision but before the expiry of the time period for appeal, the first-instance decision shall be annulled under the conclusion suspending the procedure, provided that the party's claim has been, either in full or in part, resolved in favour of the party. If a party has withdrawn his/her claim after the filed appeal but before the service of the decision on the appeal, the first-instance decision under which the party's claim has been accepted either in full or in part shall be annulled under the conclusion suspending the procedure, provided that the party has completely withdrawn his/her claim.

Article 123

The party who has withdrawn his/her claim shall bear all the costs incurred prior to suspension of the procedure, unless otherwise stipulated in the relevant regulations.

5. Settlement

Article 124

- (1) Where two or more parties with opposing claims participate in the procedure, the officer conducting the procedure shall attempt in the course of the entire procedure to ensure settlement between the parties, either in whole or at least in specific contested issues.
- (2) The settlement shall always have to be clear and specific and must not be detrimental to the public interest, public morale or legal interests of third parties. The officer conducting the procedure shall ensure that ex officio. If it is established that the settlement would be detrimental to the public interest, public morale or legal interests of third parties, the authority conducting the procedure shall not accept the settlement and shall adopt a conclusion to that effect.
- (3) The settlement shall be entered into the record. The settlement shall be concluded when the parties, after reading the record on the settlement, affix their signatures thereto. A certified transcript of the record shall be delivered to the parties at their request.
- (4) The settlement shall have the effect of an enforceable decision adopted in the procedure (enforceable title).

- (5) The authority before which the settlement has been concluded shall adopt a conclusion suspending the procedure in whole or in part, if necessary.
- (6) If the conclusion on suspension or continuation of the procedure is contrary to the concluded settlement, an appeal may be filed against it.

Chapter XI

PROCEDURE PENDING THE DECISION

A. General Principles

1. Common Provisions

Article 125

- (1) All facts and circumstances of relevance for decision-making shall have to be established prior to decision-making and the parties enabled to exercise and protect their rights and legal interests.
- (2) The facts and circumstances referred to in paragraph 1 of this Article shall be established and the rights and legal interests referred to in the same paragraph shall be exercised and protected in a summary procedure (Article 131) or in an investigation procedure (Articles 132 and 133).
- (3) An officer of the authority conducting the procedure may obtain personal data only if provided for under the law or on the basis of a written permission issued by the party or other person to which such data refer.

Article 126

- (1) The officer conducting the procedure may in the course of the entire procedure complete the facts and present evidence for the purpose of establishing the facts which have not been presented or established in the procedure.
- (2) The officer conducting the procedure shall ex officio order the presentation of each piece of evidence if it finds that it may be necessary to clarify the matters.
- (3) The officer conducting the procedure shall ex officio obtain the data related to the facts the official records of which are kept by the authority responsible for deciding in administrative matters. The officer shall proceed in the same manner with respect to the facts the official records of which are kept by other authorities.

Article 127

- (1) The party shall have to present the facts on which his/her claim is based in an accurate, complete and definite manner.
- (2) If the facts are not generally known, the party shall be obliged to propose evidence for his/her allegations and produce them, if possible. If the party fails to comply, the officer conducting the procedure shall invite him/her to do so. The party shall not be requested to obtain and produce the evidence that can be obtained faster and easier by the officer conducting the procedure or to present the certificates and other documents that the authorities are not obliged to issue pursuant to the provisions of Articles 161 and 162 hereof.
- (3) If the party fails to propose or, if possible, produce evidence within the subsequently specified time period, the authority shall adopt a conclusion rejecting the claim as if not submitted (Article 58, paragraph 2). An appeal may be filed against such conclusion.

Article 128

- (1) A party shall, as a rule, make his/her statement orally, but may also do so in writing.
- (2) In case of a complex administrative matter or when more extensive expert explanations are required, the officer conducting the procedure may order the party to submit a written statement within a reasonable time period. In such case, the party shall also have the right to request to be allowed to make a written statement.
- (3) Where a party is ordered or allowed to make a written statement, he/she shall not on that account be deprived of the right to make an oral statement.

Article 129

If in the course of the procedure a person who has never before participated in the procedure as a party requests to participate in the procedure as a party, the officer conducting the procedure shall examine his/her right to be a party to the procedure and issue the relevant conclusion. An appeal may be filed against the conclusion denying such right. The procedure shall be suspended pending the adoption of a final decision on the appeal against the conclusion.

Article 130

- (1) The officer conducting the procedure shall be obliged to advise the party, if necessary, of his/her rights in the procedure and warn the party of the legal consequences of his/her actions or failure to act in the course of the procedure.
- (2) The authority conducting the procedure shall invite all persons deemed to have a legal interest therein to participate in the procedure. If such persons are not known to the authority, it may invite them by public announcement or in another appropriate manner.

2. Summary Procedure

Article 131

- (1) The authority may resolve an administrative matter directly in the summary procedure, in the following cases:
 - 1) if the party has stated the facts in his/her claim or presented evidence on the basis of which the facts of the case may be established, or if the facts of the case may be established on the basis of generally known facts or the facts known to the authority;
 - 2) if the facts of the case may be established on the basis of the official data available to the authority, without the need to hold a separate hearing of the party in order to protect his/her rights or legal interests;
 - 3) if the relevant regulations stipulate that the administrative matter may be resolved on the basis of the facts or circumstances that are not fully established or are only indirectly established through evidence, but are made credible and all circumstances are in favour of satisfying the party's claim;
 - 4) if urgent measures in the public interest must be taken without delay and the facts upon which the decision is to be based have been established or at least made credible.
- (2) The decisions referred to under items 1 and 2 in paragraph 1 of this Article may be prepared using computers.

3. Investigation Procedure

Article 132

- (1) An investigation procedure shall be conducted when necessary to establish the facts and circumstances of relevance for clarification of administrative matters or to enable the parties to exercise and protect their rights and legal interests.

- (2) The course of the investigation procedure shall be determined, depending on the circumstances of each particular case, by the officer conducting the procedure, in accordance with the provisions of this Law and other regulations related to the administrative matter to be resolved.
- (3) Within the scope referred to in paragraphs 1 and 2 of this Article, the officer conducting the procedure shall in particular determine the actions to be taken in the procedure and issue orders to that effect, define the order in which particular actions are to be performed and specify the time periods for their performance, unless they are prescribed by law, shall decide on hearings and all the things needed for their conduct, decide what evidence is to be presented and decide on all proposals and statements made in the course of the procedure.
- (4) The officer conducting the procedure shall decide whether the hearing and presentation of evidence is to be conducted separately for individual contested issues or collectively for the whole case.

Article 133

- (1) A party shall have the right to participate in the investigation procedure, provide the necessary information conducive to the purpose of the procedure and defend his/her rights and legally protected interests.
- (2) A party shall have the right to present the facts that may be of relevance for resolution of the administrative matter, to propose evidence to establish those facts and to deny the allegations that are not in conformity with his/her assertions. The party shall have the right to supplement and explain his/her assertions pending the adoption of a decision. If the party supplements and explains his/her assertions after the hearing, he/she shall be obliged to justify the reasons for his/her failure to do so at the hearing.
- (3) The officer conducting the procedure shall provide the party with the opportunity to make a statement on all the circumstances and facts presented in the investigation procedure and on the motions and offered evidence, to participate in the presentation of evidence and question other parties, witnesses and expert witnesses through the officer conducting the procedure or directly subject to the officer's permission, and to be notified of the results of the presentation of evidence and give his/her opinion thereon. The authority shall not adopt a decision before providing the party with the opportunity to make a statement on the facts and circumstances on which the decision is to be based and on which the party has not been given the opportunity to make a statement.

4. Preliminary Issue

Article 134

- (1) Where the authority conducting the procedure comes across an issue the resolution of which is a precondition for resolution of the administrative matter and which constitutes an independent legal issue for the resolution of which a court or other authority is competent (preliminary issue), it may alone resolve the issue under the conditions prescribed by this Law or suspend the procedure pending its resolution by the competent authority. A conclusion suspending the procedure shall be adopted against which an appeal may be filed, except if it has been adopted by a second-instance authority.
- (2) In case the authority conducting the procedure has alone resolved the preliminary issue, the resolution of that issue shall have legal effect only in the administrative matter in which the issue has been resolved.
- (3) As regards the existence of a criminal offence and criminal liability of an offender, the authority conducting the procedure shall be bound by the final court verdict declaring the offender guilty.

Article 135

- (1) The authority conducting the procedure shall suspend the procedure when the preliminary issue refers to the existence of a criminal offence, matrimony, paternity, or in the cases specified under the law.

- (2) In case the preliminary issue refers to a criminal offence which is prosecuted ex officio but criminal prosecution is not possible, the authority conducting the procedure shall also resolve that issue.

Article 136

If the preliminary issue does not require suspension of the administrative procedure, the authority conducting the procedure may take into consideration the preliminary issue and resolve it as an integral part of the administrative matter and on such grounds resolve the administrative matter, as well.

Article 137

- (1) In case the authority conducting the procedure fails to take into consideration the preliminary issue as provided for in Article 136 hereof and the procedure for resolution of the preliminary issue which may only be conducted ex officio has not yet been instituted before the competent authority, then the authority conducting the procedure shall request the competent authority to institute the relevant procedure.
- (2) In the administrative matter in which the procedure for resolution of a preliminary issue is instituted at the request of a party, the authority conducting the procedure may adopt a conclusion ordering one of the parties to submit a request to the competent authority to institute the procedure for resolution of the preliminary issue, and specifying the time period within which it shall be obliged to do so and present the relevant evidence. At the same time the authority conducting the procedure shall notify the party of the consequences of his/her failure to comply. The time period specified for instituting the procedure for resolution of the preliminary issue shall start from the date of finality of the conclusion.
- (3) In case the party requesting the procedure fails to submit the proof within the specified time period that he/she has requested the competent authority to institute the procedure for resolution of the preliminary issue, it shall be deemed that the party has abandoned his/her request and the authority conducting the procedure shall suspend the procedure. If the opposing party has not done so, the authority shall continue the procedure and alone resolve the preliminary issue.
- (4) An appeal may be filed against the conclusion referred to in paragraph 2 of this Article.
- (5) The procedure that has been suspended pending resolution of the preliminary issue before the competent authority shall be resumed upon adoption of a final decision on that issue.

5. Suspension of Procedure

Article 138

- (1) The procedure may be suspended in the following cases:
 - 1) if a party dies, and the rights and obligations or the legal interests that have been resolved in the administrative procedure may be transferred to his/her legal successors. In that case, the authority shall notify possible legal successors that they may take part in the procedure and shall deliver to them the conclusion on suspension of the procedure;
 - 2) if a party loses his/her legal competence and is without an attorney in the procedure or the authority fails to appoint a temporary representative. In that case, the authority shall deliver the conclusion on suspension of the procedure to the centre for social work;
 - 3) if a legal representative of the party dies or loses his/her legal competence and the party has no attorney or legal representative or no temporary representative is appointed. In that case, the authority shall deliver the conclusion on suspension of the procedure to the centre for social work. If the party is a legal person, the conclusion shall be delivered to the authority empowered to appoint legal representatives;

- 4) if the legal consequences of bankruptcy proceedings have become enforceable upon a party, in which case the conclusion shall be delivered to the debtor in bankruptcy,
 - 5) in other cases provided for under this Law.
- (2) The suspension of the procedure shall last as long as the grounds from paragraph 1 of this Article exist, and in particular:
- 1) grounds referred to in item 1 – until the legal successor takes part in the procedure;
 - 2) grounds referred to in items 2 and 3 – until the party appoints his/her legal representative;
 - 3) grounds referred to in item 4 – until the trustee in bankruptcy takes part in the procedure as a legal representative.
- (3) Upon suspension of the procedure, all time limits set for actions in the procedure and for adoption of the decision shall cease to be valid.
- (4) An appeal may be filed against the conclusion on suspension of the procedure. Such appeal shall not stay the enforcement of the conclusion.

