

**Attn.: Ms Fiona Marshall**

Environmental Affairs Officer - Secretary to the Compliance Committee  
Convention on Access to Information, Public Participation in Decision-making  
and Access to Justice in Environmental Matters  
United Nations Economic Commission for Europe  
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Dear Ms. Marshall,

Thank you for your letter dated February 3, 2016, enclosed with further questions related to the communication ACCC/C/2014/105 ("**Communication**") and discussion held October 9, 2015. Hungary submits these explanations and clarifications to the questions/matters raised, and respectfully asks the Committee to take them into consideration.

- I. **Please list the provisions of Hungarian legislation that directly transpose the Aarhus Convention provisions concerning access to environmental information and in particular, the provisions transposing the following:**
  - i. Art. 2 para 2
  - ii. Art 2 para 3
  - iii. Art 4 para 1(a), 2, 3, 4 and 7
  - iv. Art 5 para 1, 2, 5, 6 and 7

1. See Annex I to the reply to the Communication ACCC/C/2014/105

- II. **Please explain if, and under what circumstances, commercial companies are considered to "perform public administrative functions" or "have public responsibilities or functions or provide public services in relation to the environment" under Hungarian legislation and/or relevant case law of the Hungarian courts.**

**If MVM Paks NPP Ltd., MVM Hungarian Electricity Ltd., or another company related to the Paks nuclear power plant, are considered to "perform public administrative functions" or "have public responsibilities or functions or provide public services in relation to the environment", please provide an English translation of the acts of creation (documents establishing) the company.**

A. General provisions of performing public duties according to Hungarian laws

2. According to art. 3/A. para. 1 of the act 2011:CXCV (on state budget) public duties (responsibilities, functions and services) are determined by legal acts and carried out by state and local governmental bodies. Public duties shall be determined in legal acts or articles of incorporation of the legal entity/body. Art. 7 para. 1 says that budgetary

institutions/bodies are established in order to carry out the public duties determined in legal acts or in the articles of incorporation.

3. Art. 3 point 5 of act 2011: CXII (on the right of informational self-determination and on freedom of information) determines the persons and bodies to be considered to process or use public information, as any person or body attending to statutory State or municipal government functions or performing other public duties provided for by the relevant legislation (including those data pertaining to the activities of the given person or body).
4. Accordingly, in order to determine whether a legal entity/body is considered to be performing public duties we should look at the document establishing the entity/body, as public duties shall be included and detailed in the legal act or the articles of incorporations establishing the entity/body. The established entity/body shall perform these public duties within its competence. Therefore under Hungarian legislation an entity/body such as a commercial company is considered to “be performing public administrative functions” or “have public responsibilities or functions” or “provide public services in relation to the environment” and falls under the scope of the Aarhus Convention if the legal act or articles of incorporation establishing it determines public duty in relation to the environment.
5. Beyond any doubt, none of the commercial companies the Communicants protested, (1) MVM Paks Nuclear Power Plant Ltd. (Case N°1 resolved in 2011 see at III.1.1. Communication) and (2) MVM Hungarian Electricity Ltd. (Case N°2 resolved in 2012 see at III.1.2. Communication), are the government or any instrument of any government. Neither performs any “public administrative functions” either.

#### B. The Aarhus definition of “Public authority”

6. In terms of Art. 2(2)(b), as the 2000 edition of Guide to the Aarhus Convention put it, “Public corporations established by legislation or legal acts of a public authority under (a) fall under this category. Those bodies that might be covered by this subparagraph include public utilities and quasi-governmental bodies such as water authorities.” Again, beyond a doubt, neither MVM Paks Nuclear Power Plant Ltd. nor MVM Hungarian Electricity Ltd. were “established by legislation or legal acts of a public authority under (a)”, or as the 2014, or second edition, of the Guide put it, “for emphasis, any person authorized by law to be performing a public function of any kind falls under the definition of “public authority”.
7. Another aspect is raised in the 2014 Guide: “While the Convention is not entirely clear on this point, it would seem that a single body may perform public administrative functions with respect to a part of its activities, while other of its activities will be of a private nature. It would be reasonable, therefore, to apply the Convention only to those activities that fall under the definition.”
8. In terms of Art. 2(2)(c), the 2014 edition of the Guide expressly holds that “[O]nly persons having public responsibilities or functions or providing public services in relation to the environment can be public authorities under this subparagraph.” Again, it is not substantiated that any of the commercial companies concerned are having “public responsibilities or functions” or provide “public services”.

#### C. The Hungarian definition of “Public authority”

9. It shall be noted that as the addressees of Aarhus are the states (i.e. there is no direct applicability), the Aarhus provisions shall have been implemented by legislation within individual signatory states. [Somewhat similarly to EU directives which have (principally) no direct applicability contrary to regulations which do not require any national implementation and are directly effective with no implementation whatsoever.] This implementation in Hungary was carried out principally through the Act 2011:CXII on freedom of information (hereinafter referred to as the "Freedom of Information Act") and also by Act of 1995:LIII on environment protection followed by government decrees referred to in Annex I.
10. "Environmental information", as defined in Art. 2(3) Aarhus, is included in the otherwise much broader definition of "public information" provided for in art 3 para. 5 of the Freedom of Information Act. This definition reads as follows: "public information shall mean any known fact, data and information, other than personal data, that are processed and/or used by any person or body attending to statutory State or municipal government functions or performing other public duties provided for by the relevant legislation (including those data pertaining to the activities of the given person or body), irrespective of the method or format by which it is recorded, and whether autonomous or part of a compilation, such as, in particular, data relating to powers and competencies, organizational structures, professional activities and the evaluation of such activities covering various aspects thereof, such as efficiency, the types of data held and the regulations governing operations, as well as data relating to financial management and to contracts concluded".
11. The Aarhus notion of "Public authority" is corresponding to the definition of "data controller" or "controller" as defined in art. 3. para. 9 of Freedom of Information Act. This definition reads as follows: "controller shall mean the natural or legal person, or unincorporated body which alone or jointly with others determines the purposes of the processing of data, makes decisions regarding data processing (including the means) and implements such decisions itself or engages a data processor to execute them".
12. It is clear that while Aarhus works with a limited definition of "Public authority", this limitation is imbedded in the Hungarian definition of "public information" to similar effect.
13. In short, "Public authority" in the meaning of Aarhus in Hungary could be anyone who carries out state or municipal functions or provides public duties in relation to the environment delegated by legislation to her or him.

#### D. Commercial company versus Public authority

14. Apparently, commercial companies with no administrative functions under national law, public responsibilities or functions, and that provide no public services under the control of the state or a municipality, do not fall within the Aarhus-meaning of "Public authority" and the facts, data and information possessed or developed by them do not qualify as "public information" pursuant to the language of the Freedom of Information Act.
15. However, subsequent immediately to the adoption of the Freedom of Information Act in 2011, Hungarian law courts based on references to state property, state budget and atomic energy laws developed an ownership test and resolved in multiple cases (see analyses of them below) that any commercial company in any trade in which the State directly or indirectly owns or controls an interest of over 50% shall be taken as controlling "public information" or, in the Aarhus parlance, considered to be performing public duties and

qualifies as a “Public authority”. This ownership test developed and applied by the Hungarian judiciary de facto broadens the Aarhus-definition of “Public authority” and as such is now applicable in Hungary only.

E. Important elements of the relevant case law of the Hungarian courts:

16. Over the last few years, a lengthy process of legal interpretation and development has taken place before the courts with regard to the concept of public functions and thus whether they, as such entities, handle data of public interest. During this process, courts at different level examined whether MVM Paks NPP Ltd. and MVM Hungarian Electricity Ltd. are considered to be performing public duties and therefore under the governing law they are obliged to provide data they handle ex officio or on request to the public.
17. Case Nr. 13. GF.40.024/2011/4  
In this case the Court stated that MVM Paks NPP Ltd. was considered to be performing a public duty according to art 5 para. 2 of act 2007:CVI (on state property) and also on art. 100/K para. 6 of act 1992:XXXVIII (on state budget) as it said that companies in which the Hungarian state has a majority stake are to be considered bodies performing public duties.
18. According to the Court’s decision MVM Paks NPP Ltd. was considered to be performing public functions, which is further supported by the provisions of the act 1996: CXVI (on atomic energy). The Decision stated that “following from the provisions of the highly protected social interest prevails in the peaceful uses of nuclear energy; the strict legal regime governs the peaceful uses of nuclear energy; the system of governance and regulation and also the related responsibilities of the Government and the Parliament, the MVM Paks NPP Ltd. – through its role in electricity production – is considered to be performing public duties.”
19. Case Nr. FIT-H-PJ-2011-1245  
In this case the Court stated that MVM Electricity Ltd. was considered to be performing public duty. Through this statement the Court also laid down that public duty does not confine to the duties performed by state or local governmental bodies but the State establishes state owned companies in order to have its public duties carried out by them.
20. Case Nr. 27.G.40.021/2012/32  
In this case the Court ruled that MVM Paks NPP Ltd. (respondent) was considered to be performing public duty. The Court stated that public interest for allowing access to public information on the capacity maintenance activities and also on the overall operation of the NPP outweighed the trade interest of the respondent cited. The Court based the aforementioned statement on the argument that the MVM Paks NPP Ltd. was the only nuclear power plant in the country and it had a significant role in the electricity production, and should any accidents happen, the whole territory of the country could be affected. The Court took this into account when it determined the scope of the public information to be provided by the respondent.
21. Case 17-H-GJ-2013-4  
In this case the Court ruled against the Decision Nr. 13. GF.40.024/2011/4 and stated that MVM Paks NPP Ltd. was not considered to be performing public functions on the ground that companies in which the State had majority stake were to be considered to be performing public duties. However the Court confirmed that MVM Paks NPP Ltd was considered to be

performing public duties on the basis also established in Decision Nr. 13. GF.40.024/2011/4, per the provisions of act 1996:CXVI (on atomic energy).<sup>1</sup>

22. Case Nr. 17/1-H-GJ-2013-1

The Court decided in this case that MVM Paks NPP Ltd. was considered to be an entity performing public duties provided for by the relevant legislation as art. 3 point 5 of act 2011:CXII (on the right of informational self-determination and on freedom of information) determined the persons and bodies who are considered to be processing or using public information accordingly.

The Court also stated that any activities planned or being carried out in connection with the only nuclear power plant in Hungary concerns the majority of the society therefore the respondent was obliged to allow access to the public information requested.

23. Case Nr. K-H-PJ-2014-55

In this case the Court stated that MVM Paks NPP Ltd. was considered to be performing a public function on the basis of art. 3 point 5 of act 2011:CXII (on the right of informational self-determination and on freedom of information). The Court accepted the argument that the only nuclear power plant in Hungary concerns the majority of the society and therefore the respondent was obliged to allow public access to the information requested. However it also stated that access to public information could be limited by the protection of trade interests of the respondent.

24. Case Nr. 13.Pf.20.706/2014/6

In this case, the claim was submitted against the MVM Paks II Ltd. and the Court obliged the respondent to provide – with almost no exception – the information requested. The Court also ruled in its second instance binding judgment that no general confidentiality shall be applicable if the information is in relation to the environment.

25. All these court decisions were in favor of those requesting data and ordered the data be provided to them. It is worth mentioning that Hungarian courts, based on the special rules applicable, opened the door wider than the Convention requires. As a result of this lengthy process of legal interpretation and development, 16 pages of Paks II Project related documents are available at <http://paskontroll.hu/hu/kiperelt-iratok?&&&>.

#### F. Competence of the Compliance Committee

26. Art. 15 (Review of Compliance) Aarhus reads as follows: “The Meeting of the Parties shall establish, on a consensus basis, optional arrangements of a non-confrontational, non-judicial and consultative nature for reviewing compliance with the provisions of this Convention.”

27. The purpose of establishing the Compliance Committee was “to promote and improve compliance with the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters”.

28. The Compliance Committee was designed “for the review of compliance by the Parties with their obligations under the Convention”.

29. Pursuant to Art. 18 of Decision I/7, Hungary maintains that the Compliance Committee’s competence shall be limited to the examination of the compliance of the signatories with

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<sup>1</sup> Because Art. 100/K (6) of Act XXXVIII of 1992 on public finances was repealed.

Aarhus alone. Consequently, it falls beyond its competence to examine issues like whether commercial companies is considered to be performing public duties (not only in relation to the environment) according to Hungarian national laws stricter than Aarhus.

**III. Please explain the precise legal consequences for the planned extension of the Paks Nuclear Power Plant of the following Parliament Resolutions:**

- Parliament Resolution No. 40/2008 (IV. 17.) Ogy on the Energy Policy of Hungary in the Period 2008-2020;
- Parliament Resolution No. 25/2009 (IV. 2.) Ogy (by which the Parliament gave its “preliminary, principal consent to start the preparatory activities of establishing new block(s) at the site of the Paks nuclear power plant”);
- Parliament Resolution No. 77/2011 (X. 14.), approving National Energy Strategy for the period up to 2030;

**In what, if any, respects are any of the above Parliament Resolutions binding upon the subsequent decision-making procedures concerning the planned extension?**

30. It should be stated that the planned activity is not the extension but the replacement of the existing capacity of the Paks Nuclear Power Plant.
31. These three Parliament Resolutions are important milestones of the Paks II Project, although in a completely different way than was presented in the Communication ACCC/C/2014/105. This is because Parliament resolution has a special legal nature described below.
32. Act 2010:CXXX (on legislation) determines the different types of legal instruments in the Hungarian legal system. According to art. 23-24., the Parliament – beside acts – adopts normative and individual resolutions. Normative resolutions adopted by the Parliament contain normative provisions, but they are merely internal provisions, organizational and operational rules relating solely to the issuer or subordinated bodies or persons. These normative resolutions cannot be qualified as legally binding abstract norms. Therefore normative resolutions cannot determine the rights and obligations of citizens or other bodies not subordinate to the Parliament. These instruments cannot conflict with other legal norms either.
33. According to art. 24. para. 2 of the Act, beside normative resolutions the Parliament adopts also individual resolutions, which do not contain normative provisions at all. Therefore these resolutions are not regulated in detail by the Act. The importance of these resolutions does not reside in their binding legal nature, as they do not have such an effect, but rather in the fact that the adoption is made by the highest representative body. Therefore, for example, the National Environmental Program and the National Policy on radioactive waste management as well as energy strategy documents are adopted by Parliament Resolutions of that kind.
34. When explaining the precise legal consequences of these Parliament Resolutions, it is also very important to highlight that according to the Fundamental Law of Hungary the Government – as it belongs to a different branch of power – is not subordinate to the Parliament. The Parliament therefore cannot instruct the Government – or the authorities not subordinate to the Parliament –, thus any “task” determined by a Parliament Resolution is not binding on the Government or on the authorities with responsibility in decision-making process in legal terms, as they are not subordinate to the Parliament.

35. According to art. 7 para. 2 of act 1996: CXVI (on atomic energy) in order to launch preparatory works related to any nuclear facility, the Hungarian Parliament shall give its decision in principle. Regarding the Paks II Project the Parliament's decision in principle was given by the Parliament Resolution of 25/2009. (IV.2.). The Parliament's decision in principle is not legally binding in terms of the implementation of the Paks II Project, but it is a prerequisite required by the Act which emphasize the significance of starting preparatory works of a nuclear project. In its decision in principle, the Parliament neither obliges the Government to implement the project nor influences the subsequent decision-making procedure but simply gives its acceptance to start the preparatory works only because it is required by the Law. As a matter of fact, in representative democracy means of public participation in decision-making is ensured through their freely elected representatives<sup>2</sup>.

36. In light of the above it is clear that none of these Parliament Resolutions have binding nature, neither obliging the Government's actions nor concerning the subsequent decision-making procedures of the Paks II Project. This argument was also confirmed by Constitutional Court Decision Nr. 610/B/2009.<sup>3</sup>

37. Parliament resolutions, including the ones in the question, are not legislative, they are not laws of the country and, consequently, no rights or obligations are derived from them.

IV. **For each of the Parliament Resolutions listed in question 3 above, please state whether you consider that the Resolution, or document approved by it, should be considered a plan, program or policy relating to the environment under article 7 of the Convention or not.**

38. As Parliament Resolution of 25/2009. (IV.2.) completely differs from – based on further elaborated explanations – the other two Parliament Resolutions, we should first consider whether Parliament Resolution 40/2008. (IV.17.) and 77/2011. (X.14.) are under the scope of art. 7 of the Convention.

39. In the official text of the Aarhus Convention, neither a definition nor a description can be found for the plan, program, or policy relating to the environment. Therefore in order to consider the nature of the Parliament Resolutions in question on a legal basis, we should look at the provisions of Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the impacts of certain plans and programs on the environment. Taking note that the European Union<sup>4</sup> is also Party to the Convention, we believe that the definition of plans and programs of the Directive is in line with the Aarhus Convention.

40. Article 2 point a. of the Directive says that “*plans and programs shall mean plans and programs, including those co-financed by the European Community, as well as any modifications to them:*

- *which are subject to preparation and/or adoption by an authority at national, regional or local level or which are prepared by an authority for adoption, through a legislative procedure by Parliament or Government, and*

<sup>2</sup> Art. B para (3)-(4) of the Fundamental Law of Hungary: The source of public authority shall be the people. The people shall exercise power through their elected representatives, and also directly in exceptional cases.

<sup>3</sup> [http://www.mkab.hu/letoltesek/2009\\_iii\\_2159\\_3229.pdf](http://www.mkab.hu/letoltesek/2009_iii_2159_3229.pdf)

<sup>4</sup> The Decision on conclusion of the Aarhus Convention by the EC was adopted on 17 February 2005 [Decision 2005/370/EC]. The EC is a Party to the Convention since May 2005.

- *which are required by legislative, regulatory or administrative provisions;*<sup>5</sup>

41. The Espoo Convention follows this approach<sup>5</sup> too:

Art. 2 point 5. of the Protocol says *“Plans and programs means plans and programs and any modifications to them that are:*

- (a) Required by legislative, regulatory or administrative provisions; and*
- (b) Subject to preparation and/or adoption by an authority or prepared by an authority for adoption, through a formal procedure, by a parliament or a government.*

42. In that regard none of these Resolutions are either a plan or a program, as they fail to meet the terms of the definition at least in relation to two conditions: on one hand these Resolutions were not adopted through a legislative procedure – as Parliament Resolution does not qualify as a legislative act –, on the other hand, they are not required by legislative, regulatory or administrative provisions.

43. As previously stated Parliament Resolution of 25/2009. (IV.4.) has a completely different nature and legal basis than the other two. Preparatory work of new nuclear power projects can only be commenced in Hungary if the Parliament gives its decision in principle. In this Resolution the Parliament only gives its preliminary decision in principle in order that the preparatory activities of the nuclear project can be initiated. This very short – two-sentence-long – parliament resolution is not deemed to be a plan or program either, which would require environmental assessment according to the 2001/42/EC directive. This Resolution was not adopted through a legislative procedure – as Parliament Resolution does not qualify as legislative act – and it did not set the framework for future development consent of projects (Art. 3 para. 2 point a. of the Directive).

44. It also has to be emphasized that this Parliament Resolution due to the argumentation described above and also due to its content and obviously its length – despite what was stated by the Parliamentary Commissioner for Future Generations in its opinion JNO-128/2010 cited in the Communication and referred in Question 9 – does not constitute a modification of the 2008-2020 energy policy adopted by the Parliament Resolution of 40/2008 (IV.7.).

45. The Parliament resolutions that the question refers to are no plan, program or policy. Regarding their nature they do not have legislative nature but are statements by lawmakers of purely political nature with no legal consequences.

**V. Please clearly describe the opportunities that the public had to participate during the preparation of each of the Parliament Resolutions listed in question 3 above, or documents approved by them.**

46. According to act 2010:CXXXI (on public participation in preparation of the legislation) the public is involved in the preparation of legal acts. Drafts of legal acts have to be available for the public on the public authority's website – by which it was elaborated – in order to have the public's opinion, comment on them. The authority is obliged to take the opinions and comments submitted by the public into consideration.

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<sup>5</sup> Protocol on Strategic Environmental Impact Assessment to the Convention on Environmental Impact Assessment in a transboundary context



47. According to 24/2011. (VIII.9.) Min. decree, when the authority elaborates legal act, it is obliged to assess the social, environmental, economical, etc. impacts of the proposed legal acts. The comprehensive impact assessment document shall be attached to the proposal of the legal act as both are subject to negotiations and adoption.

48. As previously described, according to act 2010:CXXX (on legislation) Act, the Government decree, and the decree of the Prime Minister and the Minister qualify as legal acts. Consequently, Parliament Resolutions do not qualify as legal acts and they are not documents, which are subject to these procedures mentioned above. However, according to special provisions of the environmental protection law, in the course of the elaboration and preparation of both energy policy documents (Parliament Resolution of 40/2008. and 77/2011) the public and the civil and professional organizations were properly involved.

**49. Was any information (explanatory materials, fact sheets, analyses etc.), related to the above Parliament Resolutions, or documents approved by them, published before their adoption in accordance with article 5, paragraph 7 of the Convention?**

VI. With the objection to the applicability of art. 5 para. 7 of the Convention in the cases of these Parliament Resolutions, information was provided as the following:

*a) Parliament Resolution No. 40/2008 (IV. 17.) OGY on the Energy Policy of Hungary in the Period 2008-2020*

50. The draft Resolution containing an environmental assessment was sent to the National Environment Protection Council for comment in accordance with the rules of the special procedure established by art. 44 para. 2 of act 1995:LIII (on Environment Protection). The National Environment Protection Council<sup>6</sup> commented on the draft proposal, and as part of this process, gave non-governmental organizations an opportunity to also comment on the document. The documents were also available for the public on the Ministry's as well as the Parliament's website<sup>7</sup>. Subsequently, Parliament adopted the proposal on April 17, 2008.

*b) Parliament Resolution No. 25/2009 (IV. 2.) OGY, the Parliament decision in principle;*

51. The proposal was discussed by the Environmental Committee as well as the Committee of Economy and IT and – from its submission on – it was also published on the Parliament's website.<sup>8</sup>

*c) Parliament Resolution No. 77/2011 (X. 14.), approving National Energy Strategy for the period up to 2030;*

52. In the course of drawing up the National Energy Strategy, the Ministry consulted nearly 110 important organizations: businesses, scientific and professional bodies, NGOs, higher education institutions, energy producing and distributing companies and organizations of

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<sup>6</sup> National Environment Protection Council: the body responsible for making proposals and providing advice and comments to the Government on environmental issues. The National Environment Protection Council has wide-ranging rights in commenting on draft legislation, strategic plans and plans and programmes that are expected to have a significant impact on the environment; regarding some issues, it has the power to submit proposals to the Government etc. It is made up of 21 elected (delegated) members, divided equally between representatives of environmental non-governmental organisations, professional and business groups (chosen by their preferred method) and academia.

<sup>7</sup> <http://www.parlament.hu/irom38/04858/04858.pdf>

<sup>8</sup> <http://www.parlament.hu/irom38/09173/09173.pdf>

energy users. Additionally, the ministry took into account the recommendations of consultative technical committees operating at the ministry, those of the International Energy Agency, as well as the energy policy of the European Union. The general public had a chance to learn about and comment on the National Energy Strategy in the course of public consultation, and both Energiaklub and Greenpeace Hungary submitted their comments.

53. As described under Question 4., National Energy Strategy does not qualify as a plan or program according to 2001/42/EC Directive<sup>9</sup>. Consequently, the Strategy is not subject to SEA under International, EU and Hungarian law. Indeed, conducting a SEA was not driven by a mandatory requirement, but rather, by the genuine need for a broad and well-balanced planning-cycle. The possible domestic and transboundary impacts of the Strategy were analysed independently of this legal fact.

54. Regarding the transboundary impacts of the Strategy, it was concluded that no such impacts were likely to arise from the implementation of the Strategy. This limitation must however be seen in the status and the general nature of the Strategy as it outlines policy scenarios and directions rather than deciding on individual developments.

55. In the course of the strategic environmental assessment, an environmental report showing the overall environmental impacts of the National Energy Strategy was drawn up, and, in accordance with the provisions of the relevant Government Decree, it was sent to the competent environmental body and to the National Environment Protection Council as well. During the procedure, the general public had 30 days to comment on the main topics of the environmental assessment, and another 30 days to comment on the Strategy and the environmental assessment report. The proposal was also published on the Parliament's website<sup>10</sup>.

**VII. What is the current stage of the decision-making (permitting) process for the planned extension of the Paks Nuclear Power Plant? Which, if any, aspects of this project have already been decided upon, and by what act(s) or decision(s)? What kinds of decisions are yet to be issued in the future?**

56. It should be laid down that the planned activity is not the extension but the replacement of the existing capacity of the Paks Nuclear Power Plant.

57. In this context it should be mentioned that on May 22, 2015 the Government of Hungary has submitted its official "no State Aid" notification to the European Commission on the Paks II. Project. After several months of detailed assessment without finding any evidence on the existence of State Aid, the Commission decided on initiating a formal in-depth investigation<sup>11</sup> on the Paks II. Project. In this instance, the measure may not be implemented until the investigation is concluded therefore the Paks II Project is now pending in the context of EU laws and waiting for the Commission's positive reply.

58. For the implementation of a nuclear project, it is necessary to carry out a complex, manifold, multi-level licensing process with the cooperation of multiple authorities. According to the

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<sup>9</sup> Government Decree 2/2005 (I. 11.) on the environmental assessment of certain plans and programmes transposing Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programs on the environment.

<sup>10</sup> <http://www.parlament.hu/irom39/03839/03839.pdf>

<sup>11</sup> Energiaklub also submitted its comments on the Paks II Project in the in-depth procedure launched by the Commission.

governing law, more than six thousand permits and licenses have to be obtained in the course of the realization of the planned nuclear project (See Annex II to the present documentation). The licensing procedures of the planned project cover the following main fields:

- Radiation protection
- Environmental protection
- Water law
- Nuclear safety
- Electricity grid connection and electricity trade
- Technical supervision
- Architecture
- Others

59. Nuclear permits – covering an extensive part of the permitting process – are governed by act of 1996:CXVI (on Atomic Energy) and by Govt. Decree 118/2011. (VII.11.) (on the nuclear safety requirements of nuclear facilities and on related regulatory activities) and the competent authority is the Hungarian Atomic Energy Authority.
60. The current stage of the decision-making (permitting) process for the planned replacement of the capacity of the Paks Nuclear Power Plant is described in detail below. Summing it up:
- the site investigation and assessment license was issued on November 14, 2014,
  - the environmental impact assessment procedure was begun on December 19, 2014 and is still on-going.
  - The following license procedures are slated for initiation in 2016: site licensing, the MEKH principal permit procedure and Construction licensing.
61. It is important to emphasize that not all these licensing procedures are considered to be an *environmental decision-making procedure* under the scope of the Aarhus Convention. Therefore the tools/opportunities of public participation therein are regulated differently and it depends on the licensing procedure itself (e.g. act 1996:CXVI requires public hearing to be held in all facility-level license procedures related to nuclear facilities). Notwithstanding the obligation of bodies performing public duties related to the environment to provide access and make available the environmental information they handle still governs.

*A. Licensing procedure of the investigation and assessment of the site*

62. The procedure is meant to justify the conformity of methods and theoretical principles that were elaborated based on the investigation and evaluation program to be carried out with the purpose of proving the suitability of the site to host the two new nuclear units. It is also meant to justify the methods elaborated to characterise the site as well as the site investigation and evaluation programs are suitable for determining and justifying the data related to the site that are necessary for designing.
63. This procedure ended with the permit No. HA5919 issued on November 14, 2014 by the competent authority. As a part of the procedure, the competent authority held a public hearing on May 5, 2014<sup>12</sup>. In accordance with the valid permit, site investigation and evaluation program is currently being carried out by the MVM Paks II Ltd.. Further public hearings will be held in 2016 in the frame of the site licensing procedure.

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<sup>12</sup> as it is required by art. 63 of act 2004:CXL (on the General Rules of Administrative Proceedings and Services) and Art. 11/A para. 4 of act 1996:CXVI (on Atomic Energy)

## *B. Environmental licensing*

64. Pursuant to art. 66 para. 1 of the Act 1995:LIII (on environment protection), any activity having or possibly having any impact on the environment can only be commenced after having the environmental license issued by the environmental protection authority. According to the relevant provisions, the Paks II Project falls under the scope of the provision above therefore it is subject to an environmental licensing procedure.
65. The first phase of the environmental licensing procedure is the scoping procedure (which is not compulsory pursuant to the EIA Directive or the relevant Gov. Decree<sup>13</sup>), during which the competent environmental authority – involving other competent agencies and authorities – assesses and evaluates the information submitted and accordingly determines the content requirements of the environmental impact assessment to be submitted later, in the second phase of the process.
66. The Project Company initiated the scoping procedure in late 2012, with the submission of the preliminary consultation documentation (hereinafter referred to as PCD) which was made available to the public at <http://2010-2014.kormany.hu/hu/videkfejllesztis-miniszterium/kornyezetugyert-felelos-allamtitkarsag/hirek/nemzekozi-kornyezetvedelmi> and also at <http://www.mvmpaks2.hu/hu/Dokumentumtarolo/EKD-ENG.pdf>.<sup>14</sup> This documentation was also sent to 30 European countries. As a result, during this procedure the almost 200 pages long PCD was available for the public both in Hungary and in 30 European countries<sup>15</sup> according to the Espoo Convention on Environmental Impact Assessment in a Transboundary Context<sup>16</sup>. The PCD was examined and commented on by the competent authorities involved. In the PCD the following main topics were elaborated in detail:
- Characteristics of the site, the nuclear energy generation technology and the variations of the planned new units taken into consideration
  - Description of the environmental impacts
  - Boundary of impact areas for variations considered
  - Environmental impacts related to decommissioning of new unit variations considered
  - Assessment of possible trans-boundary impacts
67. As a result of the scoping procedure, the environmental authority determined in its official opinion the content-related requirements of the future environmental impact assessment study and stated that by evaluating the information submitted it did not find any circumstances excluding the initiation of the environmental impact assessment procedure of the planned project.
68. The environmental impact assessment procedure is currently ongoing. It began on December 19, 2014 with the submission of the environmental impact assessment study (hereinafter referred to as EIAS) of more than two thousand pages, also published in full at <http://oracle.barko.hu/kofo/755.zip> and also

<sup>13</sup> 314/2005. (XII. 25.) Gov. Decree

<sup>14</sup> Regarding early participation of the public, the Aarhus Compliance Committee findings on ACC/C/2006/16 (Lithuania) stated that "the law which envisages public participation at the stage of scoping appears to provide for early public participation in EIA decision making."

<sup>15</sup> 26 other EU member states, all Hungary's neighbours and, on the request of Greenpeace Switzerland, Switzerland

<sup>16</sup> 148/1999 (X. 13.) Gov. Decree

<http://www.mvmpaks2.hu/hu/Kozerdeku/KozerdekuDokumentumok/KornyezetvedelmiEngedelyezes/KornyezetiHatastanulmany/Lapok/default.aspx>.

69. The EIAS contains the following main topics in detail:

- Basic information on the planned project
- Forecasts and strategies related to the planned project
- A general guide to nuclear engineering
- Description of the planned installation site
- Possible methods of condenser cooling in the new nuclear power plant units
- Characteristics and basic specifications of the Paks II Nuclear Power Plant planned to be built on the Paks site
- Connection to the Hungarian power grid
- Potential impact factors and impact matrices of Paks II
- Social and economic effects
- Climate Profile of Paks and its Environs Within a 30 km Radius
- Modelling the Danube bed morphology and heat load on the Danube
- Assessment of water quality in the Danube and other surface waters according to the Water Framework Directive
- The geological formation and subsurface waters on the site and in its immediate environs
- Geological formation and subsurface waters in the Danube valley downstream of Paks
- Noise and vibration
- Ambient air
- Non-radioactive wastes
- Wildlife and ecosystem
- Radioactive wastes and spent fuels
- Ambient radioactivity, and exposure of the population living in the vicinity of the site to radiation
- Exposure of wildlife to radiation in the vicinity of the site
- Summary impact matrices and aggregate impact areas
- International chapter
- Simplified public summary

70. In this procedure – pursuant to art. 98 para. 1 act 1995:LIII (on environment protection) – civil organizations formed to represent environmental interests are entitled to the legal status of being a party in the environmental protection administration procedures. About 10 civil organizations – Energiaklub and Greenpeace included – are participating as parties in this procedure.

71. The environmental authority held a public hearing on May 7, 2015, in Paks. According to art. 9. para. 6-7 of the Gov. Decree 314/2015. (XII.25.) the environmental authority published the data on the public hearing in a bulletin and forwarded them to the clerks of participating municipalities in order to publishing. The publication was performed 30 workdays before the public hearing. Furthermore, before the public hearing, a wide group of stakeholders was notified by the authority about the public hearing. These stakeholders include the relevant sectorial authorities and the local governments, the developer, non-governmental organizations set up to protect environmental interests and other non-governmental organizations that indicated that they wish to participate in the proceedings.

72. In course of the international phase of the environmental licensing procedure, 9 hearings in 7 interested countries (Austria, Croatia, Germany, Romania, Serbia, Slovenia, Ukraine) were held fulfilling the wishes of the countries which signed-up to the process
73. When making its final decision, the environmental authority is obliged to assess and take into consideration all the comments, questions or any other inputs received from the public during the whole procedure.

#### *C. Site licensing*

74. This procedure aims to prove that there are no such characteristics of the site existent that would make the construction of the power plant impossible. In addition, evidence must be acquired that the site investigation process, the evaluation of the data established according to the site investigation and the design data related to the site and collected during the evaluation are suitable. The application is slated for submission in 2016.

#### *D. MEKH principal permit procedure*

75. According to act of 2007:LXXXVI. (on electricity) and Gov. decree 273/2007. (X. 19.), a preliminary license has to be obtained for any power plant projects – in excess of 500 MW capacity – that have a significant impact on the operation of the power grid. The competent authority in that procedure is the Hungarian Energy and Public Utility Regulatory Authority.

#### *E. Construction licensing*

76. The construction license is one of the most important nuclear safety licenses in course of the implementation of the Paks II Project. A Preliminary Safety Assessment Report (PSAR) shall be attached to the construction license application, in which the fulfillment of the legal requirements, the application of safety principles and criteria shall be verified as well as the fact that the intended nuclear power plant can be safely constructed and operated. The construction licensing application includes preliminary safety analysis report as the most important part of the safety evaluation of the plant.

### **VIII. What kind of information concerning the planned extension of the Paks Nuclear Power Plant has the Party concerned published so far in accordance with article 5, paragraph 7 of the Convention?**

77. See Annex III to the reply to the Communication ACCC/C/2014/105.

### **IX. Is it correct that the Office of the Hungarian Ombudsman for Future Generations, in statement No. JNO-128/2010, invited the Hungarian Government to publish the results of the EIA and strategic assessments, if any, and to proceed with the preparatory work of the extension of the Paks Nuclear Power Plant with the fullest inclusion of the general public? If yes, what was the Government reaction to this statement?**

78. According to our understanding of the relevant provisions of the Aarhus Convention and of the Hungarian regulations, the legal basis of the opinion given by the Parliamentary Commissioner (Ombudsman) is inaccurate and it gives legally controversial statements.

79. First of all, in his opinion the Commissioner examined two of the Parliament Resolutions detailed above (see them in our answers to question 3-6 above). Please take into

consideration the non-binding legal nature of the Parliament Resolution with no normative content described above and also the fact that the Government is not subordinate to the Parliament therefore it cannot be instructed by the Parliament.

80. Secondly, in his opinion the Commissioner examined two Parliament Resolutions. However, according to art. 29 para. 2 point a) of act 1993:LIX (on the legal status of the Parliament Commissioner for Future Generations) the Parliament is exempted from the scope of the investigation of the Commissioner.

81. As also confirmed by the Commissioner in his opinion, the (social and environmental) importance of the Parliament decision in principle resides in the fact that the “approval” is given by the highest representative body in the country, elected by the people.

82. Opposed to the statements of the Commissioner:

- This Parliament Resolution – due to the specific legal nature, the content and obviously its length – did not constitute a modification of the 2008-2020 energy policy adopted by the Parliamentary Resolution of 40/2008 (IV.7.). (This is proved by the fact that continuity of energy policy decisions is ensured by Parliament Resolution of 77/2011. (X. 14.) on the National Energy Strategy as indicated by Art. 6 of Parliament Resolution of 77/2011. (X.14.).)
- This Parliament Resolution 25/2009. (IV.2.) is definitely not the implementation of the non-binding “task” determined in 40/2008. (IV.17.) Parliament Resolution.
- This Parliament Resolution does not fall under the scope of strategic environmental assessment.
- The Ombudsman’s statement was the following – translated correctly: *“The Commissioner according to the art 21 of the act 1993:LIX (on the legal status of the Parliament Commissioner for Future Generations) indicates the Government’s action in order to make the environmental impact assessments and strategic environmental assessments – no sooner than they are accomplished – available to the public.”*

83. The Commissioner’s opinion was somewhat premature at the time. Any and all data with any impact on the environment have been published as soon as they were complete. So regarding the Government’s reaction to the statement, all the results and statements of the environmental impact assessments carried out in relation to the Paks II Project have been made public – as required – according to the Annex III of the present document.

## Summary

84. In full compliance with the Euratom Treaty<sup>17</sup> in 2014, the Hungarian government concluded (1) an intergovernmental agreement with Russia on the cooperation in the peaceful use of nuclear energy and the construction of two new nuclear units with a capacity of at least 1000MW each on the site in Paks (IGA). Further, in 2014 Hungary and Russia signed (2) a financing intergovernmental agreement (FIGA). Both Agreements (IGA and FIGA) have been voted into acts in Hungary and are publicly available.

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<sup>17</sup> For the EURATOM Treaty the Commission has in a binding decision held that the IGA is compliant by confirming that its services “did not find any element that would as of itself impede the application of the EURATOM Treaty in the meaning of its Article 103”

85. At the end of 2014, the Hungarian project company (MVM Paks II. Atomerőmű Fejlesztő Zrt.) and NIAEP (Russian project company) signed (1) an EPC (engineering, procurement and construction) agreement (came into force on 1st January 2015), (2) a fuel supply agreement<sup>18</sup> and (3) an operation and maintenance support agreement.
86. These documents lay down the contractual framework of the planned project. However this framework is independent in legal terms from and has no effect on the decision-making process of the Paks II Project. As described under question 7 the Paks II Project is now pending in the context of EU laws and waiting for the Commission's positive reply. According to Hungarian Law, a decision-making process is carried out by independent authorities according to international and EU requirements.
87. As it is a very important guarantee, the environmental impact assessment procedure has to be carried out before development consent is given to any public and private projects, which may have impacts on the environment. Development consent can only be granted only after a comprehensive environmental assessment procedure with regard to the impacts of the planned activity on the environment is completed.
88. In this procedure, early and effective opportunities of participation are given to the public concerned, and through this the public is entitled to express their comments and opinions before the decision on the request for a development consent is taken, which means at a time when all options are still open to the competent authorities.

Sincerely,

Andrea Barad  
National Focal Point  
Aarhus Convention  
Hungary

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<sup>18</sup> The NFSC was amended according to the instructions of the Euratom Supply Agency (EAS) and subsequently co-signed by the ESA in consultation with the European Commission on 20 April 2015.