B. Presentation of Evidence

1. Common Provisions

Article 139

- (1) The facts used as grounds for decision-making shall be established on the basis of evidence.
- (2) All resources suitable for establishment of the facts in a particular case may be used as evidence, such as documents, testimonies by witnesses, statements by parties, findings and opinions of expert witnesses, on-site investigation.

Article 140

- (1) The officer conducting the procedure shall decide whether a certain fact should be established or not, depending on the effect of that fact on the resolution of the administrative matter. Evidence shall, as a rule, be presented after establishment of what is disputable or what needs to be proved.
- (2) Generally known facts need not be proved.
- (3) The facts assumed under the law need not be proved, but it is permitted to prove the non-existence of such facts, unless otherwise provided for under the law.

Article 141

Where the presentation of evidence before the authority conducting the procedure is not feasible or is associated with disproportionate costs or is highly time-consuming, the presentation of evidence or of a specific piece of evidence may be made before the requested authority.

Article 142

Where the relevant regulations stipulate that an administrative matter may be resolved on the basis of facts or circumstances which are not completely established or are only indirectly established through evidence (facts and circumstances made credible), the presentation of evidence to that end shall not be connected with the provisions of this Law regulating the presentation of evidence.

Article 143

- (1) If the authority deciding in the administrative matter is not familiar with the law applicable in a foreign country, it may request the relevant information from the authority responsible for foreign affairs.

- (2) The authority deciding in the administrative matter may request from a party to present a public document issued by the competent foreign authority confirming the law applicable in the country of that authority. It is permitted to prove that the foreign law is different from the law contained in the public document, unless otherwise provided for in the relevant international agreement.

2. Hearing

Article 144

The officer conducting the procedure shall, upon his/her own initiative or at the proposal of a party, decide to hold a hearing whenever it is deemed useful for clarification of the administrative matter, but it must be held in the following cases:

- 1) in the administrative matters in which two or more parties with opposing interests participate;
or
- 2) when an on-site investigation is to be conducted or a witness or an expert witness heard.

Article 145

- (1) A hearing shall be open to public.
- (2) The officer conducting the procedure may order exclusion of the public from the entire hearing or a part thereof, in the following cases:
 - 1) if required by the reasons of morale or public security;
 - 2) if there is a serious and immediate threat of interference with the hearing;
 - 3) if the hearing refers to family relations;
 - 4) if the hearing refers to the circumstances which represent a state, military, official, business, professional, scientific or artistic secret.
- (3) The proposal for exclusion of the public may be also made by an interested party.
- (4) Exclusion of the public shall be decided in a conclusion which must be supported by reasons and made public.
- (5) When pronouncing a decision on the completed procedure, the public may not be excluded.

Article 146

- (1) Exclusion of the public shall not refer to parties, their agents, attorneys, representatives and expert assistants.
- (2) The officer conducting the procedure may allow certain officers, scientific and public figures to attend the hearing if it is of interest for their service or research work. The officer conducting the procedure shall warn such persons of their obligation to keep secret the information disclosed at the hearing.

Article 147

- (1) The authority conducting the procedure shall be obliged to take all the necessary actions for holding a hearing without delay and, if possible, without interruption and adjournment.
- (2) The persons summoned to the hearing shall be given sufficient time to prepare for the hearing and enabled to arrive in due time and without any extraordinary costs. The persons summoned to the hearing shall, as a rule, have eight days from the service of the summons to the date of the hearing.

Article 148

Where it is necessary to get acquainted with the plans, documents or other cases for the purpose of consideration of an administrative matter at the hearing, such cases shall be made available to the

persons summoned to the hearing at the time when the hearing is scheduled, and the summons to the hearing shall specify the place where and the time when such cases may be inspected.

Article 149

- (1) The authority conducting the procedure shall be obliged to publicly announce the hearing when there is a risk that individual summons cannot be served in time, when there is a possibility that there are interested parties who have not yet appeared in the capacity of parties or when required by other similar reasons.
- (2) The public announcement of a hearing should contain all the data that must be specified in the individual summons and should state that the hearing may be attended by anyone who believes that the administrative matter concerns their legal interests. The announcement shall be made in the manner specified in Article 84 hereof.

Article 150

A hearing shall, as a rule, be held in the seat of the authority conducting the procedure. If an investigation is required outside the seat of the authority, the hearing may be held at the place of investigation. The authority conducting the procedure may determine another place for the hearing when needed for the purpose of a considerable reduction of costs and more thorough, efficient or practicable resolution of the administrative matter.

Article 151

- (1) The officer conducting the procedure shall be obliged to determine at the beginning of the hearing which of the summoned persons are present, and as regards the absent – to check whether the summons has been duly served.
- (2) In case any of the yet unheard parties fails to appear at the hearing, and it has not been determined whether the summons has been duly served, the officer conducting the procedure shall adjourn the hearing, unless it has been publicly announced in due time.
- (3) In case the party at whose request the procedure has been instituted fails to appear at the hearing, although duly summoned, and it may be deduced from the overall circumstances that his/her request has been withdrawn, the authority conducting the procedure shall suspend the procedure. An appeal may be filed against a conclusion adopted to that effect. If it may not be deduced that the party has withdrawn his/her request or if the procedure must in the public interest be continued ex officio, the officer shall, depending on the circumstances of the case, conduct the hearing without that party or adjourn the hearing.
- (4) In case the party against whom the procedure has been instituted fails to appear without having a valid reason therefor, the officer conducting the procedure may conduct the hearing without that party and may also adjourn the hearing at the expense of the party if needed for the purpose of proper resolution of the matter.

Article 152

- (1) If the party in attendance, although warned about the consequences, fails to make an objection in the course of the hearing to the actions taken at the hearing, it shall be deemed that the party has no objections. If the party makes an objection to the actions taken at the hearing at a later date, the authority deciding in the administrative matter shall take that objection into consideration if it may be of relevance to the resolution of the matter and if it has not been made after the hearing for the purpose of stalling the procedure.
- (2) If the party summoned by public announcement fails to appear at the hearing and makes objections to the actions taken thereat after the hearing, those objections shall be taken into account under the condition from paragraph 1 of this Article.

Article 153

- (1) The subject matter of the investigation procedure shall be heard and determined at the hearing.
- (2) In case the subject matter of the investigation procedure cannot be heard at one hearing, the officer conducting the procedure shall suspend the hearing and schedule its resumption as soon as possible. For such resumption, the officer shall take all the measures prescribed for the conduct of the hearing, and may orally inform the present persons of such measures, as well as of the time and place of the resumed hearing. At the resumed hearing, the officer conducting the procedure shall give a general outline of the course of the hearing thus far.
- (3) A hearing need not be held again for subsequently presented written evidence. However, the party shall be given the opportunity to make a statement on the presented evidence.

3. Documents

Article 154

- (1) A document issued in the prescribed form by a government authority or a territorial and local self-government authority within the scope of their competencies, or by a company or other organisation within the scope of legally granted public powers (public document) shall prove what it confirms or determines. That document may be made suitable for electronic data processing.
- (2) The facts of the case may also be established on the basis of data from computerised records. The data from such records shall be deemed part of the documents although they are not contained therein. If such data are used in the procedure, the record or official report shall have to specify where the data are kept and how they can be obtained.
- (3) In the process of presentation of evidence, a microfilm or electronic copy of a document or a reproduction of that copy shall be equal to the document referred to in paragraph 1 of this Article if the copy or reproduction of that copy has been issued by an authority within the scope of its competencies or legally granted public powers.
- (4) It is permitted to prove that a document or a copy of the document or a reproduction of that copy falsely represents the facts or that the document or the microfilm copy of the document or the reproduction of that copy have been improperly prepared.
- (5) It is permitted to prove that a microfilm or an electronic copy of a document or a reproduction of that copy is not true to the original.

Article 155

If a document has any crossed, scratched, deleted or inserted parts or any other external defects, the officer conducting the procedure shall, taking account of all the circumstances, assess whether and to what extent the probative value of the document is impaired or whether the document has completely lost its probative value in the procedure for resolution of the administrative matter.

Article 156

- (1) The documents that serve as evidence shall be submitted by the parties or obtained by the authority conducting the procedure. The parties shall submit the original of the document, a microfilm or an electronic copy of the document or a reproduction of that copy or the certified transcript of the document, as well as the uncertified transcript. When a party submits the certified transcript of a document, the officer conducting the procedure may request the party to produce the original document, and when a party submits the uncertified transcript of a document, the officer shall establish whether the transcript is true to the original document. A microfilm or an electronic copy of the document or a reproduction of that copy duly issued by the competent authority shall have the probative value of the original document, within the meaning of Article 154, paragraph 1 hereof, in the procedure for resolution of the administrative matter.

- (2) If the competent authority has already established certain facts or circumstances or such facts or circumstances have been substantiated in a public document (identification card, registry excerpts, etc.), the authority conducting the procedure shall take such facts and circumstances as already established. In case of acquisition or forfeiture of rights, when it is probable that these facts and circumstances have subsequently changed or need to be separately established as required by the relevant regulations, the officer shall request the party to produce special evidence concerning these facts and circumstances or the authority shall obtain them on its own.
- (3) Public documents shall have the probative value for an indefinite period of time if they refer to the facts and circumstances that are by their nature unchangeable.
- (4) A notification to the authority stating where a record is stored in a data base or computerised records shall also be deemed as submitted document in case the records are public or they are other records available to the authority.

Article 157

- (1) The officer conducting the procedure may order the party referring to a document to submit that document if it is available to him/her or he/she can obtain it.
- (2) If the document is in the possession of the opposing party who shall not willingly submit or produce it, the officer conducting the procedure may request that party to submit or produce the document at the hearing so that the other party could make a statement thereon.
- (3) If the party who has been ordered to submit or produce a document fails to comply with the order, the authority conducting the procedure shall, taking account of all the circumstances of the case, assess its relevance for resolution of the administrative matter. In that case, the authority may impose a fine on that party amounting to **5,000 dinars** for violation of procedural discipline and it may impose the fine again in the same amount or until the party agrees to submit or produce the document. The party may file an appeal against the conclusion imposing the fine, which shall not stay the enforcement of the conclusion.

Article 158

If a document to be used as evidence in the procedure is kept with the authority and the party referring to that document has failed to obtain it, the authority conducting the procedure shall obtain the document *ex officio*.

Article 159

- (1) If a document is kept by a third party who is not willing to produce it, the authority conducting the procedure shall adopt a conclusion ordering the third party to produce the document at the hearing so that the parties could make statements thereon.
- (2) A third party may refuse to produce the document for the same reasons as a witness may refuse to testify.
- (3) Any third party who refuses to produce the document without a valid reason shall be treated in the same manner as a witness refusing to testify.
- (4) A third party shall be entitled to an appeal against the conclusion ordering him/her to produce the document, as well as against the conclusion imposing a fine for failure to produce the document. Such appeal shall stay the enforcement of those conclusions.
- (5) The party referring to the document kept by a third party shall be obliged to reimburse that party for the costs incurred in connection with producing of that document.

Article 160

The documents issued by foreign authorities, which in the country of issuance are valid public documents, shall have, subject to the terms of reciprocity and if duly certified, the same probative value as domestic public documents.

Article 161

- (1) The authorities shall issue certificates or other documents pertaining to the facts kept in their official records.
- (2) Certificates and other documents pertaining to the facts kept in the official records must be issued in conformity with the data from the official records. Such certificates or other documents shall have the validity of public documents.
- (3) Certificates and other documents pertaining to the facts kept in the official records shall be issued to a party at his/her oral request and, as a rule, on the same day on which the party requested issuance of the certificate or other document, but not later than 15 days from the date of the request, unless otherwise provided for by the regulation establishing the official records.
- (4) In case the authority rejects the request for issuance of a certificate or other document pertaining to the facts kept in the official records, it shall be obliged to adopt a special conclusion to that effect. If the authority fails to issue the certificate or other document pertaining to the facts kept in the official records within 15 days from the date of the request or fails to adopt a decision rejecting the request and serve it on the party, the party may file an appeal as if his/her request were rejected.
- (5) In case the party believes, on the basis of the available evidence, that a certificate or other document pertaining to the facts kept in the official records has not been issued in conformity with the data from the official records, he/she may request amendment or issuance of a new certificate or other document. The authority shall be obliged to adopt a special decision in case it rejects the request of the party for amendment or issuance of a new certificate or other document. If the authority fails to do so within 15 days from the date of the request for amendment or issuance of a new certificate or other document, the party may file an appeal as if his/her request were rejected.

Article 162

- (1) The authorities shall also issue certificates or other documents pertaining to the facts that are not kept in the official records if provided so under the law or other regulation. In that case, the facts shall be established in the procedure specified in the provisions of this Chapter.
- (2) A certificate or other document issued in the manner specified in paragraph 1 of this Article shall not bind the authority to which it has been submitted as evidence and which is to decide in the administrative matter. That authority may re-establish the facts stated in the certificate or other document.
- (3) A certificate or other document shall be issued to the party or a conclusion rejecting his/her request shall be adopted and served on the party within 30 days from the date of the request; otherwise, the party may file an appeal as if his/her request were rejected.

4. Witnesses

Article 163

- (1) Any person who is capable of observing the fact about which he/she is to testify and who is able to communicate his/her observation may be a witness.
- (2) A person participating in the procedure in the official capacity may not be a witness.

Article 164

Any person who is summoned to appear as a witness shall be obliged to respond to the summons and testify, unless otherwise provided for under this Law.

Article 165

A person whose testimony would violate his/her duty of keeping state, military or official secret may not be interrogated as a witness until he/she has been released from that duty by the competent authority.

Article 166

- (1) A witness may refuse to testify:
 - 1) if his/her reply to certain questions would expose him/her, his/her lineal relatives or his/her collateral relatives up to and including the third degree, his/her spouse or in-laws up to and including the second degree, even if the marriage has broken down, as well as his/her guardian or protégé, adoptive parent or adoptive child, to serious disgrace, considerable material damage or criminal prosecution;
 - 2) if his/her reply to certain questions would violate his/her obligation or right to keep a business, professional, artistic or scientific secret;
 - 3) about the things a party has confided to the witness as his/her attorney;
 - 4) about the things a party or other person has confessed to the witness as a religious confessor.
- (2) A witness may also be released from the duty of testifying about other facts and circumstances if he/she presents relevant reasons. If necessary, he/she is to make such reasons credible.
- (3) A witness may not, due to the risk of suffering a material damage, refuse to testify about legal transactions at which he/she was present as a witness, recording secretary or agent, about actions taken in connection with the contested issue by him/her as a legal predecessor or representative of one of the parties, as well as about any action which, under special regulations, he/she is obliged to report or on which he/she is obliged to make a statement.

Article 167

- (1) Witnesses shall be heard individually, without the presence of other witnesses to be heard later.
- (2) A witness who has been heard shall not leave the premises without the permission of the officer conducting the procedure.
- (3) The officer conducting the procedure may rehear the already heard witness, and may confront the witnesses whose testimonies are contradictory.
- (4) A person who, due to illness or physical incapacity, is unable to respond to the summons shall be heard in his/her own apartment or other dwelling.

Article 168

- (1) A witness shall first be warned that he/she is under obligation to tell the truth, that he/she must not conceal anything and that he/she may give his/her testimony under oath, and he/she shall then be warned of the consequences of giving a false testimony.
- (2) General personal data shall be taken from witnesses in the following order: name and surname, occupation, place of residence or domicile, place of birth, age and marital status. If necessary, witnesses shall also be interrogated about the circumstances relevant for their credibility as witnesses in the case, and especially about their relations towards the parties.
- (3) The officer conducting the procedure shall instruct witnesses to which questions they may refuse to testify.
- (4) Thereafter, witnesses shall be asked questions about the case and shall be invited to disclose what they know about it.
- (5) Asking questions that suggest the answer shall not be permitted.
- (6) Witnesses shall always be asked how they have come to know the facts they are about to divulge.

Article 169

- (1) If a witness does not speak the language in which the procedure is conducted, he/she shall be questioned with the help of an interpreter.
- (2) If a witness is deaf, questions shall be put in writing, and if a witness is mute, he/she shall be asked to answer in writing. If the hearing cannot be conducted in this way, a person capable of communicating with the witness shall be called to act as an interpreter.

Article 170

- (1) After hearing a witness, the officer conducting the procedure may decide that the witness should give his/her testimony under oath. The witness who is underage or unable to sufficiently comprehend the significance of an oath shall not be asked to take an oath.
- (2) The oath shall be taken by saying the following words: "I hereby solemnly swear that I have told the truth about all I have been asked here and that I have not concealed anything I know of the case".
- (3) Mute witnesses who can read and write shall be sworn in by signing the text of the oath, and deaf witnesses by reading the text of the oath. In case mute or deaf witnesses cannot read and write, their oaths shall be taken with the help of their interpreters.

Article 171

- (1) If a duly summoned witness fails to appear at the hearing without justifying his/her non-appearance, or if he/she leaves the hearing place without permission or a valid reason, the authority conducting the procedure may order that the witness be brought in by force and bear the costs related thereto, and may also impose a fine upon such a witness for violation of procedural discipline amounting to 5,000 dinars.
- (2) If a witness appears at the hearing but refuses to testify without a valid reason, despite being warned about the consequences of such a refusal, he/she may be fined up to 5,000 dinars for the violation referred to in paragraph 1 of this Article, and if the witness refuses to testify again he/she may be fined up to another 5,000 dinars. The conclusion imposing the fine shall be adopted by the officer conducting the procedure in agreement with the officer authorised to decide in the administrative matter, and in case when an authority is asked to act in that matter, in agreement with the head of the authority or an officer authorised to decide in similar matters.
- (3) If a witness subsequently justifies his/her non-appearance, the officer conducting the procedure shall annul the conclusion imposing the fine or payment of costs. If the witness subsequently agrees to testify, the officer may annul the conclusion imposing the fine.
- (4) The officer conducting the procedure may decide that the witness should bear the costs incurred by his/her non-appearance or refusal to testify.
- (5) An appeal may be filed against the conclusion on payment of costs or imposition of the fine that has been adopted pursuant to the provisions of this Article.

5. Statement by Parties

Article 172

- (1) In case no direct evidence is available for establishment of a particular fact or in case such fact may not be established on the basis of other evidence, then an oral statement made by a party may be taken as evidence for establishment of such fact. The statement by a party may also be admitted as evidence in administrative matters of minor significance where a particular fact should be established by hearing a witness who resides in a place far-off from the seat of the authority or where due to obtaining of other evidence it would be difficult for a party to exercise his/her rights.
- (2) Credibility of the statement by a party shall be assessed in accordance with Article 10 hereof.

- (3) Before taking a statement from a party, the officer conducting the procedure shall warn the party of his/her criminal and material liability in case of making a false statement.

6. Expert Witnesses

Article 173

When the establishment or assessment of a fact of relevance for resolution of the administrative matter requires expert knowledge that the officer conducting the procedure does not possess, an expert witness shall evaluate the evidence.

Article 174

- (1) In the event that the expert evaluation of evidence is disproportionately costly compared to the significance or the value of the case, the administrative matter shall be resolved using other evidence.
- (2) In the event referred to in paragraph 1 of this Article, the evidence shall be evaluated by an expert witness provided that the relevant party has requested such expert evaluation and agreed to bear the costs thereof.

Article 175

- (1) For the purpose of expert evaluation of evidence, the officer conducting the procedure shall ex officio or upon the proposal by a party appoint an expert witness, and if the officer finds such evaluation to be complex, he/she may appoint two or more expert witnesses.
- (2) Expert witnesses shall be the persons with expert knowledge, primarily those with special authorisation for giving their opinion on the matters in the relevant field.
- (3) The party shall, as a rule, be heard beforehand about the character of an expert witness.
- (4) Any person who may not be a witness shall not be designated as an expert witness.

Article 176

- (1) Any person with adequate qualifications shall have to accept the duty of an expert witness, unless the officer conducting the procedure releases him/her from that duty and has valid reasons therefor, such as being too occupied with other assignments as expert witness, other activities and the like.
- (2) Release from the duty of an expert witness may also be requested by the head of the government authority, the managing director of the company or a manager of another legal person, an entrepreneur or other natural person where the expert witness is employed.

Article 177

- (1) An expert witness may refuse to give his/her expert opinion for the same reasons for which a witness may refuse to testify.
- (2) An employee shall be released from the duty of an expert witness whenever released from that duty under the relevant regulations.

Article 178

- (1) The provisions on exclusion of officers shall apply accordingly to exclusion of expert witnesses.
- (2) A party may request exclusion of an expert witness if the circumstances challenging the expertise of the expert witness are made credible by the party.
- (3) The officer conducting the procedure shall adopt a conclusion to decide on the exclusion of an expert witness.

Article 179

- (1) Prior to the commencement of expert evaluation, the expert witness shall be warned that he/she is under obligation to carefully consider the object of expert evaluation and accurately state his/her observations and findings in his/her expert report, as well as to present his/her opinion supported by the relevant reasons in an impartial manner and in conformity with the rules of science and expert evaluation.
- (2) The officer conducting the procedure shall show to the expert witness the object to be evaluated by him/her.
- (3) After the expert witness presents his/her findings and opinion, the officer conducting the procedure and the parties to the procedure may question him/her and ask for explanations of the presented findings and opinion.
- (4) The provisions of Article 176 hereof shall apply accordingly to the hearing of expert witnesses.
- (5) Expert witnesses shall not be obliged to take an oath.

Article 180

- (1) An expert witness may be ordered to perform expert evaluation outside the hearing. In that case, the expert witness may be requested to give an explanation of his/her written findings and opinion at the hearing.
- (2) If more than one expert has been appointed, they may together present their findings and opinions. In case of disagreement, each of them shall separately present his/her findings and opinions.

Article 181

- (1) If the findings and opinion of an expert witness are not clear or complete, or the findings and opinions of expert witnesses are essentially different, or opinions are not sufficiently explained, or there is reasonable doubt as to the accuracy of the presented opinion, and if such deficiencies cannot be remedied by rehearing of expert witnesses, expert evaluation shall be repeated with the same or different expert witnesses or expert evaluation requested from a scientific or a professional organisation.
- (2) Expert evaluation may also be requested from a scientific or a professional organisation where due to the complexity of the case or the necessity to perform an analysis it may be reasonably assumed that more accurate findings and opinions will be obtained in such a manner.

Article 182

- (1) If the expert witness who has been duly summoned fails to appear at the hearing without justifying his/her non-appearance, or if he/she appears at the hearing but refuses to give his/her expert opinion, or if he/she fails to submit his/her written findings and opinion within the specified time period, he/she may be fined up to **5,000 dinars** for violation of procedural discipline. If costs have been incurred in the procedure due to unjustified non-appearance of the expert witness, his/her refusal to give his/her expert opinion or failure to submit his/her written findings and opinion, it may be decided that such costs shall be borne by the expert witness.
- (2) The conclusion imposing the fine or payment of costs shall be adopted by the officer conducting the procedure in agreement with the officer authorised to decide in the administrative matter, and in case when an authority is asked to act in that matter, in agreement with the head of the authority or an officer authorised to decide in similar matters.
- (3) If an expert witness subsequently justifies his/her non-appearance or subsequently justifies the late submission of his/her written findings and opinion, the officer conducting the procedure shall annul the conclusion imposing the fine or payment of costs. If the expert witness subsequently agrees to give his/her expert opinion, the officer may annul the conclusion imposing the fine.

- (4) An appeal may be filed against the conclusion on payment of costs or imposition of the fine that has been adopted pursuant to the provisions of paragraph 1 or paragraph 2 of this Article.