**Provisions of Hungarian legislation that directly transpose the following particular Aarhus Convention's provisions concerning access to environmental information**

**Art. 2 para. 2 of the Convention „Public authority”**

This is transposed by the following legal provisions:

- Art. 12 of act 1995:LIII on the General Rules of the Protection of the Environment (attached in full text)
- Art. 3 point 5 of act 2011: CXII on the right of informational self-determination and on freedom of information (attached in full text)
- Art. 3/A. para. 1 act 2011: CXCV on state budget  
*“Public duties (responsibilities, functions and services) are determined by legal acts and carried out by state and local governmental bodies. Public duties shall be determined in legal acts or articles of incorporation of the legal entity/body.”*

**Art. 2 para. 3 of the Convention „Environmental information”**

This is transposed by the following legal provisions:

- Art. 12 para. 2 of act 1995:LIII on the General Rules of the Protection of the Environment (attached in full text)
- Art. 2 of Gov. Decree 311/2005 (XII. 25) on public access to environmental information (attached in full text)

**Article 4, paragraphs 1(a), 2, 3, 4 and article 4, paragraph 7**

These are transposed by the following legal provisions:

- Art. 26-68 of act 2011: CXII on the Right of Informational Self-Determination and on Freedom of Information (attached in full text)
- Also see at point 42-57. of Hungary's national report on the implementation of the Aarhus Convention

**Article 5, paragraphs 1-2, 5, 6 and 7 of the Convention**

These are transposed by the following legal provisions:

- Art. 12., 49-51A., 54-55., 81/A., 84-85., of act 1995:LIII on the General Rules of the Protection of the Environment (attached in full text)
- Art. 3-6 of Gov. Decree 311/2005 (XII. 25) on public access to environmental information (attached in full text)
- Act. 2010: CXXXI on the public participation in the preparation of legal acts (attached in full text)
- 24/2011. (VIII.9.) Min. Decree on preliminary and posteriori impact assessment (attached in full text)
- Relevant provisions of Art. 15-19. 38/2012. (III.12.) Gov. Decree on strategic governance  
*“This Decree shall be applied in the preparation and adoption of any strategy/plan/program elaborated by the Government or other person/entity/body subordinated to it.  
These documents are subject to the obligatory procedure determined by the Decree.*

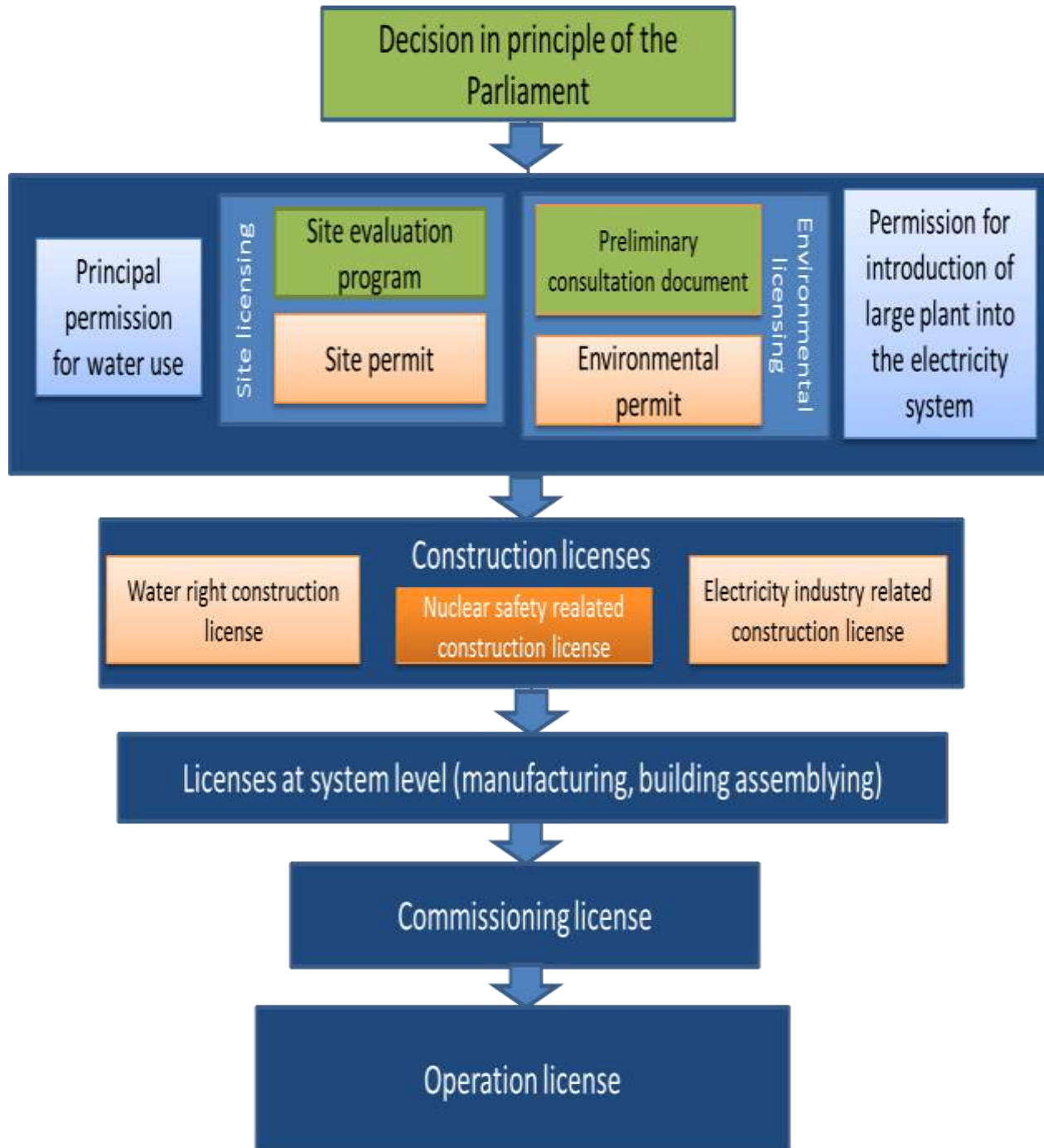
*In order to have the public's comments/opinion on the proposal of the strategy/plan, it shall be ensured that the public has the opportunity to learn about the strategy/plan during their preparation.*

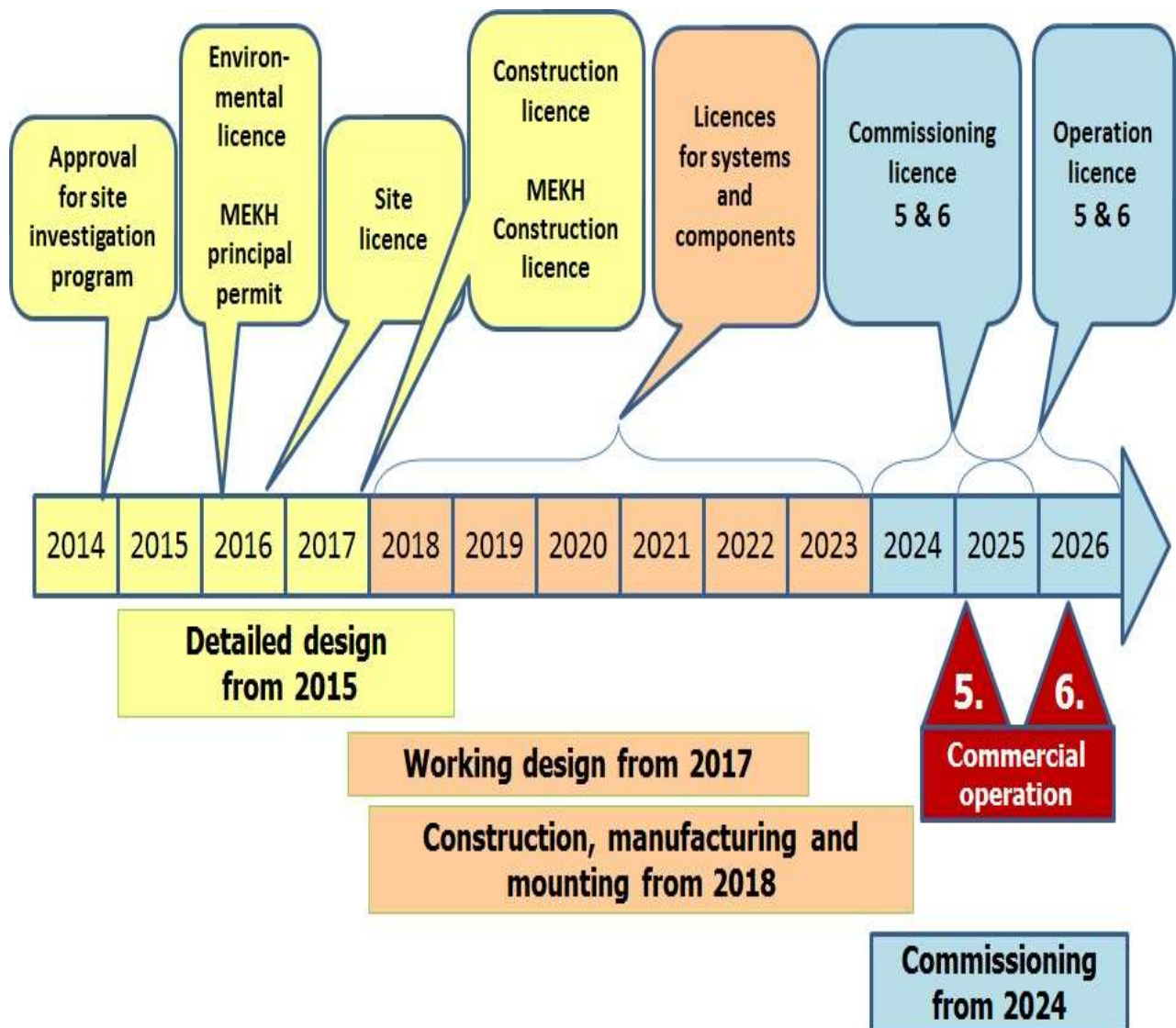
*The authority responsible for the preparation of the specific strategy/plan is obliged to make the proposal available (to whom? the public?), to collect and evaluate the comments and opinions from the public.*

*The proposal shall be available on the Government's website.*

*The proposal shall be available to anyone without discrimination and for no charge."*

- Also see at point 42-57. of Hungary's national report on the implementation of the Aarhus Convention





- National Energy Strategy and its supporting documents: <http://2010-2014.kormany.hu/download/7/d7/70000/Hungarian%20Energy%20Strategy%202030.pdf>
- National Climate Change Strategy: <http://klima.kormany.hu/indul-a-nemzeti-eghajatvaltozasi-strategia-tarsadalmi-konzultacioja> és <http://nak.mfgi.hu/hu/taxonomy/term/16>,
- Studies for the social and economic justification of the Project elaborated by the MVM Group: [http://www.mvm.hu/hu/szakmai-informaciok/szakmai\\_kiadvanyok/mvm-kozlemenyek/Lapok/default.aspx](http://www.mvm.hu/hu/szakmai-informaciok/szakmai_kiadvanyok/mvm-kozlemenyek/Lapok/default.aspx)
- Hungary's energy policy regarding the 2006-2030 period elaborated by the MVM Group: [http://www.mvm.hu/hu/szakmai-informaciok/szakmai\\_kiadvanyok/mvm-kozlemenyek/Documents/2006/magy\\_energiapol\\_tezisei1.pdf](http://www.mvm.hu/hu/szakmai-informaciok/szakmai_kiadvanyok/mvm-kozlemenyek/Documents/2006/magy_energiapol_tezisei1.pdf)
- Hungarian electricity system development plan for medium and long terms: [https://www.mavir.hu/documents/10258/15461/Forr%C3%A1selemz%C3%A9s\\_2013.pdf/0a51f06c-73e7-4607-b582-00d3b1434837](https://www.mavir.hu/documents/10258/15461/Forr%C3%A1selemz%C3%A9s_2013.pdf/0a51f06c-73e7-4607-b582-00d3b1434837),
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- Feasibility study 1-2. [http://energiakontrollprogram.hu/sites/energiakontrollprogram.hu/files/9\\_megvalosithatosagi\\_tanulmany\\_-\\_1\\_resz.pdf](http://energiakontrollprogram.hu/sites/energiakontrollprogram.hu/files/9_megvalosithatosagi_tanulmany_-_1_resz.pdf) [http://energiakontrollprogram.hu/sites/energiakontrollprogram.hu/files/9\\_megvalosithatosagi\\_tanulmany\\_-\\_2\\_resz.pdf](http://energiakontrollprogram.hu/sites/energiakontrollprogram.hu/files/9_megvalosithatosagi_tanulmany_-_2_resz.pdf)
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[http://energiakontrollprogram.hu/sites/energiakontrollprogram.hu/files/radhull\\_strategia\\_a\\_eki.pdf](http://energiakontrollprogram.hu/sites/energiakontrollprogram.hu/files/radhull_strategia_a_eki.pdf)
- Social and economic feasibility study  
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[http://www.mvmpaks2.hu/hu/Dokumentumtarolo/2015\\_Economic%20analysis%20of%20Paks%20II%20-%20for%20publication%20\(1\).pdf](http://www.mvmpaks2.hu/hu/Dokumentumtarolo/2015_Economic%20analysis%20of%20Paks%20II%20-%20for%20publication%20(1).pdf)
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**Act CXXXI of 2010  
on Public Participation in Developing Legislation<sup>1</sup>**

In order to foster the engagement of the widest possible range of social groups in developing legislation as part of good governance, thereby laying the foundations of broad-based legislation to serve the public good and thus improve the quality and enforceability of legislation, which together constitute the indispensable prerequisites of the good State, in line with the Act on Legislation, Parliament hereby adopts the following Act<sup>2</sup>:

*CHAPTER I*

*GENERAL PROVISIONS*

**1. Scope**

**Art. 1** (1) The scope of this Act shall extend to the commenting by natural persons and non-governmental and non-municipal organisations of legislative drafts prepared by the ministers (hereinafter: public consultation). The scope of this Act shall also extend to regulatory concepts serving as the basis of legislative drafts prepared by the ministers (hereinafter: concept).

(2) The provisions of this Act shall not affect the rights to comment and to consultation specified in other legislation or in other public law instruments governing organisations.

(3)<sup>3</sup> The scope of this Act shall not extend to the drafting of legislation during a special legal order.

**2. Basic Principles**

**Art. 2** (1) In the course of public consultation, it shall be ensured that the widest possible range of comments are collected, in particular from socio-economically marginalised and disadvantaged groups.

(2) In drafting legislation the transparency and maximum publicity of consultations shall be ensured.

(3) In the course of public consultation, the participants shall act in cooperation.

*CHAPTER II*

*LEGISLATIVE PLANNING*

**3. Legislative Plan of the Government**

**Art. 3** <sup>4</sup> The legislative plan of the Government shall – in view of international obligations; requirements in relation to alignment with European Union obligations; the decisions of Parliament and the Constitutional Court; and the designation of persons in charge – be determined by resolution adopted by Parliament in the course of its ordinary sessions.

**4. The Minister's Legislative Brief**

**Art. 4** The minister responsible for drafting the legislation shall publish their legislative brief in respect of the legislative planning period of the Government on a designated website (hereinafter: website). The legislative brief of the minister responsible for drafting the legislation shall include the titles of the legislative drafts to be prepared by them, a short summary of their contents, and the scheduled dates of making public the legislative drafts. Published ministerial legislative briefs may not be removed from the website for one year from their publication.

### *CHAPTER III.*

### *PUBLIC CONSULTATION*

#### **5. Common Rules of Public Consultation**

**Art. 5 (1) Draft**

- a) Acts,
- b) Government Decrees,
- c) Ministerial Decrees

(hereinafter jointly: draft) shall be submitted for public consultation.

(2) Prior to submitting a draft for public consultation, the concept of the draft may also be submitted for public consultation subject to the decision of the minister responsible for drafting the legislation.

(3) Legislative drafts on

- a) payment obligations,
- b) state subsidies,
- c) the Budget and its execution,
- d) funding received from the European Union and international sources,
- e) the promulgation of international treaties, and
- f) the establishment of organisations and institutions,

shall not be submitted for public consultation.

(4)<sup>5</sup> A draft or concept shall not be submitted for public consultation in the event that such consultation compromised the protection of particularly important defence, national security, financial, foreign, nature conservation, environmental, or heritage protection interests of Hungary.

(5) A legislative draft shall not be submitted for public consultation in the event that a prevailing public interest justifies its rapid approval.

**Art. 6 (1)** It shall be the responsibility of the minister responsible for drafting the legislation to open and conduct public consultation and to process comments received.

(2) In the event that the published legislative draft aims to amend more than one fifth of the provisions of another piece of legislation, the amended and consolidated text of the effective legislation together with the proposed amendments separately marked shall be published on the website.

#### **6. Forms of Public Consultation**

**Art. 7 (1)** Public consultation may take the following forms:

- a) making comments via the link available on the website (hereinafter: general consultation), and

b) comments made by persons, institutions and organisations engaged by the minister responsible for drafting the legislation (hereinafter: direct consultation).

(2) The minister responsible for drafting the legislation may use other forms of consultation in addition to those specified in para. (1).

## **7. General Consultation**

**Art. 8** (1) Holding a general consultation shall be mandatory in the course of public consultation in all cases.

(2) The draft or concept submitted for public consultation shall be made public on the website as set forth in Art. 5.

(3) In addition to the draft, the summary of a preliminary impact study as set forth in the Act on Legislation shall be made public on the website.

(4) Pursuant to Art. 5(5) hereof, drafts not submitted for public consultation shall also be made public on the website.

**Art. 9** (1) Anyone may make comments on the draft or concept submitted for public consultation via the electronic mail address provided on the website. Return receipts shall be sent on the comments received.

(2) Comments received anonymously shall be ignored and deleted.

(3) The names and electronic addresses of commenters shall – for the purposes of sending return receipts, publishing a summary and the list of commenters pursuant to Art. 11, and making subsequent comments pursuant to Art. 12 – be handled by the minister responsible for drafting the legislation for no longer than one and a half years from the entry into force of the commented legislation. In the event that the commented legislation does not enter into force the name and electronic address of the commenter shall be deleted within no longer than one year of the receipt of the comment.

(4) <sup>6</sup> In respect of data handling as set forth in para. (3) of this Art., consent to handling the personal data of the commenter shall be considered to be granted. The commenter's attention shall be drawn to this fact and to the rules of data handling with regard to the commenter's data before the comment is made.

(5) The published drafts may not be removed from the website for one year from publication.

**Art. 10** (1) The draft, which shall be submitted for concurrent consultation with government agencies, shall – in line with the objective and entry into force of the draft – be published in a way to allow sufficient time for the substantive appraisal of the draft, as well as for making comments and considering the merits of the received comments and suggestions.

(2) The deadline for making comments shall be the same as the one set in the course of submitting the draft for consultation with government agencies; in an exceptional case, the minister responsible for drafting the legislation may determine a different deadline.

**Art. 11** (1) The minister responsible for drafting the legislation shall consider the received comments and prepare a typified summary on them, and, in the case of rejected comments, on the reasons for rejection, which shall be published together with the list of commenters on the website. The minister responsible for drafting the legislation shall be under no obligation to respond individually.



(2) The summary to be prepared pursuant to para. (1) shall, in the case of a law, be published after submission to Parliament and, in the case of a government or ministerial decree, after promulgation.

(3) At the request of the parliamentary committee discussing the proposed legislation, comments received on the published legislative draft shall be made available to the committee.

**Art. 12** (1) On the website, contacts shall be made available for at least sixty days to allow

a) concurrently with the ex-post impact study pursuant to the Act on Legislation, subject to the decision of the minister responsible for drafting the legislation; and

b) following entry into force;

ba) in the case of an Act, as necessary but after the lapse of at least one year;

bb) in the case of a Government Decree and Ministerial Decree, subject to the decision of the minister responsible for drafting the legislation

any person to make comments, raise problems and make recommendations to the drafters of the legislation.

(2) All persons who have made comments in the course of preliminary consultation of the draft legislation shall be notified by electronic means of the possibility of making comments – except for subsequent comments made concurrently with the ex-post impact study – related to its entry into force.

(3) In the case of comments on the entry into force of legislation, the provisions of Art. 9 and 11 shall be applied *mutatis mutandis*.

## 8. Direct consultation

**Art. 13** (1) The minister responsible for drafting the legislation shall create strategic partnership agreements. By means of such agreements the minister responsible for drafting the legislation may establish close cooperation with those organisations which are prepared to engage in mutual collaboration and which represent a wide range of social interests in drafting legislation, or carry out scientific activities, in the particular areas of law (hereinafter: strategic partner).

(2) Strategic partnerships may be established in particular with representatives of

a) non-governmental organisations,

b)<sup>7</sup> churches,

c) professional and scientific organisations,

d)<sup>8</sup> nation-wide nationality self-governments,

e) interest representation organisations,

f) public bodies, and

g) higher educational institutions.

(3)<sup>9</sup> The terms and conditions and framework of cooperation shall be laid down in an agreement between the strategic partner and the minister which shall remain in force for a fixed term but no longer than the end of the Prime Minister's term of office.

(4) The agreement shall include in particular

a) the purpose of cooperation,

b) the subject areas covered by the legislation for the drafting of which cooperation is established,

- c) the form of communication,
- d) the rules of access to information necessary for making comments,
- e) the duration of the agreement.

(5) The agreement shall be made accessible to the public on the website.

(6) <sup>10</sup>The minister responsible for drafting the legislation shall create strategic partnership agreements with those established churches in respect of which the Government has previously determined the framework of cooperation by way of a legal regulation or an act regulating public law organisations.

**Art. 14** (1) The strategic partner shall have an obligation also to represent in the course of direct consultation the opinions of organisations which are not engaged in the strategic partnership but specialise in the particular area of law.

(2) The minister responsible for drafting the legislation may also engage others, besides the strategic partners, in direct consultation on the legislative draft concerned and, upon request, allow participation in commenting on the particular legislation.

(3) At the request of the parliamentary committee discussing the proposed legislation, written comments made by the strategic partner in the course of direct consultation shall be made available to the committee.

**Art. 15** (1) In the event of consultation with personal attendance the parties shall be notified in writing of the time of the meeting in due time for preparation.

(2) A summary shall be made of the consultation with personal attendance, which shall be made public on the website. The summary shall contain the positions represented by the strategic partner and their rationale.

## *CHAPTER IV*

### *CLOSING PROVISIONS*

**Art. 16** (1) This Act shall enter into force on 1 January 2011, with the exception of the provision in para. (2).

(2) Art. 17(1) shall enter into force on 1 July 2011.

**Art. 17**<sup>11</sup>

**Art. 18** The Government shall be mandated to adopt a Decree on the detailed rules of making public, and inviting comments on, legislative drafts and concepts included herein by electronic means <sup>12</sup>.

**Art. 19**<sup>13</sup>

**Art. 20** (1) The lobbyist and the decision-making public authority affected by lobbying activities shall submit a report covering the last quarter of 2010, as laid down by the Lobbying Act, to the agency keeping the records by 31 January 2011.

(2) The agency keeping the records shall make public the report in para. (1) by 15 February 2011. The report thus published shall remain available until 1 January 2014.

(3) The agency keeping the records shall close the records as laid down by the Lobbying Act concurrently with the entry into force hereof, and shall terminate the registration and deletion procedure in progress. Any procedure aimed at the imposition of fines pending at the time of entry into force of this Act shall be conducted. The agency keeping the records shall delete data kept on record on 1 January 2014.



## **Act CXII of 2011 on the Right of Informational Self-Determination and on Freedom of Information<sup>19</sup>**

In order to ensure the right of informational self-determination and the freedom of information, Parliament has adopted the following Act for the implementation of the Fundamental Law, by authorization under Article VI of the Fundamental Law, on the basic rules for enforcing the protection of personal data and the right to having access to and disseminate information of public interest and public information, and on the authority empowered to monitor compliance with these rules:

### **CHAPTER I**

#### **GENERAL PROVISIONS**

##### **1. Objective**

###### *Art. 1*

The purpose of this Act is to lay down the fundamental rules for data processing operations with a view to ensuring that the right to privacy of natural persons is respected by data controllers, and to enforcing the right to have access to and disseminate information of public interest and public information to ensure the transparency of public affairs.

##### **2. Scope**

###### *Art. 2*

(1) This Act shall apply to all data control and data processing operations carried out in the territory of Hungary that pertain to the data of natural persons or to public information or information of public interest.

(2) This Act shall apply to data control and data processing operations whether performed in full or in part by an automated process or by manual processing.

(3) This Act shall apply if a third-country controller that is involved in the processing of personal data employs a data processor whose registered address or place of business (branch) or habitual residence (place of abode) is situated in the territory of Hungary or if it makes use of equipment situated on the territory of Hungary, unless such equipment is used solely for the purpose of transit through the territory of the European Union. Such data controllers shall appoint a representative on the territory of Hungary.

(4) This Act shall not apply where data is processed by a natural person exclusively for his own purposes.

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<sup>19</sup> Adopted by Parliament on 11 July 2011.

(5) Relating to the exploitation of public sector information, provisions in derogation from this Act may be established by another act concerning the procedures and conditions for the disclosure of data, the consideration payable therefor, and as regards remedies.

### 3. Definitions

#### *Art. 3*

For the purposes of this Act:

1. 'data subject' shall mean a natural person who has been identified by reference to specific personal data, or who can be identified, directly or indirectly;
2. 'personal data' shall mean any information relating to the data subject, in particular by reference to his name, an identification number or to one or more factors specific to his physical, physiological, mental, economic, cultural or social identity, and any reference drawn from such information pertaining to the data subject;
3. 'special data' shall mean:
  - a)<sup>20</sup> personal data revealing racial origin or nationality, political opinions and any affiliation with political parties, religious or philosophical beliefs or trade-union membership, and personal data concerning sex life,
  - b) personal data concerning health, pathological addictions, or criminal record;
4. 'personal data processed in criminal matters' shall mean personal data that might be related to the data subject or that pertain to any prior criminal offense committed by the data subject and that is obtained by organizations authorized to conduct criminal proceedings or investigations or by penal institutions during or prior to criminal proceedings in connection with a crime or criminal proceedings;
5. 'public information' shall mean any known fact, data and information, other than personal data, that are processed and/or used by any person or body attending to statutory State or municipal government functions or performing other public duties provided for by the relevant legislation (including those data pertaining to the activities of the given person or body), irrespective of the method or format in which it is recorded, and whether autonomous or part of a compilation, such as, in particular, data relating to powers and competencies, organizational structures, professional activities and the evaluation of such activities covering various aspects thereof, such as efficiency, the types of data held and the regulations governing operations, as well as data relating to financial management and to contracts concluded;
6. 'information of public interest' shall mean any data, other than public information, that are prescribed by law to be published, made available or otherwise disclosed for the benefit of the general public;
- 7.<sup>21</sup> 'the data subject's consent' means any freely and expressly given specific and informed indication of his wishes by which the data subject signifies his agreement to personal data relating to him being processed without limitation or with regard to specific operations;

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<sup>20</sup> Shall enter into force with the text established: by Art. 232 of Act CLXXIX of 2011.

<sup>21</sup> Amended by Paragraph a) of SubArt. (1) of Art. 17 of Act CXXIX of 2015.

- 8.<sup>22</sup> 'the data subject's objection' shall mean an indication of his wishes by which the data subject objects to the processing of his personal data and requests that the processing of data relating to him be terminated and/or the processed data be deleted;
- 9.<sup>23</sup> 'controller' shall mean the natural or legal person, or unincorporated body which alone or jointly with others determines the purposes of the processing of data, makes decisions regarding data processing (including the means) and implements such decisions itself or engages a data processor to execute them;
- 10.<sup>24</sup> 'processing of data' shall mean any operation or set of operations that is performed upon data, whether or not by automatic means, such as in particular collection, recording, organization, storage, adaptation or alteration, use, retrieval, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction, and blocking them from further use, photographing, sound and video recording, and the recording of physical attributes for identification purposes (such as fingerprints and palm prints, DNA samples and retinal images);
11. 'disclosure by transmission' shall mean making data available to a specific third party;
12. 'public disclosure' shall mean making data available to the general public;
- 13.<sup>25</sup> 'erasure of data' shall mean the destruction or elimination of data sufficient to make them irretrievable;
14. 'referencing' shall mean the marking of stored data for the purpose of identification;
15. 'blocking of data' shall mean the marking of stored data with the aim of limiting their processing in future permanently or for a predetermined period;
- 16.<sup>26</sup> 'destruction of data' shall mean the complete physical destruction of the medium containing data;
- 17.<sup>27</sup> 'data processing' shall mean the technical operations involved in data control, irrespective of the method and instruments employed for such operations and the venue where it takes place, provided that such technical operations are carried out on the data;
- 18.<sup>28</sup> 'data processor' shall mean a natural or legal person or unincorporated organization that is engaged under contract in the processing of personal data, including when the contract is concluded by virtue of law;
19. 'data source' shall mean a body having public service functions, that is responsible for the inception - in the course of operations or otherwise - of any statutory public information to be published by way of electronic means;
- 20.<sup>29</sup> 'data disseminator' shall mean a body having public service functions, that shall publish data received from the data source on a website, unless it is published by the data source himself;
21. 'data set' shall mean all data contained in a filing system;
22. 'third party' shall mean any natural or legal person or unincorporated organization other than the data subject, the controller or the processor;

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<sup>22</sup> Amended by Paragraphs a), b) of SubArt. (1) of Art. 17 of Act CXXIX of 2015.

<sup>23</sup> Amended by Art. 111 of Act LXXVI of 2013, Paragraph a) of SubArt. (1) of Art. 17 of Act CXXIX of 2015.

<sup>24</sup> Amended by Paragraphs a), c) of SubArt. (1) of Art. 17 of Act CXXIX of 2015.

<sup>25</sup> Amended by Paragraphs a), d) of SubArt. (1) of Art. 17 of Act CXXIX of 2015.

<sup>26</sup> Amended by Paragraph e) of SubArt. (1) of Art. 17 of Act CXXIX of 2015.

<sup>27</sup> Amended by Paragraph c) of SubArt. (1) of Art. 17 of Act CXXIX of 2015.

<sup>28</sup> Amended: by subparagraph a) Art. 109 of Act LXXVI of 2013. In force: as of 1. 07. 2013.

<sup>29</sup> Amended by Paragraph f) of SubArt. (1) of Art. 17 of Act CXXIX of 2015.

23. 'EEA Member State' shall mean any Member State of the European Union and any State that is a party to the Agreement on the European Economic Area, furthermore, any other country whose citizens are enjoying the same treatment as nationals of States who are parties to the Agreement on the European Economic Area by virtue of an agreement between the European Union and its Member States and a State that is not a party to the Agreement on the European Economic Area;

24. 'third country' shall mean any State other than EEA Member States;

25.<sup>30</sup> 'mandatory organizational governance' shall mean internal data protection rules adopted by a data controller or a group of data controllers active in more than one countries, including at least one EEA Member State, approved by the Nemzeti Adatvédelmi és Információszabadság Hatóság (*National Authority for Data Protection and Freedom of Information*) (hereinafter referred to as "Authority") that is binding on the data controller or group of data controllers, intended to ensure in the case of disclosure by transmission to a third country the protection of personal data through the unilateral commitment of the data controller or group of data controllers;

26.<sup>31</sup> 'privacy incident' shall mean the unlawful use or processing of personal data meaning, in particular, unauthorized access, alteration, transfer, disclosure by transmission or deletion as well as damage and accidental destruction.

## **CHAPTER II**

### **PROTECTION OF PERSONAL DATA**

#### **4. Principles of data management**

##### **Art. 4**

(1) Personal data may be processed only for specified and explicit purposes, where it is necessary for the implementation of certain rights or obligations. The purpose of processing must be satisfied in all stages of data processing operations; recording of personal data shall be done under the principle of lawfulness and fairness.

(2) The personal data processed must be essential for the purpose for which it was recorded, and it must be suitable to achieve that purpose. Personal data may be processed to the extent and for the duration necessary to achieve its purpose.

(3) In the course of data processing, the data in question shall be treated as personal as long as the data subject remains identifiable through it. The data subject shall - in particular - be considered identifiable if the data controller is in possession of the technical requirements which are necessary for identification.

(4) The accuracy and completeness, and - if deemed necessary in the light of the aim of processing - the up-to-dateness of the data must be provided for throughout the processing operation, and shall be kept in a way to permit identification of the data subject for no longer than is necessary for the purposes for which the data were recorded.

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<sup>30</sup> Enacted by Art. 1 of Act CXXIX of 2015, effective as of 1 October 2015.

<sup>31</sup> Enacted by Art. 1 of Act CXXIX of 2015, effective as of 1 October 2015.

(5)<sup>32</sup> The principle of lawfulness and fairness shall be considered satisfied in connection with the processing of personal data where a person wishing to learn about the data subject's opinion visits - within the framework of freedom of speech - the data subject at his/her home or residence, provided that the data subject's personal data is processed in accordance with the provisions of this Act and the visit is taken for reasons other than business purposes. Such visits may not be carried out on days designated as public holidays by the Labor Code.

## 5. Legal basis of data processing

### *Art. 5*

(1) Personal data may be processed under the following circumstances:

a) when the data subject has given his consent, or  
b) when processing is necessary as decreed by law or by a local authority based on authorization conferred by law concerning specific data defined therein for the performance of a task carried out in the public interest (hereinafter referred to as "mandatory processing").

(2) Special data may be processed according to Art. 6, and under the following circumstances:

a) when the data subject has given his consent in writing, or  
b) when processing is necessary for the implementation of an international agreement promulgated by an act concerning the data under Point 3.a) of Art. 3, or if prescribed by law in connection with the enforcement of fundamental rights afforded by the Fundamental Law, or for reasons of national security or national defense, or law enforcement purposes for the prevention or prosecution of criminal activities, or  
c) when processing is necessary for the performance of a task carried out in the public interest concerning the data under Point 3.b) of Art. 3.

(3) Where data processing is mandatory, the type of data, the purpose and the conditions of processing, access to such data, the duration of the proposed processing operation, and the controller shall be specified by the statute or municipal decree in which it is ordered.

(4) Personal data that concern criminal offenses and are being processed for the purposes of preventing, investigating, detecting and prosecuting criminal offences and data files containing information pertaining to misdemeanor cases, civil cases and non-contentious proceedings may only be processed by central or local government authorities.

### *Art. 6*

(1) Personal data may be processed also if obtaining the data subject's consent is impossible or it would give rise to disproportionate costs, and the processing of personal data is necessary:

a) for compliance with a legal obligation pertaining to the data controller, or

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<sup>32</sup> Enacted: by Art. 1 of Act XXX of 2013. In force: as of 30. 03. 2013.

b) for the purposes of the legitimate interests pursued by the controller or by a third party, and enforcing these interests is considered proportionate to the limitation of the right for the protection of personal data.

(2) If the data subject is unable to give his consent on account of lacking legal capacity or for any other reason beyond his control, the processing of his personal data is allowed to the extent necessary and for the length of time such reasons persist, to protect the vital interests of the data subject or of another person, or in order to prevent or avert an imminent danger posing a threat to the lives, physical integrity or property of persons.

(3) The statement of consent of minors over the age of sixteen shall be considered valid without the permission or subsequent approval of their legal representative.

(4) Where processing under consent is necessary for the performance of or the entering into a contract with the controller in writing, the contract shall contain all information that is to be made available to the data subject under this Act in connection with the processing of personal data, such as the description of the data involved, the duration of the proposed processing operation, the purpose of processing, the transmission of data, the recipients and the use of a data processor. The contract must clearly indicate the data subject's signature and explicit consent for having his data processed as stipulated in the contract.

(5) Where personal data is recorded under the data subject's consent, the controller shall - unless otherwise provided for by law - be able to process the data recorded where this is necessary:

a) for compliance with a legal obligation pertaining to the controller, or

b) for the purposes of legitimate interests pursued by the controller or by a third party, if enforcing these interests is considered proportionate to the limitation of the right for the protection of personal data, without the data subject's further consent, or after the data subject having withdrawn his consent.

(6) In court proceedings and proceedings of the authorities opened upon the data subject's request or initiative, as regards the personal data necessary to carry out the proceedings, and in other cases opened at the data subject's request, as regards the personal data he has supplied, the data subject's consent shall be deemed to have been granted.

(7) The consent of the data subject shall be considered granted in connection with any personal data he has conveyed to the public or has supplied for dissemination when making a public appearance.

(8) If there is any doubt, it is to be presumed that the data subject did not consent to allow free access.

## 6. Data security requirement

### *Art. 7*

(1) Controllers shall make arrangements for and carry out data processing operations in a way so as to ensure full respect for the right to privacy of data subjects in due compliance with the provisions of this Act and other regulations on data protection.

(2) Controllers, and within their sphere of competence, data processors must implement adequate safeguards and appropriate technical and organizational measures to protect personal data, as well as adequate procedural rules to enforce the provisions of this Act and other regulations concerning confidentiality and security of data processing.

(3) Data must be protected by means of suitable measures against unauthorized access, alteration, transmission, public disclosure, deletion or destruction, as well as damage and accidental loss, and to ensure that stored data cannot be corrupted and rendered inaccessible due to any changes in or modification of the applied technique.

(4) For the protection of data sets stored in different electronic filing systems, suitable technical solutions shall be introduced to prevent - unless this is permitted by law - the interconnection of data stored in these filing systems and the identification of the data subjects.

(5) In respect of automated personal data processing, data controllers and processors shall implement additional measures designed to:

a) prevent the unauthorized input of data;

b) prevent the use of automated data-processing systems by unauthorized persons using data communication equipment;

c) ensure that it is possible to verify and establish to which bodies personal data have been or may be transmitted or made available using data communication equipment;

d) ensure that it is possible to verify and establish which personal data have been input into automated data-processing systems and when and by whom the data were input;

e) ensure that installed systems may, in case of interruption, be restored; and

f) ensure that faults emerging in automated data-processing systems is reported.

(6) In determining the measures to ensure security of processing, data controllers and processors shall proceed taking into account the latest technical development and the state of the art of their implementation. Where alternate data processing solutions are available, the one selected shall ensure the highest level of protection of personal data, except if this would entail unreasonable hardship for the data controller.

## 7. Transfrontier transmission of data

### *Art. 8*

(1)<sup>33</sup> Personal data may be transmitted by a data controller or data processor covered by this Act to a data controller operating in a third country, or may be disclosed to a data controller or processor operating in a third country if:<sup>34</sup>

a) the data subject has given his consent unambiguously, or

b) the conditions laid down in Art. 5 and/or Art. 6 for data processing are satisfied and - save where Para. (2) of Art. 6 applies - the laws of the third country in question afford an adequate level of protection with respect to the control and processing of the personal data transmitted.

(2) Adequate level of protection of personal data is deemed available if:

a)<sup>35</sup> so established by a binding legislation of the European Union,

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<sup>33</sup> Shall enter into force with the text established: by paragraph (1) Art. 411 of Act CCI of 2011.

<sup>34</sup> Amended: by subparagraph b) Art. 109 of Act LXXVI of 2013. In force: as of 1. 07. 2013.

<sup>35</sup> Amended by SubArt. (1) of Art. 18 of Act CXXIX of 2015.



b)<sup>36</sup> there is an international agreement between the third country and Hungary containing guarantees for the rights of data subjects referred to in Art. 14, their rights to remedies, and for the independent supervision and control of data control and data processing operations. or

c)<sup>37</sup> data control and data processing operations are carried out within the framework of mandatory organizational governance.

(3)<sup>38</sup> Personal data may be transmitted to third countries in the interest of the implementation of an international agreement on international legal aid, exchange of information in tax matters and on double taxation, for the purpose and with the contents specified in the international agreement, also in the absence of the conditions specified in Para. (2).

(4) Transmission of data to EEA Member States shall be treated as if the transmission took place within the territory of Hungary.

## 8. Limitations to data processing

### *Art. 9*

(1) Where personal data is transmitted under this Act and in accordance with international agreement or a binding legislation of the European Union, and the transmitting data controller indicates to the recipient at the time of transmission of the personal data:

a) the purposes for which it can use those data,

b) the time limits for the retention of data,

c) the potential recipients of the data,

d) the restrictions of the data subject's rights afforded under this Act, or

e) specific other processing restrictions that may apply,

(hereinafter referred to collectively as "processing restrictions"), the recipient of such personal data (hereinafter referred to as "data recipient") shall process the personal data to the extent and by way of the means stipulated in the processing restrictions, and shall ensure the data subject's rights in line with the processing restrictions.

(2) The data recipient shall be allowed to process personal data irrespective of restrictions and may enforce the data subject's rights subject to the transmitting data controller's prior consent.

(3) Where personal data is transmitted under this Act and in accordance with international agreement or a binding legislation of the European Union, the transmitting data controller shall indicate to the recipient at the time of transmission the processing restrictions applicable.

(4) The data controller shall be able to give the consent referred to in Para. (2) if it is not contrary to any legal provision applicable to persons falling within the scope of Hungarian law.

(5) The data recipient shall - upon request - inform the transmitting data controller concerning the use of the personal data received.

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<sup>36</sup> Amended by Paragraph a) of SubArt. (8) of Art. 17 of Act CXXIX of 2015.

<sup>37</sup> Enacted by Art. 2 of Act CXXIX of 2015, effective as of 1 October 2015.

<sup>38</sup> Shall enter into force with text established: by Art. 382 of Act CLVI of 2011.

## Art.9. Data processing

### *Art. 10*

(1) The rights and obligations of data processors arising in connection with the processing of personal data shall be determined by the data controller within the scope specified by this Act and other legislation on data processing. The data controller shall be held liable for the legitimacy of his instructions.

(2)<sup>39</sup> The data processor shall be permitted to subcontract any part of his operations to another data processor according to the data controller's instructions.

(3) The data processor may not make any decision on the merits of data processing and shall process any and all data entrusted to him solely as instructed by the controller; the processor shall not engage in data processing for his own purposes and shall store and safeguard personal data according to the instructions of the controller.

(4) Contracts for the processing of data must be made in writing. Any company that is interested in the business activity for which personal data is used may not be contracted for the processing of such data.

## 10. Decision adopted by means of automated data-processing systems

### *Art. 11*

(1) A decision which is based solely on automated processing of data intended to evaluate certain personal aspects relating to the data subject shall be permitted only if:

a) it is taken in the course of the entering into or performance of a contract, provided that the request for entering into or performance of the contract was lodged by the data subject, or

b) authorized by a law which also lays down measures to safeguard the data subject's legitimate interests.

(2) In connection with decisions adopted by means of automated data-processing systems, the data subject shall, at his request, be informed of the method that is used and its essence, and shall be given the opportunity to express his opinion.

## 11. Processing personal data relating to scientific research

### *Art. 12*

(1) Personal data processed for scientific reasons must be used only for scientific research projects.

(2) Personal data attributed to the data subject shall be made permanently anonymous when they are no longer required for scientific the purposes. Until this is done, personal data that can attributed to an identified or identifiable natural person shall be stored separately. Such data may be related to other data if it is necessary for the purposes of research.

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<sup>39</sup> Established: by Art. 28 of Act L of 2013. In force: as of 1. 07. 2013.

(3) An agency or person performing scientific research shall be allowed to disseminate personal data only if:

- a) the data subject has given his consent, or
- b) it is necessary to demonstrate the findings of research in connection with historical events.

## 12. Use of personal data for statistical purposes

### *Art. 13*

(1) Unless otherwise provided for by law, the Központi Statisztikai Hivatal (*Central Statistics Office*) shall be entitled to receive for statistical purposes personal data processed within the framework of mandatory processing in a form which permits the identification of the data subject, and to process them in accordance with the relevant legislation.

(2) Unless otherwise provided for by law, personal data recorded, received or processed for statistical purposes may only be used for statistical purposes. The detailed regulations governing processing operations involving personal data are contained in specific other act.

## 13. Rights of data subjects; enforcement

### *Art. 14*

The data subject may request from the data controller:

- a) information when his personal data is being processed,
- b) the rectification of his personal data, and
- c) the erasure or blocking of his personal data, save where processing is rendered mandatory.

### *Art. 15*

(1)<sup>40</sup> Upon the data subject's request the data controller shall provide information concerning the data relating to him, including those processed by a data processor hired by the data controller or by others based on its instructions, the sources from where they were obtained, the purpose, grounds and duration of processing, the name and address of the data processor and on its activities relating to data processing, the circumstances surrounding the privacy incident, its impact, and the actions taken to rectify the situation, and - if the personal data of the data subject is made available to others - the legal basis and the recipients.

(1a)<sup>41</sup> The data controller shall keep records - by way of an internal data protection officer where applicable - for the purpose of monitoring actions taken in connection with privacy incidents and for information of the public and of data subjects, containing the data subjects' personal data, the data subjects involved and their number affected by the

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<sup>40</sup> Amended by Subparagraph c) of Art. 109 of Act LXXVI of 2013, Paragraph a) of SubArt. (2) of Art. 17 of Act CXXIX of 2015.

<sup>41</sup> Enacted by Art. 3 of Act CXXIX of 2015, effective as of 1 October 2015.

privacy incident, the time when the privacy incident took place, its circumstances and impacts, the actions taken to rectify the situation, and other data provided for in the legislation on data processing.

(1b)<sup>42</sup> Data controllers falling within the scope of the Act on Electronic Communications shall be able to meet the obligation provided for in Para. (1a) by way of maintaining an inventory of cases of personal data breaches in accordance with the Act on Electronic Communications.

(2) With a view to exercising communication control and for the information of the data subject, the data controller shall maintain a transmission log, showing the date of time of transmission, the legal basis of transmission and the recipient, description of the personal data transmitted, and other information prescribed by the relevant legislation on data processing.

(3)<sup>43</sup> The duration of retention of the data referred to in Para.s (1a) and (2) in the records, and the duration of the ensuing obligation of information may be limited by the legislation on data processing. The above-specified period of limitation shall not be less than five years in respect of personal data, and twenty years in respect of special data.

(4)<sup>44</sup> Data processors must comply with requests for information without any delay, and provide the information requested in an intelligible form, in writing at the data subject's request, within not more than twenty-five days.

(5) The information prescribed in Para. (4) shall be provided free of charge for any category of data once a year. Additional information concerning the same category of data may be subject to a charge. The amount of such charge may be fixed in an agreement between the parties. Where any payment is made in connection with data that was processed unlawfully, or the request led to rectification, it shall be refunded.

## *Art. 16*

(1) The data controller may refuse to provide information to the data subject in the cases defined under Para. (1) of Art. 9 and under Art. 19.

(2)<sup>45</sup> Where information is refused, the data controller shall inform the data subject in writing as to the provision of this Act serving grounds for refusal. Where information is refused, the data controller shall inform the data subject of the possibilities for seeking judicial remedy or lodging a complaint with the Authority.

(3) Data controllers shall notify the Authority of refused requests once a year, by 31 January of the following year.

## *Art. 17*

(1) Where a personal data is deemed inaccurate, and the correct personal data is at the controller's disposal, the data controller shall rectify the personal data in question.

(2) Personal data shall be erased if:

a) processed unlawfully;

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<sup>42</sup> Enacted by Art. 3 of Act CXXIX of 2015, effective as of 1 October 2015.

<sup>43</sup> Amended by Paragraph b) of SubArt. (2) of Art. 17 of Act CXXIX of 2015.

<sup>44</sup> Shall enter into force with the text established by paragraph (2) Art. 411 of Act CCI of 2011. Amended by Art. 168 of Act CLXXXVI of 2015.

<sup>45</sup> Amended by Paragraph b) of SubArt. (8) of Art. 17 of Act CXXIX of 2015.

- b) so requested by the data subject in accordance with Paragraph c) of Art. 14;
  - c) incomplete or inaccurate and it cannot be lawfully rectified, provided that erasure is not disallowed by statutory provision;
  - d) the purpose of processing no longer exists or the legal time limit for storage has expired;
  - e) so instructed by court order or by the Authority.
- (3) Where Paragraph d) of Para. (2) applies, the requirement of erasure shall not apply to personal data recorded on a medium that is to be deposited in archive under the legislation on the protection of archive materials.
- (4) Personal data shall be blocked instead of erased if so requested by the data subject, or if there are reasonable grounds to believe that erasure could affect the legitimate interests of the data subject. Blocked data shall be processed only for the purpose which prevented their erasure.
- (5) If the accuracy of an item of personal data is contested by the data subject and its accuracy or inaccuracy cannot be ascertained beyond doubt, the data controller shall mark that personal data for the purpose of referencing.

## *Art. 18*

- (1)<sup>46</sup> When a data is rectified, blocked, marked or erased, the data subject to whom it pertains and all recipients to whom it was transmitted for processing shall be notified. Notification is not required if it does not violate the rightful interest of the data subject in light of the purpose of processing.
- (2)<sup>47</sup> If the data controller refuses to comply with the data subject's request for rectification, blocking or erasure, the factual or legal reasons on which the decision for refusing the request for rectification, blocking or erasure is based shall be communicated in writing, or electronically with the data subject's consent, within twenty-five days of receipt of the request. Where rectification, blocking or erasure is refused, the data controller shall inform the data subject of the possibilities for seeking judicial remedy or lodging a complaint with the Authority.

## *Art. 19*

The rights of data subjects afforded under Art.s 14-18 may be restricted by this Act in order to safeguard the external and internal security of the State, such as defense, national security, the prevention and prosecution of criminal offences, the safety of penal institutions, to protect the economic and financial interests of central and local government, safeguard the important economic and financial interests of the European Union, guard against disciplinary and ethical breaches in regulated professions, prevent and detect breaches of obligation related to labor law and occupational safety - including in all cases control and supervision - and to protect data subjects or the rights and freedoms of others.

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<sup>46</sup> Shall enter into force with the text established: by paragraph (3) Art. 411 of Act CCI of 2011.

<sup>47</sup> Amended by Paragraph c) of SubArt. (8) of Art. 17 of Act CXXIX of 2015, Art. 168 of Act CLXXXVI of 2015.

## 14. Requirement of preliminary information of data subjects

### *Art. 20*

- (1) Before processing operations are carried out the data subject shall be informed whether his consent is required or processing is mandatory.
- (2) Before processing operations are carried out the data subject shall be clearly and elaborately informed of all aspects concerning the processing of his personal data, such as the purpose for which his data is required and the legal basis, the person entitled to control the data and to carry out the processing, the duration of the proposed processing operation, if the data subject's personal data is processed in accordance with Para. (5) of Art. 6, and the persons to whom his data may be disclosed. Information shall also be provided on the data subject's rights and remedies.
- (3) In the case of mandatory processing such information may be supplied by way of publishing reference to the legislation containing the information referred to in Para. (2).
- (4) If the provision of information to the data subject proves impossible or would involve disproportionate efforts, the obligation of information may be satisfied by the public disclosure of the following:
  - a) an indication of the fact that data is being collected;
  - b) the data subjects targeted;
  - c) the purpose of data collection;
  - d) the duration of the proposed processing operation;
  - e) the potential data controllers with the right of access;
  - f) the right of data subjects and remedies available relating to data processing; and
  - g) where the processing operation has to be registered, the number assigned in the data protection register, with the exception of Para. (2) of Art. 68.

## 15. The data subject's right to object to the processing of his personal data

### *Art. 21*

- (1) The data subject shall have the right to object to the processing of data relating to him:
  - a) if processing or disclosure is carried out solely for the purpose of discharging the controller's legal obligation or for enforcing the rights and legitimate interests of the controller, the recipient or a third party, unless processing is mandatory;
  - b) if personal data is used or disclosed for the purposes of direct marketing, public opinion polling or scientific research; and
  - c) in all other cases prescribed by law.
- (2) In the event of objection, the controller shall investigate the cause of objection within the shortest possible time inside a fifteen-day time period, adopt a decision as to merits and shall notify the data subject in writing of its decision.
- (3) If, according to the findings of the controller, the data subject's objection is justified, the controller shall terminate all processing operations (including data collection and transmission), block the data involved and notify all recipients to whom any of these data had previously been transferred concerning the objection and the ensuing measures,

upon which these recipients shall also take measures regarding the enforcement of the objection.

(4) If the data subject disagrees with the decision taken by the controller under Para. (2), or if the controller fails to meet the deadline specified in Para. (2), the data subject shall have the right under Art. 22 to bring action in the court of law within thirty days of the date of delivery of the decision or from the last day of the time limit.

(5) If data that are necessary to assert the data recipient's rights are withheld owing to the data subject's objection, the data recipient shall have the right under Art. 22 to file charges against the controller within fifteen days from the date the decision is delivered under Para. (2) in order to obtain the data. The controller may give third-party notice to the data subject.

(6) If the data controller fails to send notice as specified in Para. (3), the data recipient shall have the right to request information from the controller concerning the circumstances of non-disclosure, upon which the controller shall make available the information requested within eight days of receipt of the data recipient's request. Where information had been requested, the data recipient may bring action against the controller within fifteen days from the date of receipt of the information, or from the deadline prescribed therefor. The controller may give third-party notice to the data subject.

(7) The controller shall not delete the data of the data subject if processing has been prescribed by law. However, data may not be disclosed to the data recipient if the controller agrees with the objection or if the court has found the objection justified.

## 16. Judicial remedy

### *Art. 22*

(1) In the event of any infringement of his rights, the data subject, and in the cases referred to in Art. 21, the data recipient may file for court action against the controller. The court shall hear such cases in priority proceedings.

(2) The burden of proof to show compliance with the law lies with the data controller. In the cases under Para.s (5) and (6) of Art. 21, the burden of proof concerning the lawfulness of receiving data lies with the data recipient.

(3)<sup>48</sup> The action shall be heard by the competent general court. If so requested by the data subject, the action may be brought before the general court in whose jurisdiction the data subject's home address or temporary residence is located.

(4) Any person otherwise lacking legal capacity to be a party to legal proceedings may also be involved in such actions. The Authority may intervene in the action on the data subject's behalf.

(5) When the court's decision is in favor of the plaintiff, the court shall order the controller to provide the information, to rectify, block or erase the data in question, to annul the decision adopted by means of automated data-processing systems, to honor the data subject's objection, or to disclose the data requested by the data recipient referred to in Art. 21.

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<sup>48</sup> Shall enter into force with the text established: by subparagraph a) Art. 412 of Act CCI of 2011.



(6) If the court rejects the petition filed by the data recipient in the cases defined in Art. 21, the controller shall be required to erase the data subject's personal data within three days of delivery of the court ruling. The controller shall erase the data even if the data recipient does not file for court action within the time limit referred to in Para. (5) or (6) of Art. 21.

(7) The court may order publication of its decision, indicating the identification data of the controller as well, where this is deemed necessary for reasons of data protection or in connection with the rights of large numbers of data subjects under protection by this Act.

## 17.<sup>49</sup> Liability and Restitution

### *Art. 23<sup>50</sup>*

(1) Data controllers shall be liable for any damage caused to a data subject as a result of unlawful processing or by any breach of data security requirements.

(2) Where a data controller violates the rights of the data subject relating to personality as a result of unlawful processing or by any breach of data security requirements, the data subject shall be entitled to demand restitution from the data controller.

(3) The data controller shall also be liable for any damage caused by a data processor acting on its behalf, as well as for any restitution payable to the data subject for any violation by the data processor of his rights relating to personality. The data controller may be exempted from liability for damages or for payment of restitution if he proves that the damage was caused by or the violation of the rights of the data subject relating to personality is attributable to reasons beyond his control.

(4) No compensation shall be paid and no restitution may be demanded where the damage was caused by or the violation of rights relating to personality is attributable to intentional or negligent conduct on the part of the data subject.

## 18. Internal data protection officer, data protection rules

### *Art. 24*

(1) The following data controllers and processors shall appoint or commission an internal data protection officer - who shall hold a law degree, a degree in economics or information technology or an equivalent degree in higher education - who is to report directly to the head of the organization:

- a) authorities of nation-wide jurisdiction, and data controllers and processors engaged in processing data files of employment and criminal records;
- b) financial institutions;
- c) providers of electronic communications and public utility services.

(2) The internal data protection officer shall:

- a) participate and assist in the decision-making process with regard to data processing and enforcing the rights of data subjects;

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<sup>49</sup> Established by Art. 123 of Act CCLII of 2013, effective as of 15 March 2014.

<sup>50</sup> Established by Art. 123 of Act CCLII of 2013, effective as of 15 March 2014.

- b) monitor compliance with the provisions of this Act and other regulations on data processing as well as with the provisions of internal data protection and data security regulations and the data security requirements;
  - c) investigate complaints conveyed to him and, if he detects any unauthorized data processing operations, call on the controller or processor in question to cease such operations;
  - d) draw up the internal data protection and data security rules;
  - e) maintain the internal data protection register;
  - f) arrange training sessions on the subject of data protection.
- (3) The controllers referred to in Para. (1) and central and local government controllers - other than controllers not required to report to the data protection register - shall be required to adopt data protection and data security rules in accordance with this Act.

## 19. Conference of internal data protection officers

### *Art. 25*

- (1) The conference of internal data protection officers (hereinafter referred to as “conference”) is intended to maintain professional relations between the Authority and internal data protection officers, the purpose of which is to ensure the consistency of the case-law as regards the protection of personal data and access to public information.
- (2) The President of the Authority shall call the conference at least once every year, or as necessary, and shall determine its agenda.
- (3)<sup>51</sup> The internal data protection officers of all data controllers and data processors where such office has to be maintained by law shall have a seat on the conference.
- (4)<sup>52</sup> The internal data protection officers of those data controllers and data processors where such office is not required may also have a seat on the conference. To this end they may seek admission to the register of internal data protection officers maintained by the Authority.
- (5)<sup>53</sup> For communication purposes, the Authority shall maintain a register of internal data protection officers on members of the conference. The register contains the name, postal and electronic mail address of internal data protection officers, and the name of the data controller or data processor they represent.
- (6) The Authority shall record the data mentioned in Para. (5) until the time of receiving information on the termination of the internal data protection officer’s term in office.

## **CHAPTER III**

### **ACCESS TO INFORMATION OF PUBLIC INTEREST**

## 20. General provisions on access to information of public interest

### *Art. 26*

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<sup>51</sup> Amended by Paragraph a) of SubArt. (3) of Art. 17 of Act CXXIX of 2015.

<sup>52</sup> Amended by Paragraph b) of SubArt. (3) of Art. 17 of Act CXXIX of 2015.

<sup>53</sup> Amended by Paragraph a) of SubArt. (3) of Art. 17 of Act CXXIX of 2015.

(1) Any person or body attending to statutory State or municipal government functions or performing other public duties provided for by the relevant legislation (hereinafter referred to collectively as “body with public service functions”) shall allow free access to the public information and information of public interest they have on file to any person, save where otherwise provided for in this Act.

(2)<sup>54</sup> The name of the person acting on behalf of a body with public service functions shall be considered information of public interest, including his job description and responsibilities, title and other personal data that may be of interest relating to the public function, as well as all other personal data that is to be made public by law. Personal data which are considered information of public interest may be disclosed under the principle of target-specific data processing. Personal data which are considered information of public interest may be published on websites in accordance with Schedule No. 1 and the Act on the Legal Status of Persons Entrusted with Public Functions.

(3) Unless otherwise prescribed by law, any data, other than personal data, that is processed by bodies or persons providing services prescribed mandatory by law or under contract with any governmental agency, central or local, if such services are not available in any other way or form, to the extent necessary for their activities shall be deemed information of public interest.

(4)<sup>55</sup> The bodies or persons referred to in Para. (3) shall comply with requests for access to data under Para. (3) in accordance with Art.s 28-31.

## *Art. 27*

(1) Access to public information or information of public interest shall be restricted if it has been classified under the Act on the Protection of Classified Information.

(2) Right of access to public information and information of public interest may be restricted by law - with the specific type of data indicated - where considered necessary for one of the following reasons:

- a) defense;
- b) national security;
- c) prevention and prosecution of criminal offenses;
- d) environmental protection and nature preservation;
- e) central financial or foreign exchange policy;
- f) external relations, relations with international organizations;
- g) court proceedings or administrative proceedings;
- h) intellectual property rights.

(3)<sup>56</sup> Any data that is related to the central budget, the budget of a local government, the appropriation of European Union financial assistance, any subsidies and allowances in which the budget is involved, the management, control, use and appropriation and encumbrance of central and local government assets, and the acquisition of any rights in connection with such assets shall be deemed information of public interest, and as such shall not be deemed business secrets, nor shall any data that specific other legislation prescribes - in the public interest - as public information. Such publication, however,

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<sup>54</sup> Established: by Art. 1 of Act XCI of 2013. In force: as of 21. 06. 2013.

<sup>55</sup> Enacted by Art. 4 of Act CXXIX of 2015, effective as of 1 October 2015.

<sup>56</sup> Established: by paragraph (1) Art. 2 of Act XCI of 2013. In force: as of 15. 03. 2014.

shall not include any data pertaining to protected know-how that, if made public, would be unreasonably detrimental for the business operation to which it is related, provided that withholding such information shall not interfere with the availability of, and access to, information of public interest.

(3a)<sup>57</sup> Any natural or legal person, or unincorporated business association entering into a financial or business relationship with a sub-system of the central budget shall, upon request, supply information for any member of the general public in connection with such relationship that is deemed public under Para. (3). The obligation referred to above may be satisfied by the public disclosure of information of public interest, or, if the information requested had previously been made public electronically, by way of reference to the public source where the data is available.

(3b)<sup>58</sup> If the person referred to in Para. (3a) refuses to comply with the request for information, the requesting party may initiate the proceedings of the authority delegated to exercise judicial oversight.

(4) Access to public information may also be limited by European Union legislation with a view to any important economic or financial interests of the European Union, including monetary, fiscal and tax policies.

(5) Any information compiled or recorded by a body with public service functions as part of, and in support of, a decision-making process for which it is vested with powers and competence, shall not be made available to the public for ten years from the date it was compiled or recorded. Access to these information may be authorized by the head of the agency that controls the information in question upon weighing the public interest in allowing or disallowing access to such information.

(6)<sup>59</sup> A request for disclosure of information underlying a decision may be rejected after the decision is adopted, but within the time limit referred to in Para. (5), if the information is retained to support a future decision as well, or if disclosure is likely to jeopardize the legal functioning of the body with public service functions or the discharging of its duties without any undue influence, such as in particular the freedom to express its position during the preliminary stages of the decision-making process on account of which the information was required in the first place.

(7) The time limit for restriction of access as defined in Para. (5) to certain specific information underlying a decision may be reduced by law.

(8) This Chapter shall not apply to the disclosure of information from official records that is subject to the provisions of specific other legislation.

## 21. Access to public information upon request

### *Art. 28*

(1) Information of public interest shall be made available to anyone upon a request presented verbally, in writing or by electronic means. Access to information of public interest shall be governed by the provisions of this Act pertaining to public information.

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<sup>57</sup> Enacted: by paragraph (2) Art. 2 of Act XCI of 2013. In force: as of 15. 03. 2014.

<sup>58</sup> Enacted: by paragraph (2) Art. 2 of Act XCI of 2013. In force: as of 15. 03. 2014.

<sup>59</sup> Amended by SubArt. (4) of Art. 17 of Act CXXIX of 2015.

(2)<sup>60</sup> Unless otherwise provided for by law, the processing of personal data in connection with any disclosure upon request is permitted only to the extent necessary for disclosure, for the examination of the request for the purposes under Para. (1a) of Art. 29, including the collection of payment of charges for compliance with the request, where applicable. Following the time period provided for in Para. (1a) of Art. 29 and upon receipt of the said payment, the personal data of the requesting party must be erased without delay.

(3) If any part of the request is unclear, the data controller shall ask the requesting party to clarify.

## *Art. 29*

(1)<sup>61</sup> The body with public service functions, that has the information of public interest on record must comply with requests for public information at the earliest opportunity after receipt of the request, within not more than fifteen days.

(1a)<sup>62</sup> The body with public service functions, that has the information on record, shall not be required to comply with the request for information inasmuch as it is identical to the request submitted by the party for the same data within a period of one year, provided that no change took place in the data within that same category in the meantime.

(1b)<sup>63</sup> The body with public service functions, that has the information on record, shall not be required to comply with the request for information if the requesting party did not give his name, or its corporate name if other than a natural person, and any contact information for sending information and notices related to the request for information.

(2)<sup>64</sup> If a request for information is substantial in terms of size and volume, or if compliance with the request is likely to entail unreasonable hardship on the staff of the body with public service functions in carrying out its normal duties, the time limit referred to in Para. (1) may be extended by fifteen days on one occasion, of which the requesting party shall be informed within fifteen days of the date of receipt of the request.

(2a)<sup>65</sup> If the request is for data that was produced by any institution or Member State of the European Union, the data controller shall forthwith contact the affected institution or Member State of the European Union, and shall notify the requesting party thereof. The time period between the time of giving the information and the time of receipt of the reply of the institution or Member State of the European Union shall not be included in the time limit for compliance with the data request.

(3)<sup>66</sup> The requesting party may be provided a copy of the document or part of a document containing the information in question, regardless of the form of storage. The body with public service functions controlling the data in question may charge a fee covering only the costs of disclosure of information, and shall communicate this amount to the requesting party in advance.

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<sup>60</sup> Amended by Paragraph a) of SubArt. (5), SubArt. (6) of Art. 17 of Act CXXIX of 2015.

<sup>61</sup> Established by SubArt. (1) of Art. 5 of Act CXXIX of 2015, effective as of 16 July 2015.

<sup>62</sup> Enacted by SubArt. (2) of Art. 5 of Act CXXIX of 2015, effective as of 1 October 2015.

<sup>63</sup> Enacted by SubArt. (3) of Art. 5 of Act CXXIX of 2015, effective as of 1 October 2015.

<sup>64</sup> Established by SubArt. (4) of Art. 5 of Act CXXIX of 2015, effective as of 1 October 2015.

<sup>65</sup> Enacted by SubArt. (5) of Art. 5 of Act CXXIX of 2015, effective as of 16 July 2015.

<sup>66</sup> Established by SubArt. (6) of Art. 5 of Act CXXIX of 2015, effective as of 1 October 2015.

(3a)<sup>67</sup> Within thirty days after receiving the information under Para. (3), the requesting party shall state whether or not he wishes to uphold his data request. The time period between the time of giving the information and the time of receipt of the requesting party's statement shall not be included in the time limit for compliance with the data request. If the requesting party upholds his request, the fee charged shall be paid to the data controller within a deadline of not less than fifteen days set by the data controller.

(4)<sup>68</sup> If compliance with a data request is likely to entail unreasonable hardship on the staff of the body with public service functions in carrying out its normal duties, or the document or part of a document of which the copy had been requested is substantial in size and/or volume, or the fee charged for covering the costs exceeds the amount specified in a government decree, the data shall be provided within fifteen days from the date of payment of the fee as charged. The requesting party shall be notified within fifteen days from the date of receipt of his request if compliance with his request is likely to entail unreasonable hardship on the staff of the body with public service functions in carrying out its normal duties, or the document or part of a document of which the copy had been requested is considered substantial in size and/or volume, as well as of the amount of the fee chargeable, and if there is any alternate solution available instead of making a copy.

(5)<sup>69</sup> The amount of the fee chargeable shall be calculated based on the following costs:

a) cost of the data medium containing the data requested;

b) cost of delivering the data medium containing the data requested to the requesting party; and

c) if compliance with the request is likely to entail unreasonable hardship on the staff of the body with public service functions in carrying out its normal duties, the staff costs related to satisfying the data request.

(6)<sup>70</sup> The amount limits for the costs referred to in Para. (5) shall be laid down by law.

### *Art. 30*

(1) If a document that contains information of public interest also contains any data that cannot be disclosed to the requesting party, this data must be rendered unrecognizable on the copy.

(2)<sup>71</sup> Information shall be supplied in a readily intelligible form and by way of the means asked for by the requesting party, provided that the body with public service functions controlling the information is capable to meet such request without unreasonable hardship. If the information requested had previously been made public electronically, the request may be fulfilled by way of reference to the public source where the data is available. A request for information may not be refused on the grounds that it cannot be made available in a readily intelligible form.

(3)<sup>72</sup> When a request for information is refused, the requesting party must be notified thereof within fifteen days after receipt of the request days in writing, or by electronic

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<sup>67</sup> Enacted by SubArt. (7) of Art. 5 of Act CXXIX of 2015, effective as of 1 October 2015.

<sup>68</sup> Established by SubArt. (8) of Art. 5 of Act CXXIX of 2015, effective as of 1 October 2015.

<sup>69</sup> Established by SubArt. (9) of Art. 5 of Act CXXIX of 2015, effective as of 1 October 2015.

<sup>70</sup> Enacted by SubArt. (9) of Art. 5 of Act CXXIX of 2015, effective as of 1 October 2015.

<sup>71</sup> Amended by Paragraph b) of SubArt. (5) of Art. 17 of Act CXXIX of 2015.

<sup>72</sup> Amended by Paragraph c) of SubArt. (5) of Art. 17 of Act CXXIX of 2015.

means if the requesting party has conveyed his electronic mailing address, and must be given the reasons of refusal, including information on the remedies available. The controller shall keep records on the requests refused, including the reasons, and shall inform the Authority thereof each year, by 31 January.

(4) A request for public information by a person whose native language is not Hungarian may not be refused for reasons that it was written in his native language or in any other language he understands.

(5) If, as regards the refusal of any request for access to public information, the data controller is granted discretionary authority by law, refusal shall be exercised within narrow limits, and the request for access to public information may be refused only if the underlying public interest outweighs the public interest for allowing access to the public information in question.

(6) Bodies with public service functions shall adopt regulations governing the procedures for satisfying requests for access to public information.

(7)<sup>73</sup> As regards the right of access to data for the purpose of auditing the overall financial management of bodies with public service functions, or for the inspection of their invoices and other specific documents, the provisions of other legislation shall apply. In that context the data controller may, instead of making a copy of the document to which the request pertains, satisfy the request also by way of reference to the parties to the transaction, including the type and the subject-matter of the transaction, and to the services and consideration to be provided and the time when due.

### *Art. 31*

(1)<sup>74</sup> In the event of failure to meet the deadline for the refusal or compliance with a request for access to public information, or with the deadline extended by the data controller pursuant to Para. (2) of Art. 29, and the requesting party may bring the case before the court for having the fee charged for compliance with the request reviewed.

(2)<sup>75</sup> The burden of proof to verify the lawfulness and the reasons of refusal, and the reasons for determining the amount of the fee chargeable for compliance with the request lies with the data controller.

(3)<sup>76</sup> The action shall be brought against the body with public service functions that has refused the request within thirty days from the date of delivery of the refusal, or from the time limit prescribed, or from the deadline for payment of the fee chargeable. If the requesting party notifies the Authority with a view to initiating the Authority's proceedings in connection with the refusal of or non-compliance with the request, or on account of the amount of the fee charged for compliance with the request, the action may be opened within thirty days from the time of receipt of notice on the refusal to examine the notification on the merits, on the termination of the inquiry, or its conclusion under Paragraph *b*) of Para. (1) of Art. 55, or the notice under Para. (3) of Art. 58. An application for continuation may be submitted upon failure to meet the deadline for bringing action.

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<sup>73</sup> Enacted by Art. 3 of Act XCI of 2013. Amended by SubArt. (7) of Art. 17 of Act CXXIX of 2015.

<sup>74</sup> Amended by Paragraph d) of SubArt. (5) of Art. 17 of Act CXXIX of 2015.

<sup>75</sup> Amended by Paragraph e) of SubArt. (5) of Art. 17 of Act CXXIX of 2015.

<sup>76</sup> Amended by Paragraph e) of SubArt. (5) of Art. 17 of Act CXXIX of 2015.



(4) Any person otherwise lacking legal capacity to be a party to legal proceedings may also be involved in such actions. The Authority may intervene in the action on the requesting party's behalf.

(5)<sup>77</sup> Actions against bodies with public service functions of nation-wide jurisdiction shall be brought at the competent district court. Actions falling within the jurisdiction of local courts shall be heard by the local district of the district court of jurisdiction, or by the Pesti Központi Kerületi Bíróság (*Pest Central District Court*) in Budapest. Jurisdiction shall be determined by reference to the place where the head offices of the body with public service functions, being the respondent, is located.

(6) The court shall hear such cases in priority proceedings.

(6a)<sup>78</sup> If the data controller refused a request for access to public information on the basis of Para. (1) of Art. 27, and the requesting party brought the case before the court in accordance with Para. (1) hereof for review of the refusal of his request for access to public information, the court may request the Authority to initiate administrative proceedings for the control of secrets, and shall simultaneously order the stay of its own proceedings. The ruling ordering the administrative proceedings for the control of secrets and the ruling on the stay of proceedings may not be contested separately.

(7)<sup>79</sup> When the decision is in favor of the request for access to public information, the court shall order the data controller to disclose the information in question within the deadline prescribed in the decision. The court shall have powers to modify the amount charged for compliance with the request, or may order the body with public service functions to re-open its proceedings for determining the amount of the fee chargeable.

## **CHAPTER IV**

### ***DISSEMINATION OF PUBLIC INFORMATION***

#### **22. Obligation to disclose public information**

##### ***Art. 32***

Bodies with public service functions shall promote and ensure that the general public is provided with accurate information in a timely fashion concerning the matters under their competence, such as the budgets of the central and municipal governments and the implementation thereof, the management of assets controlled by the central and municipal governments, the appropriation of public funds, and special and exclusive rights conferred upon market actors, private organizations or individuals.

#### **23. Obligation of publication by electronic means**

##### ***Art. 33***

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<sup>77</sup> Shall enter into force with the text established: by subparagraph b) Art. 412 of Act CCI of 2011.

Amended: by subparagraph a) paragraph (2) Art. 73 of Act CCXI of 2012. In force: as of 1. 01. 2013.

<sup>78</sup> Enacted by Art. 6 of Act CXXIX of 2015, effective as of 16 July 2015.

<sup>79</sup> Amended by Paragraphs e), f) of SubArt. (5) of Art. 17 of Act CXXIX of 2015.

(1) Access to public information whose publication is rendered mandatory under this Act shall be made available through the internet, in digital format, to the general public without any restriction, in a manner not to allow the identification of specific individuals, in a format allowing for printing or copying without any loss or distortion of data, free of charge, covering also the functions of consultation, downloading, printing, copying and network transmission (hereinafter referred to as “electronic publication”). Access to information disseminated as per the above shall not be made contingent upon the disclosure of personal data.

(2) Unless otherwise provided for by law, the following shall disseminate specific information defined on the publication lists referred to in Art. 37:

a)<sup>80</sup> Köztársasági Elnök Hivatala (*President of the Republic*), Országgyűlés Hivatala (*Parliament*), Alkotmánybíróság Hivatala (*Constitutional Court*), Alapvető Jogok Biztosának Hivatala (*Commissioner for Fundamental Rights*), Állami Számvevőszék (*State Audit Office*), Magyar Tudományos Akadémia (*Hungarian Academy of Sciences*), Magyar Művészeti Akadémia (*Hungarian Academy of Arts*), Országos Bírósági Hivatal (*National Office for the Judiciary*), Legfőbb Ügyészség (*Prosecutor General’s Office*);

b)<sup>81</sup>

c)<sup>82</sup> with the exception of central administrative authorities and government bodies, including national chambers and associations; and

d)<sup>83</sup> Budapest and county government agencies.

(3) The bodies with public service functions, other than those listed in Para. (2), shall have the option to fulfill their obligation of publication by electronic means, defined in Art. 37, through their own website or other websites maintained jointly with their associations, or by other bodies appointed to supervise their organizational and professional infrastructure, or coordinating their operations, or through a central website set up for this purpose.

(4) Any public education institution having no national or regional duties, shall discharge their obligation of publication by electronic means under this Act by way of data disclosure to the information systems specified by the relevant legislation governing the given sector.

## Art. 34

(1) The data source, if disseminating information through the website of others, shall transfer the data - in accordance with Art. 35 - to the data disseminator, who shall take measures for having the data published on a website, and shall ascertain that the name of the body from which public information originates or to which it pertains is clearly indicated.

(2) The data disseminator shall design the website used for publication with facilities to disseminate data and information, and shall ensure that the website runs without interruption and it is properly maintained, and that data are updated on a regular basis.

(3) The website used for dissemination shall offer easily understandable information concerning the rules of access to public information, including the remedies available.

<sup>80</sup> Shall enter into force with the text established: by subparagraph c) Art. 412 of Act CCI of 2011.

<sup>81</sup> Shall not enter into force according to paragraph (2) Art. 413 of Act CCI of 2011.

<sup>82</sup> Shall enter into force with the text established: by paragraph (1) Art. 413 of Act CCI of 2011.

<sup>83</sup> Amended: by Art. 79 of Act XCIII of 2012. In force: as of 6. 07. 2012.

(4) In addition to the public information specified on the publication lists, other public information and information of public interest may also be published on the website used for dissemination by way of electronic means.

### *Art. 35*

(1) The head of the data source subject to electronic publication shall provide for having the data and information specified on the publication lists defined in Art. 37 published accurately, up-to-date and on a regular basis, and for having them sent to the data disseminator.

(2) Responsibility for the publication of the data by electronic means, continuous access, and for keeping them authentic and regularly updates lies with the data disseminator.

(3) The data source and the data disseminator shall adopt internal regulations for laying down the detailed rules for discharging the obligations referred to in Para. (1) and Para. (2), respectively.

(4) Information published electronically may not be removed from the website, unless otherwise provided for by this Act or other legislation. In the event of dissolution of a body, the obligation of publication shall devolve upon the successor.

### *Art. 36*

Dissemination of the information specified in the publication lists referred to in Art. 37 shall be without prejudice to the obligation of the given body concerning the publication of public information or information of public interest prescribed in other legislation.

## 24. Publication lists

### *Art. 37*

(1) The bodies referred to in Para.s (2)-(4) of Art. 33 (hereinafter referred to collectively as “body subject to publication requirement”) shall - subject to the exception set out in Para. (4) - disseminate the data specified in the standard publication list referred to in Schedule No. 1 - as pertaining to their activities - by way of the means defined in Schedule No. 1.

(2) Additional data may be prescribed by law to be disseminated by certain types of bodies with public service functions regarding certain specific sectors (hereinafter referred to as “special publication list”).

(3) The publication of specific other data may be rendered mandatory by the head of the body subject to publication requirement - upon consulting with the Authority -, as well as by statutory provisions for bodies with public service functions, and other agencies controlled and/or supervised by such bodies, or Art.s of such agencies (hereinafter referred to as “ad hoc publication list”).

(4)<sup>84</sup> The Government shall decree - upon consulting with the Authority - the information to be made public by the national security services.

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<sup>84</sup> Established: by paragraph (1) Art. 1 of Act XCVI of 2012. In force: as of 7. 07. 2012.

(5) In the case of collegiate bodies subject to publication requirement, these bodies shall have powers to establish, and amend, the ad hoc publication list, upon consulting with the Authority.

(6)<sup>85</sup> The head of the body subject to publication requirement shall review, at least annually, the publication list he has published under Para. (3), taking into consideration any demand shown for public information that was not included in the publication list, and shall include such public information where demand is considered substantial in terms of the amount and number of requests received.

(7) The publication list may also provide for the frequency of publication, depending on the type of data in question.

(8) The Authority may present a recommendation for having special and ad hoc publication lists drawn up, or amended.

## 24/A. Central electronic register of public information and the single data retrieval system<sup>86</sup>

### *Art. 37/A<sup>87</sup>*

(1) In the interest of providing fast and easy access to information that has been published electronically, the central electronic register posted on a designated website - set up by the minister in charge for the implementation of infrastructure requirements for administrative information technology systems - contains all relevant descriptive information on the websites of bodies subject to the obligation of publication of public information by electronic means under this Act, pertaining also to their databases and registers.

(2) Electronic access using a single platform to the public information of the bodies referred to in Para. (1) and facilities for searching among public information shall be ensured by the single data retrieval system set up by the minister in charge for the implementation of infrastructure requirements for administrative information technology systems.

### *Art. 37/B<sup>88</sup>*

(1) The data source shall provide for having the descriptive information on websites, databases and registers containing public information made available to the minister in charge for the implementation of infrastructure requirements for administrative information technology systems and for updating on a regular basis the public information thus forwarded, and shall be responsible for the contents of public information forwarded to the single data retrieval system, as well as for having such public information updated on a regular basis.

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<sup>85</sup> Amended by Paragraph d) of SubArt. (8) of Art. 17 of Act CXXIX of 2015.

<sup>86</sup> Shall enter into force with the text established: by paragraph (4) Art. 411 of Act CCI of 2011.

<sup>87</sup> Shall enter into force with the text established: by paragraph (4) Art. 411 of Act CCI of 2011.

<sup>88</sup> Shall enter into force with the text established: by paragraph (4) Art. 411 of Act CCI of 2011.

(2) Maintaining the databases and registers containing public information and linking up with the single data retrieval system shall not exonerate the data source from the obligation of publication by electronic means.

## **CHAPTER V**

### **NEMZETI ADATVÉDELMI ÉS INFORMÁCIÓSZABADSÁG HATÓSÁG (NATIONAL AUTHORITY FOR DATA PROTECTION AND FREEDOM OF INFORMATION)**

#### **25. Legal status of the Authority**

##### **Art. 38**

(1) The Authority is an autonomous administrative agency.

(2) The Authority shall be responsible to oversee and promote the enforcement of the rights to the protection of personal data and access to public information and information of public interest.

(3) Within its scope of responsibilities conferred under Para. (2), the Authority:

- a) shall conduct inquiries upon notification;
  - b) may conduct *ex officio* administrative proceedings for data protection;
  - c) may conduct *ex officio* administrative proceedings for the control of secrets;
  - d) may file for court action in connection with any infringement concerning public information and information of public interest;
  - e) may intervene in actions brought by others;
  - f) maintain the data protection register;
- in accordance with this Act.

(4) Within its scope of responsibilities conferred under Para. (2), the Authority:

- a) shall have powers to make recommendations for new regulations and for the amendment of legislation pertaining to the processing of personal data, to public information and information of public interest, and shall express its opinion on bills covering the same subject;
- b) shall publish a report on its activities each year, by 31 March, and shall present this report to Parliament;
- c) shall make recommendations in general, or to specific controllers;
- d) shall give an opinion on special and ad hoc publication lists prescribed mandatory by this Act relating to the activities of the given body with public service functions;
- e) shall collaborate with the bodies and persons defined in specific other legislation to represent Hungary in the common supervisory bodies of the European Union for data protection;
- f) organize the conference of internal data protection officers;
- g) shall lay down the technical criteria for data protection audits;
- h) shall conduct data protection audit at the request of the controller.

(5) The Authority is an independent body that is subject to Hungarian law only, it may not be instructed in its official capacity, shall operate independent of any outside

interference, without any bias. Responsibilities may only be prescribed for the Authority by acts of Parliament.

## 26. Budget and financial management of the Authority

### *Art. 39*

(1) The Authority is a self-regulatory, publicly-financed body, funded under an independent title in the budget chapter of Parliament.

(2) Parliament shall have exclusive right to reduce the principal amounts of the Authority's expenditure and revenue accounts, with the exception of temporary measures adopted for the prevention of any natural disaster endangering lives and property, or in order to mitigate the consequences thereof, and the decisions the Authority has adopted within its own powers and competence, or when acting in the capacity of a governing body.

(3)<sup>89</sup>

(4) The Authority may allocate any residual amounts that may have remained in its budget from the previous year for financing operations in subsequent years.

## 27. President of the Authority

### *Art. 40*

(1)<sup>90</sup> The chief executive officer of the Authority is the President. The President of the Authority is appointed by the President of the Republic on a recommendation by the Prime Minister from among those Hungarian citizens with a law degree, who have the right to stand as candidates in parliamentary elections, having at least ten years of experience in overseeing proceedings related to data protection or the freedom of information, or holding an academic degree in either of those fields.

(2)<sup>91</sup> Persons who served as a Member of Parliament, a spokesman for the nationality or as a Member of the European Parliament, as the President of the Republic, member of the Government, state secretary, representative of a municipal government, mayor or deputy mayor, lord mayor or deputy lord mayor, chairman or deputy chairman of a county assembly, member of a minority government, or an officer or employee of a political party in the four-year period before the time of the recommendation for appointment may not be appointed as President of the Authority.

(3) The President of the Authority shall be appointed by the President of the Republic for a term of nine years.

(4) The President of the Authority - upon being appointed - shall take an oath or deposition before the President of the Republic in accordance with the Act on the Oath and Deposition of Public Officials.

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<sup>89</sup> Shall not enter into force according to paragraph (1) Art. 87 of Act CLXVI of 2011.

<sup>90</sup> Amended: by paragraph (1) Art. 4 of Act XXV of 2012. In force: as of 7. 04. 2012.

<sup>91</sup> Amended by SubArt. (5) of Art. 88 of the same Act. Amended: by paragraph (29) Art. 158 of Act XXXVI of 2012. Enters into force on the day of the inaugural session of the Parliament formed after the next general parliamentary elections, on 6 May 2014.

## *Art. 41*

(1) The President of the Authority may not be a member of any political party, may not engage in political activities, and his mandate shall be considered incompatible with other state or local government office or mandate.

(2)<sup>92</sup> The President of the Authority shall not be otherwise gainfully employed and shall not accept remuneration for other activities, with the exception of scientific, educational, artistic, editorial and revisory activities under copyright protection and the activities of registered foster carers, and other than revisory and editorial activities.

(3) The President of the Authority may not hold any executive office or membership in the supervisory board of a business association; and he may not be a member of a business association requiring personal involvement.

## *Art. 42*

(1) The President of the Authority shall submit a declaration of personal wealth in accordance with the provisions on the declarations of personal wealth of Members of Parliament within thirty days of the time of appointment, and subsequently by 31 January of each year, and also within thirty days after the date of termination of his mandate.

(2) In the event of non-compliance with the requirement to file a declaration of personal wealth the President of the Authority shall not be able to execute his office and shall not receive any remuneration insofar as his declaration of personal wealth is submitted.

(3) The declaration of personal wealth is considered public information, an exact copy of which shall be posted on the Authority's website without delay. The declaration of personal wealth may not be removed from the website for a period of one year following termination of the mandate of the President of the Authority.

(4) The Prime Minister's proceedings relating to the declaration of personal wealth of the President of the Authority may be requested by anyone with reference to specific Art.s of the declaration, and the contents of such Art.s, that is disputed. If the petition submitted is not in conformity with the requirements set out in this Para., or if the petition is re-submitted and it offers no new argument or evidence, the Prime Minister shall refuse the petition without the opening of an examination as to merits. The Prime Minister shall check the authenticity and credibility of the information supplied in the declaration of personal wealth.

(5) In proceedings related to the declaration of personal wealth, the President of the Authority shall - at the Prime Minister's request - submit a statement without delay, offering proof for the data and information contained in the declaration of personal wealth concerning his personal finances, income and other financial interests to the Prime Minister in writing. The Prime Minister shall send the findings of the proceedings to the President of the Republic along with the relevant data and information. Access to such data and information is restricted to the Prime Minister and the President of the Republic.

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<sup>92</sup> Established by Art. 79 of Act CI of 2014, effective as of 1 January 2015.

(6) The evidence submitted by the President of the Authority in connection with his declaration of personal wealth shall be deleted on the thirtieth day following the date of conclusion of the proceedings.

### *Art. 43*

(1) The President of the Authority shall be entitled to the same remuneration and benefits as the salary and benefits of ministers, including an executive bonus in the amount equal to one and a half times of the executive bonus of ministers.

(2) The President of the Authority is entitled to forty working days of paid annual leave per calendar year.

### *Art. 44*

(1) In terms of eligibility for social security benefits, the President of the Authority shall be regarded as employed in civil service relationship.

(2) The time period of the President's mandate shall be recognized as spent in public service at an administrative body.