Article 183

The provisions of this Law referring to expert witnesses shall apply accordingly to interpreters.

7. On-Site Investigation

Article 184

On-site investigation shall be conducted when direct observation of the officer conducting the procedure is required for establishment of certain facts or clarification of material circumstances.

Article 185

- (1) Parties shall have the right to be present during on-site investigation. The officer conducting the procedure shall determine the persons other than the parties who shall be present during on-site investigation.
- (2) On-site investigation may be conducted with the participation of expert witnesses.

Article 186

The investigation of an object that can be easily brought to the place where the procedure is conducted shall be performed in that place, and if this is not possible – in the place where the object is located.

Article 187

- (1) The owner or holder of assets, premises or land which are to be examined or in which the objects of on-site investigation are located or which have to be traversed, shall be obliged to allow the conduct of on-site investigation.
- (2) In case the owner or holder fails to allow the conduct of on-site investigation, the provisions of this Law pertaining to refusal to testify shall be applied accordingly.
- (3) The measures applied against witnesses who refuse to testify (Article 171, paragraphs 2 to 4) shall be applied accordingly against the owners or holders who fail to allow the conduct of on-site investigation without a valid reason. An appeal may be filed against the conclusion pronouncing such measures.
- (4) The damage incurred in the course of an on-site investigation shall represent the costs of procedure and shall be compensated to the owner or holder. A conclusion to that effect shall be adopted by the authority conducting the procedure. An appeal may be filed against such conclusion. The administrative procedure may not be instituted against the conclusion adopted to decide on the appeal, and if the party is not satisfied, he/she may institute a procedure for damage compensation before the court of competent jurisdiction.

Article 188

The officer conducting the on-site investigation shall ensure that the on-site investigation is not misused and that a business, professional, scientific or artistic secret is not disclosed.

9. Preservation of Evidence

Article 189

- (1) In case there is a reasonable doubt that certain evidence will not be possible to present later or the presentation will be difficult, such evidence may, for the purpose of preservation thereof, be presented at any stage in the procedure and even before the procedure is instituted.
- (2) Preservation of evidence shall be performed ex officio or upon the proposal by a party to the procedure or any person having legal interests.

Article 190

- (1) The authority conducting the procedure shall be responsible for preservation of evidence during the procedure.
- (2) The authority on whose territory the objects to be examined are located or on whose territory the persons who are to be heard reside shall be responsible for preservation of evidence before institution of the procedure.

Article 191

- (1) A special conclusion shall be adopted on the preservation of evidence.
- (2) An appeal may be filed against the conclusion rejecting the proposal for preservation of evidence. Such an appeal shall not interfere with the procedure.

Chapter XII

DECISION

1. Deciding Authority

Article 192

- (1) The authority responsible for decision-making shall adopt a decision on the administrative matter which is the subject of the procedure on the basis of the facts established in the procedure.
- (2) In cases where a collegiate authority decides in the administrative matter, it may adopt decisions if more than a half of its members are present by a majority vote of the present members, unless a qualified majority is envisaged under the law or other regulation.

Article 193

When the law or other regulations stipulate that two or more authorities are to decide in one matter, each of them shall be under obligation to deliberate on that matter. Those authorities shall agree which one of them shall issue a decision and the decision shall have to refer to the documents of other authorities.

Article 194

- (1) In cases where the law or other regulations stipulate that a decision is adopted by one authority upon prior consent of another authority, the authority responsible for issuing the decision shall send a draft decision to the authority that is to give its consent thereto. The decision shall be adopted after the other authority has given its consent. The authority responsible for issuing the

decision shall in its decision include a reference to the document whereby the other authority provided its consent.

- (2) In cases where the law or other regulations stipulate that a decision is adopted by one authority with subsequent consent, confirmation or approval of another authority, the authority responsible for issuing the decision shall draft it and submit it, together with a complete set of supporting documents, to the other authority which may either include its consent, confirmation or approval in the submitted decision or may issue a separate document to that effect. In that case, the decision shall be adopted upon the consent, confirmation or approval of the other authority, but shall be deemed issued by the authority that has adopted it.
- (3) In cases where the law or other regulations stipulate that the relevant authority is obliged to obtain an opinion from another authority prior to adoption of a decision, the authority responsible for adoption of the decision shall send a draft decision to the authority for its opinion. The decision shall be adopted upon obtaining the opinion. The authority responsible for adoption of the decision shall in its decision include the opinion of the other authority, and in case of disagreement, the reasons for disagreeing with the opinion.
- (4) The authority whose consent or opinion is required for adoption of a decision shall be obliged to give its consent or opinion within one month from the date the request has been made, unless another time limit is specified in the relevant regulations. If the authority fails to give or refuses to give its consent to the authority responsible for adoption of the decision within the specified time period, such consent shall be deemed given and if it fails to provide an opinion, the competent authority may adopt the decision without such opinion, unless otherwise specified in the relevant regulations.

Article 195

If the officer who has conducted the procedure is not authorised to adopt a decision, he/she shall be obliged to submit a draft decision to the authority responsible for its adoption. That officer shall initial the draft decision.

2. Form and Elements of Decision

Article 196

- (1) Every decision shall have to be designated as such. Exceptionally, specific regulations may stipulate a different designation.
- (2) Decisions shall be in written form. Exceptionally, in the cases specified in this Law, decisions may be oral.
- (3) Written decisions shall contain the preamble, wording (text), rationale, notice of legal remedy, name of the authority, number and date of the decision, signature of the officer and stamp of the authority. In the cases provided for under the law or other regulation, decisions need not contain all of those elements. If a decision is processed mechanographically or electronically, it may have a facsimile or an electronic signature instead of a signature and stamp.
- (4) If a decision is pronounced orally, it shall be issued in written form as well, unless otherwise specified by law or other regulation. Such written decision must in all respects correspond to the decision pronounced orally.
- (5) Any decision must be served on the relevant parties as the original or certified transcript.

Article 197

- (1) The preamble of a decision shall contain the name of the deciding authority, the regulation defining the competencies of the deciding authority, the name of the party and his/her legal representative or attorney, if any, and a brief description of the case.
- (2) If a decision is issued by two or more authorities or if it is issued with the consent of two or more authorities, this fact shall have to be stated in the preamble. If a decision is issued by a

collegiate authority, the date of the meeting at which the case was resolved shall be indicated in the preamble.

Article 198

- (1) The wording shall specify the resolution of the whole procedure and all the claims of the parties that have not been separately resolved in the course of the procedure.
- (2) The wording shall be brief and specific, and if necessary, may be divided into several items.
- (3) The wording may also specify a decision on the costs of the procedure, if any, and determine their amount, the payer, the payee and the payment due date. If the wording does not specify the decision on the costs, it shall state that a separate conclusion shall be adopted to that effect.
- (4) Where certain actions are ordered by the decision, the time period for their execution shall also be specified in the wording.
- (5) Where an appeal cannot stay the enforcement of a decision, this fact shall be stated in the wording.
- (6) The wording of a decision may also contain additional elements affecting the legal effect of the decision (preconditions, time limits, orders), if provided for under the law.

Article 199

- (1) In simple administrative matters where only one party is involved and his/her claim is granted, the rationale of the decision may contain only a brief outline of the party's claim and a reference to the legal regulations pursuant to which the administrative matter has been resolved. In such cases the decision may also be issued on the prescribed form.
- (2) In other administrative matters, the rationale of a decision shall contain a brief outline of the parties' claims, the established facts and if necessary, the reasons that were decisive in establishment of evidence, the reasons why any of the claims of the parties has not been granted, the legal regulations and the reasons which, in view of the established facts, have been used for adoption of the decision stated in the wording. Where an appeal cannot stay the enforcement of the decision, the rationale shall also contain a reference to the regulation providing for such a situation. The rationale of a decision shall also contain justification of the conclusions against which no appeal may be filed.
- (3) Where the competent authority empowered under the law or other regulation to resolve administrative matters at its own discretion, the rationale must, in addition to the information listed in paragraph 2 of this Article, also specify the regulation empowering the authority and state the reasons used by the authority in adopting the decision.

Article 200

- (1) The notice of legal remedy shall notify the party whether he/she may file an appeal against the decision or initiate an administrative dispute proceeding or other proceeding before the court.
- (2) Where an appeal may be filed against the decision, the notice of legal remedy shall specify the authority with which such an appeal is to be filed, the time period allowed for the filing, the number of copies and the fee payable for submission, as well as the possibility of reading the appeal into the record.
- (3) Where an administrative dispute proceeding may be initiated against the decision, the notice of legal remedy shall specify the court with which such an appeal is to be filed, the number of copies and the time period allowed for the filing. Where another proceeding may be instituted before the court, the notice of legal remedy shall specify the court which the party should address and the time period allowed for such address.
- (4) Where the decision contains an incorrect notice of legal remedy, the relevant party may proceed in accordance with the applicable regulations or in accordance with the notice. A party proceeding in accordance with the incorrect notice shall not suffer harmful consequences on that account.

- (5) Where the decision contains no notice of legal remedy or an incomplete notice, the relevant party may proceed in accordance with the applicable regulations and he/she may, within eight days from the date of service of the decision, request the deciding authority to amend its decision.
- (6) Where an appeal may be filed against the decision, but the relevant party has been incorrectly instructed that no appeal may be filed against such decision or that an administrative dispute proceeding may be initiated against the decision, the time period for filing an appeal shall start from the date of service of the court decision rejecting the appeal as illegitimate, unless the party has already filed an appeal to the competent authority.
- (7) Where an appeal may not be filed against the decision, but the relevant party has been incorrectly instructed that such an appeal may be filed and he/she has filed an appeal and thus missed the time period allowed for initiating an administrative dispute proceeding, that time period shall start from the date of service of the decision rejecting the appeal, unless the party has already initiated an administrative dispute proceeding.
- (8) The notice of legal remedy shall, as a separate element of the decision, follow the rationale.

Article 201

- (1) The decision shall be signed by the officer who has adopted it.
- (2) A decision adopted by a collegiate authority shall be signed by the chairperson, unless otherwise provided for under the law or other regulation. The parties shall be issued a certified transcript of the decision.

Article 202

- (1) If an administrative matter involves a large number of specific persons, a single decision may be adopted for all such persons, provided that their names are stated in the wording and the reasons relating to each and every one of them cited in the rationale of the decision. Such decision shall be served to each of these persons, except in the event specified in Article 80 of this Law.
- (2) If an administrative matter involves a large number of persons unknown to the authority, a single decision may be adopted for all of them, but it must contain the information clearly identifying the persons to whom the decision refers (for example, occupants or owners of property in a particular street, and the like).

Article 203

- (1) In administrative matters of lesser importance where the party's claim is granted and the public interest or the interest of third parties remain unaffected, the decision may contain a wording in the form of a note on the documents of the case if the reasons for such a decision are evident and if not stipulated otherwise.
- (2) The decision referred to in paragraph 1 of this Article shall, as a rule, be orally communicated to the party, but it shall be issued in written form at the party's request.
- (3) The decision referred to in paragraph 1 of this Article shall, as a rule, not contain the rationale, unless it is required by the nature of the matter. Such a decision may be issued on the prescribed form.

Article 204

- (1) In the event of extremely urgent measures taken for maintenance of public order and safety or elimination of direct threats to human lives and health or property, the authority may adopt a decision orally.
- (2) The authority which has adopted an oral decision as referred to in paragraph 1 of this Article may order its execution without delay.

- (3) At the request of a party, the authority which has adopted an oral decision shall be obliged to issue it to the party in written form not later than 8 days from submission of the request. Such a request may be submitted within two months from the date of adoption of the oral decision.

3. Partial, Supplementary and Provisional Decisions

Article 205

- (1) Where one administrative matter involves the resolution of several issues of which only some are ready for resolution, and where it is more appropriate to resolve such issues in a separate decision, the authority may adopt a decision only on those issues (partial decision).
- (2) A partial decision shall be deemed independent in terms of legal remedies and enforceability.