### *Art. 45*

(1) The mandate of the President of the Authority shall terminate:

a) upon completion of his term of office;

b) upon resignation;

c) upon death;

d)<sup>93</sup> if the requirements for appointment are no longer satisfied and in the event of non-compliance with the requirement to file a declaration of personal wealth;

e) upon declaration of incompatibility;

f)-g)<sup>94</sup>

(2) The President of the Authority shall be able to resign from office any time, by means of tendering his resignation in writing submitted to the Prime Minister and addressed to the President of the Republic. The mandate of the President of the Authority shall terminate on the day subsequent to the date of resignation, as indicated in the resignation, or failing this on the day when the resignation is submitted. A declaration of acceptance is not required for the effectiveness of the resignation.

(3)<sup>95</sup> If the President of the Authority fails to resolve the conflict of interest specified under Art. 41 within thirty days from the date of appointment, or if any conflict of interest arises while in office, the President of the Republic shall decide as to incompatibility, on a proposal by the Prime Minister.

(4)-(5)<sup>96</sup>

(6)<sup>97</sup> The President of the Republic shall decide upon the declaration of non-compliance with the requirements for the appointment of the President of the Authority on a proposal

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<sup>93</sup> Established: by paragraph (1) Art. 1 of Act XXV of 2012. In force: as of 7. 04. 2012.

<sup>94</sup> Repealed: by paragraph (1) Art. 5 of Act XXV of 2012. No longer in force: as of 7. 04. 2012.

<sup>95</sup> Amended: by paragraph (2) Art. 5 of Act XXV of 2012. In force: as of 7. 04. 2012.

<sup>96</sup> Repealed: by paragraph (1) Art. 5 of Act XXV of 2012. No longer in force: as of 7. 04. 2012.

<sup>97</sup> Established: by paragraph (2) Art. 1 of Act XXV of 2012. In force: as of 7. 04. 2012.



by the Prime Minister. The President of the Republic shall - on a proposal by the Prime Minister - establish the infringement of the provisions on the declaration of personal wealth, if the President of the Authority has knowingly disclosed false data or information in his declaration of personal wealth.

(6a)<sup>98</sup> The Prime Minister shall send a copy of his proposal made under Para.s (3) and (6) to the President of the Republic and to the President of the Authority as well.

(6b)<sup>99</sup> The President of the Authority may contest the proposal and bring the case before the court within thirty days from the date of receipt of the proposal. No application for continuation will be accepted upon failure to meet this deadline. The action shall be brought against the Prime Minister. The court shall proceed in accordance with the provisions of the Code of Civil Procedure on actions relating to contracts of employment and other similar relationships, with the proviso that the case shall be heard by the Fővárosi Közigazgatási és Munkaügyi Bíróság (Budapest Court of Public Administration and Labor) in priority proceedings under exclusive jurisdiction, and the action and the final decision shall be communicated to the President of the Republic as well.

(6c)<sup>100</sup> If based on the action brought by the President of the Authority according to Para. (6b) the court in its final decision finds the Prime Minister's proposal made under Para.s (3) and (6) unsubstantiated, the President of the Republic shall not declare the mandate of the President of the Authority terminated.

(6d)<sup>101</sup> The President of the Republic shall decide on the Prime Minister's proposal made under Para.s (3) and (6):

a) if the President of the Authority did not file for court action inside the time limit specified in Para. (6b), within fifteen days past the time limit,

b) if the President of the Authority did file for court action inside the time limit specified in Para. (6b), within fifteen days from the date of the final decision adopted on the merits of the case.

(7)<sup>102</sup> If the mandate of the President of the Authority terminates under Paragraph a) or b) of Para. (1), the President shall be entitled to an extra payment of three times the monthly remuneration in effect at the time of termination.

(8)<sup>103</sup> As regards the decisions conferred by Para.s (3) and (6) of this Art. and by Art. 40 under the competence of the President of the Republic, no endorsement is required.

### *Art. 45/A<sup>104</sup>*

The President of the Authority shall have the right to participate in and take the floor at Parliament committee meetings.

## **28. Vice-President of the Authority**

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<sup>98</sup> Enacted: by paragraph (2) Art. 1 of Act XXV of 2012. In force: as of 7. 04. 2012.

<sup>99</sup> Enacted: by paragraph (2) Art. 1 of Act XXV of 2012. In force: as of 7. 04. 2012. Amended: by subparagraph b) paragraph (2) Art. 73 of Act CCXI of 2012. In force: as of 1. 01. 2013.

<sup>100</sup> Enacted: by paragraph (2) Art. 1 of Act XXV of 2012. In force: as of 7. 04. 2012.

<sup>101</sup> Enacted: by paragraph (2) Art. 1 of Act XXV of 2012. In force: as of 7. 04. 2012.

<sup>102</sup> Amended: by paragraph (2) Art. 4 of Act XXV of 2012. In force: as of 7. 04. 2012.

<sup>103</sup> Amended: by paragraph (2) Art. 4 of Act XXV of 2012. In force: as of 7. 04. 2012.

<sup>104</sup> Enacted: by Art. 2 of Act XXV of 2012. In force: as of 7. 04. 2012.

## *Art. 46*

(1) The President of the Authority shall appoint a vice president for an indefinite period to assist in his work. The President of the Authority shall exercise the employer's rights in respect of the Vice-President.

(2)<sup>105</sup> The Vice-President shall be able to satisfy the requirements set out in Para.s (1) and (2) of Art. 40 for the appointment of the President of the Authority, with the proviso that five years of professional experience is required in monitoring proceedings relating to data protection and freedom of information.

(3) The provisions of Art. 41 on conflict of interest shall apply to the Vice-President as well.

(4) In the event that the President is temporarily prevented from attending to his duties, or if the office of the President is vacant, the powers and responsibilities of the President shall be exercised by the Vice-President.

## *Art. 47*

The provisions of Art. 42 shall also apply to the obligation of the Vice-President to file a declaration of personal wealth, and also to the related proceedings, with the exception that the President of the Authority shall hear cases related to the declaration of personal wealth instead of the Prime Minister, and that the President of the Republic need not be informed of the findings of the proceedings.

## *Art. 48*

(1) The Vice-President shall be entitled to the same remuneration and benefits as the salary and benefits of state secretaries.

(2) The Vice-President is entitled to forty working days of paid annual leave per calendar year.

(3) In terms of eligibility for social security benefits, the Vice-President shall be regarded as employed in civil service relationship.

(4) The time period of the Vice-President's mandate shall be recognized as spent in public service at an administrative body.

## *Art. 49*

(1) The mandate of the Vice-President of the Authority shall terminate:

- a) upon resignation;
- b) upon death;
- c) if the requirements for appointment are no longer satisfied;
- d) upon declaration of incompatibility;
- e) upon dismissal;
- f) upon removal from office.

(2) The Vice-President of the Authority shall be able to resign from office any time, by means of tendering his resignation in writing submitted to the President of the Authority.

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<sup>105</sup> Established: by Art. 3 of Act XXV of 2012. In force: as of 7. 04. 2012.

The mandate of the Vice-President of the Authority shall terminate on the day subsequent to the date of resignation, as indicated in the resignation, or failing this on the day when the resignation is submitted. A declaration of acceptance is not required for the effectiveness of the resignation.

(3) If the Vice-President of the Authority fails to resolve the conflict of interest specified under Art. 41 within thirty days from the date of appointment, or if any conflict of interest arises while in office, the President of the Authority shall decide as to incompatibility.

(4) The President of the Authority shall dismiss the Vice-President of the Authority, if the Vice-President of the Authority is unable to attend to his vested duties for a period of over ninety days for reasons beyond his control.

(5) The President of the Authority shall be entitled to dismiss the Vice-President of the Authority and shall, at the same time, offer a civil service relationship to the Vice-President at the Authority and an examiner's position even in the absence of the requirements set out in Para. (1) of Art. 51.

(6) The President of the Authority shall remove the Vice-President of the Authority from office, if the Vice-President fails to attend to his vested duties for a period of over ninety days for reasons within his control, or if he has knowingly disclosed false data or information in his declaration of personal wealth.

(7) The President of the Authority shall decide upon the declaration of non-compliance with the requirements for the appointment of the Vice-President of the Authority.

(8) If the mandate of the Vice-President of the Authority terminates under Paragraph a) or e) of Para. (1), the Vice-President shall be entitled to an extra payment of three times the monthly remuneration in effect at the time of termination.

## 29. Staff of the Authority

### *Art. 50*

The President of the Authority shall exercise employer's rights in respect of the Authority's public servants and employees.

### *Art. 51*

(1) The President of the Authority shall be entitled to appoint examiners - up to twenty per cent of all civil servants of the Authority - from among the civil servants in the Authority's employ with a degree of higher education in information technology or law, and at least three years of experience as a data protection expert or data protection officer, and shall have a degree in public administration or a law degree.

(2) Examiners are appointed for unfixed terms, and may be dismissed by the President of the Authority any time without cause. If the President of the Authority has withdrawn the appointment of an examiner, the civil servant in question shall be reinstated in his last position before the appointment.

(3) Examiners are entitled to the salary of department heads, exclusive of executive bonus.

## **CHAPTER VI**

## ***PROCEEDINGS OF THE AUTHORITY***

### **30. Investigation by the Authority**

#### ***Art. 52***

(1) Any person shall have the right to notify the Authority and request an investigation alleging an infringement relating to his or her personal data or concerning the exercise of the rights of access to public information or information of public interest, or if there is imminent danger of such infringement.

(1a)<sup>106</sup> The Authority's investigation may be requested by way of notification based on either of the reasons provided for in Para. (1) of Art. 31 within one year from the time of refusal of the request, from the deadline in the event of non-compliance or from the expiry of the time limit for the payment of charges.

(2) The Authority's proceedings ensuing shall not be treated as administrative proceedings, and shall not fall within the scope of the Act on the General Rules of Administrative Proceedings.

(3) Having submitted a notification to the Authority may not entail any discrimination against the notifier. The Authority may reveal the person of the notifier only if the inquiry cannot be carried out otherwise. If so requested by the notifier, the Authority may not disclose his identity even if the inquiry cannot be carried out otherwise. The notifier must be informed by the Authority of this circumstance.

(4) The Authority shall carry out the investigation free of charge; the costs thereof shall be advanced and borne by the Authority.

#### ***Art. 53***

(1) Subject to the exceptions set out in Para.s (2) and (3), the Authority shall examine the notifications received as to merits.

(2) The Authority may refuse the notification without examination thereof as to merits if:

a) the infringement alleged in the notification is considered minor, or

b) the notification is anonymous.

(3) The Authority shall refuse the notification without examination thereof as to merits if:

a) court proceedings are in progress, or a final court ruling has previously been rendered concerning the case in question,

b) the notifier maintains his request for not having his identity disclosed despite the information provided under Para. (3) of Art. 52,

c) the notification is manifestly unfounded,

d) the notification has been re-submitted and it contains no new facts or information as to merits,

e)<sup>107</sup> the notification was submitted past the deadline specified in Para. (1a) of Art. 52.

(4) The Authority may refuse a notification that has been submitted by the Commissioner of Fundamental Rights without examination thereof as to merits if court proceedings are

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<sup>106</sup> Enacted by Art. 7 of Act CXXIX of 2015, effective as of 1 October 2015.

<sup>107</sup> Enacted by Art. 8 of Act CXXIX of 2015, effective as of 1 October 2015.

in progress, or a final court ruling has previously been rendered concerning the case in question.

(5) The Authority shall terminate the inquiry if:

a) the petition should have been refused pursuant to Para.s (3)-(4), however, the authority obtained information concerning the grounds for refusal following the opening of the investigation;

b) the reason for continuing the investigation no longer exists.

(6) The Authority shall inform the notifier concerning the refusal of the notification without examination thereof as to merits and on the termination of the investigation, including the reasons for refusal and termination.

(7) The Authority shall transfer a case for which it has no competence to the proper authority, of which the notifier shall be informed, provided that there is sufficient information available to determine the identity of the relevant authority. If, based on the notification received in a case for which it has no competence, the Authority comes to the conclusion that the case should be brought before the court, the notifier shall be informed thereof.

## *Art. 54*

(1) In the course of that inquiry, the Authority:

a) shall have powers to inspect all documents of the controller inspected, presumed to have any bearing on the case at hand, and may request copies of such documents,

b) shall be given access to any data processing operation presumed to have any bearing on the case at hand, and shall be authorized to enter any premises where data processing takes place,

c) shall have the right to request information from the controller inspected, and from any employee or associate of the controller in writing or verbally,

d)<sup>108</sup> shall have the right to request information in writing, including copies of documents that may be connected to the case at hand, from any organization or person presumed to have any connection to the case at hand, and

e) may request the head of the supervisory body of the data controller authority to conduct an investigation.

(2) The data controller inspected and the organization or person involved in the case at hand shall comply with the Authority's request under Para. (1) within the time limit prescribed by the Authority. The time limit prescribed by the Authority may not be less than fifteen days in the cases referred to in Paragraphs d) and e) of Para. (1).

(3) The person asked for information according to Paragraphs c) and d) of Para. (1) may refuse to comply if:

a) the person affected by the notification underlying the Authority's proceedings is his close relative or former spouse by definition of the Act on the General Rules of Administrative Proceedings;

b) giving the information would implicate himself, or his close relative or former spouse defined in the Act on the General Rules of Administrative Proceedings in the commission of a crime, as regards the question related thereto.

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<sup>108</sup> Amended by Paragraph e) of SubArt. (8) of Art. 17 of Act CXXIX of 2015.

## *Art. 55*

- (1) Within two months from the date of receipt of the notification, the Authority shall:
- a) if it finds in favor of the notification,
    - aa) take the measures defined in Art. 56 and Art. 57,
    - ab) terminate the inquiry, and shall launch administrative proceedings for data protection in accordance with Art. 60, or
    - ac) terminate the inquiry, and shall launch administrative proceedings for the control of secrets in accordance with Art. 62;
  - b) terminate the inquiry if it finds against the notification.
- (1a)<sup>109</sup> The following shall not be included in the time limit referred to in Para. (1):
- a) the length of time between the receipt of the notice requesting information for ascertaining the relevant facts of the case, until they are provided;
  - b) the length of time required for the translation of the document connected to the investigation; and
  - c) the length of period of any system breakdown or some other unavoidable circumstance that has the capacity to obstruct or disable the Authority's functions for at least one full day.
- (2) The Authority shall inform the notifier on the findings of its investigation, on the reasons for terminating the proceedings and on any measures taken or on the opening of administrative proceedings, where applicable.

## *Art. 56*

- (1) Where the Authority considers that any infringement relating to personal data or concerning the exercise of the rights of access to public information or information of public interest, or the imminent danger of such infringement exist, it shall call on the data controller affected to eliminate the infringement, and the imminent danger of such infringement.
- (2) The controller - if in agreement - shall take the measures indicated in the notice referred to in Para. (1) without delay, and shall inform the Authority concerning the measures it has taken, or - if in disagreement - of its argument within thirty days from the date of receipt of the notice.
- (3) If the data controller authority has a supervisory body, the Authority - if the notice referred to in Para. (1) failed to obtain satisfaction - may present a recommendation to the controller's supervisory body, of which the controller has to be notified as well. The Authority may also present a recommendation directly, without sending a notice to the controller's supervisory body under Para. (1), if it is of the opinion that this is a more efficient way to remedy the infringement and to eliminate the imminent danger of such infringement.
- (4) The supervisory body shall notify the Authority in writing of its position concerning the recommendation as to merits, or on the measures taken within thirty days from the date of receipt of the recommendation.

## *Art. 57*

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<sup>109</sup> Enacted by Art. 9 of Act CXXIX of 2015, effective as of 16 July 2015.

If, based on the findings of the investigation, the Authority considers that the infringement or the imminent danger thereof is attributable to any provision of legislation or legal act for the governance of bodies governed by public law that is deemed redundant, unclear or inadequate, or the lack of legal regulation of issues relating to data processing, or the deficiency thereof, it may present a proposal for legislative step, or for the issue of a legal act for the governance of bodies governed by public law in the interest of eliminating such infringements and the imminent danger thereof in the future, to the appropriate bodies for the issue of a legal act for the governance of bodies governed by public law or for drafting bills of legislation. In the recommendation the Authority may propose the amendment, repeal or adoption of legislation or legal act for the governance of public organizations. The body contacted shall inform the Authority within sixty days concerning its opinion, or on the measures taken in conformity with the recommendation.

### *Art. 58*

(1) If the controller failed to remedy the infringement or to eliminate the imminent danger thereof upon receipt of notice or recommendation under Art. 56, the Authority shall decide on taking further action deemed necessary after the expiry of the time limit referred to in Para. (2) of Art. 56, or in Para. (4) of Art. 56 in connection with a recommendation.

(2) Where Para. (1) applies, the Authority shall take further action as per the following:

- a) open administrative proceedings for data protection under Art. 60;
- b) open administrative proceedings for the control of secrets under Art. 62;
- c) initiate court proceedings according to Art. 64; or
- d) draw up a report according to Art. 59.

(3) The Authority shall inform the notifier concerning the outcome of the measures taken under Art.s 56 and 57, and on taking further action according to Para. (2) hereof.

## 31. The Authority's report

### *Art. 59*

(1) The Authority may draw up a report on the findings of an investigation conducted on basis of notification in a case where the Authority did not open administrative proceedings and did not file for court action.

(2) The report shall contain the facts revealed by the investigation, and the resulting findings and conclusions.

(3) The Authority's report shall be considered public information. The President of the Authority shall classify the report if it contains any classified information, or shall confirm its existing classification. If the report contains any classified information or any secrets protected by law, it shall be made available to the public with the classified information or secrets protected by law properly concealed.

(4) The report made by the Authority on the examination of the activities of bodies authorized for using secret service means and methods may not contain any data or information that may suggest any covert investigation conducted by these bodies in a given case.

(5) The Authority's report may not be contested in court or before any other authority.

## 32. Administrative proceedings for data protection

### *Art. 60*

(1)<sup>110</sup> In the interest of the enforcement of the right to the protection of personal data the Authority may open administrative proceedings, or shall open administrative proceedings for data protection in the case under Para. (4).

(2) The provisions of the Act on the General Rules of Administrative Proceedings shall apply to administrative proceedings for data protection, subject to the exceptions set out in this Act.

(3) Administrative proceedings for data protection may be opened *ex officio* only, and it shall not be deemed to have been opened upon request even if the administrative proceedings for data protection was preceded by the Authority investigation launched upon notification. If, however, the Authority has conducted an investigation launched upon notification before the administrative proceedings for data protection, the notifier shall be informed on the opening of such proceedings, including its conclusion as well.

(4) The Authority shall open administrative proceedings for data protection if, the findings of an investigation launched upon notification or other evidence suggest any unlawful processing of personal data, and such unlawful processing:

a)<sup>111</sup> concerns a large segment of the population, or

b)<sup>112</sup>

c) is likely to cause a great deal of harm or damage.

(5)<sup>113</sup> The administrative time limit in administrative proceedings for data protection is two months, that may be extended once by up to thirty days.

### *Art. 61*

(1)<sup>114</sup> In its resolution adopted in administrative proceedings for data protection, the Authority:

a) may establish the unlawful handling or processing of personal data,

b) may order the revision of any personal data that is deemed inaccurate,

c) may order the blocking, erasure or destruction of personal data handled or processed unlawfully,

d) may prohibit the unlawful handling or processing of personal data,

e) may prohibit the transfrontier transmission or disclosure of personal data,

f) may order the information of the data subject, if it was refused by the data controller unlawfully, and

g) may impose a financial penalty.

(2)<sup>115</sup> The Authority may order to have its resolution published, including the data controller's particulars, if the case concerns a large segment of the population, if it is

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<sup>110</sup> Established by SubArt. (1) of Art. 10 of Act CXXIX of 2015, effective as of 16 July 2015.

<sup>111</sup> Amended by SubArt. (9) of Art. 17 of Act CXXIX of 2015.

<sup>112</sup> Repealed by SubArt. (2) of Art. 18 of Act CXXIX of 2015, effective as of 1 October 2015.

<sup>113</sup> Established by SubArt. (2) of Art. 10 of Act CXXIX of 2015, effective as of 1 October 2015.

<sup>114</sup> Established by Art. 11 of Act CXXIX of 2015, effective as of 1 October 2015.



connected to the activity of the body with public service functions, or if public disclosure appears justified on account of the gravity of the infringement.

(3)<sup>116</sup> The amount of the financial penalty imposed pursuant to Paragraph g) of Para. (1) shall be between one hundred thousand and twenty million forints.

(4) The Authority shall decide whether or not to impose a penalty, and the amount of the penalty taking into account all circumstances of the case, such as in particular the number of data subjects affected by the infringement, the gravity of the infringement and whether it is a repeated offense.

(5) Before the expiry of the deadline for filing a petition for judicial review, and if judicial review has been requested, before the final court decision the data affected by the processing operation in dispute may not be erased and may not be destroyed.

### 33. Administrative proceedings for the control of secret

#### *Art. 62*

(1)<sup>117</sup> If the findings of the Authority's investigation or other evidence suggest that the classification of certain national security information is unlawful, the Authority may open administrative proceedings for the control of secrets.

(1a)<sup>118</sup> If the court initiates the Authority's administrative proceedings for the control of secrets in accordance with Para. (6a) of Art. 31, the Authority shall open administrative proceedings for the control of secrets.

(1b)<sup>119</sup> The administrative proceedings for the control of secrets conducted by the Authority shall not concern the tasks conferred upon the Nemzeti Biztonsági Felügyelet (*National Security Authority*) by the Act on the Protection of Classified Information.

(2) The provisions of the Act on the General Rules of Administrative Proceedings shall apply to administrative proceedings for the control of secrets, subject to the exceptions set out in this Act.

(2a)<sup>120</sup> In administrative proceedings for the control of secrets, and in court proceedings for the review of decisions adopted in such proceedings the management of classified information shall be carried out in accordance with the security requirements laid down in the Act on the Protection of Classified Information and in this Act.

(3)<sup>121</sup> Administrative proceedings for the control of secrets may be opened ex officio only, and it shall not be deemed to have been opened upon request even if the administrative proceedings for the control of secrets was preceded by the Authority's investigation launched upon notification, or if the court initiated administrative proceedings for the control of secrets in accordance with Para. (6a) of Art. 31. If, however, the Authority has conducted an investigation launched upon notification before the administrative proceedings for the control of secrets, the notifier shall be informed on the opening of such proceedings, including its conclusion as well.

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<sup>115</sup> Established by Art. 11 of Act CXXIX of 2015, effective as of 1 October 2015.

<sup>116</sup> Amended by Paragraph f) of SubArt. (8), SubArt. (10) of Art. 17 of Act CXXIX of 2015.

<sup>117</sup> Established by SubArt. (1) of Art. 12 of Act CXXIX of 2015, effective as of 16 July 2015.

<sup>118</sup> Enacted by SubArt. (1) of Art. 12 of Act CXXIX of 2015, effective as of 16 July 2015.

<sup>119</sup> Enacted by SubArt. (1) of Art. 12 of Act CXXIX of 2015, effective as of 16 July 2015.

<sup>120</sup> Enacted by SubArt. (2) of Art. 12 of Act CXXIX of 2015, effective as of 16 July 2015.

<sup>121</sup> Established by SubArt. (3) of Art. 12 of Act CXXIX of 2015, effective as of 16 July 2015.

(4)<sup>122</sup> In administrative proceedings for the control of secrets the classifier is construed as the client.

(5)<sup>123</sup> In administrative proceedings for the control of secrets the witness, the expert and the holder of the subject-matter of the inspection may be heard in the process of ascertaining the relevant facts of the case even if he was not released from the obligation of confidentiality relating to classified national security information.

(6)<sup>124</sup> The administrative time limit in administrative proceedings for the control of secrets is two months, that may be extended once by up to thirty days.

### *Art. 63*

(1)<sup>125</sup> In its resolution adopted in administrative proceedings for the control of secrets the Authority:

a) shall - in the event of any infringement of the regulations pertaining to the classification of national security information - call upon the classifier to modify - in accordance with the law - the level or term of classification of information classified at the national level, or to have it declassified, or

b) shall establish that the classifier acted in compliance with the regulations pertaining to the classification of national security information.

(2)<sup>126</sup> The classifier, if it finds the Authority's resolution under Paragraph a) of Para. (1) unsubstantiated, may request judicial review within sixty days following the date of delivery of the resolution. Upon receipt of the petition for judicial review, enforcement of the resolution shall be suspended. If the classifier did not seek legal action in the court of law within sixty days following the date of delivery of the resolution, the information classified at the national level shall be considered declassified on the sixty-first day following the date of delivery of the resolution, or the level or term of classification shall be modified in accordance with the resolution.

(2a)<sup>127</sup> The actions referred to in Para. (2) shall be heard by a panel of three professional judges.

(3) The regulations of the Act on the Code of Civil Procedure on administrative actions shall apply to these court proceedings, where they shall be heard in closed session in priority proceedings.

(4)<sup>128</sup>

(5) The court ruling or the Authority's resolution shall not affect the obligation of the classifier for the review of classified national security information, as defined by the Act on the Protection of Classified Information.

(6)<sup>129</sup> The presiding judge must have security clearance accorded under the Act on National Security Agencies.

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<sup>122</sup> Enacted by SubArt. (4) of Art. 12 of Act CXXIX of 2015, effective as of 16 July 2015.

<sup>123</sup> Enacted by SubArt. (4) of Art. 12 of Act CXXIX of 2015, effective as of 16 July 2015.

<sup>124</sup> Enacted by SubArt. (4) of Art. 12 of Act CXXIX of 2015, effective as of 16 July 2015.

<sup>125</sup> Established by SubArt. (1) of Art. 13 of Act CXXIX of 2015, effective as of 16 July 2015.

<sup>126</sup> Amended by Paragraph a) of SubArt. (11) of Art. 17 of Act CXXIX of 2015.

<sup>127</sup> Enacted by SubArt. (2) of Art. 13 of Act CXXIX of 2015, effective as of 16 July 2015.

<sup>128</sup> Repealed by SubArt. (3) of Art. 18 of Act CXXIX of 2015, effective as of 16 July 2015.

<sup>129</sup> Amended by Art. 47 of Act CIX of 2014.

(7)<sup>130</sup> In the action provided for in Para. (2), persons other than the judge, the plaintiff and the defendant shall be allowed access to the said classified information only if they have personal security clearance according to the security classification level of the information in question.

### 34. Legal proceedings that may be instituted within the purview of the Authority

#### *Art. 64*

(1) If the data controller fails to comply with the request made under Para. (1) of Art. 56, the Authority may bring the case before the court - alleging infringement of the regulation relating to public information and information of public interest - within thirty days following the date of expiry of the time limit for providing the information under Para. (2) of Art. 56, seeking a ruling for ordering the data controller to respect the Authority's request.

(2) The court referred to in Para. (5) of Art. 31 shall have competence and jurisdiction to adjudicate the action aforementioned.

(3) The burden of proof to show compliance with the law lies with the data controller.

(4) Any person otherwise lacking legal capacity to be a party to legal proceedings may also be involved in such actions.

(5) The court - upon request - may order publication of its decision, by way of publishing the identification data of the controller, if it is necessitated for data protection and the freedom of information in general or in connection with the rights of large numbers of data subjects under protection by this Act.

### 34/A.<sup>131</sup> Procedures for the approval of mandatory organizational governance regime

#### *Art. 64/A<sup>132</sup>*

(1) Approval of the mandatory organizational governance regime may be requested at the Authority by the data controller. Data controllers covered by the Act on Information Security of Bodies of the Central and Local Governments shall not be entitled to request the approval of the mandatory organizational governance regime.

(2) Applications for the approval of a mandatory organizational governance regime shall contain:

a) the particulars specified in Paragraphs a)-j) of Para. (1) of Art. 65 relating to the data processing operations carried out by the data controller or a group of data controllers, or the registration number of the particular data processing operation;

b) the draft of the mandatory organizational governance regime;

c) information to show that the organizational governance regime is mandatory;

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<sup>130</sup> Amended by Art. 47 of Act CIX of 2014, Paragraph b) of SubArt. (11) of Art. 17 of Act CXXIX of 2015.

<sup>131</sup> Enacted by Art. 14 of Act CXXIX of 2015, effective as of 1 October 2015.

<sup>132</sup> Enacted by Art. 14 of Act CXXIX of 2015, effective as of 1 October 2015.

d) if the mandatory organizational governance regime was approved by the data protection authority of another EEA Member State, data in proof thereof.

#### *Art. 64/B<sup>133</sup>*

Approval of the mandatory organizational governance regime shall be subject to the payment of an administrative service fee in the amount prescribed in the relevant ministerial decree.

#### *Art. 64/C<sup>134</sup>*

(1) The Authority shall adopt a decision concerning the application for the approval of the mandatory organizational governance regime within sixty days. In conclusion of the assessment of an application for the approval of a mandatory organizational governance regime the Authority shall either approve the mandatory organizational governance regime, recommend to have it modified or shall refuse to approve it.

(2) For information purposes, the Authority shall publish on its website the name of data controllers using mandatory organizational governance regimes.

### 35. Data protection register

#### *Art. 65*

(1) The Authority shall maintain official records on the processing operations of controllers in respect of personal data (hereinafter referred to as “data protection register”) for the purpose of providing assistance to data subjects containing - with the exceptions set out in Para. (2) - the following information:

- a) the purpose of processing;
- b) the legal basis of processing;
- c) the data subjects involved;
- d) description of the data pertaining to the data subjects;
- e) the source;
- f) the duration of processing;
- g) the categories of data transferred, the recipients and the grounds for transfer, including transfers made to third countries;
- h) name and address of the data controller and the data processor, the place where records are kept and/or where processing is carried out, and the data processor’s activities in connection with data control operations;
- i) the nature of the data processing technique used;
- j) the name of and contact information for the internal data protection officer, where applicable.

(2) As regards national security agencies, the data protection register shall indicate the name and address of the given national security agency, and the purpose of and legal basis for data processing.

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<sup>133</sup> Enacted by Art. 14 of Act CXXIX of 2015, effective as of 1 October 2015.

<sup>134</sup> Enacted by Art. 14 of Act CXXIX of 2015, effective as of 1 October 2015.

(3) The Authority's data protection register shall not cover operations:

a) concerning the data of the data controller's employees or members, students engaged under kindergarten education agreement, or under student or apprenticeship agreement, with or without dormitory services, or customers, other than the customers of financial institutions, public utility companies and electronic telecommunications service providers;

b)<sup>135</sup> carried out in accordance with the internal rules of a listed church;

c) that concerns the personal data of a person undergoing medical treatment, for the purposes of health care and preventive measures or for settling claims for benefits and services in the social insurance system;

d) where it contains information concerning the provision of social and other benefits to the data subject;

e) where it contains the personal data of persons implicated in an official regulatory, public prosecutor or court proceeding to the extent required for such proceeding, or it concerns personal data processed by penal institutions in the execution of a sentence;

f) where it contains personal data for official statistical purposes, provided there are adequate guarantees that the data is rendered permanently anonymous in such a way that the data subject is no longer identifiable in accordance with the relevant legislation;

g) where it concerns the data of a media content provider defined by the Act on Media Services and on the Mass Media, which are used solely for its own information activities;

h) if it serves the purposes of scientific research, and if the data is not made available to the public;

i) where it concerns documents deposited in archive.

(4)<sup>136</sup> The register of processing operations shall be open to the general public, it may be inspected by any person, including taking notes.

## *Art. 66*

(1) Controllers shall apply to the Authority for having their personal data processing operation registered before the commencement of processing, with the exception of mandatory processing. Apart from mandatory processing and with the exception set out in Para. (2) of Art. 68, processing may not commence prior to registration.

(2) Registration of mandatory processing shall be requested by the controller from the Authority within twenty days following the operative date of the relevant legislation in which data processing is prescribed.

(3) From the perspective of registration, the processing operations carried out for different purposes shall be treated as independent operations, even if the data processed is of the same type.

(4) The application for registration shall contain the information specified in Para. (1) or Para. (2) of Art. 65.

## *Art. 67*

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<sup>135</sup> Amended: by Art. 121 of Act CXXXIII of 2013. In force: as of 1. 08. 2013.

<sup>136</sup> Shall enter into force with the text established: by paragraph (6) Art. 411 of Act CCI of 2011.

With the exception of mandatory processing, admission to the data protection register shall be subject to an administrative service fee payable in the amount decreed by the relevant minister.

### *Art. 68*

(1) With the exception set out in Para. (3), the Authority shall register the data processing operation within eight days from the date of receipt of the application, if it contains the information specified in Para. (1) or Para. (2) of Art. 65.

(2) With the exception set out in Para. (3), if the Authority fails to adopt a decision regarding the application for registration in due time, the controller may commence the processing operation according to what is contained in the application.

(3) The Authority shall register the data processing operation referred to in Para.s (4) and (5) within forty days from the date of receipt of the application, if it contains the information specified in Para. (1) or Para. (2) of Art. 65, and if the controller is able to meet the conditions for lawful processing.

(4) If the application for registration is submitted in respect of processing operations under Para. (5), pertaining to data files unaffected by any previous data processing operation of the controller, or for which a new processing technique that the controller has never used before for any previous processing operation is required, registration shall be granted on condition that the controller is able to meet the conditions for lawful processing.

(5) The condition for registration under Para. (4) pertains, in accordance with what is contained therein, to:

a) data files concerning authorities of nation-wide jurisdiction, data files concerning employment and criminal records;

b) data files from the customer records of financial institutions and public utility companies;

c) data files from the customer records of providers of electronic communications services.

(6) The resolution adopted by the Authority for admission into the data protection register shall contain the registration number, that the controller is required to indicate for all operations with data, such as when data is transferred or published, or when provided to the data subject. The registration number is assigned to identify the data processing operation, and it is not intended to verify the lawfulness of the operation.

(7) In the event of any change in the data specified in Paragraphs *b)-j)* of Para. (1) of Art. 65, the data controller is required to submit an application for the registration of change to the Authority within eight days from the effective date of the change. The provisions of Para.s (1), (3) and (5) shall also apply to the registration of changes, where the application shall suffice to contain the changes only.

## 36. Data protection audit

### *Art. 69<sup>137</sup>*

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<sup>137</sup> Shall enter into force with the text established: by paragraph (1) Art. 73 of Act CCXI of 2012.

(1) The data protection audit is a service provided by the Authority designed to evaluate and assess data processing operations in progress or proposed along technical merits, intended to effectively implement a high level of data protection and data security system. Proposed data processing operations may be audited if deemed justified based on the maturity of the data processing strategy.

(2) Data protection audits are conducted by the Authority at the data controller's request. Within fifteen days of receipt of the request for data protection audit, the Authority shall communicate to the data controller the fee payable for the data protection audit and the estimated time when the data protection audit will be conducted. The Authority shall carry out the data protection audit if the data controller provides a statement within fifteen days of receipt of the Authority's communication declaring his intention to go forward with the data protection audit in the light of the conditions indicated in the Authority's communication.

(3) The amount of the consideration payable for the data protection audit shall be determined by the Authority as commensurate for the activities to be performed, however, it may not exceed five million forints. The consideration charged for the data protection audit shall constitute revenue for the Authority.

(4) The Authority shall record the results of the data protection audit in an audit report. The audit report may also contain recommendations for the data controller. The audit report shall be made available in compliance with the regulations on business secrets, however, at the data controller's request the Authority shall publish the report or the summary evaluations of the report on its website, as requested.

(5) The data protection audit shall not exclude the exercise of the Authority's other competencies defined in this Act.

### 37. Initiating criminal, infringement and disciplinary proceedings

#### *Art. 70*

(1) In the event of having reasonable suspicion of alleged criminal activities in the course of its proceedings, the Authority shall file criminal charges at the body having jurisdiction to open criminal proceedings. In the event of having reasonable suspicion of alleged misdemeanor offenses or disciplinary infraction in the course of its proceedings, the Authority shall initiate infringement or disciplinary proceedings at the body having competence for conducting infringement or disciplinary proceedings.

(2) The body referred to in Para. (1) shall notify the Authority of its opinion concerning the opening of proceedings within thirty days, unless otherwise provided for by law, and of the outcome of the proceedings within thirty days from the time of conclusion thereof.

### 38. Data processing and confidentiality

#### *Art. 71*

(1) In its proceedings the Authority shall be entitled to process - to the extent and for the duration required - those personal data, and classified information protected by law and secrets obtained in the course of professional activities, which are related to the given

proceedings, or which are to be processed with a view to concluding the procedure effectively.

(2) The Authority may use the data obtained in the course of conducting its examination for administrative proceedings.

(3)<sup>138</sup> In its proceedings provided for in this Act, the Authority shall have access to data specified in Paragraphs a)-f) and i) of Para. (1), Para. (2), Paragraphs c)-f) of Para. (3), Paragraphs c)-g) of Para. (4), and Paragraph d) of Para. (5) of Art. 23 of Act CXI of 2011 on the Commissioner of Fundamental Rights (hereinafter referred to as "FRA") as defined in Para. (7) of Art. 23 of the FRA.

(3a)<sup>139</sup> The Authority shall have access to data specified in Paragraph e) of Para. (3), Paragraph f) of Para. (4) and Paragraph d) of Para. (5) of Art. 23 of the FRA, Para. (3) notwithstanding, if it is required in:

- a) formal investigation procedures,
  - b) administrative proceedings for data protection, or
  - c) administrative proceedings for the control of secrets,
- opened for the protection of personal data of persons covertly cooperating.

(3b)<sup>140</sup> The Authority shall have access to data specified in Paragraph f) of Para. (3) and Paragraph g) of Para. (4) Art. 23 of the FRA, Para. (3) notwithstanding, which allow for the identification of individuals using means and methods for covert information gathering operations, if it is required in:

- a) formal investigation procedures,
  - b) administrative proceedings for data protection, or
  - c) administrative proceedings for the control of secrets,
- opened for the protection of personal data of those individuals.

(3c)<sup>141</sup> If the document the Authority plans to examine contains any data which the Authority is entitled to access only within the context of Para. (3), the data that cannot be disclosed shall be blacked out before the Authority is allowed access to the document in question.

(4)<sup>142</sup> In proceedings related to the processing of classified information the Vice-President of the Authority, including executive officers and examiners shall - in possession of a personal security certificate of appropriate level of clearance - be allowed access to classified information without the authorization prescribed in the Act on the Protection of Classified Information for use.

(5) The President and Vice-President of the Authority, and persons currently or formerly employed by the Authority as civil servants or in any other work-related relationship shall keep confidential any personal data, classified information, secrets protected by law and secrets obtained in the course of professional activities they may have learnt in relation to the operation and actions of the Authority as well as any other data, fact or circumstance that the Authority is not required to make available to the public - except for any disclosure or supply of data to other organizations under the relevant legislation - , during the term of their employment and after the termination thereof.

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<sup>138</sup> Established by Art. 15 of Act CXXIX of 2015, effective as of 16 July 2015.

<sup>139</sup> Enacted by Art. 15 of Act CXXIX of 2015, effective as of 16 July 2015.

<sup>140</sup> Enacted by Art. 15 of Act CXXIX of 2015, effective as of 16 July 2015.

<sup>141</sup> Enacted by Art. 15 of Act CXXIX of 2015, effective as of 16 July 2015.

<sup>142</sup> Amended: by paragraph (2) Art. 58 of Act V of 2012. In force: as of 1. 03. 2012. The change does not effect the English version.



(6) According to the confidentiality requirement, the persons mentioned in Para. (5) may not disclose unlawfully any data, facts or circumstance they obtained in connection with the performance of their official duties, nor shall they be allowed to use or reveal such information to third persons.

## **CHAPTER VII**

### **CLOSING PROVISIONS**

#### *Art. 72*

(1)<sup>143</sup> The Government is hereby authorized to decree:

a) the detailed regulations for the publication by electronic means of public information;

b)<sup>144</sup> the fee chargeable for compliance with requests for public information and the amount limit under Para. (4) of Art. 29;

c) the compilation of special publication lists;

d) the data contents of the single data retrieval system and the central register, and the rules for data integration.

e)<sup>145</sup> the information to be made public by the national security services, upon consulting with the Authority.

(2) Authorizations:

a) the minister having relevant competence is hereby authorized to publish special publication lists in respect of the bodies he supervises or controls, by means of a decree;

b) the minister in charge of e-administration is hereby authorized to decree the models for the standard forms to be used for the dissemination of data contained in the publication lists;

c)<sup>146</sup>

(3)<sup>147</sup> The minister in charge of the judicial system is hereby authorized to decree - upon consulting with the Authority and in agreement with the minister in charge of taxation - the amount of the administrative service fee payable for the approval of mandatory organizational governance regimes and for admission to the data protection register, and the detailed rules relating to the collection, management, recording and refund of such fees.

#### *Art. 73*

(1) This Act - with the exceptions set out in Para.s (2) and (3) - shall enter into force on the day following promulgation.

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<sup>143</sup> Shall enter into force with the text established: by paragraph (7) Art. 411 of Act CCI of 2011.

<sup>144</sup> Amended by Paragraph g) of SubArt. (5) of Art. 17 of Act CXXIX of 2015, SubArt. (12) of Art. 17 of Act CXXIX of 2015.

<sup>145</sup> Enacted: by paragraph (2) Art. 1 of Act XCVI of 2012. In force: as of 7. 07. 2012.

<sup>146</sup> Repealed: by paragraph (3) Art. 1 of Act XCVI of 2012. No longer in force: as of 7. 07. 2012.

<sup>147</sup> Established by Art. 16 of Act CXXIX of 2015, effective as of 1 October 2015.

(2) Art.s 1-37, Para.s (1)-(3) of Art. 38, Paragraphs a)-f) of Para. (4) of Art. 38, Para. (5) of Art. 38, Art. 39, Art.s 41-68, Art.s 70-72, Art.s 75-77 and Art.s 79-88, and Schedule No. 1 shall enter into force on 1 January 2012.

(3) Paragraphs g) and h) of Para. (4) of Art. 38 and Art. 69 shall enter into force on 1 January 2013.

#### *Art. 73/A<sup>148</sup>*

Para. (2) of Art. 26 and Para. (7) of Art. 30 of this Act, as established by Act XCI of 2013 on the Amendment of Act CXII of 2011 on the Right of Informational Self-Determination and on Freedom of Information, shall also apply to cases in progress at time of the entry into force of Act XCI of 2013 on the Amendment of Act CXII of 2011 on the Right of Informational Self-Determination and on Freedom of Information.

#### *Art. 74*

The Prime Minister shall present a recommendation for the first president of the Authority to the President of the Republic by 15 November 2011. The President of the Republic shall appoint the first president of the Authority effective as of 1 January 2012.

#### *Art. 75*

(1) The cases submitted to the data protection commissioner before 1 January 2012 shall be handled by the Authority in accordance with the provisions of this Act.

(2) The data controlled by the data protection commissioner before 1 January 2012 in an official capacity shall be transferred to the Authority effective as of 1 January 2012.

(3) Data processing operations having commenced prior to 1 January 2012, that fall within the scope of registration in the data protection register under this Act, that had not been notified for registration before 1 January 2012, shall be notified to the Authority by 30 June 2012 for registration according to the relevant provisions of this Act. In the event of non-compliance data processing operations may not be carried out past 30 June 2012. Moreover, data processing operations under this Para. may not be pursued if the Authority refused the application submitted for registration after 31 December 2011.

#### *Art. 76*

Chapter V of this Act shall be considered an implementing act pursuant to Article VI(3) of the Fundamental Law.

#### *Art. 77*

This Act serves the purpose of conformity with the following legislation of the Communities:

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<sup>148</sup> Enacted: by Art. 4 of Act XCI of 2013. In force: as of 21. 06. 2013.

- a) Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data;
- b) Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC;
- c) Directive 2003/98/EC of the European Parliament and of the Council of 17 November 2003 on the re-use of public sector information;
- d) Council Framework Decision 2008/977/JHA of 27 November 2008 on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters;
- e)<sup>149</sup> Directive 2013/37/EU of the European Parliament and of the Council of 26 June 2013 amending Directive 2003/98/EC on the re-use of public sector information.

*Art.s 78-89<sup>150</sup>*

*Schedule No. 1 to Act CXII of 2011*

**STANDARD PUBLICATION LIST**

**I. Organizational information, staff particulars**

	Data description	Updating	Duration of processing
1.	Official name, registered office, postal address, telephone and fax number, electronic mail address, website and customer service contact information of the body with public service functions	Immediately upon the change taking effect	Previous data shall be deleted
2.	Organizational structure of the body with public service functions, showing the departments, and the tasks and duties of each department	Immediately upon the change taking effect	Previous data shall be deleted
3.	Name and title of the executive employees of the body with public service functions and its departments, including contact information (telephone and fax number, electronic mail address)	Immediately upon the change taking effect	Previous data shall be deleted
4.	Name of the head of customer relations, including contact information (telephone and fax number, electronic mail address) and customer service hours	Immediately upon the change taking effect	Previous data shall be deleted
5.	In respect of collegiate bodies, number of members and composition, name, title and contact information of members	Immediately upon the change taking effect	Previous data shall be deleted

<sup>149</sup> Enacted by Art. 1 of Act XCVI of 2015, effective as of 1 January 2016.

<sup>150</sup> Inserted as appropriate. Paragraph (1)-(4), (6)-(11) Art. 79, Art. 82, paragraph (1)-(29) Art. 83, paragraph (1)-(2), (4) Art. 84, paragraph (1) Art. 85, Art.s 86-88 repealed: by Art. 12 of Act CXXX of 2010. No longer in force: as of 02. 01. 2012. Paragraphs (1)-(2) of Art. 78 was repealed: by Art. 110 of Act LXXVI of 2013. No longer in force: as of 1. 07. 2013.

6.	Name of any other body with public service functions under the control, supervision or oversight of, or subordinated to the body with public service functions, including the particulars specified in Point 1	Immediately upon the change taking effect	Previous data shall be archived for a period of one year
7.	Name, registered office and contact information (postal address, telephone and fax number, electronic mail address) of any economic operator in which the body with public service functions has a majority ownership share or participation, including scope of activities, name of representative, and the percentage of the share the body with public service functions controls	Immediately upon the change taking effect	Previous data shall be archived for a period of one year
8.	Name, registered office and contact information (postal address, telephone and fax number, electronic mail address) of any public foundation established by the body with public service functions, including the bylaws, and the name of the managing body	Immediately upon the change taking effect	Previous data shall be archived for a period of one year
9.	Name and registered office of any publicly-financed entity founded by the body with public service functions, reference to the legislation or resolution based on which the publicly-financed entity is established, charter document, head of the publicly-financed entity, website address, operating permit	Immediately upon the change taking effect	Previous data shall be archived for a period of one year
10.	Name of any publication founded by the body with public service functions, editor's and publisher's name and address, name of the editor in chief	Immediately upon the change taking effect	Previous data shall be archived for a period of one year
11.	Particulars specified in Point 1 of the superior or supervisory body of the body with public service functions, or the body empowered to hear appeal cases relating to its regulatory decisions, or failing this, of the body exercising legal supervision of the body with public service functions	Immediately upon the change taking effect	Previous data shall be archived for a period of one year

## II. Information relating to activities and operations

	Data description	Updating	Duration of processing
1.	Unabridged version of the laws governing the responsibilities, competence and core activity of the body with public service functions, legal act for the governance of bodies governed by public law, organizational and operational regulations or operating procedures, data protection and data security regulations	Immediately upon the change taking effect	Previous data shall be archived for a period of one year
2. <sup>151</sup>	In connection with bodies of nation-wide jurisdiction and Budapest and county government agencies, an information	Immediately upon the change taking effect	Previous data shall be deleted

<sup>151</sup> Amended: by Art. 79 of Act XCIII of 2012. In force: as of 6. 07. 2012.

	pamphlet on the duties and activities of the body with public service functions in Hungarian and English		
3.	Voluntary tasks of municipal governments	Quarterly	Previous data shall be archived for a period of one year
4.	In connection with public administration, municipal government and other regulatory cases, name of the body having competence separately for each type of case and procedure, or the name and area of jurisdiction of the body actually proceeding where powers had been transferred, description of documents and other deeds required, procedural fees (administrative service fees), basic procedural rules, means (place and time) for the submission of documents for the opening of proceedings, office hours, administrative time limits (deadlines for processing and for appeals), guidelines, general information on handling cases and standard forms for downloading, access to electronic programs available for use, appointments, list of legislation for different types of cases, information on clients' rights and obligations	Immediately upon the change taking effect	Previous data shall be deleted
5.	Description and contents of public services provided by the body with public service functions or financed from budget, rules of access to public services, amount of fees charged for public services, any allowances from such fees	Immediately upon the change taking effect	Previous data shall be archived for a period of one year
6.	Descriptive information on databases and registers maintained by the body with public service functions (name, format, purpose and legal basis of processing, duration of processing, data subjects involved, data sources, questionnaire, where applicable), particulars for the identification of records to be notified for the data protection register; type of data collected and processed by the body with public service functions within the framework of its principal activity, means of access, costs of making copies	Immediately upon the change taking effect	Previous data shall be archived for a period of one year
7.	Title and subject of publications of the body with public service functions, means of access, price of the publication, if any	Quarterly	Previous data shall be archived for a period of one year
8.	In respect of collegiate bodies, decision-making process, means of participation by the general public (opinionate), procedural rules, place and time of settings of the collegiate body, publicity, decisions, minutes or summaries of meetings; information on voting in the collegiate body, if this is not restricted by law	Immediately upon the change taking effect	Previous data shall be archived for a period of one year
9.	Legislative proposals and related documents	Unless otherwise	Previous data shall be

	to be published by virtue of law; motions and proposals submitted to public meetings of the councils of municipal governments from the time of submission	provided for by law, immediately from the time of submission	archived for a period of one year
10.	Public announcements and statements made by the body with public service functions	Continuously	Archived for a period of at least one year
11.	Description of tenders published by the body with public service functions, the outcome of such procedure and the reasons	Continuously	Previous data shall be archived for a period of one year
12.	Public findings of examinations and inspections carried out in connection with the core activity of the body with public service functions	Immediately upon receiving the report on the examination	Previous data shall be archived for a period of one year
13.	Procedure for handling requests for access to public information, name and contact information of the competent department, and the name of the data protection officer or the person handling information rights, where applicable	Quarterly	Previous data shall be deleted
14.	Results of gathering statistical information relating to the activity of the body with public service functions, showing changes over time thereof	Quarterly	Previous data shall be archived for a period of one year
15.	Information pertaining to a given body from mandatory data disclosure relating to public information	Quarterly	Previous data shall be archived for a period of one year
16.	List of contracts for the use of public information to which the body with public service functions is a party	Quarterly	Previous data shall be archived for a period of one year
17.	Standard contract conditions relating to the use of public information processed by the body with public service functions	Immediately upon the change taking effect	Previous data shall be archived for a period of one year
18.	Special and ad hoc publication lists pertaining to the body with public service functions	Immediately upon the change taking effect	Previous data shall be deleted
19. <sup>152</sup>	List of publicly available cultural works processed by the body with public service functions and available for re-use under the Act on the Re-Use of Public Sector Information, including the format in which they are available, and information about the types of public sector information processed by the body with public service functions and available for re-use under the Act on the Re-Use of Public Sector Information, including the format in which they are available	Within fifteen days after the change taking effect	Previous data shall be archived for a period of one year
20. <sup>153</sup>	Standard contract conditions relating to the re-use of public sector information and publicly available cultural works, under Row 19 in a format that can be edited electronically	Within fifteen days after the change taking effect	Previous data shall be deleted
21. <sup>154</sup>	Standard list of fees payable for access to public sector information and publicly available	Within fifteen days after the change taking effect	Previous data shall be deleted

<sup>152</sup> Established by SubArt. (1) of Art. 2 of Act XCVI of 2015, effective as of 1 January 2016.

<sup>153</sup> Established by SubArt. (1) of Art. 2 of Act XCVI of 2015, effective as of 1 January 2016.

<sup>154</sup> Established by SubArt. (1) of Art. 2 of Act XCVI of 2015, effective as of 1 January 2016.

	cultural works, under Row 19 for the purpose of re-use, showing also the factors based on which the fees are calculated		
22. <sup>155</sup>	Information on remedies available under the Act on the Re-Use of Public Sector Information	Within fifteen days after the change taking effect	Previous data shall be deleted
23. <sup>156</sup>	List of parties to agreements concluded by the body with public service functions under the Act on the Re-Use of Public Sector Information for providing exclusive rights, indicating also the duration and the subject matter of such exclusive rights, and other material conditions	Within fifteen days after the change taking effect	Previous data shall be deleted
24. <sup>157</sup>	Text of the agreements concluded by the body with public service functions under the Act on the Re-Use of Public Sector Information for providing exclusive rights for digitization of publicly available cultural works	Within fifteen days after the change taking effect	Previous data shall be deleted
25. <sup>158</sup>	Any law or statutory provision, legal act for the governance of bodies governed by public law, or any binding instrument (or any reference for accessing such) provided for in the Act on the Re-Use of Public Sector Information, according to which the body with public service functions is liable to cover, from its own revenues, the majority of the costs of collecting, producing, processing and dissemination of public sector information that can be made available for the purpose of re-use	Within fifteen days after the change taking effect	Previous data shall be deleted

### III. Financial data

	Data description	Updating	Duration of processing
1. <sup>159</sup>	Annual (fiscal) budget of the body with public service functions, annual accounts under the Accounting Act or the annual budget report	Immediately upon the change taking effect	For ten years following the time of publication
2.	Consolidated data on the staff of the body with public service functions, including personal benefits provided, and the remuneration, salary and regular benefits of executive officers and managers, in total, including their expense accounts, description and amounts of benefits provided to other employees	Quarterly	For the time period defined by specific other legislation, archived for at least one year
3. <sup>160</sup>	Information as to the names of beneficiaries to whom the body with public service functions provided any central subsidies, the purpose and the amount of the aid, showing also the place of implementation of the aid program,	By the sixtieth day following the date of the decision	For five years following the time of publication

<sup>155</sup> Enacted: by Art. 23 of Act LXIII of 2012. In force: as of 1. 01. 2013.

<sup>156</sup> Enacted: by Art. 23 of Act LXIII of 2012. In force: as of 1. 01. 2013.

<sup>157</sup> Enacted by SubArt. (2) of Art. 2 of Act XCVI of 2015, effective as of 1 January 2016.

<sup>158</sup> Enacted by SubArt. (2) of Art. 2 of Act XCVI of 2015, effective as of 1 January 2016.

<sup>159</sup> Shall enter into force with the text established: by paragraph (1) Art. 112 of Act CXCV of 2011.

<sup>160</sup> Shall enter into force with the text established: by paragraph (1) Art. 112 of Act CXCV of 2011.

	except if the central subsidies are withdrawn before the time of publication or if the beneficiary declined to accept		
4. <sup>161</sup>	<p>Description of contracts relating to the allocation of public funds, management of public assets concerning the purchases of supplies and services, and works contracts worth five million forints or more, or to the sale or utilization of assets, for the transfer of assets or rights, as well as concession contracts, including the type and subject matter of such contracts, names of the parties to the contract, the contract amounts, and the duration of fixed term contracts, including changes in the data abovementioned, with the exception of information on procurements directly related to and deemed necessary for reasons of national security or national defense, and with the exception of classified information</p> <p>Contract value shall mean the price agreed upon for the subject matter of the contract - exclusive of value added tax -, or in the case of gratuitous transactions, the market value or book value of the asset in question, whichever is higher. As regards periodically recurring contracts concluded for more than one year the contract value shall indicate the price calculated for one year. The value of contracts concluded within the same financial year with the same party shall be applied cumulatively.</p>	By the sixtieth day following the date of the decision	For five years following the time of publication
5.	Information made public according to the Act on Concessions (tender notices, particulars of tenderers, memos on evaluation procedures, outcome of such tender procedures)	Quarterly	For the time period defined by specific other legislation, archived for at least one year
6. <sup>162</sup>	Payments of more than five million forints made by the body with public service functions outside the scope its basic functions (such as payments made to support association, to trade organizations representing the interests of its workers, to organizations active in educational, cultural, social and sports activities and services provided to its employees, and to foundations to support their activities)	Quarterly	For the time period defined by specific other legislation, archived for at least one year
7.	Description of developments implemented with financial aid from European Union resources, including the related contracts	Quarterly	Archived for a period of at least one year
8.	Public procurement information (annual plan, summary of the evaluation of tenders, contracts awarded)	Quarterly	Archived for a period of at least one year

<sup>161</sup> Shall enter into force with the text established: by paragraph (1) Art. 112 of Act CXCV of 2011.

<sup>162</sup> Shall enter into force with the text established: by paragraph (2) Art. 188 of Act CLXXV of 2011.



## **Act LIII of 1995**

### **on the General Rules of Environmental Protection<sup>163</sup>**

As natural heritage and environmental values are national assets, their preservation, conservation and improvement are fundamental aspects of the biosphere and the health and quality of life of humans and, furthermore, as there can be no harmony between the activities of man and nature without these, neglecting them would endanger the health of present generations, the existence of future generations and the survival of a number of species; Parliament, in accord with the provisions of the Fundamental Law, does hereby enact the following law:<sup>164</sup>

### ***Chapter I***

### **GENERAL PROVISIONS**

#### **Objective of the Act**

#### ***Art. 1***

(1)<sup>165</sup> The objective of this Act is to create a harmonious relationship between man and the environment, to facilitate the coordinated protection of the environment, its components and processes and to provide for the conditions of sustainable development.

(2) In accordance with the principles of foresight and equitable bearing of burdens, this Act creates an adequate framework for the assertion of constitutional rights for a healthy environment and promotes

a) the reduction of the use, loading and pollution of the environment, the prevention of its impairment, and the repair and restoration of the damaged environment;

b) the protection of human health and the improvement of the environmental conditions of the quality of life;

c) the preservation and conservation of natural resources, and rational and efficient management that ensures the renewal of resources;

d) the harmony of the other objectives of the state with the environmental protection requirements;

e) international cooperation in environmental protection;

f) initiatives taken by the public and public participation in activities aimed at protecting the environment, such as exploring and learning about the state of the environment and carrying out the tasks of government agencies and local governments related to the protection of the environment;

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<sup>163</sup> Promulgated on 22 June 1995.

<sup>164</sup> Amended: by subparagraph a) Art. 100 of Act CCI of 2011. In force: as of 1. 01. 2012.

<sup>165</sup> Established by Art. 1 of Act LV of 2001, effective as of 13 July 2001.

- g) the coordination of the functioning of the economy and social and economic development with environmental requirements;
- h) the establishment and development of institutions whose purpose is to protect the environment;
- i) the establishment and development of a public administration that serves to conserve and protect the environment.

## Scope of the Act

### *Art. 2*

- (1) The scope of the Act shall include:
  - a) living organisms (biotic communities), the abiotic components of the environment and the natural and man-made environment thereof;
  - b) pursuant to the provisions of this Act, the activities that utilize, load, endanger or pollute the environment.
- (2) The scope of the Act shall cover those natural persons, legal entities and unincorporated organizations
  - a) that have rights or responsibilities in relation to the environment as defined under Paragraph a) of Para. (1);
  - b) that perform activities under Paragraph b) of Para. (1) (hereinafter referred to as "user of the environment").
- (3) The scope of the Act shall include the performance of environmental tasks arising from international conventions if the provisions of an international convention does not stipulate otherwise.

### *Art. 3*

- (1) In harmony with the provisions of this Act, specific other legislation shall contain provisions, in particular, on:
  - a) nuclear energy and the use of radioactivity,
  - b) mining,
  - c) energy,
  - d) forests,
  - e) the development and conservation of the built environment,
  - f)<sup>166</sup> agricultural and forestry land,
  - g) fishing,
  - h) transport (broken down by sector),
  - i) the prevention of disasters and overcoming their consequences,
  - j) regional development,
  - k) wildlife management,
  - l) water management,
  - m) waste,
  - n) hazardous substances.

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<sup>166</sup> Amended by Art. 128 of Act CCXII of 2013.

(2) In order to preserve biodiversity and the habitats of plants and animals as well as to preserve and restore areas, formations and facilities with scientific, cultural or aesthetic value; these separate statutory acts contain, in accord with this Act, provisions pertaining to:

- a) nature and landscape conservation,
- b) animal protection and animal health,
- c) pesticides and plant health,
- d) the conservation of historic buildings.

## Definitions

### *Art. 4*

For the purposes of this Act:

- 1.<sup>167</sup> "environmental component" means land, air, water, the biosphere as well as the built (artificial) environment created by humans as well as the constituents thereof;
- 2.<sup>168</sup> "environment" means the environmental components and the systems, processes and structure thereof;
- 3.<sup>169</sup> "natural resource" means the environmental components or certain constituents thereof (with the exception of the artificial environment) that may be used for satisfying the needs of society;
- 4.<sup>170</sup> "utilization of the environment" means causing changes in the environment and making use of the environment or any of its components as natural resources;
- 5.<sup>171</sup> "level of utilization of the environment" means the extent to which the environment, or any of its components, is used as a natural resource;
- 6.<sup>172</sup> "environmental impact" means the direct or indirect emission of a substance or energy into the environment;
- 7.<sup>173</sup> "environmental pollution" means loading a component of the environment above the emission standard;
- 8.<sup>174</sup> "level of environmental pollution" means the state of the environment or a component thereof that may be characterized by a pollution level that has occurred as a result of environmental pollution;
- 9.<sup>175</sup> "use of the environment" means an activity involving the utilization or loading of the environment or a component thereof;
- 10.<sup>176</sup> "threat to the environment" means the imminent threat of environmental damage;

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<sup>167</sup> Numbering amended: by paragraph (1) Art. 1 of Act XXIX of 2007. In force: as of 30. 04. 2007.

<sup>168</sup> Numbering amended: by paragraph (1) Art. 1 of Act XXIX of 2007. In force: as of 30. 04. 2007.

<sup>169</sup> Numbering amended: by paragraph (1) Art. 1 of Act XXIX of 2007. In force: as of 30. 04. 2007.

<sup>170</sup> Numbering amended: by paragraph (1) Art. 1 of Act XXIX of 2007. In force: as of 30. 04. 2007.

<sup>171</sup> Numbering amended: by paragraph (1) Art. 1 of Act XXIX of 2007. In force: as of 30. 04. 2007.

<sup>172</sup> Established by SubArt. (1) of Art. 3 of Act LV of 2001, effective as of 13 July 2001. Numbering amended: by paragraph (1) Art. 1 of Act XXIX of 2007. In force: as of 30. 04. 2007.

<sup>173</sup> Numbering amended: by paragraph (1) Art. 1 of Act XXIX of 2007. In force: as of 30. 04. 2007.

<sup>174</sup> Numbering amended: by paragraph (1) Art. 1 of Act XXIX of 2007. In force: as of 30. 04. 2007.

<sup>175</sup> Established and numbering amended: by paragraph (1) Art. 1 of Act XXIX of 2007. In force: as of 30. 04. 2007.

11.<sup>177</sup> "activity posing imminent threat to the environment" means an act or omission leading to an imminent threat of environmental damage;

12.<sup>178</sup> "damage to the environment" means an act or omission as a result of which environmental damage occurs;

13.<sup>179</sup> "environmental damage" means any measurable adverse and significant change in the environment or any environmental media which may occur directly or indirectly, or any measurable impairment of a natural resource service which may occur directly or indirectly;

14.<sup>180</sup> "natural resources services" mean the functions performed by a natural resource for the benefit of another natural resource or the public;

15.<sup>181</sup> "preventive measures" means any activity or measures taken in connection with an imminent threat to the environment, with a view to preventing or minimizing the environmental damage;

16.<sup>182</sup> "remedial measures" means any preventive or rehabilitative action or measures for the mitigation of environmental damage, aiming to restore the baseline condition of the natural resources in question, and/or to rehabilitate or replace damaged natural resources and/or impaired services, or to provide an equivalent alternative to those resources or services;

17.<sup>183</sup> "baseline condition" means the condition at the time of the damage to the environment or of the natural resources and services that would have existed had the environmental damage not occurred, estimated on the basis of the best information available;

18.<sup>184</sup> "costs of prevention and rehabilitation" means costs which are justified for the prevention of environmental damage or to restore the baseline condition including, in particular, the costs of assessing environmental damage, an imminent threat of such damage, the costs for the assessment of potential measures, the costs of data collection, as well as the administrative and legal expenses (the fees of lawyers and notaries public), other general costs, such as monitoring and supervision costs, and the sums of any financial compensation;

19.<sup>185</sup> "environmental impact" means any change in the environment ensuing from environmental load or utilization;

20.<sup>186</sup> "impact area" means an area or a part of an area in which an environmental impact of a magnitude defined in legal regulation has occurred or may occur during the use of the environment;

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<sup>176</sup> Established and numbering amended: by paragraph (1) Art. 1 of Act XXIX of 2007. In force: as of 30. 04. 2007.

<sup>177</sup> Established and numbering amended: by paragraph (1) Art. 1 of Act XXIX of 2007. In force: as of 30. 04. 2007.

<sup>178</sup> Established and numbering amended: by paragraph (1) Art. 1 of Act XXIX of 2007. In force: as of 30. 04. 2007.

<sup>179</sup> Enacted: by paragraph (2) Art. 1 of Act XXIX of 2007. In force: as of 30. 04. 2007.

<sup>180</sup> Enacted: by paragraph (2) Art. 1 of Act XXIX of 2007. In force: as of 30. 04. 2007.

<sup>181</sup> Enacted: by paragraph (2) Art. 1 of Act XXIX of 2007. In force: as of 30. 04. 2007.

<sup>182</sup> Enacted: by paragraph (2) Art. 1 of Act XXIX of 2007. In force: as of 30. 04. 2007.

<sup>183</sup> Enacted: by paragraph (2) Art. 1 of Act XXIX of 2007. In force: as of 30. 04. 2007.

<sup>184</sup> Enacted: by paragraph (2) Art. 1 of Act XXIX of 2007. In force: as of 30. 04. 2007.

<sup>185</sup> Numbering amended: by paragraph (2) Art. 1 of Act XXIX of 2007. In force: as of 30. 04. 2007.

<sup>186</sup> Numbering amended: by paragraph (2) Art. 1 of Act XXIX of 2007. In force: as of 30. 04. 2007.

21.<sup>187</sup> "affected party" means person or organization that lives or operates in the impact area;

22.<sup>188</sup> "affected local government" means the community local government that has jurisdiction over the area impacted by the given use of the environment;

23.<sup>189</sup> "local environmental issue" means all environmental issues in which the use of the environment and the impact area does not extend beyond the area of the affected local government;

24.<sup>190</sup> "discharge limit values" means the level of discharge to the environment or any natural resources as stipulated in a legal regulation or an official decision that - relying on available scientific data - is likely to cause damage to the environment if exceeded;

25.<sup>191</sup> "emission limit values" means the level of emission to the environment or any natural resources as stipulated in a legal regulation or an official decision that - relying on available scientific data - is likely to cause damage to the environment if exceeded;

26.<sup>192</sup> "pollution standard" means the level of pollution of any component of the environment - as stipulated in a legal regulation - that, if exceeded, may, on the basis of the current scientific knowledge, result in environmental damage or health impairment;

27.<sup>193</sup> "most efficient response" means the activity involving the most benign utilization of the environment that can be achieved in the environmental, technical and economic conditions;

28.<sup>194</sup> "best available technique" means a process, operating procedure or equipment that features state-of-the-art technology suitable for sustainable development and is designed to eliminate or, if this cannot be achieved, reduce harmful emissions and pollution, diminish the overall impact on the environment, and serve as a basis for determining the standards and the extent of emissions. In this context:

- "best" constitutes the most efficient method of affording high levels of protection for the environment as a whole,

- "available technique" constitutes a specific development used in the various industrial sectors under reasonable technical and economic conditions, taking into account costs and advantages, regardless of whether this process is used or produced in Hungary and irrespective of whether it is available in a manner that is reasonable for the operator,

- "technique" covers applied technologies and methods on the basis of which the equipment (technology, facility) is designed, built, maintained, operated, abolished and used to restore the environment.

29.<sup>195</sup> "sustainable development" means a system of social and economic conditions and activities that preserves the natural values for the current and future generations,

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<sup>187</sup> Numbering amended: by paragraph (2) Art. 1 of Act XXIX of 2007. In force: as of 30. 04. 2007.

<sup>188</sup> Numbering amended: by paragraph (2) Art. 1 of Act XXIX of 2007. In force: as of 30. 04. 2007.

<sup>189</sup> Numbering amended: by paragraph (2) Art. 1 of Act XXIX of 2007. In force: as of 30. 04. 2007.

<sup>190</sup> Established and numbering amended: by paragraph (3) Art. 1 of Act XXIX of 2007. In force: as of 30. 04. 2007.

<sup>191</sup> Established and numbering amended: by paragraph (3) Art. 1 of Act XXIX of 2007. In force: as of 30. 04. 2007.

<sup>192</sup> Numbering amended: by paragraph (3) Art. 1 of Act XXIX of 2007. In force: as of 30. 04. 2007.

<sup>193</sup> Designation amended by Art. 2 of Act LV of 2001. Numbering amended: by paragraph (3) Art. 1 of Act XXIX of 2007. In force: as of 30. 04. 2007.

<sup>194</sup> Enacted by Art. 2 of Act LV of 2001, effective as of 13 July 2001. Numbering amended: by paragraph (3) Art. 1 of Act XXIX of 2007. In force: as of 30. 04. 2007.

<sup>195</sup> Numbering amended: by paragraph (3) Art. 1 of Act XXIX of 2007. In force: as of 30. 04. 2007.

uses natural resources economically and expediently and, in ecological terms, ensures the improvement of the quality of life and the preservation of diversity in the long run;

30.<sup>196</sup> "precaution" means decisions and measures necessary for the reduction of environmental risks and the prevention or reduction of environmental damage in the future;

31.<sup>197</sup> "prevention" means applying, from the earliest stage of decision making, the most efficient responses and, in respect of activities defined in specific other legislation, the best available techniques in order to avoid the harmful effects of using the environment;

32.<sup>198</sup> "environmental protection" means all of the activities and measures aimed at the prevention of endangering, damaging or polluting the environment, the reduction or elimination of damage that has occurred and the restoration of the conditions that existed prior to the damaging activity.

33.<sup>199</sup> "spatial data" shall mean any electronic data with a direct or indirect reference to a specific location or geographical area in the territory of Hungary, relating - in particular - to the following spatial data themes laid down in the legislation on the creation and operation of the National Environmental Geographical Information System: geodetic information, natural environment and environmental resources, economic activities, geographical information relating to settlements, and demography;

34.<sup>200</sup> "spatial data set" shall mean a collection of spatial data that can be identified by way of a geographic information system;

35.<sup>201</sup> "metadata" shall mean electronic information - other than spatial data - describing spatial data sets and spatial data services and making it possible to discover, inventory and use spatial data sets and spatial data services;

36.<sup>202</sup> "spatial data services" shall mean the operations which may be performed, by invoking a computer application, on the spatial data contained in spatial data sets or on the related metadata;

37.<sup>203</sup> "geographic information management body" shall mean a person or organization engaged in the creation, management and maintenance of spatial data, and in holding spatial data, furthermore, any person or body engaged in carrying out public functions or providing public services conferred upon the central government or local authorities in connection with spatial data, or in connection with the environment as defined by law, and any natural or legal person engaged in discharging certain duties related to the environment or performing some public function. The courts of law and legislative bodies shall not be construed as geographic information management bodies if acting within their official capacity;

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<sup>196</sup> Numbering amended: by paragraph (3) Art. 1 of Act XXIX of 2007. In force: as of 30. 04. 2007.

<sup>197</sup> Established by SubArt. (2) of Art. 3 of Act LV of 2001, effective as of 13 July 2001. Numbering amended: by paragraph (3) Art. 1 of Act XXIX of 2007. In force: as of 30. 04. 2007.

<sup>198</sup> Numbering amended: by paragraph (3) Art. 1 of Act XXIX of 2007. In force: as of 30. 04. 2007.

<sup>199</sup> Enacted: by Art. 1 of Act XCI of 2008. In force: as of 15. 05. 2009. Amended: by subparagraph b) Art. 100 of Act CCI of 2011. In force: as of 1. 01. 2012.

<sup>200</sup> Enacted: by Art. 1 of Act XCI of 2008. In force: as of 15. 05. 2009.

<sup>201</sup> Enacted: by Art. 1 of Act XCI of 2008. In force: as of 15. 05. 2009.

<sup>202</sup> Enacted: by Art. 1 of Act XCI of 2008. In force: as of 15. 05. 2009.

<sup>203</sup> Enacted: by Art. 1 of Act XCI of 2008. In force: as of 15. 05. 2009.

38.<sup>204</sup> "interoperability" shall mean the possibility for spatial data sets to be combined, and for services to interact, without repetitive manual intervention, in such a way that the result is coherent and the added value of the data sets and services is enhanced by comparison to the information systems referred to in Para. (2) of Art. 48/G separately;

39.<sup>205</sup> "computerized geographical information system" shall mean an information, geodetic or remote sensing system used for the recording, storage, management and display of spatial data;

40.<sup>206</sup> 'economic operator' shall have the same meaning as defined in the Code of Civil Procedure.

## *Art. 5*

Once this Act enters into force, activities qualifying as use of the environment may be defined by statute, government decree, or municipal bylaw.

## Basic Principles for the Protection of the Environment

### **Precaution, Prevention and Restoration**

## *Art. 6*

(1) The use of the environment shall be organized and performed in such a manner that

- a) it results in the smallest degree of environmental loading and utilization;
- b) it prevents environmental pollution;
- c) it precludes damage to the environment.

(2) The environment shall be used by observing the principle of precaution, by respecting and efficiently using environmental components, by reducing the generation of wastes and by making every effort to recycle and re-use natural and manufactured materials.

(3)<sup>207</sup> For the purpose of prevention, the most efficient response and the best available techniques in respect of activities defined in specific other legislation shall be applied in the course of using the environment.

## *Art. 7*

In order to enforce the provisions under Art. 6, legal regulation may prescribe conditions for the use of the environment and may establish restrictive or prohibitive provisions.<sup>208</sup>

## *Art. 8*

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<sup>204</sup> Enacted: by Art. 1 of Act XCI of 2008. In force: as of 15. 05. 2009.

<sup>205</sup> Enacted: by Art. 1 of Act XCI of 2008. In force: as of 15. 05. 2009.

<sup>206</sup> Enacted by SubArt. (1) of Art. 46 of Act CCLII of 2013, effective as of 15 March 2014.

<sup>207</sup> Established by Art. 4 of Act LV of 2001, effective as of 13 July 2001.

<sup>208</sup> See Government Decree 33/2000 (III. 17.) Korm.

(1) Users of the environment who are endangering or damaging the environment shall stop the hazardous or damaging activity immediately.

(2) Users of the environment shall provide for the elimination of the environmental damage caused by their activities and the restoration of the damaged environment.

## **Liability**

### *Art. 9*

Users of the environment shall be liable for the environmental impacts of their activities as defined in this Act and as regulated in this Act and other legal regulations.

## **Cooperation**

### *Art. 10*

(1) State agencies, local governments, natural persons and their organizations, business organizations and the organizations that safeguard the interests of all of the above as well as other institutions shall cooperate in protecting the environment. The right and responsibility to cooperate shall extend to all phases of achieving the environmental objectives.

(2) The rights and responsibilities arising from cooperation shall be established by this Act or local government bylaw.

### *Art. 11*

(1)<sup>209</sup> The enforcement of environmental interests shall also be encouraged by Hungary through bilateral or multilateral international agreements on environmental protection and other agreements on cooperation and on the provision of information and assistance in connection with environmental protection, particularly in its relations with neighboring countries.

(2) Even in the absence of international agreements, consideration shall be given to the environmental interests of other countries, the reduction of the cross-border loading of the environment and endangering the environment as well as the prevention of environmental pollution and damage to the environment.

## **Gathering and Providing Information and Publicity**

### *Art. 12<sup>210</sup>*

(1) With a view to the exercise of civil rights and responsibilities, the bodies vested with public duties shall facilitate everyone in becoming knowledgeable and enlightened regarding the essential connections between the environment and health, activities that damage the environment and the importance thereof.

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<sup>209</sup> Amended: by subparagraph b) Art. 100 of Act CCI of 2011. In force: as of 1. 01. 2012.

<sup>210</sup> Established: by Art. 1 of Act CXXVII of 2005. In force: as of 23. 12. 2005.



(2) Everyone has the right to have access to environmental information considered data of public interest in accordance with specific other legislation.

(3) State agencies and local governments - with the exception of the courts and legislative bodies in that capacity -, bodies discharging certain environment-related obligations or providing public services, and bodies and persons vested with public duties (hereinafter referred to as “public authorities holding environmental information”) shall, within the realm of their responsibilities, monitor the status of the environment and its impact on human health, provide access to and make available the environmental information that is available, and shall publish - by way of electronic means or otherwise - the environmental information to the extent governed in specific other legislation, as well as the list of information they control or that is stored on their behalf.

(4) The public authorities holding environmental information shall enlighten the general public and those seeking environmental information of their entitlement to have access to environmental information, and shall facilitate the obtaining of access to environmental information. To this end, the public authorities holding environmental information may appoint an information officer.

(5) Access to information on emissions into the environment may not be refused on the grounds that it is personal data, business secret, tax secret, or that it pertains to natural habitat of wild fauna and flora under special protection, the location of depleted natural resources, or to the location of geological conservation of nature preservation areas.

(6) Where a public authority does not have the environmental information requested, it shall forward the application to the public authority holding the environmental information in question, and shall notify the applicant accordingly, or shall inform the applicant concerning the public authorities where the environmental information requested is available.

(7) If a request is formulated in too general a manner or the desired environmental information cannot be identified from the request, the public authority holding environmental information shall ask the applicant to specify the request within 5 days following receipt of it.

(8)<sup>211</sup> Any final resolution, or any resolution declared enforceable irrespective of any appeal, falling within the scope of the Act on the General Rules of Administrative Proceedings, as well as any environmental administrative agreement, the implementation of which are likely to have significant environmental effects, shall be published.

(9) Users of the environment shall be obliged to provide information regarding any environmental impairment and environmental hazards and endangerment for which they are responsible. In the event of non-compliance an action may be initiated at the body exercising legal oversight over the user of the environment.

## ***Chapter II***

### ***PROTECTION OF ENVIRONMENTAL COMPONENTS AND FACTORS THAT ENDANGER THE COMPONENTS***

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<sup>211</sup> Amended: by Art.s 102-103 of Act LVI of 2009. In force: as of 1. 10. 2009.

## The Uniform Protection of Environmental Components

### *Art. 13*

(1) Every environmental component shall be protected per se and in unity with the other environmental components and by taking their interrelationships into consideration. The utilization and loading of environmental components shall be regulated accordingly.

(2) The protection of environmental components means both the protection of the quality, quantity and stocks thereof as well as the protection of the proportions and processes within the components.

(3)<sup>212</sup> The prevention, reduction or termination of the use or loading of any environmental component may not be accomplished by damaging or polluting another environmental component.

## Land Conservation

### *Art. 14*

(1) Land conservation shall cover the surface and subsurface strata of land, the soil, the rock formations and minerals as well as the natural and transitional forms and processes thereof.

(2) Land conservation shall include conservation of the productivity, structure, water and air balance, and biota of the soil.

### *Art. 15*

(1) Such activities may be pursued on or beneath the land surface, and such materials may be deposited there that do not pollute or damage the quantity, quality and processes of the land and the environmental components.

(2) A separate legal regulation shall establish the environmental conditions for depositing materials.

### *Art. 16*

In the course of and prior to the implementation of projects (construction, mining), the topsoil shall, in accordance with the provisions of specific other legislation, be adequately removed for use as agricultural soil.

### *Art. 17*

(1) Utilization standards shall be defined for the mining and exploitation of rock formations and minerals, if so provided by statute.

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<sup>212</sup> Enacted by Art. 5 of Act LV of 2001, effective as of 13 July 2001.

(2) The extent of exploitation as well as the extent of the impact on the environment arising when the tailings produced in connection with mining and the dressing and processing of mining products are disposed of as well as the impact that arises as a result of other activities linked to mining activities may not exceed the standards established in a legal regulation or an official decision made in accordance with the provisions of a legal regulation.

(3) The user of an area shall provide for the scheduled restoration or development of the area or for the conditions for recycling the area once the activities involving the utilization of land have been completed - and even while the environment is being utilized if so stipulated by legal regulation or official decision.

## Water Conservation

### *Art. 18<sup>213</sup>*

(1)<sup>214</sup> Water conservation shall cover surface and subsurface waters, the reserves, the bed and banks or shores of surface waters, water-bearing formations and their superstratum, and to areas designated for protection (reserves) by legal regulation or statutory provision as relating to water.

(2) The natural discharge, flow pattern, flow conditions, beds and banks or shores of waters may be altered only by preserving the appropriate proportions of waterside habitats and species and ensuring their ability to function, and without impeding long-term environmental objectives.

(3) For the purposes of Para. (1), protected areas shall include

- a) the safeguarded zones serving to achieve the objectives specified in Art. 20,
- b) areas designated for the protection of economically significant aquatic species as laid down in specific other legislation,
- c) areas which are deemed sensitive in relation to discharges from urban waste water treatment plants and areas deemed vulnerable in relation to pollution caused by nitrates from agricultural sources,
- d) areas designated for the protection of surface water and groundwater or for the conservation of habitats and species directly depending on water.

(4) The Information System referred to in Para. (1) of Art. 49 shall contain a register of protected areas.

(5) Any activities that involve the environment must be organized and carried out so as to ensure that the environmental objectives relating to the good status of bodies or waters are achieved, such as:

- a) to prevent the deterioration of surface waters and groundwaters,
- b) to achieve the good status of surface waters and groundwaters through the fulfillment of environmental requirements set out in specific other legislation.

(6) Where more than one similar environmental objective relates to a given body of water, the most stringent ones shall apply.

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<sup>213</sup> Established: by Art. 2 of Act CXX of 2003. In force: as of 07. 01. 2004.

<sup>214</sup> Amended: by paragraph (3) Art. 27 of Act XCI of 2008. In force: as of 28. 12. 2008.

(7)<sup>215</sup> The measures necessary to improve the good status of waters shall be laid down in an integrated program for water management published by the Government by way of individual public resolution.

### *Art. 19*

(1) The conditions of the extraction and use of water - as a vital element and a limited resource - shall be established for each type of water supply in accordance with the local conditions and by taking into consideration the utilization standard.

(2) Specific other legislation shall provide for the order in which water needs are to be satisfied.

(3) In the matter of utilizing the environment, particularly interventions into water conditions, the following shall be provided for:

- a) water shall remain as one of the constituent factors of the landscape;
- b)<sup>216</sup> the conditions necessary for the survival of aquatic and riparian habitats and species as well as habitats and species directly depending on surface water and groundwater, and
- c) the quantitative and qualitative conditions ensuring the potential use of water shall not deteriorate.

### *Art. 20*

Increased protection must be given to water sources that

- a) provide for the drinking-water supply,
- b) provide mineral and medicinal waters,
- c) are significant in terms of nature conservation, and
- d) are designated for recreational, sports and therapeutic uses.

### *Art. 21*

(1) Waters may be utilized and loaded, and used water and sewage may - following appropriate treatment - be discharged into waters in a manner that does not endanger the natural processes or the quantitative and qualitative restoration of waters.

(2) The use of extracted water shall be provided for. Used water must be extracted and returned to water sources and water must be transferred in such a manner that the reserves, quality and biota of the supplying and recipient waters are not unfavorably altered and the self-purification of the waters is not endangered.

## Protection of the Air

### *Art. 22*

(1) The protection of the air shall cover the entire atmosphere, its processes and composition and the climate.

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<sup>215</sup> Established: by paragraph (1) Art. 38 of Act CLXVI of 2011. In force: as of 1. 01. 2012.

<sup>216</sup> Established: by Art. 3 of Act CXX of 2003. In force: as of 07. 01. 2004.

(2) The air shall be protected from all of the artificial impacts that endanger it or, through it, other environmental components or load it or, through it, other environmental components with radiating, liquid, gaseous or solid substances.

(3) When planning, implementing or pursuing activities and facilities and when manufacturing and using products, every effort shall be made to keep the emission level of air pollutants as low as possible.

## Conservation of the Biosphere

### *Art. 23*

(1) The conservation of the biosphere shall cover all living organisms and their communities and habitats and shall do so by observing the natural processes and the proportions of the ecosystem and by ensuring the ecosystem's ability to function.

(2) The biosphere may only be utilized in a manner that does not damage the natural processes and conditions of communities, injure biodiversity or endanger their functions.

(3) A legal regulation or an official decision may establish utilization standards for regulating the extent and location of the utilization of the biosphere.

## Conservation of the Built Environment

### *Art. 24*

The conservation of the built environment shall cover communities, individual structures and technical facilities.

### *Art. 25*

(1) Zones shall be determined within the area of communities on the basis of the loadability of the environment and the zoning ordinance for the various parts of the communities.

(2) The activities that may be pursued in individual zones may be authorized in specific other legislation where a protective distance or area has been specified on the basis on the nature of the environmental loading and where protective regulations are observed.