Article 206

- (1) If the authority fails to adopt a decision to resolve all the issues covered by the procedure, the authority may, upon the party's proposal or ex officio, adopt a separate decision to resolve the issues which are not covered by the previously adopted decision (supplementary decision). If the party's proposal for adoption of a supplementary decision is rejected, he/she may file an appeal against the relevant conclusion.
- (2) If the matter has been sufficiently addressed, a supplementary decision may be adopted without a new investigation procedure.
- (3) A supplementary decision shall be deemed independent in terms of legal remedies and enforceability.

Article 207

- (1) If, due to the circumstances of the case, it is necessary to adopt a decision to temporarily resolve the administrative matter before completion of the procedure, such decision shall be adopted on the basis of the information available at the time of its adoption. Such decision shall be clearly designated as provisional.
- (2) The authority may make the adoption of a provisional decision at the party's request conditional upon provision of a security for the damage that may be incurred to the opposing party by enforcement of that decision in case the primary claim of the party is not granted.
- (3) A provisional decision adopted in the course of the procedure shall be revoked by the final decision on the same matter.
- (4) A provisional decision shall be deemed independent in terms of legal remedies and enforceability.

4. Time Limit for Issuance of Decisions

Article 208

- (1) Where the procedure is instituted at the party's request and where there is no need to conduct a separate investigation procedure before adoption of a decision or there are no reasons preventing adoption of the decision without delay (resolution of a preliminary issue, etc.), the authority shall be obliged to adopt a decision and serve it on the party as soon as possible but not later than 30 days from the submission of a proper request, unless a shorter period of time is specified under the law. In other cases where the procedure is instituted at the party's request, the authority shall be obliged to adopt a decision and serve it on the party within 90 days, unless a shorter period of time is specified under the law.
- (2) If the authority whose decisions are subject to appeal fails to adopt a decision and serve it on the party within the specified time period, the party shall be entitled to file an appeal as if his/her request were rejected. In case an appeal may not be filed, the party may directly initiate

an administrative dispute proceeding before the court of competent jurisdiction in accordance with the law regulating administrative disputes.

5. Correction of Errors

Article 209

- (1) The deciding authority or the officer who has signed or issued a decision may at any time correct errors in the names or figures, text or calculations, as well as other plain errors in the decision or its certified transcripts. The corrections shall produce legal effect from the date of effectiveness of the corrected decision.
- (2) Corrections shall be subject to a separate conclusion. A note on the correction shall be made on the original decision and, where possible, on all certified transcripts served on the parties. The note shall be signed by the officer who has signed the conclusion on correction.
- (3) An appeal may be filed against a conclusion on correction of the already adopted decision or against a conclusion rejecting the proposal for correction.

Chapter XIII

CONCLUSION

Article 210

- (1) A conclusion shall resolve the issues related to the procedure.
- (2) A conclusion shall also resolve additional issues arising in connection with the conduct of the procedure which are not covered by the decision.

Article 211

- (1) A conclusion shall be adopted by the officer performing the action in the procedure which has given rise to the issue to be resolved by the conclusion, unless otherwise provided for under this or other law.
- (2) If the performance of an action is ordered in a conclusion, the conclusion shall also specify the time period for performance of such action.
- (3) A conclusion shall be communicated orally to the interested parties, and shall be issued in written form at the request of the party who may file an appeal against the conclusion, or when it is possible to proceed immediately to the enforcement of the conclusion.

Article 212

- (1) An appeal may be filed against a conclusion only in the cases clearly defined by law. Such a conclusion shall be justified and contain the notice of appeal.
- (2) An appeal against a conclusion shall be filed within the same time period, in the same manner and to the same authority as an appeal against a decision.
- (3) The conclusions which are not subject to appeal may be contested by an appeal against the relevant decision filed by the interested parties and other persons with legal interests in the case, unless an appeal against the conclusion is excluded by this Law.
- (4) An appeal shall not stay the enforcement of a conclusion, unless otherwise specified under the law or the conclusion itself.

Part Three

LEGAL REMEDIES

Chapter XIV

APPEAL

1. Right to Appeal

Article 213

- (1) A party shall have the right to appeal against first-instance decisions.
- (2) The public prosecutor and the public attorney, if empowered by law, may file an appeal against a decision violating the law to the detriment of the public interest.

Article 214

- (1) An appeal may be filed against a first-instance decision adopted by a ministry or other autonomous administrative authority or administrative organisation only in the cases specified under the law as well as in administrative matters in which an administrative dispute proceeding may not be initiated.
- (2) No appeal may be filed against a decision adopted by the National Assembly and the Government.

2. Appellate Jurisdiction of Authorities

Article 215

The decision-making in the second instance shall be within the jurisdiction of the authority specified by law.

Article 216

The jurisdiction for decision-making in the second instance may not be determined within the authority which has resolved the case in the first instance.

Article 217

By way of an exception from the provisions of Article 216 hereof, the appeals against first-instance decisions of regional authorities and organisational units formed with a mission to discharge specific administrative tasks from within the competence of a specific government authority shall be decided by that authority.

Article 218

- (1) An appeal against the decision adopted in accordance with Article 193 or Article 194 hereof shall be decided by the authority competent for deciding the appeals against decisions of the authority that has issued (Article 193) or adopted (Article 194) the contested decision, unless the relevant regulations stipulate that a different authority is competent for deciding such appeals.
- (2) In the cases referred to in paragraph 1 of this Article, the second-instance authority may not amend the contested decision but may only annul it.

- (3) If the authority competent for deciding the appeals in accordance with paragraph 1 of this Article gives its consent, approval or confirmation of the first-instance decision, the appeal shall be decided by the authority specified under the law. However, if such authority is not specified, the first-instance decision shall be final.

Article 219

If no second-instance authority is designated to decide the appeals against decisions adopted by companies or other organisations, which are legally entrusted with exercise of public powers, such appeals shall be decided by the government authority responsible for the respective administrative field.

3. Time Period for Appeal

Article 220

- (1) An appeal shall be filed within 15 days from the date of service of the relevant decision, unless otherwise specified under the law.
- (2) A person who has been denied the opportunity to participate in the first-instance procedure although the resolution of the administrative matter refers to his/her rights and legal interests (interested party) shall be entitled to file an appeal within 90 days from the service of the decision on the party.

Article 221

- (1) No decision shall be enforceable during the time period for appeal. When an appeal is duly filed, the decision shall not be enforceable before the decision on appeal has been served on the party.
- (2) Exceptionally, the decision may be enforceable during the time period for appeal and after filing an appeal if provided for under the law, in case of emergency measures (Article 131, paragraph 1, item 4), or if a delay in enforcement would cause irreparable damage to the party. In the latter case, it shall be permitted to request appropriate security from the party in whose interest the decision is enforced and make the providing of such security a precondition for enforcement.

4. Cause for Appeal

Article 222

- (1) An appeal may be filed on account of any violation of the substantive law, regulations governing jurisdiction, rules of procedure, and especially on account of incomplete or incorrect establishment of facts or incorrect conclusion about the facts of the case derived from the established facts.
- (2) An appeal may also be filed because the public interest has not been properly protected in the decision adopted at own discretion (inappropriate decision).

5. Substance of Appeal

Article 223

- (1) The appeal shall state the decision against which it is filed and cite the name of the deciding authority and the number and the date of the decision. It shall suffice if in the appeal the appellant states the reasons for his/her dissatisfaction with the decision, without further explanation.

- (2) The appeal may present new facts and new evidence, but the appellant shall be required to explain why he/she has failed to present such facts and evidence in the first-instance procedure.
- (3) If new facts and evidence are presented in the appeal and the procedure involves two or more parties with opposing interests, the appeal shall be made in the number of copies corresponding to the number of the parties involved. In that case, the authority shall serve a copy of the appeal on each party and specify the time period for making a statement on the new facts and evidence. The specified time period shall not be shorter than 8 and longer than 15 days from the date of service.

6. Submission of Appeal

Article 224

- (1) The appeal shall be submitted by hand or by mail to the authority that has adopted the first-instance decision.
- (2) If the appeal is submitted or sent directly to the second-instance authority, the second-instance authority shall immediately forward it to the first-instance authority.
- (3) The appeal submitted or sent directly to the second-instance authority shall be deemed submitted to the first-instance authority within the specified time period.

7. Actions upon Appeal by First-Instance Authority

Article 225

- (1) The first-instance authority shall examine whether the appeal is admissible, filed in due time and by the authorised person.
- (2) The appeal that is inadmissible, untimely or filed by an unauthorised person shall be dismissed by the first-instance authority in the relevant conclusion.
- (3) The first-instance authority shall assess whether the appeal is delivered or mailed directly to the second-instance authority in a timely manner according to the date when the appeal was delivered or mailed to the second-instance authority.
- (4) The parties shall have the right to file an appeal against the conclusion dismissing the appeal pursuant to paragraph 2 of this Article. If the authority deciding the appeal finds the appeal well-founded, it shall at the same time decide on the previously dismissed appeal.

Article 226

- (1) Where the authority that has adopted the first-instance decision finds the appeal well-founded and where a new investigation procedure is not required, it may resolve the matter in a different way and adopt a new decision to replace the contested one.
- (2) The party shall have the right to file an appeal against the new decision.

Article 227

- (1) If upon an appeal the authority that has adopted the first-instance decision finds that the conducted procedure was incomplete and as such could have affected the resolution of the administrative matter, it may supplement the procedure in compliance with the provisions of this Law.
- (2) The authority that has adopted the first-instance decision shall also supplement the procedure when in his/her appeal the appellant presents the facts and evidence that could be of relevance for a different resolution of the administrative matter, if the appellant should have been given the opportunity to participate in the procedure prior to adoption of the decision and the opportunity was denied or the opportunity was granted but he/she failed to use it and has justified the failure in his/her appeal.

- (3) Depending on the outcome of the supplemented procedure, the authority that has adopted the first-instance decision may, within the limits of the party's claim, resolve the administrative matter in a different way and replace it with a new decision.
- (4) The party shall have the right to file an appeal against the new decision.

Article 228

Where a decision has been adopted without obligatory prior investigation procedure or where a decision has been adopted pursuant to Article 131, paragraph 1, items 1, 2 or 3 hereof, but the party has not been given the opportunity to make a statement on the facts and circumstances of relevance for adoption of the decision, and the appellant requests the conduct of an investigation procedure in his/her appeal or the opportunity to make a statement on the facts and circumstances, the first-instance authority shall be obliged to conduct the requested procedure. After the procedure, the first-instance authority may accept the request made in the appeal and adopt a new decision.

Article 229

- (1) Where the authority that has adopted the first-instance decision finds that the submitted appeal is admissible and filed in due time and by an authorised person, but fails to replace the contested decision with a new one, it shall, without delay but not later than 15 days from the date of receipt of the appeal, forward the appeal to the authority responsible for deciding appeals.
- (2) The first-instance authority shall enclose all the documents relating to the case with the appeal referred to in paragraph 1 of this Article.
- (3) If the first-instance authority fails to submit the documents relating to the case to the second-instance authority within the period defined in paragraph 1 of this Article, the second-instance authority shall request the first-instance authority to submit all the related documents and shall specify the time period for their submission. If the first-instance authority fails to submit the related documents within the specified time period, the second-instance authority may resolve the administrative matter without them.

8. Resolution of Appeals by Second-Instance Authority

Article 230

- (1) If an appeal is inadmissible, untimely or filed by an unauthorised person, and the first-instance authority has failed to dismiss it on those grounds, the authority responsible for deciding appeals shall adopt a conclusion to dismiss it.
- (2) If the second-instance authority does not dismiss an appeal, it shall proceed to resolve the matter.
- (3) The second-instance authority may reject the appeal, annul the decision in full or in part, or amend it.
- (4) If a decision contains an irregularity that makes it null and void, the second-instance authority shall declare the decision null and void, as well as the part of the procedure conducted after such irregularity.
- (5) If the second-instance authority establishes that the first-instance decision has been adopted by a non-competent authority, it shall annul the decision ex officio and submit the case to the competent authority.