(3) In the area or within the distance designated, no activity that is incompatible with the zoning ordinance for the given zone may be pursued without special measures taken for conservation.

### *Art. 26*

Green areas and shelterbelts shall be established and maintained within the area of communities in accordance with specific other legislation.

## *Art. 27<sup>217</sup>*

In the interest of the coordinated protection of the natural and built environments, the environmental impact of the ideas contained in the regional development conceptions during the preparation of regional and community structural plans shall also be explored and evaluated - also in light of what is contained in Art.s 43 and 44 of this Act -, and the required environmental measures shall be stipulated in a chapter on environment protection or in a separate environmental plan or program. The content requirements thereof shall be established by this Act and specific other legislation.

## Hazardous Substances and Technologies

### *Art. 28*

(1) Protection against the adverse impact of hazardous substances shall cover all of the natural and artificial substances that are used, produced or distributed by users of the environment in the course of their activities as well as the quality and quantity of such substances that are explosive, inflammable, radioactive, toxic, highly corrosive, infectious, ecotoxic, mutagenic, carcinogenic or irritating or that may bring about such impact by interacting with other substances.

(2) Protective and safety measures that reduce, to a level specified in legal regulation, or eliminate the risk of endangering the environment shall be taken when hazardous substances are handled or used (including the exploitation or extraction, storage, transport, production or manufacture and application thereof) and when hazardous technologies are applied.

### *Art. 29*

(1) When technologies involving hazards to the environment are applied, a protective area or distance adjusted to the nature of the source of the hazard shall be designated in order to reduce the level of hazard to the environment.

(2) In the event the protective area or distance specified in Para. (1) can only be ensured (on the basis of official authorization) by changing the established conditions of the community, the costs of implementation shall be borne in proportion to the responsibilities.

(3) For the prevention or clean-up of extraordinary levels of environmental damage that might occur during the operation of a hazardous technology, an environmental emergency plan shall be drawn up before the beginning of the activity if no separate provision exists in specific other legislation.

## Wastes

### *Art. 30*

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<sup>217</sup> Established: by Art. 1 of Act LXXVI of 2004. In force: as of 20. 07. 2004.

(1) Protection against the impacts of wastes on the environment shall cover all of the substances and products (including the packaging and wrapping materials thereof) that their owners cannot or do not wish to use in accordance with their original designated purpose or that are generated during the use thereof.

(2) The user of the environment shall provide for the treatment (disposal, utilization) of wastes.

(3) The rules on the treatment (disposal, utilization) of wastes shall also be applied in regard to substances separated during various cleaning or demolition operations, polluted soil that has become waste and products that have been disassembled or are to be disassembled.

## Noise and Vibration

### *Art. 31*

(1) The protection against noise and vibration in the environment shall cover all artificially generated energy emissions that cause unpleasant, disturbing, hazardous or impairing noise or vibration load.

(2) Within the framework of protection against noise and vibration, the following shall be resolved using technical and organizational methods:

a) the reduction of the degree to which sources of noise and vibration emit noise and generate vibrations;

b) the reduction or prevention of an increase in the noise or vibration load;

c) the subsequent protection of environments that are permanently loaded above standard levels.

(3)<sup>218</sup> The reduction of environmental noise in highly exposed areas and the preservation of quiet areas from noise damage shall be implemented by way of an action plan built on strategic noise mapping pursuant to specific other legislation.

## Radiation

### *Art. 32*

Protection against the adverse impacts of radiation on the environment shall cover artificially generated and natural ionizing, non-ionizing and thermal radiation.

## Common Rules

### *Art. 33*

In the interest of protecting the environment, the target states to be achieved both quantitatively and qualitatively for environmental components shall be determined in accordance with this Act [Paragraph g) of Art. 38].

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<sup>218</sup> Enacted: by Art. 2 of Act LXXVI of 2004. In force: as of 18. 07. 2004.

### *Art. 34*

(1) Protective zones may be designated in order to protect and conserve environmental components or the system thereof against hazardous impacts.

(2) The restriction or prohibition of certain activities; the restriction or prohibition of construction, the use of materials and the use of land; as well as the responsibility for regular measurement and monitoring may, on the basis of the provisions of specific other legislation, be ordered in protective zones.

(3) The contents of Art. 29 shall govern the designation of protective zones.

### *Art. 35*

(1) In order to protect and conserve environmental components and protect against impacts that endanger the utilization of the environment, emission and pollution standards shall be established in accordance with the contents of this Act.

(2) In the course of establishing the standards specified in Para. (1), the actual and desirable target state of the environment shall also be taken into consideration.

### *Art. 36*

The comprehensive rules of special fields on the protection and conservation of environmental components and protection against impacts that endanger the environment shall be established by specific other legislation. The detailed rules that do not require statutory regulation shall be established, on the basis of the contents of this Act, in decrees issued by the Government.<sup>219</sup>

## ***Chapter III***

# **GOVERNMENT ACTIVITIES AIMED AT PROTECTING THE ENVIRONMENT**

## **Government Activities Aimed at Environmental Protection**

### *Art. 37*

(1) The regulation of environmental protection, the establishment of the rights and responsibilities related to environmental protection and overseeing compliance therewith, as well as the planning and direction of environmental protection shall be performed by the agencies of the state and local governments.

(2) The state shall guarantee the assertion of civil rights linked to environmental protection and the enforcement of environmental conventions and treaties concluded with other states or international organizations.

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<sup>219</sup> See Government Decree 102/1996 (VII. 12.) Korm., Government Decree 22/1998 (II. 13.) Korm., Government Decree 33/2000 (III. 17.) Korm., Government Decree 240/2000 (XII. 23.) Korm., Government Decree 21/2001 (II. 14.) Korm., Government Decree 49/2001 (IV. 3.) Korm., Government Decree 203/2001 (X. 26.) Korm.



## *Art. 38*

The duties of the state in environmental protection are, in particular, the following:

- a) the enforcement of environmental requirements in the course of performing other state duties;
- b) the direction of the utilization, preservation, restoration and gradual improvement of the state of the environment as well as the prevention of damage and the elimination of hazards to the environment;
- c) the determination of environmental protection priorities;
- d) the establishment of a legal, economic and technical regulatory system for achieving environmental goals;
- e) the performance of the duties of public administration regarding environmental protection;
- f) the development, maintenance and operation of a system that serves as a basis for executing tasks and measures, monitors, controls and evaluates the state of the environment and the impacts thereon and, furthermore, provides information on such;
- g) the exploration of the state of the environment as well as of the quantitative and qualitative characteristics thereof, the determination of the extent to which the environment may be loaded and utilized, and the state of the environment to be attained (target state) and doing so by taking into consideration the health indices of the population;
- h) the determination of environmental protection tasks in the areas of research, technical development, education, training and culture and the provision of information as well as the task of rating the quality of environmental protection products and technology; and ensuring that these tasks are performed;
- i) ensuring the economic and financial bases of environmental protection.

## Activities of Parliament Aimed at Environmental Protection

## *Art. 39*

In the interest of protecting the environment, Parliament shall:

- a) enforce environmental interests in its legislative work;
- b) adopt the National Environmental Program and evaluate the execution thereof biennially;
- c) decide on the Government's report on the state of the environment;
- d)<sup>220</sup>
- e) determine the environmental duties of the Government and the local governments;
- f) approve the funds used to achieve environmental objectives and control the use thereof.

## National Environmental Program

## *Art. 40*

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<sup>220</sup> Repealed: by paragraph (4) Art. 3 of Act XXXVII of 2007. No longer in force: as of 2. 07. 2007.

(1) The basis for environmental planning shall be the National Environmental Program to be renewed every six years and approved by Parliament (hereinafter referred to as "Program").

(2)<sup>221</sup> With respect to the duration of the Program, the Program shall include the requirements set out in Para. (2) of Art. 48/B.

(3) When submitting its proposal for the renewal of the Program, the Government shall report to Parliament on the implementation of the Program and the experiences gained in the course of implementation.

(4)<sup>222</sup> The contents of the Program shall be enforced while economic policy decisions are being made, during regional and community development and regional planning as well as when the state's planning and execution activities are being carried out in any sector of the national economy.

(5)<sup>223</sup> The Government, where deemed necessary on account of changes in the conditions existing at the time of drafting the Program, and to make adjustments depending on the status of implementation, may recommend to have the Program reviewed. In the course of a review the provisions pertaining to the planning of the Program shall apply.

(6)<sup>224</sup>

## Activities of the Government Aimed at Environmental Protection

### *Art. 41*

(1) The Government shall direct the implementation of the state's responsibilities regarding environmental protection, and it shall determine and coordinate the environmental protection activities of the ministries and the agencies that are directly subordinate to the Government.

(2) When submitting its annual budget, the Government shall make a proposal concerning the funds to be used for attaining the goals set out in the Program.

(3)<sup>225</sup> The Government shall submit its proposal regarding the Program to Parliament for approval every six years; it shall submit a summary report on progress made in the implementation of the Program and on changes in environmental conditions every two years, and it shall direct and coordinate the implementation of the tasks specified in the Program.

(4) While setting the development objectives for the Government, the Government shall enforce the environmental protection requirements and promote the improvement of the state of the environment.

(5) The following shall be, in particular, the environmental responsibilities of the Government:

a) to fulfill the environmental obligations and assert the environmental rights arising from international treaties;

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<sup>221</sup> Established: by paragraph (1) Art. 2 of Act XCI of 2008. In force: as of 01. 01. 2009.

<sup>222</sup> Amended: by Art. 101 of Act CCI of 2011. In force: as of 1. 01. 2012.

<sup>223</sup> Established: by paragraph (2) Art. 2 of Act XCI of 2008. In force: as of 01. 01. 2009.

<sup>224</sup> Repealed: by subparagraph a) Art. 4 of Act LXXXII of 2013. No longer in force: as of 28. 06. 2013.

<sup>225</sup> Amended: by paragraph (3) Art. 27 of Act XCI of 2008. In force: as of 28. 12. 2008.

b) to promote the manufacture of environmentally sound or environmentally friendly products that meet the environmental protection requirements as well as the implementation and distribution of similar technologies and facilities;

c) to clean up the consequences of environmental damage or environmental emergencies (including military exercises held in the territory of Hungary) if this responsibility may not be diverted to another party;

d) to provide cover for the state's liability for environmental damage and to pay for such liabilities.

## Responsibilities of the Minister in Charge of Environmental Protection

### *Art. 42*

(1)<sup>226</sup> In his ministerial competence, the minister in charge of environmental protection (hereinafter referred to as "Minister"):

a) shall direct:

aa) the environmental protection activities assigned to him in acts or government decrees,

ab) the performance of responsibilities regarding environmental protection that arise from international treaties,

ac) the administration of environmental protection within his jurisdiction;

b) shall analyze and evaluate:

ba) the state of the environment and the state of protecting it,

bb) the processes involved in managing natural resources,

bc) the experiences of the protection, regulated use and planned development of the environment,

bd) the prevention of the development of environmental emergencies as well as the professional environmental protection activities aimed at defusing environmental emergencies and disasters, in cooperation with the competent agencies;

c) shall work out a Draft Program and submit it to the Government on the basis of the experiences of the evaluation made in accordance with Paragraph b);

d) shall participate in developing professional policy conceptions on the use of natural resources;

e) shall participate in developing and operating a special environmental protection curriculum and qualification system.

(2)<sup>227</sup> The Minister shall discharge the reporting obligation referred to in Article 18 of Directive 2004/35/EC of the European Parliament and of the Council.

(3)<sup>228</sup> Having regard to water as an environmental medium, the tasks specified in Para. (1) shall be carried out by the minister in charge for the protection of water as an environmental medium (hereinafter referred to as "minister responsible for water protection").

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<sup>226</sup> Numbering amended: by Art. 2 of Act XXIX of 2007. In force: as of 30. 04. 2007.

<sup>227</sup> Enacted: by Art. 2 of Act XXIX of 2007. In force: as of 30. 04. 2007.

<sup>228</sup> Enacted by Art. 9 of Act CCL of 2013, effective as of 31 December 2013.

## Enforcement of Environmental Protection in Regulation and in Other State Decisions

### *Art. 43*

(1)<sup>229</sup> The drafters of bills and other legislation and national and regional concepts related to the protection of the environment, not including the plans and programs governed under Para. (4), shall assess and evaluate the effects of proposed measures on the environment and shall summarize them in an assessment analysis (hereinafter referred to as “assessment analysis”).

(2) For the purposes of Para. (1), the legal regulation related to environmental protection includes statutory acts, government decrees, ministerial decrees and decisions that impact

- a) the environmental components,
- b) the quality of the environment or
- c) human health in connection with the environment.

(3) In the case of regulations aimed at the introduction of economic regulators related to environmental protection (rules on customs, taxation, duties etc.) and any significant amendment thereof, an assessment analysis shall be carried out in every case.

(4)<sup>230</sup> In connection with plans and programs specified in specific other legislation, which are likely to have a significant impact on the environment, including those plans and programs which are co-financed by the EU, and in connection with the amendments of these

a) where prescribed by statutory provision, or decreed by Parliament, the Government or the local authorities, and

b) which are drawn up or adopted by an administrative body, or by a non-administrative body discharging administrative duties by authorization conferred under an act of Parliament or government decree, or by a local self-government body (hereinafter referred to collectively as “administrative agency”), or those presented by the Government to Parliament

(hereinafter referred to as “plan or program”),

an environmental assessment shall be conducted containing an environmental report in accordance with specific other legislation. A plan or program may not be presented in the absence of an environmental report.

(5)<sup>231</sup> The specific other legislation referred to in Para. (4) defines the plans and programs for which an environmental assessment

a) is mandatory, or

b) may be required subject to a report on the magnitude of their impact on the environment as determined under the criteria laid down in specific other legislation.

(6)<sup>232</sup> The environmental assessment shall cover:

a) the preparation of an environmental report, the requesting of the opinion of the administrative agencies placed in charge of environmental affairs (hereinafter referred to

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<sup>229</sup> Established: by paragraph (1) Art. 3 of Act LXXVI of 2004. In force: as of 20. 07. 2004.

<sup>230</sup> Enacted: by paragraph (2) Art. 3 of Act LXXVI of 2004. In force: as of 20. 07. 2004.

<sup>231</sup> Enacted: by paragraph (2) Art. 3 of Act LXXVI of 2004. In force: as of 20. 07. 2004.

<sup>232</sup> Enacted: by paragraph (2) Art. 3 of Act LXXVI of 2004. In force: as of 20. 07. 2004.

as “environmental protection agency”) and from the public, and the carrying out of consultations with neighboring countries in the case of significant cross-border impact, and the taking into account of the environmental report and the results of the consultations in drawing up the plan or program;

b) the taking into account of the environmental report, opinion, comment and consultation referred to in Paragraph a) in adopting the plan or the program, or the proposal to be presented to Parliament, as well as the supply of information concerning the adoption of the plan or program.

The requirements set out in Paragraph a) shall be satisfied by the drafter of the plan or program (hereinafter referred to as “drafter”), and the requirements set out in Paragraph b) shall be the responsibility of the entity that has adopted the plan or the program.

(7)<sup>233</sup> The environmental report is prepared to identify, describe and evaluate the likely significant effects on the environment of implementing the plan or program, as well as the reasonable alternatives, taking into account the objectives and the geographical scope of the plan or program.

#### *Art. 44*

(1) The assessment analysis shall cover the following in particular:

a) the extent to which the planned regulations and measures influence or may improve the state of the environment;

b) the potential damage to the environment or population if the planned measures are not implemented;

c) the extent to which the conditions in Hungary are adequate for introducing the planned measures;

d) the extent to which government agencies are prepared to implement the planned measures;

e) whether the state, financial, organizational and procedural conditions for implementing the planned measures exist;

f) the extent to which the proposal represents deviation from the solutions generally adopted internationally.

(2)<sup>234</sup> The following shall be sent to the National Environmental Protection Council for evaluation:

a) the drafts and assessment analysis specified in Para. (1) of Art. 43 before they are submitted to the competent agency;

b)<sup>235</sup> the draft of a plan or program that contains the environmental report specified in Para. (4) of Art. 43, if drafted by the central government body, before being submitted to the competent administrative agency for approval, or to the Government if it is to be approved by Parliament.

At least thirty days - reckoned from the delivery of the draft - shall be provided for preparing an evaluation.

#### **National Environmental Protection Council**

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<sup>233</sup> Enacted: by paragraph (2) Art. 3 of Act LXXVI of 2004. In force: as of 20. 07. 2004.

<sup>234</sup> Established: by paragraph (3) Art. 3 of Act LXXVI of 2004. In force: as of 20. 07. 2004.

<sup>235</sup> Amended: by subparagraph d) paragraph (1) Art. 2 of Act CIX of 2006. In force: as of 01. 01. 2007.

## *Art. 45*

(1) The National Environmental Protection Council (hereinafter referred to as "Council") - consisting of up to 22 members - shall operate in the interest of establishing a broad social and scientific base for environmental protection.

(2)<sup>236</sup> As an advisory and consultant body of the Government, the Council shall:

a) opine the assessment analysis referred to in Para. (1) of Art. 43 and shall present its proposal to the competent decision-making body;

b) opine the draft of the plan or program referred to in Paragraph b) of Para. (2) of Art. 44, and the attached environmental report;

c) table a proposal to the Government for improving the efficiency of environmental protection and nature preservation, in particular as concerning the environmental information network, scientific research, training and education, and the development of an adequate industrial background, as well as the financial means for environmental protection and nature preservation;

d) express its opinion concerning matters of strategic importance in the Community legislative process relating to the protection of the environment.

(3) In the Council, representatives

a)<sup>237</sup> of associations registered with environmental goals as well as

b) of agencies representing professional and economic interests, elected in a manner determined by themselves;

c) appointed to this function by the scientific community and the president of the Hungarian Academy of Sciences

shall participate in equal proportions.

(4) The responsibilities of the Council's secretariat shall be fulfilled by the Minister through his official organization.

(5) The Council shall elect a chairman from among its members. Representing the Government, the Minister shall be the co-chairman of the Council.

(6)<sup>238</sup> The Council shall fulfill its duties in accordance with the rules prescribed in this Act and those set out by the Government, and it shall determine its own rules of procedure.

(7)<sup>239</sup> The Council's operating costs shall be provided for under a separate title in the budget of the ministry directed by the Minister.

## **Chapter IV**

### **ENVIRONMENTAL RESPONSIBILITIES OF LOCAL GOVERNMENTS**

## *Art. 46*

(1) In the interest of environmental protection, each municipal local government (as well as the Metropolitan Government of Budapest)

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<sup>236</sup> Established: by paragraph (1) Art. 4 of Act LXXVI of 2004. In force: as of 16. 07. 2004.

<sup>237</sup> Amended: by subparagraph a) Art. 101 of Act CLXXV of 2011. In force: as of 22. 12. 2011.

<sup>238</sup> Established: by paragraph (2) Art. 4 of Act LXXVI of 2004. In force: as of 16. 07. 2004.

<sup>239</sup> Amended: by paragraph (1) Art. 91 of Act CXLVIII of 2010. In force: as of 1. 01. 2011.

a) shall ensure the execution of the legal regulations serving the protection of the environment and shall perform the official tasks assigned to it;

b)<sup>240</sup> shall work out a separate municipal environmental program in accordance with Art. 48/E, to be approved by the representative body (general assembly) thereof;

c) shall issue municipal bylaws and shall pass resolutions to attain objectives related to environmental protection;

d)<sup>241</sup> shall cooperate with other authorities in charge of environmental protection and with other local governments and associations;

e) shall analyze and evaluate the state of the environment in its jurisdiction and shall inform the public thereof as necessary, but at least once a year;

f) shall enforce the environmental protection requirements in the course of carrying out development tasks and shall promote the improvement of the state of the environment.

(2) In order to fulfill its responsibilities in connection with the built and the natural environments, county governments

a)<sup>242</sup> shall prepare county-level environmental programs - coordinated with the municipal local governments and the competent county development council - in accordance with Art. 48/D, to be approved by the county general assembly;

b) shall give their preliminary opinions on the municipal environmental programs and may initiate the preparation thereof;

c) shall take a stand on the draft municipal bylaws of municipal local governments affecting environmental protection;

d) shall promote the reaching of agreements under Para. (7) of Art. 58;

e) may make recommendations for the foundation of municipal environmental associations.

(3) With respect to cities of county rank, the responsibilities specified in Paragraphs a) and b) of Para. (2) shall be fulfilled within the framework of a conciliatory panel [Local Governments Act, Art. 61/A].

(4)<sup>243</sup> The local authorities of communities, specified in specific other legislation, shall prepare the evaluation of environmental status referred to in Paragraph e) of Para. (1) relating to environmental noise based on a strategic noise map for the areas and facilities specified and according to the instructions contained in specific other legislation.

## *Art. 47<sup>244</sup>*

## *Art. 48<sup>245</sup>*

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<sup>240</sup> Established: by paragraph (1) Art. 3 of Act XCI of 2008. In force: as of 01. 01. 2009. The rules relating to community environmental programs shall be first applied following publication of the first Program after the time of this Act entering into force.

<sup>241</sup> Amended: by subparagraph b) Art. 101 of Act CLXXV of 2011. In force: as of 22. 12. 2011.

<sup>242</sup> Established: by paragraph (2) Art. 3 of Act XCI of 2008. In force: as of 01. 01. 2009. The rules relating to community environmental programs shall be first applied following publication of the first Program after the time of this Act entering into force.

<sup>243</sup> Enacted: by paragraph (1) Art. 5 of Act LXXXVI of 2004. In force: as of 18. 07. 2004.

<sup>244</sup> Repealed: by paragraph (1) Art. 27 of Act XCI of 2008. No longer in force: as of 28. 12. 2008.

<sup>245</sup> Established: by Art. 1 of Act CXLIII of 2012. In force: as of 10. 10. 2012.

(1) The council of representatives of the municipal government or, in the case of the City of Budapest, the council of representatives of the district in connection with environmental noise, or the City Council of Budapest relating to other environmental regulations, may only lay down regulations regarding environmental protection for its jurisdiction in a municipal decree - and in a manner and to the extent specified in an act or government decree - that are more restrictive than the provisions defined in other legislation.

(2) The council of representatives of the municipal government may adopt regulations in a municipal decree to impose restrictions on the exercise of ownership rights for the protection of certain arborescent plants, which are not governed elsewhere.

(3) Municipal governments shall send the drafts of their decrees and decisions regarding environmental protection, the drafts of their plans affecting the state of the environment and the environmental program [Paragraph *b*) of Para. (1) of Art. 46] to the neighboring and affected municipal governments for information purposes and to the competent administrative body for environmental protection for assessment. The administrative body for environmental protection shall communicate its opinion to the requesting municipal government within thirty days.

(4) The responsibilities of councils of representatives of municipal governments shall cover:

- a*) the smog emergency plan;
- b*) the adoption of special regulations concerning air pollution caused by household activities as well as regulations for burning leaves and other garden waste by means of decrees; and
- c*) collaborating in procedures for designating areas that are considered ecologically vulnerable in terms of air pollution.

(5) As regards the City of Budapest, the requirements set out in Paragraphs *a*)-*b*) of Para. (4) shall be decreed by the City Council of Budapest.

(6) As regards the protection of air quality, it is the responsibility of the local mayor (lord mayor), by virtue of his administrative and regulatory powers, to:

- a*) have a smog emergency plan drafted and implemented;
- b*) order the operators of any production and service facilities which are polluting the air to switch to alternative sources of energy and/or to other technologies, or to temporarily restrict or suspend the activities of such operators and the use of road motor vehicles within the framework of the smog emergency plan;
- c*) inform the general public affected on the occurrence of any smog emergency, where air pollution reaches the limits prescribed in specific other legislation, indicating the location where the limits are in excess of or expected to exceed the limits, the extent and duration of the emergency, including possible health effects and recommendations to mitigate them, and the measures required to prevent such emergencies in the future.

## ***Chapter V***

### ***THE GROUNDWORK FOR ENVIRONMENTAL PROTECTION***



## Environmental Planning Regime<sup>246</sup>

### Art. 48/A<sup>247</sup>

(1) Having regard to the protection of human health, and to the safeguarding and sustainable use of natural resources, in accordance with the provisions of this Act or specific other legislation, a master plan shall be prepared relating to the environment and the protection of the environment, and to the effects which may be harmful to the environment (*comprehensive environmental plan*), as well as a specific plan relating to the various environmental media and to their protection, and to the various effects which may be harmful to such environmental media (*thematic environmental plan*) and a plan addressing unique environmental characteristics or problems (*specific environmental plan*).

(2) In the process of planning:

a) environmental plans of lower territorial level shall be coordinated with environmental plans of higher territorial level,

b) thematic and specific environmental plans shall be coordinated with the comprehensive environmental plan of the territorial level in question.

(3) The author of the environmental plan shall submit the plan to public debate before it is completed.

### Art. 48/B<sup>248</sup>

(1) The comprehensive environmental plan shall comprise the national [Art. 40] and territorial (regional [Art. 48/C], county [Art. 48/D] and community [Art. 48/E]) environmental program.

(2) The comprehensive environmental plan shall contain:

a) an assessment building on the presentation of the condition of the various environmental media and on the analysis of the related key factors;

b) environmental objectives and environmental considerations set out in relation to sustainable development;

c) the major programs of measures aimed at achieving the objectives and considerations (in particular, the functions related to developments in progress and those envisaged), and the timetable for their implementation;

d) the regulatory, supervisory and evaluation means for the implementation of the objectives to be pursued;

e) the foreseeable costs of carrying out the measures and for the application of the means referred to in Paragraph d), also indicating the proposed sources of funds.

(3) The goals set out in community environmental programs shall be enforced in the process of drawing up the development concept and policy of the community to which it

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<sup>246</sup> Enacted: by Art. 5 of Act XCI of 2008. In force: as of 01. 01. 2009.

<sup>247</sup> Enacted: by Art. 5 of Act XCI of 2008. In force: as of 01. 01. 2009. The rules relating to community environmental programs shall be first applied following publication of the first Program after the time of this Act entering into force.

<sup>248</sup> Enacted: by Art. 5 of Act XCI of 2008. In force: as of 01. 01. 2009. The rules relating to community environmental programs shall be first applied following publication of the first Program after the time of this Act entering into force.

pertains, including the related plans, as well as in the decision-making and implementation process, and in sectoral planning pertaining to the community in question.

(4) Community environmental programs shall be reviewed as deemed necessary, but at least upon the renewal or review of the Program, in accordance with Para. (2) of Art. 48/A.

#### *Art. 48/C<sup>249</sup>*

(1) The regional development council shall prepare a regional environmental program in respect of the relevant planning and statistical district following consultation with the county governments affected.

(2) The regional environmental program shall contain - in accordance with Para. (2) of Art. 48/B - those objectives and measures, which are to be attained and carried out, respectively, at the regional level.

(3)<sup>250</sup> The regional development council shall provide for the implementation of the regional environmental program.

(4) The regional development council, in the process of adopting decisions relating to aids conferred under its competence, shall promote the support of developments comprised in the program.

#### *Art. 48/D<sup>251</sup>*

(1) The county environmental program shall contain - in accordance with Para. (2) of Art. 48/B - those objectives and measures, which are to be attained and carried out, respectively, at the county level.

(2)<sup>252</sup> The county assembly shall provide for the implementation of the functions contained in the county environmental program, ensure the conditions for implementation, and shall monitor the completion of those functions.

(3) The county government shall give account, at the time of closing its annual budget, on the progress made in the implementation of the county environmental program during the previous year.

(4) The county development council, in the process of adopting decisions relating to aids conferred under its competence, shall promote the support of developments comprised in the environmental program.

#### *Art. 48/E<sup>253</sup>*

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<sup>249</sup> Enacted: by Art. 5 of Act XCI of 2008. In force: as of 01. 01. 2009. The rules relating to community environmental programs shall be first applied following publication of the first Program after the time of this Act entering into force.

<sup>250</sup> Established: by Art. 1 of Act LXXXII of 2013. In force: as of 28. 06. 2013.

<sup>251</sup> Enacted: by Art. 5 of Act XCI of 2008. In force: as of 01. 01. 2009. The rules relating to community environmental programs shall be first applied following publication of the first Program after the time of this Act entering into force.

<sup>252</sup> Established: by Art. 2 of Act LXXXII of 2013. In force: as of 28. 06. 2013.

(1) The municipal environmental program shall, in tune with the community's characteristics, circumstances and economic possibilities, contain the following in addition to what is contained in Para. (2) of Art. 48/B:

a) an air pollution control action plan, and the tasks and provisions relating to air pollution;

b) protection against noise and vibration, and the action plan devised around the strategic noise map prepared by the local authorities subject to the obligation of strategic noise mapping by virtue of specific other legislation;

c) management of green areas;

d) hygiene of the community environment and public areas;

e) drinking water supply;

f) rainwater drainage systems of the community;

g) urban waste-water treatment;

h) treatment of municipal wastes;

i) energy management;

j) municipal transportation systems;

k) prevention of potential risks to the environment and the mitigation of environmental damage.

(2) In addition to what is contained in Para. (1), the municipal environmental program may, in tune with the community's characteristics, circumstances and economic possibilities, contain the following:

a) the tasks and provisions relating - with a view to improving the quality of the community environment, environmental safety and environmental health status, and to the safeguarding and sustainable use of natural resources - to:

aa) the use of land,

ab) the protection of geological strata,

ac) the protection of soil and agricultural land,

ad) the protection of surface and underground waters and water resources,

ae) recultivation and rehabilitation,

af) nature and landscape protection,

ag) the protection of the man-made environment,

ah) flood and inland water control,

ai) the reduction of greenhouse gas emission, by meeting climate change commitments,

b) environmental education and training programs, and public participation.

(3) The municipal local government shall provide for the implementation of the functions contained in the municipal environmental program, ensure the conditions for implementation, and shall monitor the completion of those functions.

(4)<sup>254</sup>

(5)<sup>255</sup> Municipal governments - in addition to or instead of drawing up their own community-level environmental programs - shall have the option to work out a environment protection scheme collectively.

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<sup>253</sup> Enacted: by Art. 5 of Act XCI of 2008. In force: as of 01. 01. 2009. The rules relating to community environmental programs shall be first applied following publication of the first Program after the time of this Act entering into force.

<sup>254</sup> Repealed: by subparagraph b) Art. 4 of Act LXXXII of 2013. No longer in force: as of 28. 06. 2013.

<sup>255</sup> Established: by Art. 3 of Act CCX of 2012. In force: as of 1. 01. 2013.

## *Art. 48/F<sup>256</sup>*

(1) The author of the community environmental program shall send a copy of the draft version to the competent:

- a) environmental protection authority,
  - b)<sup>257</sup>
  - c) real estate supervisory authority, and
  - d) government body in charge of the healthcare system,
  - e)<sup>258</sup> organ responsible for carrying out regulatory functions relating to water protection (hereinafter referred to as “water protection authority”), and
  - f)<sup>259</sup> water authority,
- for assessment.

(2)<sup>260</sup> The environmental protection authority shall also consult the competent administrative body for environmental protection, the body in charge of the management and protection of nature preservation areas and the agency functioning as the nature preservation authority, and they shall submit their opinions to the authority within thirty days.

(3)<sup>261</sup> The drafts of municipal and common environment protection programs shall be sent - in addition to the bodies mentioned in Para. (1) - to the competent county government, and the draft of the county environment protection program shall be sent to the competent regional development council as well for assessment.

(4) The opining bodies shall present their expert assessments to the author of the environmental program within sixty days.

(5)<sup>262</sup> A copy of the approved community environmental program shall be sent to the aforementioned assessment bodies.

(6) The general public shall be informed of the progress made in the implementation of the community environmental program at regular intervals.

## The National Environmental Geographical Information System<sup>263</sup>

### *Art. 48/G<sup>264</sup>*

(1) With a view to setting out the environmental objectives and to promoting the implementation of environmental functions, the Minister - jointly with the sectoral ministers supervising the geographic information management bodies - shall establish and maintain an integrated electronic network, the National Environmental Geographical Information System accessible through the Government website.

<sup>256</sup> Enacted: by Art. 5 of Act XCI of 2008. In force: as of 01. 01. 2009. The rules relating to community environmental programs shall be first applied following publication of the first Program after the time of this Act entering into force.

<sup>257</sup> Repealed: by paragraph (2) Art. 132 of Act CCXIII of 2012. No longer in force: as of 28. 12. 2012.

<sup>258</sup> Enacted by SubArt. (1) of Art. 10 of Act CCL of 2013, effective as of 31 December 2013.

<sup>259</sup> Enacted by SubArt. (1) of Art. 10 of Act CCL of 2013, effective as of 31 December 2013.

<sup>260</sup> Established by SubArt. (2) of Art. 10 of Act CCL of 2013, effective as of 31 December 2013.

<sup>261</sup> Established: by Art. 4 of Act CCX of 2012. In force: as of 1. 01. 2013.

<sup>262</sup> Established: by Art. 3 of Act LXXXII of 2013. In force: as of 28. 06. 2013.

<sup>263</sup> Enacted: by Art. 6 of Act XCI of 2008. In force: as of 01. 01. 2009.

<sup>264</sup> Enacted: by Art. 6 of Act XCI of 2008. In force: as of 15. 05. 2009.

(2) The National Environmental Geographical Information System consists of the Information System referred to in Art. 49 and the information systems of the geographic information management bodies, with view to achieving interoperability. The National Environmental Geographical Information System shall provide a direct link to the Community website for geographical information systems.

(3) Where a natural or legal person, other than a geographic information management body, has any spatial data and is able to meet the technical requirements laid down in the legislation on the creation and operation of the National Environmental Geographical Information System, such person shall be provided - upon request - access to link up with the National Environmental Geographical Information System.

(4)<sup>265</sup> The network website of the National Environmental Geographical Information System shall offer the following spatial data services to the general public:

a) discovery services making it possible to search for spatial data sets and services on the basis of the content of the corresponding metadata and to display the content of the metadata;

b) view services making it possible, as a minimum, to display metadata, spatial data sets and legend information, to navigate, zoom in and out, pan or overlay viewable metadata, spatial data sets and legend information, and to display legend information and any relevant content of metadata;

c) download services, enabling copies of spatial data sets, or parts of such sets, to be downloaded and, where practicable by way of electronic means, accessed directly;

d) transformation services, enabling spatial data sets to be transformed - in accordance with the user's requirements - with a view to achieving interoperability as specified in Para. (2);

e) services allowing spatial data services to be invoked as specified under Paragraphs a)-d).

### *Art. 48/H<sup>266</sup>*

(1) The geographic information management body shall have the right to charge a fee for the spatial data services described in Paragraphs c)-e) of Para. (4) of Art. a 48/G. To this end, the geographic information management body shall enter into an agreement with the user, specifying the fees chargeable (hereinafter referred to as "data service agreement"). Users shall be permitted to conclude the data service agreement via the internet.

(2) By way of derogation from Para. (1), spatial data sets and spatial data services shall be provided free of charge to the institutions and bodies of the European Community as required for the fulfillment of reporting obligations under Community legislation relating to the environment.

(3) The fees and the conditions of access shall be established without any discrimination, such as in particular, where data is requested by a public administration body or natural or legal persons performing public administrative functions, when acting outside their official capacity in discharging their respective public functions, in respect of

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<sup>265</sup> Access to the services specified in this paragraph shall be made available as of 15 May 2011.

<sup>266</sup> Enacted: by Art. 6 of Act XCI of 2008. In force: as of 15. 05. 2009.

data supplied for the purposes of such activities, the same fees and conditions shall be applied as to any other user.

(4) The charges applied should not exceed the cost of collection, production, updating, reproduction, transformation and dissemination of data. The level charges shall be kept to the minimum required to ensure the necessary quality and supply of spatial data sets and services together with a reasonable return on investment, while respecting the self-financing requirements of public authorities supplying spatial data sets and services, where applicable.

(5) The geographic information management body shall display on its website the fees charged, together with the principles of pricing.

## Environmental Information System and Provision of Information

### *Art. 49*

(1) The Minister shall - in accordance with the stipulations set forth by the Government - establish and operate a monitoring network, the National Environmental Information System (hereinafter referred to as "Information System") for monitoring the state and use of the environment and for measuring, collecting, processing and registering data on the utilization and loading thereof.

(2) The Information System shall be organized and set up in such a manner and with such a territorial density that on the basis thereof

a) the changes in the utilization, loading and the state of the environment can be quantitatively and qualitatively determined and can be compared on an international basis - in a form that can be evaluated in a social and economic context in terms of the effects on the health of the population;

b) the causes of the environmental impacts can be established with satisfactory accuracy (including the necessary detailed breakdowns for establishing the causal relationships of the damage);

c) any endangerment of the environment can be recognized as early as possible;

d) the regulatory responsibilities can be fulfilled and the official measures can be taken by the authorities;

e) it can be used for planning.

(3)<sup>267</sup> The regional tasks necessary for the operation of the Information System shall be carried out by the administrative body for environmental protection.

(4) The costs of data provision, as specified in legal regulation, shall be borne by the party obligated to provide the data concerning the impacts on the environment.

### *Art. 49/A<sup>268</sup>*

The water protection authority shall be entitled to access directly the Information System for obtaining data relating to water protection to the extent required to discharge its duties delegated by law, and to make entries into the Information System.

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<sup>267</sup> Established: by Art. 11 of Act CXXXI of 2005. In force: as of 30. 12. 2005. Amended: by subparagraph g) paragraph (5) Art. 145 of Act CIX of 2006. In force: as of 01. 01. 2007.

<sup>268</sup> Enacted by Art. 11 of Act CCL of 2013, effective as of 31 December 2013.

## *Art. 50*

(1) Users of the environment shall measure the environmental loading and the utilization of the environment caused during their activities in a manner specified in legal regulation, or shall substantiate and record such with technological calculations, and shall make their records available and/or shall provide data to the authorities with jurisdiction and competence.

(1a)<sup>269</sup> Unless otherwise provided for by government decree or ministerial decree, polluters of environment shall perform their data disclosure obligation related to the Information System in accordance with the provisions of the Act on the General Rules of Administrative Proceedings on electronic communication.

(1b)<sup>270</sup> Information on the procedure for data disclosures under Para. (1a), and the standard electronic forms on which to perform such disclosures shall be made available on the public platform provided for in Art. 51/A.

(2)<sup>271</sup> The users of the environment specified in specific other legislation shall survey the impact on the environment caused by their activities, summarize the results in regular reports and submit them to the administrative body for environmental protection. The detailed regulations regarding environmental reports shall be laid down in specific other legislation.

(3)<sup>272</sup> The local government and state agencies responsible for environmental protection shall, in accordance with the stipulations of a Government decree, make the data they have generated that are necessary for the Information System available to the Information System.

## *Art. 51*

(1)<sup>273</sup> The data and information pertaining to the state, utilization and use of the environment shall be treated in accordance with the legal regulation on data of public interest.

(2) On the basis of the data collection, the Minister shall annually submit a report to the Government on the trends in the state of the environment in the country.

(3) Municipal local governments shall inform the population about the trends in the state of the local environment as required, but at least annually.

## *Art. 51/A<sup>274</sup>*

(1) With a view to promoting public access to environmental information, the Information System shall feature a public information platform (hereinafter referred to as “public platform”) that can be accessed through the internet. The public platform, and the

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<sup>269</sup> Enacted by Art. 1 of Act LXXXVII of 2014, effective as of 15 December 2014.

<sup>270</sup> Enacted by Art. 1 of Act LXXXVII of 2014, effective as of 15 December 2014.

<sup>271</sup> Established: by Art. 12 of Act CXXXI of 2005. In force: as of 30. 12. 2005. Amended: by subparagraph g) paragraph (5) Art. 145 of Act CIX of 2006. In force: as of 01. 01. 2007.

<sup>272</sup> Numbering amended by Art. 6 of Act LV of 2001.

<sup>273</sup> Established: by Art. 2 of Act CXXVII of 2005. In force: as of 23. 12. 2005.

<sup>274</sup> Enacted by Art. 2 of Act LXXXVII of 2014, effective as of 15 December 2014.

information stored on this platform shall be available to any member of the general public with unrestricted access free of charge.

(2) The public platform shall feature environmental information provided for by law or government decree, relating to:

- a) the environment and the status of its elements;
- b) the exposure and pollution of the environment, environmental loads and contamination, and damage to the environment;
- c) activities and installations which may have an impact on the environment; and
- d) objects which are deemed important for environmental protection and nature preservation purposes;

which belong to the Information System, or derived therefrom.

(3) The public platform may be used for publishing and making available other environmental information comprised within, or falling outside the realm of the Information System, which are considered relevant for the general public, as well as other public information.

## Entry of Environmental Data into Other Records

### *Art. 52*

(1) The fact, extent and nature of permanent environmental damage established by a definitive official decision or court ruling shall be entered into the property register.

(2)<sup>275</sup> The entry shall be requested by the environmental protection authority or - if liability is established by a court - shall be ordered *ex officio* by the court.

(3) The cessation of or any change in the fact, extent and nature of the environmental pollution that serves as the basis for the entry shall be established, at the request of the owner of the real property, by the authority requesting the entry or the court ordering the entry, and they shall subsequently take measures *ex officio* to delete or amend the entry.

## Environmental Research and Technical Development

### *Art. 53*

(1) The fulfillment of responsibilities related to environmental protection shall also be promoted through the development of science and technology, the organization of scientific research and technical development as well as through the dissemination and practical application of the findings of domestic and international research.

(2)<sup>276</sup> Research aimed at exploring the state of the environment and the development of environmental protection shall be considered priority research objectives. The Minister, in cooperation with the President of the Nemzeti Kutatási, Fejlesztési és Innovációs Hivatal (*National Research, Development and Innovation Office*), shall be

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<sup>275</sup> Established: by Art. 13 of Act CXXXI of 2005. In force: as of 30. 12. 2005. Amended: by subparagraph g) paragraph (5) Art. 145 of Act CIX of 2006. In force: as of 01. 01. 2007.

<sup>276</sup> Amended by paragraph (2) Art. 91 of Act CXLVIII of 2010, Art. 200 of Act XCIX of 2014.



responsible for coordinating, supporting and evaluating such research and ensuring the fulfillment of the state's environmental research goals.

## Environmental Education, Training, Culture

### *Art. 54*

(1)<sup>277</sup> All persons shall have the right to acquire knowledge about the environment and to improve such knowledge.

(2) The dissemination and improvement of knowledge about the environment (education in nursery schools, education and training in schools, education and continuing education outside the school system, dissemination of information, book publishing) shall be the responsibilities primarily of the state and the local governments.