Article 231

- (1) The second-instance authority shall reject an appeal upon establishing that the procedure prior to adoption of the decision was properly conducted, that the decision was legally and properly adopted and that the appeal is unfounded.

- (2) The second-instance authority shall also reject an appeal upon establishing that the first-instance procedure was irregular, but that the irregularities could not have affected the resolution of the administrative matter.
- (3) Where the second-instance authority establishes that the first-instance decision is based on the law but on the grounds other than those stated in the decision, it shall cite those grounds in its decision and reject the appeal.

Article 232

- (1) Where the second-instance authority finds that the facts were incompletely or incorrectly established in the first-instance procedure, that the procedure did not follow the rules of procedure of relevance to the resolution of the matter, or that the wording of the contested decision is unclear or contrary to the rationale, it shall supplement the procedure and eliminate the stated defects on its own or through the first-instance authority or another authority requested to intervene. Where the second-instance authority finds that on the basis of the facts established in the supplementary procedure, the administrative matter should have been resolved in a different way than it was resolved in the first-instance decision, the second-instance authority shall adopt a decision to annul the first-instance decision and shall alone resolve the administrative matter.
- (2) Where the second-instance authority finds that the first-instance authority can eliminate the defects of the first-instance procedure in a more efficient and cost effective manner, it shall adopt a decision to annul the first-instance decision and shall return the case to the first-instance authority for reopening. In that case, the second-instance authority shall be obliged to instruct the first-instance authority in its decision as to the respect in which the procedure should be supplemented and the first-instance authority shall be obliged to fully comply with the second-instance decision and adopt a new decision without delay but not later than 30 days from the date of receipt of the case. The party shall have the right to file an appeal against the new decision.

Article 233

- (1) Where the second-instance authority finds that the first-instance decision misinterpreted the evidence, that the wrong conclusion was drawn from the established facts, that the legal regulations for resolution of the administrative matter were incorrectly applied, or where it finds that a different decision should have been adopted at own discretion, it shall adopt a decision to annul the first-instance decision and shall alone resolve the administrative matter.
- (2) Where the second-instance authority finds that the decision was lawfully adopted, but that the same goal can be achieved by other means that are more favourable for the party, it shall amend the first-instance decision to that effect.

Article 234

- (1) When deciding an appeal, the second-instance authority may amend the first-instance decision in favour of the appellant and disregarding the claim made in the appeal but within the scope of the claim made in the first-instance procedure, provided that this is without prejudice to the rights of third parties.
- (2) When deciding an appeal, the second-instance authority may amend the first-instance decision to the disadvantage of the appellant, but only on the grounds set forth in Articles 253, 256 and 257 of this Law.

Article 235

- (1) The provisions of this Law relating to the first-instance decisions shall apply accordingly to the decisions on appeals.
- (2) The rationale of the second-instance decision shall address all allegations made in the appeal. If in the rationale of its decision the first-instance authority has correctly assessed the

allegations made in the appeal, the second-instance authority may make a reference to the grounds stated in the first-instance decision.

9. Appeals in Absence of First-Instance Decision

Article 236

- (1) If an appeal is filed by the party because the first-instance authority has failed to adopt a decision within the prescribed period (Article 208, paragraph 2), the second-instance authority shall request the first-instance authority to state the reasons for such failure. If the second-instance authority finds that the decision has not been adopted for valid reasons or due to the fault of the party, it shall specify a time period not longer than 30 days for adoption of the decision by the first-instance authority. If the reasons for failure to adopt the decision within the prescribed period are not valid, the second-instance authority shall request the first-instance authority to submit the case file.
- (2) If it is possible for the second-instance authority to resolve the administrative matter on the basis of the case file, it shall adopt a decision to that effect, and if it is not possible, it shall conduct the procedure and resolve the administrative matter by its decision. Exceptionally, if the second-instance authority finds that the first-instance authority can conduct the procedure in a more efficient and cost effective manner, it shall order the first-instance authority to do so and to submit the obtained information within a specific time period, after which the second-instance authority shall alone resolve the matter. Such decision shall be final.

10. Period for Resolution of Appeals

Article 237

- (1) A decision on the appeal shall be adopted and served on the party as soon as possible, but not later than 60 days from the date of its submission, unless the relevant law specifies a shorter period.
- (2) If the party abandons his/her appeal, the procedure shall be suspended by a conclusion against which an appeal may not be filed. An administrative dispute proceeding may be initiated against such a conclusion directly before the court of competent jurisdiction.

11. Service of Second-Instance Decisions

Article 238

The authority that has adopted the second-instance decision shall, as a rule, forward the decision together with the case file to the first-instance authority, which shall be obliged to serve it on the parties within eight days from the date of receipt of the case file.

Chapter XV

REOPENING OF PROCEDURE

1. Filing for Reopening of Procedure

Article 239

The procedure concluded upon adoption of a decision against which there is no regular legal remedy (final decision) shall be reopened if:

- 1) new facts have become known or a possibility has been found or has arisen for using new evidence which, on their own or in connection with the already presented and used evidence, could have resulted in a different decision had such facts or evidence been presented or used in the earlier procedure;
- 2) the decision was adopted on the basis of a false identification document or false testimony of a witness or an expert witness, or it was the result of other action sanctioned under the criminal procedure law;
- 3) the decision was based on the court ruling in the criminal or civil procedure, which has subsequently been revoked by a valid court decision;
- 4) the decision favourable for a party was based on the party's false allegations misleading the authority that conducted the procedure;
- 5) the decision of the authority conducting the procedure was based on the preliminary issue whose resolution by the competent authority was substantially different;
- 6) the officer who should have been excluded in accordance with the law was involved in the decision-making;
- 7) the decision was adopted by the officer who was not authorised for its adoption;
- 8) the collegiate authority that adopted the decision was not in the composition required by the applicable regulations or the decision was not voted for by the prescribed majority;
- 9) the person who was supposed to participate in the procedure in the capacity of a party was not given the opportunity to do so;
- 10) the party was not represented by his/her legal representative, as provided for under the law;
- 11) a person participating in the procedure was not given the opportunity to use his/her language and alphabet, as provided for in Article 16 hereof, which had a material effect on the decision-making process.

Article 240

- (1) The procedure may be reopened at the party's request or ex officio by the authority that adopted the decision concluding the procedure.
- (2) In the events specified in Article 239, items 1, 6, 7, 8 and 11 hereof, the party may request a reopening of the procedure only if in the earlier procedure the party was not in the position, through no fault of his/her own, to present the circumstances on the basis of which the reopening is requested.
- (3) The party may not request a reopening of the procedure on the grounds defined in Article 239, items 6 to 11 hereof if such grounds were unsuccessfully used in the earlier procedure.
- (4) The public prosecutor may request a reopening of the procedure under the same terms and conditions as the party.

Article 241

If the decision on the basis of which a reopening of the procedure is requested was the subject of an administrative dispute proceeding, the reopening may be allowed only on the basis of the facts established by the authority in the earlier procedure and not the facts established by the court in its proceedings.

Article 242

- (1) A party may request a reopening of the procedure within one month, as follows:
 - 1) in the event from Article 239, item 1 - from the date when he/she could present new facts or use new evidence;
 - 2) in the event from Article 239, items 2 and 3 - from the date when he/she learned of the enforceable decision in the criminal procedure or in the procedure for commercial offence, and if the procedure cannot be conducted - from the date when he/she learned of the suspension of the procedure or of the circumstances due to which the procedure cannot be

- instituted or due to which there is no possibility of criminal prosecution or prosecution on account of commercial offence;
- 3) in the event from Article 239, item 5 - from the date he/she was able to resort to a new act (ruling, decision);
 - 4) in the event from Article 239, items 4, 6, 7 and 8 - from the date he/she learned of the cause for reopening;
 - 5) in the event from Article 239, items 9 to 11 - from the date when the decision was served on him/her.
- (2) If the time period specified in paragraph 1 of this Article starts before the decision has become final, that period shall be reckoned from the date when the decision becomes final or from the date of service of the final decision by the competent authority.
 - (3) The time period specified in paragraph 1 of this Article shall also be binding for the authority reopening the procedure ex officio.
 - (4) After expiry of the period of five years from the date the decision was served on the party, no reopening of the procedure may be requested or initiated ex officio.
 - (5) A reopening of the procedure may be exceptionally requested or initiated after the period of five years only on the grounds specified in Article 239, items 2, 3 and 5 hereof.

Article 243

- (1) A procedure may be reopened on the grounds specified in Article 239, item 2 hereof even if no criminal procedure could be conducted or if there are circumstances preventing the institution of such procedure.
- (2) Before the conclusion on reopening of the procedure is adopted on the grounds specified in Article 239, item 2 hereof, the officer shall request the authority responsible for criminal prosecution to provide information on whether the criminal procedure is suspended or whether there are circumstances preventing the institution of the procedure. The officer need not request such information if the criminal prosecution has become statute-barred, or if the person held responsible in the request for reopening of the procedure is deceased, or if the officer can on his/her own establish with certainty the circumstances due to which the criminal procedure cannot be instituted.

Article 244

In the request for reopening of the procedure, the party shall be obliged to make credible the circumstances on which the request is based, as well as the fact that the request has been made within the period prescribed by law.

2. Deciding on Reopening of Procedure

Article 245

- (1) A party shall deliver or mail his/her request for reopening of the procedure to the authority that decided the matter in the first instance or to the authority that adopted the final decision.
- (2) The authority that adopted the final decision shall decide on the request for reopening of the procedure.
- (3) When a reopening of the procedure is requested on the basis of the decision adopted in the second instance, the first-instance authority that receives the request shall attach the case file to the request and submit it to the authority that decided in the second instance.

Article 246

- (1) When the authority responsible for deciding the request for reopening of the procedure receives the request, it shall be obliged to check whether the request has been submitted in due time and

by the authorised person and whether the circumstances on which the request is based have been made credible.

- (2) If the conditions specified in paragraph 1 of this Article are not fulfilled, the authority shall adopt a conclusion dismissing the request for reopening of the procedure.
- (3) If the conditions specified in paragraph 1 of this Article are fulfilled, the authority shall examine whether the circumstances or evidence stated as cause for reopening of the procedure are such that they could lead to a different decision, and if the authority finds that they could not, it shall adopt a decision rejecting the request.

Article 247

- (1) If the authority does not dismiss or reject the request for reopening of the procedure pursuant to Article 246 hereof, it shall adopt a conclusion to permit the reopening of the procedure and shall determine its scope. In case of reopening of the procedure *ex officio*, the authority shall adopt a conclusion permitting the reopening of the procedure, having first established that the legal requirements for such reopening are met. The actions taken in the earlier procedure which are not affected by the cause for reopening of the procedure shall not be repeated.
- (2) Where the second-instance authority decides on the request for reopening of the procedure, it shall take all the necessary actions in the reopened procedure, and exceptionally, in case it finds that those actions would be more efficient and cost effective if taken by the first-instance authority, it shall order the first-instance authority to take them and to deliver the relevant documents within the specified time period.

Article 248

Based on the information obtained in the earlier and reopened procedure, the authority shall adopt a decision on the administrative matter which was the subject of the procedure and thereby either confirm or replace the decision which was the subject of the reopened procedure with a new decision. In the event of replacement of the decision, the authority may, taking account of all the facts and circumstances, annul or cancel the earlier decision.

Article 249

An appeal may be filed against the conclusion or decision adopted to decide the request for reopening of the procedure, as well as against the decision adopted in the reopened procedure, only if the conclusion or decision has been adopted by the first-instance authority. If the conclusion or decision has been adopted by the second-instance authority, an administrative dispute proceeding may be directly initiated.