(3)<sup>278</sup> While fulfilling the responsibilities of state, the Minister shall cooperate with the minister in charge of education and other concerned ministers in order to ensure professional education about knowledge concerning the environment and to improve the latter on a continuing basis.

(4) In accordance with the principles and requirements of the National Master Curriculum, the Minister shall participate in the professional preparation of the curricular requirements and school equipment prepared for the institutions of public education.

(5) The Minister shall prepare an environmental education and training program that summarizes

a) environmental knowledge for environmental education, training, continuing education and the dissemination of information outside the school system as well as

b) guidelines for the improvement of self-motivated public education and environmental awareness, and

c) guidelines for and parameters of vocational and professional training in environmental protection.

(6) In addition to the basic interdisciplinary knowledge (natural sciences and ecology, social sciences as well as engineering and technology), environmental education and dissemination of information shall also include the environmental knowledge necessary for practicing trades and professions, activities that endanger the environment, basic issues in preventing and defusing emergencies, environmental impacts influencing human health as well as the dissemination of knowledge regarding civil rights and responsibilities related to protecting the environment.

### *Art. 55*

(1)<sup>279</sup> The state shall fulfill the responsibilities indicated in Art. 54 through the institutions of instruction and public education, in cooperation with the environmental protection associations and the professional organizations of the public engaged in the protection of the environment. The state shall support individual organizations with educational and training responsibilities, ecclesiastical legal entities, scientific

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<sup>277</sup> Established: by paragraph (1) Art. 117 of Act XXIX of 2004. In force: as of 1. 05. 2004.

<sup>278</sup> Amended: by paragraph (3) Art. 91 of Act CXLVIII of 2010. In force: as of 1. 01. 2011.

<sup>279</sup> Amended: by Art. 38 of Act CXXXIII of 2013. In force: as of 1. 08. 2013.

institutions, professional organizations and associations so that they perform their educational and training activities more effectively, if necessary, by making appropriate funds available.

(2)<sup>280</sup> The minister in charge of education and the Minister shall be jointly responsible for organizing education about the environment and the academic and financial support of the preparation of the curricula and educational programs related to this; the Minister shall exercise the rights of the minister in charge of qualification with respect to professional and vocational training, fulfill the responsibilities of the state in the sphere of higher education and provide assistance for the educational work of institutions of higher education belonging to his field.

## ***Chapter VI***

### ***ECONOMIC BASES OF ENVIRONMENTAL PROTECTION***

#### ***Art. 56***

(1)<sup>281</sup> The central budget:

a) shall support the fulfillment of tasks arising from the assumption of the high-priority commitments related to environmental protection and international obligations specified in the Program;

b) shall support measures aimed at environmental protection, especially in the areas of developing and operating the Information System, government oversight, education and the dissemination of information, research and the activities of the public related to environmental protection;

c) shall cover the costs of preventive and remedial measures in connection with environmental damages, in the cases where it cannot be charged to others;

d) shall reimburse the costs of preventive and remedial measures in connection with the prevention or mitigation of environmental damages, in the case referred to in Para. (7) of Art. 102/A;

e) shall advance the costs of preventive and remedial measures in connection with environmental damages in the cases where immediate intervention is required.

(2)<sup>282</sup> Where efforts to charge the costs of preventive and remedial measures in connection with the prevention or mitigation of environmental damages to others failed because the polluter or the owner of the real estate property could not have been identified, and if these persons are identified subsequently, they shall bear the costs of the aforesaid measures in accordance with Art. 102, unless any exemption applies under Para. (1) of Art. 102/A.

(3)<sup>283</sup> The use of technologies resulting in a reduced utilization and loading of the environment, the manufacture of environmentally sound products and the provision of environmentally sound services may be supported through the provision of tax allowances and through customs and duty allowances.

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<sup>280</sup> Amended: by paragraph (4) Art. 91 of Act CXLVIII of 2010. In force: as of 1. 01. 2011.

<sup>281</sup> Established: by Art. 3 of Act XXIX of 2007. In force: as of 30. 04. 2007.

<sup>282</sup> Enacted: by Art. 3 of Act XXIX of 2007. In force: as of 30. 04. 2007.

<sup>283</sup> Numbering amended: by Art. 3 of Act XXIX of 2007. In force: as of 30. 04. 2007.

(4)<sup>284</sup>

## Environmental Protection Fund Special Appropriations Chapter<sup>285</sup>

### *Art. 57<sup>286</sup>*

The environmental protection fund special appropriations chapter is established for promoting the development of an environmentally safe economic structure, the prevention or reduction of environmental damage, the cleanup of environmental damage, country planning as set forth in a specific other legislation as well as the conservation of nature preservation areas, the motivation and promotion of the most efficient responses and the best available techniques in respect of activities defined in specific other legislation, the improvement of public environmental awareness and environmental research.

## Municipal Environmental Protection Funds

### *Art. 58*

(1) In order to promote the fulfillment of their responsibilities in environmental protection (Art. 46), the local governments - the Metropolitan Government in Budapest - may establish municipal environmental funds through municipal bylaws.

(2) The revenues of the municipal environmental protection funds shall be the following:

- a) the full amount of environmental fines definitively imposed by the local government,
- b)<sup>287</sup> 30 per cent of the amount of the environmental fines imposed by final decision of the competent environmental protection authority in the area of the municipal government, with the exception of environmental fines imposed by final decision in connection with an incident based on which the emergency is declared,
- c) part of the environmental load charges and utilization contributions specified in specific other legislation,
- d) the amount of local government revenues earmarked for environmental protection purposes, and
- e) other revenues.

(3) If the local government does not establish a municipal environmental protection fund, the revenue specified in Paragraph c) of Para. (2) shall not be due to it.

(4) The municipal environmental protection fund shall be used for environmental protection purposes.

(5) The representative body shall annually provide for the use of the municipal environmental protection fund simultaneously with the adoption of the bylaw on the

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<sup>284</sup> Repealed: by subparagraph c) paragraph (2) Art. 262 of Act CXXVII of 2007. No longer in force: as of 01. 01. 2008.

<sup>285</sup> Established by SubArt. (2) of Art. 93 of Act XC of 1998, effective as of 1 January 1999.

<sup>286</sup> Established by Art. 7 of Act LV of 2001, effective as of 13 July 2001.

<sup>287</sup> Established: by paragraph (1) Art. 9 of Act XCV of 2011. In force: as of 22. 07. 2011.

budget (State Finances Act, Art. 65) and the closing of accounts (State Finances Act, Art. 85).

(6) Local governments affected by the utilization, loading and pollution of the environment may initiate - with the local government authorized to dispose of the revenues specified in Paragraphs a), b) and c) of Para. (2) - the proportionate division of revenues among the local governments in the impact area. They shall provide data to substantiate the extent of their needs.

(7)<sup>288</sup> If no agreement is reached among the affected local governments on the issue and extent of the division specified in Para. (6), the local government initiating it may submit a statement of claim to the district court attached to the general court and, in Budapest, to the Pest Central District Court. The procedure shall be free of duty.

## Charges Payable for Using the Environment

### *Art. 59*

(1) The charges that provide cover for the measures reducing the loading and the utilization of the environment are:

- a) environmental load charges,
- b) utilization contributions,
- c) product charges,
- d) deposits

(hereinafter referred to jointly as "charges").

(2) The amount of the charges shall be established in such a way that they should encourage the users of the environment to reduce the utilization and loading of the environment.

(3) The amount of the charges and the objective for which they are used shall be set through conciliation with the interest representations of those obligated to pay the charges. The charges shall be introduced gradually with respect to their date and amount.

(4) The goals and manner of using the charges shall be specified in specific other legislation that provides for the charges in such a manner that the greater part of the amount collected may be spent on reducing the environmental load and/or the level of utilization of the environment that was taken as basis when the payment of the charge was determined.

(5)<sup>289</sup>

## Environmental Load Charges

### *Art. 60*

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<sup>288</sup> Amended: by subparagraph c) Art. 100 of Act CCI of 2011. In force: as of 1. 01. 2012. Amended: by Art. 22 of Act CCXI of 2012. In force: as of 1. 01. 2013.

<sup>289</sup> Repealed by Paragraph d) of SubArt. (1) of Art. 110 of Act CXXXIII of 2000, effective as of 1 January 2001.

(1) Users of the environment shall pay environmental load charges for loading the environment in the cases specified in specific other legislation.

(2) Users of the environment obligated to pay environmental load charges shall keep records of the loading they cause, provide data thereon and declare them.

(3) Environmental load charges may be set for substances and types of energy for which measurement standards exist or the emission of which may be reliably established through consideration of the material or technical calculation.

(4) The environmental load charges payable for pollutants released into the environmental components specified under Para. (1) shall be specified separately for certain substances, types of energy or the groups thereof in proportion to the quantity of the emitted substance or energy. The proportionality factor may be different depending on the area category and the emission standards.

(5) A statutory act shall provide for the scope of substances and types of energy subject to the obligation to pay environmental load charges, for the amount of the charges and for the manner in which records are to be kept and data are to be provided.

## Utilization Contribution

### *Art. 61*

(1) The users of the environment shall pay a utilization contribution for certain ways of utilizing a particular component of the environment.

(2) No utilization contribution shall be paid for the utilization of an environmental component for which the users of the environment pay mining royalties (Mining Act, Art. 20).

(3) The users of the environment obligated to pay a utilization contribution shall keep records of the extent of the utilization, provide data thereon and declare them.

(4) The contribution payable for the utilization of an environmental component shall be established in proportion to the utilized quantity of the environmental component. The proportionality factor may be different depending on the area category.

(5) A statutory act shall provide for the scope of activities and utilization subject to the obligation to pay the utilization contribution, the amount of the contribution and the manner in which records are to be kept and data are to be provided.

## Product Charges

### *Art. 62*

(1) The manufacture, import and distribution of certain products that put a special load on the environment or endanger it or any of its components during or following their use shall be obligated to pay a special product charge.

(2) Manufacturers, importers and distributors obligated to pay product charges shall keep records of the quantity and turnover of the products, provide data thereon and declare them.

(3) A statutory act shall provide for the range of products, the amount of the charge and the manner in which records are to be kept and data are to be provided.

(4) The amount of the product charge shall be established for the unit quantity of manufactured, imported and distributed products.

(5) The manufacturer or the distributor of the products, including the importer, may be obligated - on the basis of the provisions of legal regulation - to take back and adequately treat certain worn-out products on which product charges must be paid.

(6) The product charge on products that must be taken back shall be spent on the utilization or safe disposal of the returned worn-out products or on the funding of projects implementing the above, with consideration of the stipulations of Para. (4) of Art. 59.

## Deposits

### *Art. 63*

(1) Legal regulation shall provide for the range of products whose return is necessary in order to reduce the loading and pollution of the environment. To encourage the return of such products, the distributors of these products shall charge deposits.

(2) Distributors of products requiring a deposit shall provide for taking back and adequately treating the used products, and they shall pay the deposit charged when the product was sold to the person returning the product.

## **Chapter VII**

### **ADMINISTRATION OF ENVIRONMENTAL PROTECTION**

#### Administration of Environmental Protection

### *Art. 64*

(1) The following shall belong to the scope of the administration of environmental protection:

a) the performance of the activities of the environmental protection authority and, in particular, the licensing of the use of the environment - in accordance with the rules specified in this Act - and the enforcement of the administrative legal responsibility for the environment;

b)<sup>290</sup> data management and information tasks related to the operation of the Information System;

c) the specification of the environmental rating system for substances, products and technologies and the licensing of the distribution or use thereof;

d) the organization of tasks aimed at averting environmental damage;

e)<sup>291</sup> enforcement of the requirements concerning the use of the most efficient responses and the best available techniques.

f)<sup>292</sup> drawing up and monitoring the execution of measures and programs for the protection, improvement and restoration of the environment.

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<sup>290</sup> Established by SubArt. (1) of Art. 8 of Act LV of 2001, effective as of 13 July 2001.

<sup>291</sup> Enacted by SubArt. (2) of Art. 8 of Act LV of 2001, effective as of 13 July 2001.

<sup>292</sup> Enacted: by Art. 4 of Act CXX of 2003. In force: as of 07. 01. 2004.

(2)<sup>293</sup> Consultation may be requested with the environmental protection authority concerning technical issues in the form of service of an administrative nature. Consultation may cover compliance with environmental regulations, as well as issues relating to the environmentally sound planning of activities and investments.

(3)<sup>294</sup> Consultation concerning technical issues may not be requested during administrative proceedings falling within the competence of the environmental protection authority or during prior consultation, regarding the topics of such proceedings or prior consultation.

(4)<sup>295</sup> Consultation concerning technical issues shall not be a substitute for any regulatory decision to be adopted in administrative proceedings or any opinion given upon prior consultation, furthermore, the opinion of the environmental protection authority shall not be binding having regard to regulatory proceedings or prior consultation. The opinion given upon consultation shall not have the effect of releasing the requesting party from the obligations and responsibilities conferred under this Act.

## Data Processing<sup>296</sup>

### Art. 64/A<sup>297</sup>

(1) The administrative body for environmental protection shall be allowed to process the data of natural and legal persons by assigning an environmental client code (hereinafter referred to as “KÜJ-code”).<sup>298</sup>

a)<sup>299</sup> for the purpose of monitoring compliance with the rights and obligations pertaining to any use of the environment [Paragraph i) of Art. 4];

b)<sup>300</sup> in connection with any activities with an environmental objectives;

c)<sup>301</sup> in connection with the obligation to provide information relating to use and exploitation, and the condition of the environment;

d)<sup>302</sup> with a view to the prevention of pollution and to the mitigation, elimination and cleanup of damages;

e)<sup>303</sup> for the purpose of establishing payment obligations in connection with the use, pollution and impairment of the environment.

(2)<sup>304</sup> For the reason referred to in Para. (1) the following data may be processed:

a) with respect to natural persons:

aa) natural identification data;

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<sup>293</sup> Established by Art. 3 of Act LXXXVII of 2014, effective as of 15 December 2014.

<sup>294</sup> Enacted by Art. 3 of Act LXXXVII of 2014, effective as of 15 December 2014.

<sup>295</sup> Enacted by Art. 3 of Act LXXXVII of 2014, effective as of 15 December 2014.

<sup>296</sup> Enacted: by Art. 286 of Act LXXXIII of 2005. In force: as of 1. 11. 2005.

<sup>297</sup> Enacted: by Art. 286 of Act LXXXIII of 2005. In force: as of 1. 11. 2005. Shall be applied to cases started after this date.

<sup>298</sup> Amended: by subparagraph g) paragraph (5) Art. 145 of Act CIX of 2006. In force: as of 01. 01. 2007.

<sup>299</sup> Amended: by paragraph (1) Art. 27 of Act XCI of 2008. In force: as of 28. 12. 2008.

<sup>300</sup> Enacted: by Art. 7 of Act XCI of 2008. In force: as of 28. 12. 2008. Amended: by Art. 103 of Act LVI of 2009. In force: as of 1. 10. 2009.

<sup>301</sup> Numbering amended: by Art. 7 of Act XCI of 2008. In force: as of 28. 12. 2008.

<sup>302</sup> Numbering amended: by Art. 7 of Act XCI of 2008. In force: as of 28. 12. 2008.

<sup>303</sup> Numbering amended: by Art. 7 of Act XCI of 2008. In force: as of 28. 12. 2008.

<sup>304</sup> Established: by paragraph (1) Art. 57 of Act CXV of 2009. In force: as of 1. 01. 2010.

ab) address;  
 b)<sup>305</sup> with respect to unincorporated organization:  
 ba)<sup>306</sup> corporate name, registered number, tax number, statistical code;  
 bb) registered office, including municipality identification code, business establishments with municipality identification code;  
 c) with respect to private entrepreneurs:  
 ca) name,  
 cb)<sup>307</sup> issuer and number of private entrepreneur's license, tax number and statistical code, or failing this his private entrepreneur register number,  
 cc) registered address, including municipality identification code, business establishments with municipality identification code;  
 d) with respect to Paragraphs a)-c):  
 da) the provisions of resolutions pertaining to the use of the environment,  
 db) data to be disclosed regarding the use and exploitation of the authorization as specified in the relevant legislation.

(3)<sup>308</sup> The courts of law, the public prosecutor's offices, law enforcement agencies and the department of corrections, national security services, the tax authority, the Központi Statisztikai Hivatal (*Central Statistics Office*), technical safety and healthcare administration bodies, the food supply chain supervisory agency and the soil protection authority, the real estate supervisory authority, the water management and water protection authorities and administrative bodies, as well as disaster management bodies shall be entitled to request data from the records to the extent required for their respective duties, and for the purposes and under the conditions prescribed in the regulations pertaining to them.

(4) The data referred to in Para. (2) may be used for statistical and for information purposes, and may be forwarded for statistical and for information purposes if the person to whom it pertains cannot be identified.

(5)<sup>309</sup> The personal data of natural persons used for the environmental client code shall be deleted after five years following termination of the natural person's client status.

(6) The managers of the bodies involved in processing data shall, with a view to the protection of the business and trade secrets of natural persons and legal persons, be liable to take measures of a technical and organizational nature, to install control facilities and to adopt data protection regulations to contain facilities for the fulfillment of data protection requirements. The data subject or his/her representative shall be authorized to inspect the records that pertain to them, and to request copies of documents and information concerning their data on record.

## Art. 64/B<sup>310</sup>

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<sup>305</sup> Amended by SubArt. (2) of Art. 46 of Act CCLII of 2013.

<sup>306</sup> Amended: by subparagraph b) paragraph (2) Art. 15 of Act XIII of 2010. In force: as of 1. 03. 2010.

<sup>307</sup> Amended: by subparagraph b) paragraph (2) Art. 15 of Act XIII of 2010. In force: as of 1. 03. 2010.

<sup>308</sup> Established by Art. 12 of Act CCL of 2013, effective as of 31 December 2013.

<sup>309</sup> Established: by Art. 4 of Act XXIX of 2007. In force: as of 30. 04. 2007. Amended: by Art. 102 of Act LVI of 2009. In force: as of 1. 10. 2009.

<sup>310</sup> Established by Art. 4 of Act LXXXVII of 2014, effective as of 15 December 2014.



(1) The State recycling coordinator established for brokering deals for and organizing the collection and recovery of waste products subject to product charges (hereinafter referred to as “State recycling coordinator”) - in facilitating compliance with the obligations set out in European Union legislation relating to waste management, strategic planning, and for the effective performance of the public service functions of waste management -, and the rating agency provided for in the Act on the Classification of Public Waste Management Service Activities (hereinafter referred to as “rating agency”) shall be entitled to access and process data in the Information System to the extent required for its classification procedures provided for in the Act on the Classification of Public Waste Management Service Activities for establishing classification categories and for the successful conclusion of control procedures.

(2) The State recycling coordinator and the rating agency shall provide direct access for the purposes of the Information System to data and information generated in carrying out its tasks in connection with tracing the path of waste, the treatment of waste and public waste management services.

## Cooperation Between the Environmental Protection Authorities<sup>311</sup>

### *Art. 65*

(1)-(2)<sup>312</sup>

(3)<sup>313</sup> The administrative body for environmental protection shall cooperate in environmental issues concerning the scope of the duties and authority of the local governments with the municipal environmental protection authorities operating in its area of competence and shall support them in the fulfillment of their responsibilities related to environmental protection.

## Conditions for and Licensing of the Use of the Environment

### *Art. 66*<sup>314</sup>

(1)<sup>315</sup> Subject to the exception set out in Para. (2), any use of the environment may commence or be carried out:

a)<sup>316</sup> after the effective date of the environmental license issued by the environmental protection authority for activities for which an environmental impact assessment is required - with the exceptions set out in Paragraph b) and in Para. (1a);

b) after the effective date of the single environmental authorization issued by the environmental protection authority in the cases where a single environmental authorization is required;

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<sup>311</sup> Established: by subparagraph g) paragraph (5) Art. 145 of Act CIX of 2006. In force: as of 01. 01. 2007.

<sup>312</sup> Repealed: by subparagraph b) Art. 146 of Act CIX of 2006. No longer in force: as of 01. 01. 2007.

<sup>313</sup> Amended: by subparagraph g) paragraph (5) Art. 145 of Act CIX of 2006. In force: as of 01. 01. 2007.

<sup>314</sup> Established: by Art. 3 of Act CXXVII of 2005. In force: as of 01. 01. 2006.

<sup>315</sup> Established: by Art. 1 of Act XIII of 2010. In force: as of 1. 03. 2010. Shall apply to proceedings opened subsequently.

<sup>316</sup> Established by SubArt. (1) of Art. 2 of Act CXL of 2015, effective as of 8 September 2015.

c) after the effective date of the environmental operating permit issued by the environmental protection authority that require an environmental audit;

d) in the cases not covered by Paragraphs a)-c) - defined in the decree adopted for the implementation of this Act - after the effective date of the combined environmental authorization issued by the environmental protection authority upon the request of the user of the environment;

e) after the effective date of the resolution issued by the environmental protection authority, or by another authority in consideration of the opinion of the environmental protection authority, where it is required to participate in the cases defined by specific other legislation, which are not covered by Paragraphs a)-d).

(1a)<sup>317</sup> Subject to the exception set out in Para. (2), any use of the environment may commence or be carried out without an environmental impact assessment procedure in cases provided for by law, in the interest of the implementation of Article 1(3) or Article 2(4) of Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment.

(2)<sup>318</sup> In the cases defined by the decree adopted for the implementation of this Act, activities affecting the environment may be started and pursued upon the user of the environment having notified the environmental protection authority.

(3)<sup>319</sup> The environmental protection authority shall maintain an official public register of its resolutions specified in Paragraphs a)-e) of Para. (1) and on the assessments it provides as an expert authority.

(4)<sup>320</sup> Exceptions may be permitted by law concerning any use of the environment in connection with the authorizations and permits relating to the planning and construction of express roads and flood protection facilities installed under the aegis of the New Generation Vásárhelyi Plan.

(5)<sup>321</sup> Where use of the environment under Paragraphs a) and b) of Para. (1) is conditional upon authorization procedures relating to foundation and operation as prescribed in other legislation, authorization may be granted if the user of the environment has an environmental license or a single environmental authorization. Until the environmental license or a single environmental authorization is obtained, authorization procedures relating to foundation and operation as prescribed for use of the environment in other legislation shall be suspended. The foundation (building) and operation (occupancy) permit may not derogate from what is contained in the environmental license or the single environmental authorization.

(6)<sup>322</sup> Where a preliminary authorization is prescribed by law in connection with any use of the environment, such preliminary authorization procedure may be conducted - at the client's request - integrated into either of the procedures referred to in Paragraph a) or b).

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<sup>317</sup> Enacted by SubArt. (2) of Art. 2 of Act CXL of 2015, effective as of 8 September 2015.

<sup>318</sup> Established: by Art. 1 of Act XIII of 2010. In force: as of 1. 03. 2010. Shall apply to proceedings opened subsequently.

<sup>319</sup> Established: by paragraph (1) Art. 12 of Act LXXXIV of 2013. In force: as of 1. 07. 2013.

<sup>320</sup> Numbering amended: by Art. 1 of Act XIII of 2010. In force: as of 1. 03. 2010.

<sup>321</sup> Established by SubArt. (1) of Art. 26 of Act CLXXXVI of 2015, effective as of 1 January 2016.

<sup>322</sup> Enacted: by Art. 8 of Act XCI of 2008. In force: as of 28. 12. 2008. Numbering amended: by Art. 1 of Act XIII of 2010. In force: as of 1. 03. 2010.

## *Art. 66/A*<sup>323</sup>

(1) In procedures for the authorization of activities affecting the environment, the enforcement of environmental issues shall be assessed within the framework of the specialist authority's participation or shall be examined as a specific matter.

(2) The authority must not authorize the proposed activity if it is likely to risk or harm the environmental media affected.

## Preliminary Assessment Procedures, Prior Consultation<sup>324</sup>

### *Art. 67*<sup>325</sup>

(1) Preliminary assessment shall be conducted if, according to the decision of the environmental authority, an environmental impact assessment is required for the proposed activity, or if preliminary assessment is prescribed by law.

(2)<sup>326</sup> The environmental authority shall adopt the resolution based on the preliminary assessment within thirty days from the day following the date of receipt of the application for preliminary assessment procedures; or within an administrative time limit of forty-five days if a public hearing is required. The duration of international proceedings specified by the relevant legislation relating to any significant transboundary environmental impact shall not be included in the administrative time limit.

(3) Polluters of the environment may request the environmental authority to conduct prior consultation, if an environmental impact assessment is required for the proposed activity by decision of a body other than the environmental authority, or if it is subject to a single environmental authorization procedure only.

(4)<sup>327</sup> In the interest of implementation of Article 1(3) or Article 2(4) of Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment, no preliminary examination procedure is required in cases provided for by law.

## Environmental Impact Assessment Procedures<sup>328</sup>

### *Art. 68*<sup>329</sup>

(1) Prior to the commencement of activities that have or may have a significant impact on the environment, an environmental impact assessment shall be carried out.

(2)<sup>330</sup> The Government shall specify the activities for which an environmental impact assessment is required at all times, and shall define the activities in connection with which the environmental protection authority has the authority to decide - based upon

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<sup>323</sup> Enacted by SubArt. (1) of Art. 3 of Act VIII of 2015, effective as of 1 April 2015.

<sup>324</sup> Established: by Art. 2 of Act XIII of 2010. In force: as of 1. 03. 2010.

<sup>325</sup> Established: by paragraph (1) Art. 71 of Act XC of 2010. In force: as of 28. 08. 2010.

<sup>326</sup> Established by SubArt. (2) of Art. 26 of Act CLXXXVI of 2015, effective as of 1 January 2016.

<sup>327</sup> Enacted by Art. 3 of Act CXL of 2015, effective as of 8 September 2015.

<sup>328</sup> Enacted: by Art. 3 of Act CXXVII of 2005. In force: as of 01. 01. 2006.

<sup>329</sup> Established: by Art. 3 of Act CXXVII of 2005. In force: as of 01. 01. 2006.

<sup>330</sup> Amended: by subparagraph g) paragraph (5) Art. 145 of Act CIX of 2006. In force: as of 01. 01. 2007.

the criteria set out in the relevant government decree - as to whether an environmental impact assessment is required.

### *Art. 69*<sup>331</sup>

(1) The applicant shall present the findings of the environmental impact assessment in an environmental impact study.

(2) The general content requirements for environmental impact studies and the regulations for environmental impact assessment procedures shall be decreed by the Government.

## Single Environmental Authorization Procedure<sup>332</sup>

### *Art. 70*<sup>333</sup>

(1) In order to prevent pollution of the environment by the operations specified in specific other legislation, the measures based on the best available technologies shall be specified in the course of the single environmental authorization procedure to minimize or avoid harmful emissions into and any damage to the environment.

(2) The detailed provisions for the single environmental authorization procedure shall be decreed by the Government.

## Resolutions<sup>334</sup>

### *Art. 71*<sup>335</sup>

(1)<sup>336</sup> The environmental protection authority, in conclusion of the proceedings specified in the relevant government decree, shall:

- a) adopt the resolution referred to in Para. (2) of Art. 67;
- b) issue the environmental license in the case referred to in Paragraph a) of Para. (1) of Art. 66 for the commencement or modification of operations;
- c) issue the consolidated environmental use permit in the case referred to in Paragraph b) of Para. (1) of Art. 66;
- d) issue the consolidated environmental use permit if the activity to which it pertains falls within the scope of both Paragraph b) and c) above.

(2)<sup>337</sup>

(3)<sup>338</sup> The environmental protection authority shall make available its resolution to the general public, irrespective of its status as to enforceability.

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<sup>331</sup> Established: by Art. 3 of Act CXXVII of 2005. In force: as of 01. 01. 2006.

<sup>332</sup> Enacted: by Art. 3 of Act CXXVII of 2005. In force: as of 01. 01. 2006.

<sup>333</sup> Established: by Art. 3 of Act CXXVII of 2005. In force: as of 01. 01. 2006.

<sup>334</sup> Established: by Art. 3 of Act CXXVII of 2005. In force: as of 01. 01. 2006.

<sup>335</sup> Established: by Art. 3 of Act CXXVII of 2005. In force: as of 01. 01. 2006.

<sup>336</sup> Established: by paragraph (3) Art. 101 of Act LVI of 2009. In force: as of 1. 10. 2009. Shall apply to proceedings opened subsequently and to reopened cases.

<sup>337</sup> Repealed: by Art. 103 of Act LVI of 2009. No longer in force: as of 1. 10. 2009.

## *Art. 72*<sup>339</sup>

The environmental protection authority shall withdraw the environmental license or the consolidated environmental use permit if the activity or the preliminary construction work necessary therefor has not been started within five years of the date on which the permit becomes definitive, or if the holder of the authorization makes a statement to the effect that it does not wish to make use of the environmental license or the consolidated environmental use permit, or if the conditions existing at the time of licensing have substantially changed.

## Combined Environmental Authorization<sup>340</sup>

### *Art. 72/A*<sup>341</sup>

(1) At the request of the user of the environment - in the cases defined by the decree adopted for the implementation of this Act - the environmental protection authority shall issue a combined environmental authorization in lieu of the authorizations for which it has competence.

(2) The environmental protection authority shall make available its resolution to the general public, irrespective of its status as to enforceability.

## Notification of Activities Affecting the Environment<sup>342</sup>

### *Art. 72/B*<sup>343</sup>

(1) Activities affecting the environment may be started - in cases decreed by the government - following notification of the environmental protection authority, and may be terminated if the user of the environment meets the requirements laid down in a government decree at the time specified in the notification.

(2) Subject to the exception set out in a government decree, the notification referred to in Para. (2) of Art. 66 relating to the activity affecting the environment shall be submitted at least thirty days before the time specified in the notification for the commencement of the activity.

(3) The notification under Para. (1) shall not concern the notifications specified in the Act on the General Provisions Relating to the Taking Up and Pursuit of the Business of Service Activities.

## Environmental Audit

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<sup>338</sup> Established: by paragraph (4) Art. 101 of Act LVI of 2009. In force: as of 1. 10. 2009. Shall apply to proceedings opened subsequently and to reopened cases.

<sup>339</sup> Established: by Art. 3 of Act CXXVII of 2005. In force: as of 01. 01. 2006. Amended: by subparagraph g) paragraph (5) Art. 145 of Act CIX of 2006. In force: as of 01. 01. 2007.

<sup>340</sup> Established: by Art. 3 of Act XIII of 2010. In force: as of 1. 03. 2010.

<sup>341</sup> Established: by Art. 3 of Act XIII of 2010. In force: as of 1. 03. 2010. Shall apply to proceedings opened subsequently.

<sup>342</sup> Enacted: by Art. 4 of Act XIII of 2010. In force: as of 1. 03. 2010.

<sup>343</sup> Enacted: by Art. 4 of Act XIII of 2010. In force: as of 1. 03. 2010. Shall apply to proceedings opened subsequently.

## Art. 73

(1) Environmental audits (hereinafter referred to as "audit") shall be carried out in order to ascertain and study the environmental impact of certain activities as well as to determine whether the environmental protection requirements are being met.

(2) In terms of the audit:

a)<sup>344</sup> 'activity' means the taking up, pursuit, renewing, restoring or abandoning any operation or technology where any activity affecting the environment or posing imminent threat to the environment in terms of pollution is involved, including the related construction works and preparations;

b)<sup>345</sup> the concerned party shall be the performer of the activities defined in Paragraph a), or if unknown, the owner of the property on which the operation took place or takes place.

(3)<sup>346</sup> If the person pursuing the activity is other than the owner of the property, the authority shall notify the owner of the property as well concerning the opening of the proceeding.

## Art. 74

(1)<sup>347</sup> In order to explore the environmental impact caused by the activities of an operator, the environmental protection authority may require the operator to carry out a full-scale or partial review in the case defined in Para. (1) of Art. 73 or if it detects that the environment has been endangered or polluted.

(2)<sup>348</sup> In order to explore the environmental impact caused by the activities of an operator, the environmental protection authority shall order the operator to carry out a full-scale or partial review<sup>349</sup>

a) if it detects that the operator has caused any damage to the environment;

b) if the operator is engaged in activities that endanger, pollute or damage the environment of areas placed under any degree of protection, (national parks, landscape conservation areas, nature conservation areas, natural relics, the protective zones of any of these, water quality protection areas, hydro-geological protection areas, and the protective zones of drinking, mineral and thermal water resources);

c)<sup>350</sup> if the operator did not request a preliminary assessment in the cases specified under Para. (1) of Art. 67, or if started or is engaged in the pursuit of activities for which an environmental impact assessment or a single environmental authorization is required, without an environmental license or a single environmental authorization;

d) the conditions specified in specific other legislation are extant.

<sup>344</sup> Established: by Art. 5 of Act XIII of 2010. In force: as of 1. 03. 2010. Shall apply to proceedings opened subsequently.

<sup>345</sup> Established: by Art. 7 of Act CXX of 2003. In force: as of 07. 01. 2004. Amended: by Art. 103 of Act LVI of 2009. In force: as of 1. 10. 2009.

<sup>346</sup> Enacted: by paragraph (5) Art. 101 of Act LVI of 2009. In force: as of 1. 10. 2009. Shall apply to proceedings opened subsequently and to reopened cases.

<sup>347</sup> Established by Art. 13 of Act LV of 2001, effective as of 13 July 2001. Amended: by subparagraph g) paragraph (5) Art. 145 of Act CIX of 2006. In force: as of 01. 01. 2007.

<sup>348</sup> Established by Art. 13 of Act LV of 2001, effective as of 13 July 2001.

<sup>349</sup> Amended: by subparagraph g) paragraph (5) Art. 145 of Act CIX of 2006. In force: as of 01. 01. 2007.

<sup>350</sup> Established: by paragraph (2) Art. 71 of Act XC of 2010. In force: as of 28. 08. 2010.

(3)<sup>351</sup> If in the course of an environmental audit the environmental protection authority detects that the environment is being endangered or damaged, it may fully or partially restrict or suspend the audited activity that is causing such problems in the impact area.

## *Art. 75*

- (1) A full-scale audit shall include
- a) a description of the technologies used and the presentation of the technical state and the up-to-date nature of the equipment;
  - b)<sup>352</sup> a description of the activity affecting the environment, properly substantiated;
  - c) the operations linked directly to the activity, especially the material stream, shipments into and out of the facility and the treatment of waste and sewage;
  - d) the specification of pollutants and energy presumably to be released into the environment because of a failure or environmental disaster that might occur;
  - e) the description of measures taken and planned in order to prevent environmental hazards and clean up environmental damage;
  - f) the measures to be taken after the activity has been abandoned.
  - g)<sup>353</sup> the assessment and evaluation of the environmental effects of the activity.
- (2) During the audit, the alternatives and conditions of the elimination of environmental pollution and - if this is not possible - the abatement of the utilization and pollution of the environment shall be specified.
- (3)<sup>354</sup> Of the conditions described in Para.s (1) and (2), a partial audit shall cover those earmarked by the environmental protection authority.

## *Art. 76*

- (1)<sup>355</sup>
- (2) The concerned party shall be responsible for the authenticity of the audit and the validity of the information reported.
- (3)<sup>356</sup> If the environmental protection authority finds out during its inspection that the findings of the audit are wrong or the contents thereof are partially or completely invalid, it shall have a new audit carried out at the expense of the concerned party (re-audit).
- (4)<sup>357</sup> The environmental protection authority shall notify the concerned party of the re-audit; and the concerned party shall provide the environmental protection authority or the organization(s) commissioned by the environmental protection authority with the information requested and shall carry out the supplementary measurements (or have them carried out).

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<sup>351</sup> Amended: by subparagraph g) paragraph (5) Art. 145 of Act CIX of 2006. In force: as of 01. 01. 2007.

<sup>352</sup> Established: by paragraph (1) Art. 7 of Act XIII of 2010. In force: as of 1. 03. 2010. Shall apply to proceedings opened subsequently.

<sup>353</sup> Enacted: by paragraph (2) Art. 7 of Act XIII of 2010. In force: as of 1. 03. 2010. Shall apply to proceedings opened subsequently.

<sup>354</sup> Amended: by subparagraph g) paragraph (5) Art. 145 of Act CIX of 2006. In force: as of 01. 01. 2007.

<sup>355</sup> Repealed: by Art. 103 of Act LVI of 2009. No longer in force: as of 1. 10. 2009.

<sup>356</sup> Amended: by subparagraph g) paragraph (5) Art. 145 of Act CIX of 2006. In force: as of 01. 01. 2007.

<sup>357</sup> Amended: by subparagraph g) paragraph (5) Art. 145 of Act CIX of 2006. In force: as of 01. 01. 2007.

## Environmental Protection Performance Evaluation

### *Art. 77<sup>358</sup>*

(1)<sup>359</sup> With the appropriate application of Art.s 73-76, the concerned party may carry out a survey (or have it carried out) to evaluate its own environmental performance (to audit its own activity) and to find out about the environmental impact of its activity, and, at its request, the environmental protection authority shall approve it.

(2)<sup>360</sup> The operator, if engaged in activities for which an environmental license or a single environmental authorization is required, without such license or authorization, may carry out a survey under Para. (1) for the purpose of evaluation. At the operator's request the environmental protection authority shall issue an operating license.

## Common Rules of the Audit and the Performance Evaluation

### *Art. 78<sup>361</sup>*

### *Art. 79*

(1) On the basis of the findings of the audit, the environmental protection authority<sup>362</sup>  
a) shall license the performance of the activity (hereinafter referred to as "operating license");

b)<sup>363</sup> simultaneously with the granting of the license, shall obligate the concerned party to take the necessary environmental measures, including the obligations to provide a bond and to form provisions as specified in the government decree;

c)<sup>364</sup> shall restrict, suspend or ban the performance of the activity, or shall initiate the same with the agency with jurisdiction.

(2)<sup>365</sup> In the case of restriction or suspension, the environmental protection authority shall specify the environmental conditions for performing the activity.

(3)<sup>366</sup> In the procedure for the approval of the survey carried out in accordance with Para. (1) of Art. 77 the environmental protection authority shall adopt a simplified resolution or shall issue an operating license in the case mentioned in Para. (2) of Art. 77, or may continue the procedure under the provisions of Paragraphs b) and c) of Para. (1).

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<sup>358</sup> Amended: by subparagraph g) paragraph (5) Art. 145 of Act CIX of 2006. In force: as of 01. 01. 2007.

<sup>359</sup> Numbering amended: by Art. 8 of Act XIII of 2010. In force: as of 1. 03. 2010.

<sup>360</sup> Enacted: by Art. 8 of Act XIII of 2010. In force: as of 1. 03. 2010. Shall apply to proceedings opened subsequently.

<sup>361</sup> Repealed: by subparagraph b) Art. 146 of Act CIX of 2006. No longer in force: as of 01. 01. 2007.

<sup>362</sup> Amended: by subparagraph g) paragraph (5) Art. 145 of Act CIX of 2006. In force: as of 01. 01. 2007.

<sup>363</sup> Established: by Art. 18 of Act CXXXI of 2005. In force: as of 30. 12. 2005. Amended: by Art. 103 of Act LVI of 2009. In force: as of 1. 10. 2009.

<sup>364</sup> Amended: by Art. 103 of Act LVI of 2009. In force: as of 1. 10. 2009.

<sup>365</sup> Established: by paragraph (6) Art. 101 of Act LVI of 2009. In force: as of 1. 10. 2009. Shall apply to proceedings opened subsequently and to reopened cases.

<sup>366</sup> Established: by Art. 9 of Act XIII of 2010. In force: as of 1. 03. 2010. Shall apply to proceedings opened subsequently.



## *Art. 80<sup>367</sup>*

In the case of Paragraph c) of Para. (2) of Art. 74 and Para. (2) of Art. 77, the environmental protection authority shall hold a public hearing in order to ensure the involvement of the general public.

## *Art. 81*

The decision shall contain:

(1) In the case of Paragraph a) of Para. (1) of Art. 79:

a) the name of the activity and the concerned party as well as the goal of the activity;

b) the location where the activity is performed and the delimitation of the impact area thereof;

c) data specifying the nature of the activity, established on the basis of Art. 75;

d) environmental protection regulations related to the activity; including the order and documentation of the measurements required for monitoring the environmental impact and the manner in which the resulting information is to be provided and evaluated.

e) the validity period of the decision.

(2) In the case of Paragraph b) of Para. (1) of Art. 79, in addition to the provisions of Para. (1):

a) specification of the measures required for performing the activity;

b) the sampling sites required for monitoring the impact on the environment;

c) the order and scheduling of the measures.

(3) In the case of Paragraph c) of Para. (1) of Art. 79:

a) the name of the obligor;

b) the contents of the obligation that has been established and the manner and deadline of performance;

c) all essential regulations (conditions) that have to be observed or met during the activity;

d) the requirements pertaining to the elimination of environmental damage and the general solutions (the possible alternatives thereto) applicable to the supplementation thereof.

## Environmental Management and Attestation System (EMAS)<sup>368</sup>

### *Art. 81/A<sup>369</sup>*

(1) Users of the environment may participate - in the manner defined in specific other legislation - in the environmental management and attestation system in order to evaluate and regularly improve their own environmental protection performance and to properly inform the general public.

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<sup>367</sup> Established: by Art. 10 of Act XIII of 2010. In force: as of 1. 03. 2010. Shall apply to proceedings opened subsequently.

<sup>368</sup> Enacted by Art. 14 of Act LV of 2001, effective as of 13 July 2001.

<sup>369</sup> Enacted by Art. 14 of Act LV of 2001, effective as of 13 July 2001.

(2) Within the framework of the system, users of the environment shall review (have reviewed) the environment impacts in connection with their activities, prepare (have prepared) environmental reports, have such reports certified by an authorized certification agent for conformity with the criteria laid down in the environmental management and attestation system, submit such reports for registration to an organization accredited under specific other legislation and make them accessible to any person concerned.

(3)<sup>370</sup> The environmental authority shall maintain a register on polluters participating in environmental management and attestation schemes.

(4)<sup>371</sup> The register referred to in Para. (3) shall be construed as an official public register as regards the administrative decision referred to therein, with the exception of natural identification data and home addresses.

## Obligation of Notification of Changes, Control<sup>372</sup>

### *Art. 82*

(1)<sup>373</sup> Operators shall notify within fifteen days the environmental protection authority concerning any material changes, planned or actual, in the particulars on which the authorizations specified in Para. (1) of Art. 66 and the notifications made under Para. (2) of Art. 66 are based, as well as any changes in ownership.