Article 250

- (1) The request for reopening of the procedure shall, as a rule, not stay the enforcement of the decision due to which the reopening is requested, but the authority responsible for deciding on the request for reopening of the procedure, provided that there are sufficient grounds for presuming that the request is to be granted, may decide to stay the enforcement until the decision on reopening of the procedure is adopted.
- (2) The conclusion authorising the reopening of the procedure shall stay the enforcement of the decision for which the reopening of the procedure has been granted.

Chapter XVI

SPECIAL CASES OF ANNULMENT, CANCELLATION AND AMENDMENT OF DECISIONS

1. Amendment and Annulment of Decisions Related to Administrative Disputes

Article 251

The authority against whose decision an administrative dispute proceeding has been timely initiated may annul or amend its decision prior to the resolution of the dispute and in case it has granted all the claims stated in the appeal on the same grounds on which the court might annul such a decision, provided that the rights of the party to the administrative procedure or of third parties are not prejudiced.

2. Request for Protection of Legality

Article 252

- (1) The public prosecutor shall be entitled to submit a request for protection of legality against the decision adopted in the administrative matter where an administrative dispute proceeding is not allowed and the court protection is not provided outside the administrative dispute proceeding, if such decision is deemed to violate the law.
- (2) The request for protection of legality under paragraph 1 of this Article may be submitted within one month from the date of delivery of the decision to the prosecutor. In case the decision has not been delivered to the prosecutor, the request may be submitted within six months from the date of service on the party.
- (3) The request for protection of legality shall be decided by the Government.
- (4) The Government may accept the request for protection of legality and cancel the decision or reject the request. No appeal may be filed against the decision on the request for protection of legality.

3. Annulment and Cancellation upon Official Control

Article 253

- (1) The competent authority shall as a result of official control annul the final decision in the following cases:
 - 1) where the decision has been adopted by the authority having no subject matter jurisdiction, and in the event other than those specified in Article 257, item 1 hereof;
 - 2) where a different final decision has been adopted earlier in the same administrative matter resolving it in a different way;
 - 3) where the decision has been adopted by one authority without the consent, confirmation, approval or opinion of the other authority if required under the law or other regulations;
 - 4) where the decision has been adopted by the authority having no territorial jurisdiction;
 - 5) where the decision has been adopted as a result of coercion, extortion, or blackmail.
- (2) The final decision may be cancelled upon official control if such decision represents a plain violation of the substantive law. In the administrative matters which involve two or more parties with opposing interests, the decision may be cancelled only with the consent of the interested parties.

- (3) If a government authority or organisation is responsible for adoption of the decision and the decision has been adopted by the Government, such decision may not be annulled pursuant to the provision of item 1 in paragraph 1 of this Article.

Article 254

- (1) A decision may be annulled or cancelled upon official control by the second-instance authority. If there is no second-instance authority, the decision may be annulled or cancelled by the authority empowered to control the work of the authority that has adopted the decision.
- (2) The competent authority shall adopt a decision on annulment ex officio, at the request of the party or at the request of the public prosecutor, and a decision on cancellation - ex officio or at the request of the public prosecutor.
- (3) The decision on annulment pursuant to Article 253, paragraph 1, points 1 to 3 hereof may be adopted within five years and pursuant to item 4, paragraph 1 of the same Article - within one year from the date when the decision became final. The decision on cancellation pursuant to Article 253, paragraph 2 hereof may be adopted within one year from the date when the decision became final.
- (4) The decision on annulment pursuant to Article 253, paragraph 1, item 5 hereof may be adopted regardless of the time limits specified in paragraph 3 of this Article.
- (5) An appeal may not be filed against the decision adopted pursuant to Article 253 hereof, but an administrative dispute proceeding may be directly initiated against it.

4. Cancellation and Amendment of Final Decisions upon Consent or Request of Parties

Article 255

- (1) If under the final decision the party has been granted a certain right and the authority that has adopted the decision is of the opinion that the decision represents a violation of the substantive law, the authority may cancel or amend the decision only with the consent of the party that has acquired the right under that decision and without prejudice to any third party right. The consent of the party shall also be obligatory for any amendment detrimental to the party of the final decision imposing an obligation upon the party.
- (2) Under the conditions from paragraph 1 of this Article and at the party's request, the final decision that is disadvantageous to the party may be cancelled or amended. In case the authority finds that there is no need for cancellation or amendment of the decision, it shall be obliged to notify the party thereof.
- (3) The decision referred to in paragraphs 1 and 2 of this Article shall have legal effect only in the future.
- (4) The decision referred to in paragraphs 1 and 2 of this Article shall be adopted by the first-instance authority that has adopted the earlier decision and by the second-instance authority only if it has decided in the earlier administrative matter. If the authority has been dissolved or no longer has jurisdiction in the relevant administrative matter, the decision shall be adopted by the authority having jurisdiction in the administrative matter at the time of adoption of the decision.
- (5) An appeal against the new decision adopted pursuant to this Article may only be filed if the decision has been adopted by the first-instance authority. If the decision has been adopted by the second-instance authority or if the decision adopted by the first-instance authority is final, an administrative dispute proceeding may be initiated against such decision.

5. Extraordinary Cancellation of Decisions

Article 256

- (1) An enforceable decision may be cancelled if it is necessary to eliminate a serious and immediate threat to human life and health, public safety, peace and order or public morale, or to eliminate economic disturbances, unless they cannot be successfully eliminated by other means which would not considerably interfere with the acquired rights. A decision may also be cancelled only in part, to the extent necessary to eliminate the threat or protect the above stated public interests.
- (2) If the first-instance authority has adopted the decision, the decision may, pursuant to paragraph 1 of this Article, be cancelled by the same authority, but also by the second-instance authority. If there is no second-instance authority, the decision may be cancelled by the authority empowered to control the work of the authority that has adopted the decision.
- (3) An appeal against the decision cancelling the earlier decision may only be filed if the decision has been adopted by the first-instance authority. If the decision has been adopted by the second-instance authority or the controlling authority, an administrative dispute proceeding may be directly initiated against such decision.
- (4) A party suffering damage due to cancellation of the decision shall be entitled to damage compensation. The compensation claim shall be decided in a civil procedure conducted by the court of competent jurisdiction.

6. Declaring Decisions Null and Void

Article 257

A decision shall be declared null and void when:

- 1) adopted in the administrative procedure concerning the matter from within the court jurisdiction or concerning the matter which may not be resolved in the administrative procedure under any circumstances;
- 2) its enforcement may result in a criminal act;
- 3) its enforcement is not possible;
- 4) adopted by an authority without a prior request from the party (Article 116), and the party has not subsequently given its explicit or implicit consent thereto. The subsequent consent may be given only if the conditions have been created for institution of a procedure within the meaning of Article 115, paragraph 2;
- 5) it contains irregularities which are under an explicit legal regulation specified as grounds for nullity.

Article 258

- (1) A decision may at any time be declared null and void ex officio or at the request of the party or the public prosecutor.
- (2) A decision may be declared null and void in whole or in part.
- (3) A decision shall be declared null and void by the authority which has adopted it or by the second-instance authority. If there is no second-instance authority, the decision shall be declared null and void by the authority empowered to control the work of the authority that has adopted the decision.
- (4) An appeal may be filed against the decision declaring another decision null and void or rejecting the request of the party or the public prosecutor for declaring the decision null and void. If there is no authority to decide the appeal, an administrative dispute proceeding may be directly initiated against such decision.

7. Legal Consequences of Annulment and Cancellation

Article 259

- (1) When a decision is annulled, the legal consequences resulting from such decision shall also be annulled. The cancellation of a decision shall have the same consequences.
- (2) The legal consequences already produced by a decision shall not be cancelled upon cancellation of the decision, but the cancelled decision shall not produce any further legal consequences.

8. Obligation to Notify the Competent Authority of Existence of Grounds for Reopening of Procedure or Annulment, Cancellation or Amendment of Decisions

Article 260

When the authority that learns of a decision that has violated the law and when such violation may constitute grounds for reopening of the procedure or annulment, cancellation or amendment of the decision, it shall without delay notify the authority responsible for instituting the procedure and adoption of the decision or the public prosecutor.

P a r t F o u r

ENFORCEMENT

Chapter XVII

ENFORCEMENT PROCEDURE

1. General Provisions

Article 261

- (1) A decision adopted in the procedure shall be enforced for the purpose of settling pecuniary or non-pecuniary obligations.
- (2) A decision adopted in the procedure shall be enforced once it becomes enforceable.
- (3) A first-instance decision shall become enforceable:
 - 1) upon expiry of the period of appeal, if no appeal has been filed;
 - 2) upon its service on the party, if the decision is not subject to appeal;
 - 3) upon its service on the party, if the appeal does not stay the enforcement;
 - 4) upon service on the party of the conclusion or the decision dismissing or rejecting the appeal.
- (4) The second-instance decision amending the first-instance decision shall become enforceable upon its service on the party.
- (5) If the decision specifies that an action which is the subject of enforcement may be executed within the specified period of time, the decision shall be enforced upon expiry of that period. If the decision does not specify the period for voluntary execution of the action, the decision shall be enforced within 15 days from the date of its service. The period allowed for execution under

the decision or the 15-day period shall commence from the date when the decision becomes enforceable in accordance with paragraphs 3 and 4 of this Article.

- (6) Decisions may also be enforced on the basis of a settlement, but only against a party to the settlement.
- (7) If an appeal stays the enforcement of the decision and the decision refers to two or more parties participating in the procedure with identical claims, the appeal filed by any of the parties shall stay the enforcement of the decision.

Article 262

- (1) A conclusion adopted in the administrative procedure shall be enforced once it becomes enforceable.
- (2) A conclusion not subject to appeal and a conclusion subject to appeal that does not stay its enforcement shall become enforceable when communicated or served on the party.
- (3) When the law or the conclusion itself stipulates that an appeal shall stay the enforcement of the conclusion, the conclusion shall become enforceable upon expiry of the period for appeal if no appeal has been filed, and if an appeal has been filed – upon service on the party of the conclusion or the decision dismissing or rejecting the appeal.
- (4) In other cases, the conclusion shall become enforceable under the conditions of enforceability of the decision set forth in Article 261, paragraphs 4, 5 and 7 hereof.
- (5) The provisions of this Law on the enforcement of decisions shall apply accordingly to the enforcement of conclusions.

Article 263

- (1) When there are several options open for enforcement in terms of both methods and instruments of enforcement, the enforcement shall use such mechanisms and instrument that produce the desired result and that are least unfavourable for the judgement debtor.
- (2) Enforcement measures may be taken on a Sunday, during public holidays and at night only if there is danger of prolongation of the procedure and if the authority in charge of enforcement has issued a written order to that effect.

Article 264

- (1) The enforcement shall be carried out against a person who is obliged to fulfil an obligation (judgement debtor).
- (2) The enforcement shall be carried out ex officio or at the party's request.
- (3) The enforcement shall be carried out ex officio when required by the public interest. The enforcement in the interest of the party shall be carried out at the request of the party (enforcement claimant).

Article 265

The enforcement of a decision shall be carried out in an administrative procedure (administrative enforcement) and in the cases provided for under this Law, in a judicial procedure (judicial enforcement).

Article 266

- (1) The enforcement for the purpose of settlement of non-pecuniary obligations by judgement debtors shall be carried out in an administrative procedure.
- (2) The enforcement for the purpose of settlement of pecuniary obligations shall be carried out in a judicial procedure. Exceptionally, the enforcement for the purpose of settlement of pecuniary obligations arising from income earned under employment may be carried out in an administrative procedure upon the consent of the judgement debtor (administrative injunction).

Article 267

- (1) The administrative enforcement shall be carried out by the authority that has resolved the matter in the first instance, unless otherwise provided for under the relevant regulations.
- (2) If the law stipulates that the administrative enforcement may not be carried out by the authority that has resolved the administrative matter in the first instance and no relevant regulations specify which authority is responsible, the enforcement shall be carried out by the competent local self-government authority on whose territory the place of residence or domicile or seat of the judgement debtor is located, unless otherwise provided for under the law.
- (3) The authority responsible for internal affairs shall, at the request of the authority responsible for enforcement, be obliged to provide assistance in the enforcement procedure.

Article 268

- (1) The authority responsible for administrative enforcement shall adopt, either ex officio or at the request of the enforcement claimant, a conclusion authorising the enforcement. Such conclusion shall state that the decision to be enforced has become enforceable and shall define the method and instruments of enforcement. An appeal may be filed against that conclusion.
- (2) The conclusion authorising the enforcement of the decision that was adopted ex officio in the administrative procedure shall be adopted without delay by the authority responsible for administrative enforcement once the decision becomes enforceable, but not later than within 30 days from the date when the decision became enforceable, unless otherwise specified in the relevant regulations. Any failure to adopt the conclusion within the specified period shall not exclude the obligation of its adoption.
- (3) When the administrative enforcement is not carried out by the authority that decided in the first instance, the enforcement claimant shall submit the request for approval of enforcement to the authority that has adopted the decision to be enforced. If the decision has become enforceable, the authority shall put a confirmation on the decision stating that the decision has become enforceable (acknowledgement of enforceability) and shall submit it for enforcement to the responsible authority, at the same time proposing the method and instruments of enforcement. The authority responsible for enforcement shall adopt a conclusion authorising the enforcement.
- (4) When the decision adopted by the authority that is not responsible for its enforcement has to be enforced ex officio, that authority shall address the authority responsible for enforcement with a request for approval of enforcement after completion of the procedure defined in paragraph 3 of this Article.

Article 269

- (1) The administrative enforcement by the authority that has decided the administrative matter in the first instance shall be carried out on the basis of the enforceable decision and the conclusion authorising the enforcement.
- (2) The administrative enforcement by the authority that has not decided the administrative matter in the first instance shall be carried out on the basis of the decision containing the acknowledgement of enforceability and the conclusion authorising enforcement.

Article 270

- (1) An appeal may be filed in the course of the administrative enforcement procedure relating only to enforcement and may not be used to contest the legality and regularity of the decision being enforced.
- (2) An appeal shall be filed with the competent second-instance authority. An appeal shall not stay the commenced enforcement. The provisions of Articles 215 to 221 of this Law shall apply to the period for appeal and the authority responsible for deciding the appeal.

Article 271

- (1) The administrative enforcement shall be suspended ex officio and the steps already taken shall be annulled in case it is established that the obligation has been completely fulfilled, that the enforcement has not been authorised, that the enforcement has been carried out against a person under no obligation, and in case the enforcement claimant withdraws his/her request or in case the enforceable title has been annulled or cancelled.
- (2) The administrative enforcement shall be postponed in the cases specified under the law or in case when instead of a provisional decision being enforced a permanent decision has been adopted which refers to the same subject matter but is different from the provisional decision. The postponed enforcement shall be authorised by the authority that has adopted the conclusion authorising the enforcement.

Article 272

- (1) Fines imposed under this Law shall be enforced by the authorities responsible for enforcement of fines for offences.
- (2) Fines shall be credited to the budget used for financing the authority that has imposed the fines.

Article 273

- (1) Where the decision adopted in the procedure is to be enforced by judicial enforcement, the authority whose decision is to be enforced shall put the acknowledgement of enforceability on the decision (Article 268, paragraph 3) and submit it for enforcement to the court having jurisdiction over its enforcement.
- (2) The decision containing the acknowledgement of enforceability and adopted in the procedure shall constitute the grounds for judicial enforcement. Such enforcement shall be carried out in accordance with the provisions of the law regulating the enforcement procedure and the provisions of other laws applicable to judicial enforcement.

2. Enforcement of Non-Pecuniary Obligations

Article 274

The enforcement for the purpose of fulfilment of non-pecuniary obligations by judgement debtors shall be carried out through other persons or by coercion.

a) Enforcement through other Persons

Article 275

- (1) If the obligation of the judgement debtor comprises the execution of an action which can also be executed by other persons and the judgement debtor fails to execute it either in full or in part, such action shall be executed through another person at the expense of the judgement debtor. The judgement debtor must be warned thereof in advance.
- (2) In the event from paragraph 1 of this Article, the authority responsible for enforcement may adopt a conclusion ordering the judgement debtor to make a deposit of the funds necessary for covering the costs of enforcement in advance and subsequently settle the accounts. The conclusion on making such a deposit shall be enforceable.

b) Enforcement by Coercion

Article 276

- (1) If the judgement debtor is obliged to permit or suffer something and he/she contravenes such an obligation, or if the subject of enforcement is the judgement debtor's action that may not be

executed by any other person, the authority responsible for enforcement shall coerce the judgement debtor into fulfilling his/her obligation by imposing a fine.

- (2) The authority responsible for enforcement shall first threaten the judgement debtor by imposition of a fine if he/she fails to fulfil his/her obligation in the specified period of time. If in that period the judgement debtor takes an action contravening his/her obligation or if the period expires without any results, the threatened fine shall be enforced immediately and a new period of time shall be set for execution of the action with a new, stricter fine threatened.
- (3) A fine imposed pursuant to paragraph 1 of this Article shall not be lower than 5,000 dinars or higher than 20,000 dinars for the first time. A fine may be repeatedly imposed, provided that the sum of the imposed fines shall not exceed 200,000 dinars.
- (4) The collected fine shall not be refunded.

Article 277

If a non-pecuniary obligation may not be enforced at all or may not be enforced in due time by employment of the mechanisms specified in Articles 275 and 276 of this Law, the enforcement may, depending on the nature of the obligation, also be carried out by direct coercion, unless otherwise specified in the relevant regulations.

Article 278

- (1) If a decision has been enforced and it is later annulled or amended, the judgement debtor shall be entitled to request a refund of what has been taken from him/her or the restitution to the condition arising from the new decision.
- (2) The request of the judgement debtor shall be decided by the authority that has adopted the conclusion authorising enforcement.

Chapter XVIII

ENFORCEMENT TO PROVIDE SECURITY AND PROVISIONAL CONCLUSION

1. Enforcement to Provide Security

Article 279

- (1) In order to secure the enforcement, a conclusion may be adopted to permit the enforcement of a decision even before it becomes enforceable, if the enforcement would be made impossible or considerably more difficult after the decision becomes enforceable.
- (2) In case of obligations that are being enforced by coercion only at the request of the party, that party shall have to make credible the risk of making the enforcement impossible or more difficult, and the authority may make the enforcement referred to in paragraph 1 of this Article conditional upon the provision of a security in accordance with Article 207, paragraph 2 hereof.
- (3) An appeal may be filed against the conclusion adopted at the party's request for enforcement to provide security, as well as against the conclusion adopted ex officio. An appeal against the conclusion authorising the enforcement to provide security shall not stay the enforcement.

Article 280

- (1) The enforcement to provide security may be carried out in administrative or judicial procedures.
- (2) When the enforcement to provide security is carried out in the judicial procedure, the court shall proceed in accordance with the provisions of the law regulating the enforcement procedure and the provisions of other laws applicable to judicial enforcement.

Article 281

A provisional decision may be enforced (Article 207) only to the extent and in the cases where the enforcement to provide security is permitted (Articles 279 and 280).

2. Provisional Conclusion on Security

Article 282

- (1) If the obligation of the party has at least been made credible and there is a risk that the party will make the enforcement of that obligation impossible or considerably more difficult, the authority deciding on the obligation of the party may before adoption of the decision adopt a provisional conclusion in order to secure the execution of that obligation. When adopting the provisional conclusion, the authority shall observe the provision of Article 263, paragraph 1 hereof and provide the relevant justification of the conclusion.
- (2) Adoption of the provisional conclusion may be made conditional upon the provision of a security envisaged in Article 207, paragraph 2 hereof.
- (3) The provisions of Article 279, paragraph 3 and Article 280 hereof shall apply to the provisional conclusion adopted pursuant to paragraph 1 of this Article.

Article 283

- (1) If the final decision has imposed no legal obligation upon the party for the enforcement of which the provisional conclusion has been adopted or if it is otherwise established that the request for adoption of the provisional conclusion has been unfounded, the requesting party to whose benefit the provisional conclusion has been adopted shall be obliged to compensate the opposing party for the damage incurred by the adopted conclusion.
- (2) The damage compensation referred to in paragraph 1 of this Article shall be decided by the authority that has adopted the provisional conclusion if the requesting party agrees to such damage compensation. If the requesting party does not agree to damage compensation, the opposing party may bring his/her damage claims before the competent court in civil procedure.

Part Five

IMPLEMENTATION OF THE LAW, TRANSITIONAL AND FINAL PROVISIONS

Chapter XIX

IMPLEMENTATION OF THE LAW

Article 284

- (1) The company or other organisation entrusted under the law with exercise of public powers may in the procedure conducted for violation of procedural discipline pronounce fines and other measures stipulated by the provisions of Article 63, paragraphs 3 and 4, Article 101, Article 159, paragraph 3, Article 171, paragraphs 1 and 2, Article 182, paragraph 1, and Article 187, paragraphs 2 and 3 of this Law.

- (2) The fines pronounced in accordance with paragraph 1 of this Article shall be enforced by the authorities responsible for enforcement of fines for offences. The authority responsible for enforcement of other coercive measures shall be the local self-government authority having jurisdiction in the place of residence or domicile of the party.
- (3) The proceeds from the pronounced fines referred to in paragraph 1 of this Article shall be paid into the budget of the Republic of Serbia.

Article 285

- (1) Authorisation to perform actions and decide in the procedure may be granted to an employee with the relevant qualifications.
- (2) The authority shall be obliged to announce in an appropriate manner which officers shall be authorised to decide in administrative matters and which to perform actions in the procedure before adoption of a decision.

Article 286

- (1) The officer of the authority conducting the procedure shall be responsible if specific actions are not performed in the procedure due to his/her fault.
- (2) The authority responsible for the implementation of this Law may request a disciplinary procedure to be initiated against the officer or the responsible person who has failed in his/her duty under paragraph 1 of this Article, as well as against the responsible person who, in contravention of Article 285 hereof, has designated an incompetent person to perform actions in the procedure or decide in the administrative matter.

Article 287

- (1) Control over the implementation of this Law shall be performed by the authority responsible for state administration.
- (2) The responsible authority shall be obliged to supervise the decision-making in administrative matters, particularly with regard to the specified time periods for decision-making and the qualifications of the authority's personnel engaged to work on administrative matters, as well as to provide explanations and professional assistance in the matters related to the application of the provisions of this Law. The authorities shall be obliged to enable the responsible authority to supervise the work related to deciding in administrative matters, and in particular to provide the responsible authority with specific data or information.

Article 288

- (1) Official records shall be kept of the decisions adopted in administrative matters.
- (2) The records referred to in paragraph 1 of this Article shall include the following data: number of submitted requests; number of procedures instituted ex officio; method and time periods allowed for deciding in administrative matters in the first- and second-instance procedures; number of annulled or cancelled decisions, and number of dismissed requests or suspended procedures.
- (3) The data referred to in paragraph 2 of this Article shall be kept and presented by administrative areas.

Article 289

Summons, delivery notes, orders to appear, records, records in the form of books, decisions referred to in Article 199, paragraph 1 and Article 203 of this Law, certificates referred to in Article 110, paragraph 1 of this Law, and other documents used in the procedure shall be drawn up in the prescribed form.

Chapter XX

TRANSITIONAL AND FINAL PROVISIONS

Article 290

The provisions of this Law shall apply to the cases the resolution of which has started before coming into force of this Law, if the relevant procedure has not ended in a final decision.

Article 291

As of the date of coming into force of this Law, the Law on General Administrative Procedure (“Official Gazette of the FRY”, no. 33 dated 11 July 1997 and no. 31 dated 27 June 2001) shall be revoked.

Article 292

This Law shall come into force upon expiry of 8 days from its publication in the “Official Herald of the Republic of Serbia”.