(2)<sup>374</sup> The environmental protection authority shall examine *ex officio* any changes in the conditions on which the resolutions referred to in Paragraphs *a)-b)* and *d)-e)* of Para. (1) of Art. 66 and the notifications made under Para. (2) of Art. 66 are based. In the event of any major discrepancies from the conditions existing at the time the authorization was granted or when the notification was submitted, the environmental protection authority shall order an audit. In the event that the notification specified in Para. (1) is not given, the agency with jurisdiction shall suspend the activity.

(3) It terms of applying Para.s (1) and (2), changes in the conditions and technology that result in particular levels of environmental loading and utilization that exceed the permitted levels shall be considered significant changes.

### *Art. 83*

In the case of bankruptcy or voluntary or involuntary liquidation proceedings, the provisions of specific other legislation shall be applied to uncovering and eliminating environmental damage possibly caused by the activity.

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<sup>370</sup> Enacted: by paragraph (2) Art. 12 of Act LXXXIV of 2013. In force: as of 1. 07. 2013.

<sup>371</sup> Enacted: by paragraph (2) Art. 12 of Act LXXXIV of 2013. In force: as of 1. 07. 2013.

<sup>372</sup> Established: by Art. 11 of Act XIII of 2010. In force: as of 1. 03. 2010.

<sup>373</sup> Established: by Art. 11 of Act XIII of 2010. In force: as of 1. 03. 2010. Shall apply to proceedings opened subsequently.

<sup>374</sup> Established: by Art. 11 of Act XIII of 2010. In force: as of 1. 03. 2010. Shall apply to proceedings opened subsequently.

## Rating Substances, Products and Technologies in Relation to Environmental Protection

### *Art. 84*

(1) Polluting products and technologies endangering the environment or polluting it in the absence of appropriate treatment or design shall be rated in terms of environmental protection, and the conditions of ensuring the quality shall be provided for.

(2) Substances endangering the environment shall be classified into hazard classes - in accordance with specific other legislation - on the basis of their environmental impact were they to be released into the environment.

(3) The environmental protection requirements shall also be enforced when rating substances, products and technologies for other purposes.

(4) Manufacturers and distributors shall provide information in the user's instructions about the environmental hazards and impacts of the rated substances, products or technologies and on the conditions and methods for treating them once they have been dismantled or have become worn out.

### *Art. 85<sup>375</sup>*

In addition to their classification, the production, manufacture, import and distribution of substances and products that seriously endanger the environment and the use of similar technologies shall be authorized by the competent authority according to the relevant government decree.

### *Art. 86*

(1) The distinguishing inscription "environmentally sound product or technology" may be used for environmentally friendly or environmentally sound products and technologies that utilize or load the environment to a lesser extent - as demonstrated - than do traditional products and technologies with the same or similar functions.

(2) The unauthorized use of the distinguishing inscription shall bring about an environmental fine as specified in specific other legislation.

## Standards

### *Art. 87*

(1) Standards shall be specified as utilization [Para. (1) of Art. 17; Para. (1) of Art. 19; Para. (3) of Art. 23] or emission and pollution (Art. 35) standards.

(2)<sup>376</sup> Depending on the specific features of the environmental component to be protected or the type of contamination, standards may be defined according to the following types:

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<sup>375</sup> Established: by paragraph (7) Art. 101 of Act LVI of 2009. In force: as of 1. 10. 2009. Shall apply to proceedings opened subsequently and to reopened cases.

- a) general,
- b) regional,
- c) local,
- d) individual,
- e) pertaining to protective zones

for ecological, health and planning reasons or for use in emergency situations [the contents of Para.s (1) and (2) are hereinafter referred to jointly as "standard"].

### *Art. 88*

(1)<sup>377</sup> The extent to which environmental components may be utilized and the quantity, quality and concentration of substances and energy that may be released into the environment shall be determined in view of the objective set forth for the preservation or restoration of the environment or affected environmental component.

(2) An emission standard may be established for:

- a) some product (product standard);
- b) the quantity of an emission that is typical of some technology or pollutant (technology standard; which may be an emission concentration or a specific value for the quantity of input, production and energy production etc.);
- c) the quantity of a pollutant or energy that may be emitted in the given area by the polluting source (area standard);
- d) in a total quantity for a specified area, branch of production or group of polluting sources.

(3) A utilization standard may be established:

- a) for the admissible level of utilization with respect to some use of the environment (the extent of potential environmental change, the total quantity of a natural resource that may be extracted or the amount that may be extracted in a certain unit of time);
- b) for the admissible extent of the abstraction or use of an environmental component that may be utilized in some area;
- c) in a total quantity for a specified group of exploiters or users.

### *Art. 89*

(1)<sup>378</sup> Emission and exposure standards shall be determined - in addition to contamination standards - in due observation of the current and proposed state of the environment or a specific environmental component and the most efficient response and the best available techniques in respect of activities defined in specific other legislation. When introduced, adequate and sufficient time shall be allowed for preparations.

(2) The expected joint impact of natural processes and certain environment-loading factors shall also be taken into consideration when the standards are being established.

(3)<sup>379</sup> The limits shall be decreed by the Minister, in agreement with the ministers concerned, or shall be decided by the competent authority individually in cases provided

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<sup>376</sup> Established by Art. 16 of Act LV of 2001, effective as of 13 July 2001.

<sup>377</sup> Established by Art. 17 of Act LV of 2001, effective as of 13 July 2001.

<sup>378</sup> Established by Art. 18 of Act LV of 2001, effective as of 13 July 2001.

<sup>379</sup> Established by Art. 14 of Act CCL of 2013, effective as of 31 December 2013.

for in a decree. The water protection limits shall be decreed by the minister responsible for water protection, in agreement with the ministers concerned, or shall be decided by the competent authority individually in cases provided for in a decree.

## Special Rules for the Official Procedures of Government Environmental Protection Agencies

### *Art. 90*

(1)<sup>380</sup>

(2)<sup>381</sup> In connection with any threat or damage to the environment, the owner or rightful user of the real estate property located in the impact area of the threat or damage shall be treated as a party, as well as any person whose right related to such properties has been registered in the real estate register.

(3)<sup>382</sup> Applications for environmental licenses and for single environmental authorizations may be submitted to the environmental protection authority, and a copy of the enclosure required under Para. (2) of Art. 69 and Para. (2) of Art. 70 may be submitted on electronic media, which the environmental protection authority shall publish by way of electronic means.

### *Art. 91*<sup>383</sup>

(1) The administrative time limit in procedures for the acquisition of an environmental license and for the granting of an operating license shall be seventy days.

(2) The administrative time limit in procedures for the acquisition of a single environmental authorization shall be seventy days, save where Para. (3) applies.

(3) The administrative time limit for the review of single environmental authorizations within a specific time limit prescribed by government decree shall be forty-five days.

(4) In consolidated procedures provided for by the Government by means of a decree the administrative time limit shall be three months.

(5) The environmental authority shall give its specialist assessment within twenty-one days following the date of receiving the request. The specialist authority's assessment shall be given within fifteen days if the competent authority demonstrates reasons of urgency in its request.

(6) In preliminary assessment procedures and in the procedures provided for in Para. (3), and in the conditional decisions provided for in the Act on the General Rules of Administrative Proceedings it is not necessary to address the exercise of the right asserted.

### *Art. 91/A*<sup>384</sup>

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<sup>380</sup> Repealed: by Art. 103 of Act LVI of 2009. No longer in force: as of 1. 10. 2009.

<sup>381</sup> Enacted: by Art. 5 of Act XXIX of 2007. In force: as of 30. 04. 2007. Amended: by Art. 102 of Act LVI of 2009. In force: as of 1. 10. 2009.

<sup>382</sup> Enacted: by Art. 9 of Act XCI of 2008. In force: as of 15. 05. 2009. Amended: by Art. 102 of Act LVI of 2009. In force: as of 1. 10. 2009.

<sup>383</sup> Established by SubArt. (3) of Art. 26 of Act CLXXXVI of 2015, effective as of 1 January 2016.

(1) In remediation procedures provided for in specific other legislation investigation shall commence - upon weighing the risk involved - at the earliest opportunity and shall be completed within seventy days.

(2) In remediation procedures provided for in specific other legislation the environmental protection authority shall adopt a decision within forty-five days and shall provide for:

a) the approval of the final report on the fact-finding investigation, and for additional tasks relating to pollution and environmental damage,

b) the approval of the final report on the remediation process,

c) the approval of the final report on remediation monitoring and on the completion of remediation measures.

(3) In the procedures provided for in Para. (2), in the conditional decisions provided for in the Act on the General Rules of Administrative Proceedings it is not necessary to address the exercise of the right asserted.

### Expert Activity<sup>385</sup>

#### *Art. 92*<sup>386</sup>

(1) The activities of experts in the fields of environmental protection, nature preservation and landscape maintenance shall be subject to authorization by the authority described in Para. (2). Where an expert in the fields of environmental protection, nature preservation and landscape maintenance is required by law, or where certain legal consequences are prescribed relating to the employment of such an expert, the expert employed must have the authorization referred to in Para. (2), and the aforesaid legal consequences decreed by the relevant legislation shall apply only to the employment of such expert.

(1a)<sup>387</sup> The provision set out in Para. (1) shall not apply if the environmental protection and nature conservation authority is involved - on the strength of law - in the proceedings of another authority for the assessment of an issue relating to environmental protection, nature preservation and landscape maintenance as an expert body.

(2) Authorization for entitlement to pursue the expert activities described in Para. (1) shall be issued by:

a) the environmental protection authority for experts in nature preservation and landscape maintenance,

b) the regional chamber of engineers governed by the Act on the Professional Associations of Design and Consulting Engineers and Architects (hereinafter referred to as "Chamber") for experts in environmental protection.

(3)<sup>388</sup> The pursuit of the activities referred to in Para. (1) shall be authorized by the environmental protection authority, or by the Chamber to a person who has no prior

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<sup>384</sup> Enacted by SubArt. (4) of Art. 26 of Act CLXXXVI of 2015, effective as of 1 January 2016.

<sup>385</sup> Established: by paragraph (1) Art. 10 of Act XCI of 2008. In force: as of 28. 12. 2008.

<sup>386</sup> Established: by paragraph (9) Art. 101 of Act LVI of 2009. In force: as of 1. 10. 2009. Shall apply to proceedings opened subsequently and to reopened cases.

<sup>387</sup> Enacted by SubArt. (2) of Art. 3 of Act VIII of 2015, effective as of 1 April 2015.

<sup>388</sup> Established: by paragraph (1) Art. 39 of Act CXLIX of 2009. In force: as of 1. 01. 2010.

criminal record, who is not restrained by court order from exercising the activities of experts in the fields of environmental protection, nature preservation and landscape maintenance, and has the professional qualifications and other credentials prescribed in the relevant legislation adopted under authorization by this Act. The application shall contain the applicant's natural identification data, mailing address and credentials, and the special field or area of expertise for which the authorization is requested.

(4) The authority referred to in Para. (2) shall maintain a register of the persons authorized to engage in the aforesaid expert activities, containing - in addition to the information prescribed by the Act on the General Provisions Relating to the Taking Up and Pursuit of the Business of Service Activities - the natural identification data of the persons authorized to engage in such expert activities, their mailing address and credentials, and the special field or area of expertise to which the authorization pertains. Information may be disclosed from the register solely for the verification of authorization for the said activity.

(4a)<sup>389</sup> The register referred to in Para. (4) shall be construed as an official public register, with the exception of natural identification data and home addresses.

(5)-(7)<sup>390</sup>

## Public Hearings

*Art.s 93-94*<sup>391</sup>

## Executable Decisions

*Art. 95*<sup>392</sup>

The decisions made concerning emergencies that endanger and damage the environment may be declared executable irrespective of any appeal.

## Procedural Costs<sup>393</sup>

*Art. 95/A*<sup>394</sup>

The administrative proceedings conducted by the environmental and nature protection authorities - including the proceedings of specialist authorities, as well as notifications -, as well as services of an administrative nature shall be subject to payment of an administrative service fee.

*Art. 96*<sup>395</sup>

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<sup>389</sup> Enacted: by paragraph (3) Art. 12 of Act LXXXIV of 2013. In force: as of 1. 07. 2013.

<sup>390</sup> Repealed by Art. 27 of Act CLXXXVI of 2015, effective as of 1 January 2016.

<sup>391</sup> Repealed: by paragraph (4) Art. 22 of Act CXXVII of 2005. No longer in force: as of 31. 12. 2005.

<sup>392</sup> Established: by Art. 290 of Act LXXXIII of 2005. In force: as of 1. 11. 2005. Shall be applied to cases started after this date.

<sup>393</sup> Enacted: by Art. 19 of Act CXXXI of 2005. In force: as of 01. 01. 2006.

<sup>394</sup> Established: by Art. 1 of Act XXVI of 2013. In force: as of 4. 04. 2013.

The bodies in charge of the management and protection of nature preservation areas shall be exempt from the payment of administrative service fees in connection with activities specified by the decree on the administrative service fees payable for proceedings of the authorities of environmental protection, nature preservation and water management.

#### *Art. 96/A<sup>396</sup>*

(1) The costs of sampling procedures, laboratory and other instrumental tests that may be necessary in administrative proceedings, and any personnel and material expenses arising in connection with the proceedings aimed at ascertaining the relevant facts of a case shall be treated as other procedural costs.

(2) The costs arising in connection with the assessment of an issue relating to environmental protection and nature preservation in proceedings of a body other than the environmental protection and nature conservation authority shall be treated as other procedural costs.

#### *Supervision Fee<sup>397</sup>*

#### *Art. 96/B<sup>398</sup>*

(1)<sup>399</sup> Any person who is engaged in operations for which a single environmental authorization procedure is required or that has to be notified according to Para. (2) of Art. 66 shall be required to pay an annual supervision fee by 28 February of the year to which it pertains, except if the activity notified was pursued for a period of less than thirty days. Where operations are started during the year, the supervision fee shall be paid as commensurate within thirty days following the effective date of the authorization or the time of notification.

(2) The supervision fee shall comprise revenue for the environmental protection authority, which shall be used to cover its operating expenses arising in connection with supervisory activities.

(3)<sup>400</sup> With the exceptions set out in Para.s (4)-(5), the amount of the supervision fee shall be two hundred thousand forints per activity.

(4) In connection with animal farming activities involving large numbers of animals subject to a single environmental authorization procedure the amount of the supervision fee shall be one hundred thousand forints.

(5)<sup>401</sup> In connection with the activities subject to notification under Para. (2) of Art. 66, the amount of the supervision fee shall be twenty-five thousand forints.

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<sup>395</sup> Established: by Art. 99 of Act CCI of 2011. In force: as of 1. 01. 2012.

<sup>396</sup> Established by SubArt. (3) of Art. 3 of Act VIII of 2015, effective as of 1 April 2015.

<sup>397</sup> Enacted: by paragraph (2) Art. 9 of Act CXXI of 2006. In force: as of 15. 02. 2007.

<sup>398</sup> Enacted: by paragraph (2) Art. 9 of Act CXXI of 2006. In force: as of 15. 02. 2007.

<sup>399</sup> Established: by paragraph (1) Art. 13 of Act XIII of 2010. In force: as of 1. 03. 2010. Shall apply to proceedings opened subsequently.

<sup>400</sup> Established: by paragraph (2) Art. 13 of Act XIII of 2010. In force: as of 1. 03. 2010. Shall apply to proceedings opened subsequently.

<sup>401</sup> Enacted: by paragraph (3) Art. 13 of Act XIII of 2010. In force: as of 1. 03. 2010. Shall apply to proceedings opened subsequently.



## **Chapter VIII**

### **PUBLIC PARTICIPATION IN ENVIRONMENTAL PROTECTION<sup>402</sup>**

#### **Art. 97**

(1)<sup>403</sup> Natural and legal persons and unincorporated entities are entitled to participate in non-regulatory procedures concerning the environment in ways specified in Para. (3) and in specific other legislation.

(2) Everyone shall have the right to call the attention of the user of the environment and the authorities to the fact that the environment is being endangered, damaged or polluted. Upon written notification with respect to the above, the agency having jurisdiction shall, in addition to taking measures, provide a substantive answer before the deadline prescribed in an Act.

(3) Participation may be exercised:<sup>404</sup>

a) in person or through a representative,

b)<sup>405</sup> through associations,

c) through municipal local governments.

### **Rights of Environmental Protection Associations<sup>406</sup>**

#### **Art. 98**

(1)<sup>407</sup> Associations formed to represent environmental interests, other than political parties and interest representations - which are active in the impact area - (hereinafter referred to as "organizations") shall be entitled in their areas of operation to the legal status of being a party in the case in environmental protection state administration procedures.

(2) The organizations shall - furthermore - have the right, by virtue of representing their members' interests, to<sup>408</sup>

a) cooperate in drawing up regional development plans, zoning plans and environmental protection programs that affect their area of operation or activity;

b)<sup>409</sup>

c) give their opinion on legislative bills before Parliament and local government draft bylaws.

d)<sup>410</sup> opine - in due observation of the provisions of specific other legislation - the draft version of plans and programs that affect their area of operation or activity and for which

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<sup>402</sup> Established: by paragraph (2) Art. 117 of Act XXIX of 2004. In force: as of 1. 05. 2004.

<sup>403</sup> Established: by paragraph (2) Art. 117 of Act XXIX of 2004. In force: as of 1. 05. 2004. Amended: by Art.s 102-103 of Act LVI of 2009. In force: as of 1. 10. 2009.

<sup>404</sup> Established: by paragraph (3) Art. 117 of Act XXIX of 2004. In force: as of 1. 05. 2004.

<sup>405</sup> Amended: by subparagraph a) Art. 101 of Act CLXXV of 2011. In force: as of 22. 12. 2011.

<sup>406</sup> Established: by paragraph (4) Art. 117 of Act XXIX of 2004. In force: as of 1. 05. 2004.

<sup>407</sup> Established: by paragraph (4) Art. 117 of Act XXIX of 2004. In force: as of 1. 05. 2004. Amended: by subparagraph c) Art. 101 of Act CLXXV of 2011. In force: as of 22. 12. 2011.

<sup>408</sup> Amended: by Art. 102 of Act LVI of 2009. In force: as of 1. 10. 2009.

<sup>409</sup> Repealed: by Art. 103 of Act LVI of 2009. No longer in force: as of 1. 10. 2009.

an environmental assessment is required, and the environmental report attached with them.

(3) In order to assert their right under Paragraph c) of Para. (2), the organizations shall notify the ministry drafting the bill or the local government drafting the bylaw of their request to express their opinion.

(4)<sup>411</sup> The ministers shall annually - by 31 December - send a list of the titles of the legal regulations related to the environment that they plan for the following year to the Minister, who shall publish it in the ministry's official gazette. The municipal local governments shall provide information on the bylaws they intend to issue in accordance with local custom.

### *Art. 99*

(1) In the event the environment is being endangered, damaged or polluted, organizations are entitled to intervene in the interest of protecting the environment and

a) request a government agency or local government to take appropriate measures within its jurisdiction or

b) file a lawsuit against the user of the environment.

(2) In the lawsuit specified in Paragraph b) of Para. (1), the party in the case may request the court to

a) enjoin the party posing the hazard to refrain from the unlawful conduct (operation);

b) compel the same to take the necessary measures for preventing the damage.

### *Art. 100*

Professional interest groups shall also have the right to give an opinion under Paragraph c) of Para. (2) and Para. (3) of Art. 98 shall in issues of concern to the professions they represent.

## **Chapter IX**

### **LIABILITY FOR THE ENVIRONMENT**

#### General Basis of Legal Liability

### *Art. 101<sup>412</sup>*

(1)<sup>413</sup> Polluters of the environment shall bear liability for the impact of their activities upon the environment according to criminal and civil law, administrative provisions, and in the manner governed in this Act and in other legal provisions.

(2) Polluters of the environment shall:

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<sup>410</sup> Enacted: by Art. 7 of Act LXXVI of 2004. In force: as of 20. 07. 2004.

<sup>411</sup> Amended: by paragraph (5) Art. 91 of Act CXLVIII of 2010. In force: as of 1. 01. 2011.

<sup>412</sup> Established: by Art. 6 of Act XXIX of 2007. In force: as of 30. 04. 2007.

<sup>413</sup> Amended: by subparagraph f) paragraph (1) Art. 254 of Act II of 2012. In force: as of 15. 04. 2012.

a) refrain from engaging in any activity posing imminent threat or causing damage to the environment, and shall cease such activity where applicable;

b) notify the environmental authority without delay concerning any threat to the environment or environmental damage, and shall supply the information requested by the environmental authority and as specified in specific other legislation;

c) where environmental damage has occurred, take all practicable steps to mitigate the adverse impact, and to limit or to prevent further environmental damage, such as in particular, to control, contain, remove or otherwise manage the relevant contaminants causing the environmental damage and/or any other damage factors in order to limit or to prevent further environmental damage and adverse effects on human health or further environmental damage and impairment of services;

d) where environmental damage has occurred, take measures to restore the baseline condition, or a similar level as specified in specific other legislation, or to restore, rehabilitate or replace the damaged natural resources and/or impaired services;

e) accept responsibility for the environmental damage they have caused, and to cover the costs of prevention and rehabilitation.

(3) In the event of failure to comply with the requirements set out in Paragraphs a) and e) of Para. (2), the environmental authority, or the authority that has granted the relevant authorization at the request of the environmental authority, or the court shall - depending on the degree of threat to the environment or the level of environmental damage - limit the activity posing imminent threat to the environment or causing damage to the environment, or shall suspend or prohibit the activity in question pending compliance with the conditions it has established.

(4) Where performance of the preventive and remedial measures concerns any area that is owned, or is in the possession or use of others, the owner or user of the real estate property in question shall comply with having these preventive and remedial measures carried out. The owner or user of the property in question shall be entitled to financial compensation.

(5) Polluters of the environment shall be required to provide an environmental security and may be required - under the conditions set out in specific other legislation - to obtain environmental liability insurance for the financing of clean-up operations for any unforeseeable environmental damage that may result from their activities. Polluters of the environment may set aside provisions for environmental protection purposes as specified in the relevant government decree for any environmental liabilities they may have or are certain to have in the future.

(6) The Government shall define the activities referred to in Para. (5), and shall decree the form and measure of the security and the conditions for its appropriation, the rules for accounting and keeping records of such security, as well as the regulations for environmental liability insurance coverage.

## *Art. 102<sup>414</sup>*

(1) Liability for environmental damage or for any risk to the environment shall fall joint and severally - pending proof to the contrary - upon the person who is registered as the owner or possessor (user) of the property after environmental damage or threat to the

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<sup>414</sup> Established: by Art. 7 of Act XXIX of 2007. In force: as of 30. 04. 2007.

environment has occurred on which the activity resulting in damage to the environment or posing imminent threat to the environment was carried out.

(2) The owner shall be exempted from joint and several liability if able to name the actual user of the real property and if able to provide proof beyond any reasonable doubt that liability does not lie with him.

(3) The provisions of Para.s (1) and (2) shall be appropriately applied to the owners and the possessors (users) of non-stationary (mobile) contaminating sources.

(4) If several polluters of the environment jointly form a business association to unite the similar or complementary activities that they had formerly performed, such economic operator shall, in respect of environmental protection obligations, be regarded as the successor in title of the founders, and its liability shall be joint and several with the founders.

(5)<sup>415</sup> Those members (shareholders) of a business association, or the owner of a sole proprietorship, and their executive officers who have supported a resolution (measure), in respect of which they knew, or should have known given reasonable care that such resolution (measure) if carried out will cause environmental damage, shall bear unlimited and joint and several liability in the event of the termination of the business association or sole proprietorship for the company's ensuing liability for remediation and compensation for damages, which the company did not satisfy. Those members (shareholders) of a business association, or the owner of a sole proprietorship, and their executive officers who did not take part in the process of adopting the resolution (measure) or voted against it, or protested against the measure shall be exempt from liability.

(6)<sup>416</sup> Any executive officer of the business association, or the owner of a sole proprietorship who is subject to the liability referred to in Para. (5), may not serve as an executive officer of a business association, or the owner of a sole proprietorship whose activities are subject to an environmental license, a single environmental permit, or an authorization prescribed by the Act on Waste Management.

### Administrative Liability<sup>417</sup>

#### *Art. 102/A<sup>418</sup>*

(1) Polluters of the environment shall be exempt from administrative liability if able to verify that the threat to the environment or the environmental damage:

a) was caused by an act of armed conflict, war, civil war, armed hostilities, insurrection, or natural disaster;

b) is the direct result of the enforcement of a final and compulsory resolution of an authority or court.

(2) Polluters of the environment shall take the measures specified in specific other legislation with a view to prevent environmental damage and, where environmental damage has occurred and remedial measures are required:

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<sup>415</sup> Amended: by paragraph (2) Art. 57 of Act CXV of 2009. In force: as of 1. 01. 2010.

<sup>416</sup> Amended on the base: of paragraph (2) Art. 57 of Act CXV of 2009. In force: as of 1. 01. 2010.

<sup>417</sup> Enacted: by Art. 8 of Act XXIX of 2007. In force: as of 30. 04. 2007.

<sup>418</sup> Enacted: by Art. 8 of Act XXIX of 2007. In force: as of 30. 04. 2007.

a) to undertake primary remediation to restore the baseline condition of the environment, or to restore, rehabilitate or replace the damaged natural resources and/or impaired services;

b) to undertake complementary remediation where primary remediation failed:

ba) to provide a replacement for the damaged natural resources and/or impaired services, or to provide an equivalent alternative to those resources or services;

bb) if the replacement referred to in Subparagraph ba) failed to produce results, the damaged natural resources and/or impaired services shall be replaced by an equivalent alternative to those resources or services, whose cost is equivalent to the estimated monetary value of the lost natural resources and/or services.

(3) Polluters of the environment shall undertake compensatory remediation until the completion of remedial measures, to compensate for the interim loss of natural resources and services pending recovery of the damaged natural resources and/or impaired services.

(4)<sup>419</sup> The environmental authority - or the water protection authority in cases where environmental damage concerns waters only - may order polluters of the environment to supply information concerning any imminent threat of environmental damage or any suspicion of such imminent threat, and of any damage to the environment that has occurred. The environmental authority, if it finds the information supplied unsatisfactory, may require the person in question to provide supplementary information.

(5)<sup>420</sup> In the cases specified in Para. (2) of this Art. and in Paragraphs c)-d) of Para. (2) of Art. 101, the environmental authority - or the water protection authority in cases where environmental damage concerns waters only -, in accordance with the provisions of specific other legislation:

a) shall order polluters of the environment to undertake the preventive and remedial measures laid down in this Act and in other legislation in connection with environmental damages;

b) may itself undertake the preventive remedial measures in connection with environmental damages, or may hire others to do so.

(6) Where remedial measures are required for several instances of environmental damages, or several instances of damaged natural resources and/or impaired services, and remediation cannot be carried out at the same time, the environmental authority shall be entitled to decide which instance of environmental damage is to be remedied first. The environmental authority shall adopt its decision in consideration of the type and the gravity of damages, the size of the area they cover, the possibility of natural recovery, and their risks to human health.

(7) Where polluters of the environment are exempted under Para. (1), they are nonetheless required to undertake the measures with a view to prevent the threat to the environment or the environmental damage, or to mitigate the adverse impact, as well as the measures specified in Para. (2).

(8) Where an employee or a cooperative member is causing any threat to the environment or environmental damage in their official capacity under employment or membership, liability shall fall upon the relevant employer or cooperative.

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<sup>419</sup> Established by SubArt. (1) of Art. 16 of Act CCL of 2013, effective as of 31 December 2013.

<sup>420</sup> Established by SubArt. (2) of Art. 16 of Act CCL of 2013, effective as of 31 December 2013.

(9) In connection with any threat to the environment or environmental damage caused by an agent, liability of the agent and his principal shall be joint and several.

*Art. 102/B<sup>421</sup>*

(1)<sup>422</sup> Where damage to the environment has been established by final decision, the environmental protection authority - or the water protection authority in cases where environmental damage concerns waters only - shall adopt a resolution ordering remedial measures with restraint of alienation and encumbrance concerning those properties of the person required to undertake the said remedial measures, which are deemed sufficient to cover the estimated costs of the remedial measures.

(2)<sup>423</sup> Based on the resolution referred to in Para. (1), the environmental authority - or the water protection authority in cases where environmental damage concerns waters only - shall contact the real estate supervisory authority to register the restraint of alienation and encumbrance in the real state register, and to remove it from the register when the person in question had in fact carried out the remedial measures required.

(3)<sup>424</sup> If any part of the costs of preventive and/or remedial measures in connection with environmental damage had been financed from the central budget in the stead of the polluter of the environment, the environmental authority - or the water protection authority in cases where environmental damage concerns waters only - shall file a lien on the real estate properties owned by the polluter of the environment to the benefit of the Hungarian State up to the amount financed, and - with a view to provide security - shall order the restraint of alienation and encumbrance registered on the properties in question, with the exception of the properties on which restraint of alienation and encumbrance had already been registered under Para. (1). If the properties owned by the polluter in question fail to cover the sum financed from the central budget, the environmental authority - or the water protection authority in cases where environmental damage concerns waters only - shall file a lien also on the movable assets of the polluter affected.

(4) The lien filed on behalf of the Hungarian State shall be cancelled by order of the treasury if the polluter of the environment reimburses the amount financed by the central budget to the appropriate chapter set aside for environmental clean-up operations.

(5)<sup>425</sup> The environmental authority - or the water protection authority in cases where environmental damage concerns waters only - may demand polluters of the environment to repay the costs of measures within five years from the date of conclusion of these measures or from the identification of the polluter of the environment, whichever occurs later.

*Art. 102/C<sup>426</sup>*

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<sup>421</sup> Enacted: by Art. 9 of Act XXIX of 2007. In force: as of 30. 04. 2007.

<sup>422</sup> Established by SubArt. (1) of Art. 17 of Act CCL of 2013, effective as of 31 December 2013.

<sup>423</sup> Established by SubArt. (2) of Art. 17 of Act CCL of 2013, effective as of 31 December 2013.

<sup>424</sup> Established by SubArt. (3) of Art. 17 of Act CCL of 2013, effective as of 31 December 2013.

<sup>425</sup> Established by SubArt. (4) of Art. 17 of Act CCL of 2013, effective as of 31 December 2013.

<sup>426</sup> Enacted: by Art. 10 of Act XXIX of 2007. In force: as of 30. 04. 2007.

(1) With regards to any threat to the environment and environmental damage that concerns any other Member State of the European Union, cooperation must be ensured with the Member State affected concerning the necessary preventive and remedial measures, and also with a view to the adequate supply of information.

(2) Where environmental damage could affect another country, the Minister shall provide sufficient information to the country affected with respect to the environmental damage in question.

(3) The Minister shall report to the European Commission, and to the Member States concerned, including a proposal for preventive and remedial measures - also covering the costs of prevention and rehabilitation - the discovery of any environmental damage by the competent environmental authorities on their areas of competence that did not originate within the territory of the country.

(4)<sup>427</sup> By way of derogation from Para.s (2) and (3), the minister responsible for water protection shall take the measures defined therein, if waters are affected by the environmental damage.

## Liability for Damages

### *Art. 103*

(1)<sup>428</sup> Damage caused to other parties by virtue of activities or negligence entailing the utilization or loading of the environment shall qualify as damage caused by an activity endangering the environment, and the provisions of the Civil Code on activities entailing increased danger shall be applied.

(2)<sup>429</sup> If the injured party does not wish to enforce its claim for damages as specified in Para. (1) against the party causing the damage - on the basis of a statement pertaining to this made by the injured party within the period of limitation - the Minister may enforce said claim to the credit of the environmental protection fund special appropriations chapter.

### *Art. 104*

If the person or the entity performing an unlawful activity changes, the rules of the liability of the legal successor shall be applied to the person or entity performing the activity, unless the parties have agreed otherwise in a contract.

### *Art. 105*

In the event the user of the environment is terminated without a legal successor during voluntary or involuntary liquidation, the transformation of a state enterprise into an economic association or during the utilization and sale of state assets, the costs of cleaning up environmental damage and the compensation for environmental damage

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<sup>427</sup> Enacted by Art. 18 of Act CCL of 2013, effective as of 31 December 2013.

<sup>428</sup> Amended by SubArt. (3) of Art. 46 of Act CCLII of 2013.

<sup>429</sup> Amended by SubArt. (3) of Art. 93 of Act XC of 1998.

sustained as a result of the activity shall be shown in the statement of assets on the basis of an assessment of the state of the environment.

## Environmental Fine

### *Art. 106*

(1)<sup>430</sup> Any person who infringes upon the provisions of law, official decisions or directly applicable Community legislation that are aimed - directly or indirectly - for the protection of the environment or who fails to comply with the limits set out therein, shall be sanctioned to pay an environmental fine consistent with the gravity, weight, duration and recurrence of the environmental pollution and environmental damage they caused.

(2)<sup>431</sup> The environmental fine shall be paid over and above the environmental contribution and the environmental pollution charges.

(3)<sup>432</sup>

(4)<sup>433</sup> The Government may adopt a public resolution authorizing the body exercising ownership rights on behalf of the State to acquire securities embodying shares in a business association, or business shares in compensation for its claims arising from environmental fines imposed by final decision in connection with an incident based on which an emergency had to be declared, if unpaid by the prescribed deadline, or covering only a part of such claim, instead of attempting to recover such claim, up to the amount specified and under the conditions set out in said government resolution, subject to agreement with the holders of shares in the business association liable to pay the fine in question, if:

- a) the funds available are insufficient to cover the full amount of the fine, and
- b) carried out to prevent losses in excess of the amount claimed or if it is justified by some national interest of particular economic importance.

### *Art. 107<sup>434</sup>*

The fine does not exempt the recipient from criminal liability or liability for damages; nor does it exempt the recipient from the obligation to restrict, suspend or ban the activities and develop adequate protection and restore the natural or previous environment.

## Environmental Officer

### *Art. 108*

(1) In the case of the uses of the environment specified by the Government in legal regulation users of the environment shall - in order to fulfill their responsibilities related to

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<sup>430</sup> Established: by Art. 11 of Act XCI of 2008. In force: as of 28. 12. 2008.

<sup>431</sup> Established: by paragraph (2) Art. 38 of Act CLXVI of 2011. In force: as of 1. 01. 2012.

<sup>432</sup> Repealed: by point 13 Art. 84 of Act CLXVI of 2011. No longer in force: as of 1. 01. 2012.

<sup>433</sup> Enacted: by Art. 165 of Act CXCVII of 2011. In force: as of 1. 01. 2012.

<sup>434</sup> Amended: by subparagraph f) paragraph (1) Art. 254 of Act II of 2012. In force: as of 15. 04. 2012.



environmental protection - employ or appoint an environmental officer who has the appropriate professional knowledge (hereinafter referred to as "Officer").

(2) The Officer's rights and responsibilities as well as a detailed description of his tasks shall be laid down in writing (in an employment or other contract).

(3) The Officer shall, prior to the fact, call the attention of all of the organization's agencies and officers to the fact that some planned measure violates legal regulation and rules on environmental protection.

(4) Persons receiving definitive sentences because of criminal acts related to damaging or endangering the environment shall not become Officers as long as they are under the effect of the sentence.

(5) An environmental commissioner shall be employed at the government agencies specified by the Government.

## The Public Prosecutor's Role in Environmental Protection

### *Art. 109*

(1) Public prosecutors shall act in accordance with the stipulations of the Code of Criminal Procedure in cases in which the environmental components are damaged in a manner prohibited in the Criminal Code.

(2) In the event of endangerment to the environment, the prosecutor is also entitled to file a lawsuit to impose a ban on the activity or to elicit compensation for the damage caused by the activity endangering the environment.

(3)<sup>435</sup> The Prosecution Service shall participate in accordance with the relevant legislation in enforcing the legality of the procedures and decisions of the environmental protection authorities.

## **Chapter X**

### **CLOSING PROVISIONS**

### *Art. 110*

(1)<sup>436</sup> This Act shall enter into force on the 180th day following its promulgation.

(2)<sup>437</sup> The requirements set out in Paragraph *b*) of Para. (5) of Art. 18 relating to good water status shall be satisfied in accordance with Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy by 22 December 2015, - unless the legislation on the regulations relating to river basin management plans provide otherwise.

(3)<sup>438</sup> With respect to the protected areas referred to in Para. (1) of Art. 18, all environmental regulations and environmental objectives designed to achieve the good

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<sup>435</sup> Established: by Art. 51 of Act CLXIII of 2011. In force: as of 1. 01. 2012.

<sup>436</sup> Amended: by point 201 Art. 2 of Act LXXXII of 2007. In force: as of 1. 07. 2007.

<sup>437</sup> Established: by Art. 12 of Act XCI of 2008. In force: as of 28. 12. 2008.

<sup>438</sup> Amended: by point 201 Art. 2 of Act LXXXII of 2007. In force: as of 1. 07. 2007.

status of waters, on account of which the protected areas were designated, must be achieved by 22 December 2015.

(4)<sup>439</sup> The provisions of this Act established by Act XXIX of 2007 on the Amendment of Certain Acts Related to Environmental Protection with Regard to Environmental Liability shall apply to cases where environmental damage is committed or the activity posing a threat to the environment is carried out after 30 April 2007. Where environmental damage or any threat to the environment is caused by way of negligence, the provisions in effect at the time when the polluter had the chance to prevent the environmental damage or the threat to the environment shall apply.

(5) The provisions of this Act shall also be applied to cases not yet evaluated by decisions of the first instance, with the exception of the contents of Para. (6).

(6) Until new legal regulations on the environmental components and the factors endangering them enter into force, the provisions of Government and ministerial decrees on the subjects to be regulated shall be applied.

(6a)<sup>440</sup> Noise emissions by cultural, recreational or sports events and other gatherings of large crowds which are considered to be of particular importance for national economy reasons or for touristic considerations shall not be construed as trespassing and/or unnecessary disturbance of others, especially neighbors or jeopardizing the exercise of their rights, if it does not exceed the noise emission limit prescribed by the relevant legislation, or provided for in the official permit granted therefor.

(7) The Government is hereby authorized to decree:<sup>441</sup>

1.<sup>442</sup> the detailed state administrative powers of the mayors and notaries of municipal local governments with regard to environmental protection;

2.<sup>443</sup> the regulations relating to the creation and operation of the National Environmental Geographical Information System;

3.<sup>444</sup> the range of activities requiring an environmental impact assessment, general content requirements for environmental impact studies and the regulations for environmental impact assessment procedures;

4.<sup>445</sup> the activities which are subject to the provision of environmental security, and those for which environmental liability insurance coverage may be required, and to decree the form and measure of the security and the conditions for its appropriation, the rules for accounting and keeping records of such security, as well as the regulations for environmental security and for environmental liability insurance coverage;

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<sup>439</sup> Established: by Art. 32 of Act LXXVI of 2012. In force: as of 27. 06. 2012.

<sup>440</sup> Enacted by Art. 10 of Act CXV of 2015, effective as of 1 August 2015.

<sup>441</sup> Established: by paragraph (1) Art. 13 of Act XCI of 2008. In force: as of 28. 12. 2008.

<sup>442</sup> Numbering amended and amended: by paragraph (4) Art. 13 and paragraph (1) Art. 27 of Act XCI of 2008. In force: as of 28. 12. 2008.

<sup>443</sup> Established: by paragraphs (2) and (4) Art. 13 of Act XCI of 2008. In force: as of 28. 12. 2008.

<sup>444</sup> Established: by paragraph (1) Art. 5 of Act CXXVII of 2005. In force: as of 01. 01. 2006. Numbering amended and amended: by paragraph (4) Art. 13 and paragraph (1) Art. 27 of Act XCI of 2008. In force: as of 28. 12. 2008.

<sup>445</sup> Established: by paragraph (2) Art. 21 of Act CXXXI of 2005. In force: as of 30. 12. 2005. Numbering amended and amended: by paragraph (4) Art. 13 and paragraph (1) Art. 27 of Act XCI of 2008. In force: as of 28. 12. 2008.

5.<sup>446</sup> detailed rules for the production, manufacture, import and distribution of substances and products that present a serious danger to the environment as well as rules for the application and licensing of similar activities and technologies, the procedures for the authorization of these activities, furthermore, the contents of the register of such authorized persons other than personal data, and the detailed procedural rules for operating the register, and the sanctions for any infringement of the provisions of the relevant legislation or of the resolutions adopted by the competent authorities;

6.<sup>447</sup> the types and amount of environmental fines and the manner in which they are to be established;<sup>448</sup>

7.<sup>449</sup> the substances, products, activities and technologies to be classified for environmental reasons and the general rules of classification;<sup>450</sup>

8.<sup>451</sup> those uses of the environment for which an environmental Officer shall be employed;<sup>452</sup>

9.<sup>453</sup> rules for determining impact areas;<sup>454</sup>

10.<sup>455</sup> the type of data whose publication on the public platform is obligatory;

11.<sup>456</sup> the persons that are required to prepare environmental reports as well as the detailed regulations concerning such reports;

12.<sup>457</sup> the detailed regulations for the consolidated environmental use permit procedure;<sup>458</sup>

13.<sup>459</sup> the operating, attestation and recordkeeping requirements and criteria for the environmental management and attestation systems;

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<sup>446</sup> Numbering amended and amended: by paragraph (4) Art. 13 and paragraph (1) Art. 27 of Act XCI of 2008. In force: as of 28. 12. 2008. Amended: by Art. 102 of Act LVI of 2009. In force: as of 1. 10. 2009.

<sup>447</sup> Numbering amended and amended: by paragraph (4) Art. 13 and paragraph (1) Art. 27 of Act XCI of 2008. In force: as of 28. 12. 2008.

<sup>448</sup> See Government Decree 33/2000 (III. 17.) Korm., Government Decree 21/2001 (II. 14.) Korm. and Government Decree 203/2001 (X. 26.) Korm.

<sup>449</sup> Established by SubArt. (1) of Art. 19 of Act LV of 2001, effective as of 13 July 2001. Numbering amended and amended: by paragraph (4) Art. 13 and paragraph (1) Art. 27 of Act XCI of 2008. In force: as of 28. 12. 2008.

<sup>450</sup> See Government Decree 140/2001 (VIII. 8.) Korm. and Government Decree 142/2001 (VIII. 8.) Korm.

<sup>451</sup> Numbering amended and amended: by paragraph (4) Art. 13 and paragraph (1) Art. 27 of Act XCI of 2008. In force: as of 28. 12. 2008.

<sup>452</sup> See Government Decree 93/1996 (VII. 4.) Korm.

<sup>453</sup> Numbering amended and amended: by paragraph (4) Art. 13 and paragraph (1) Art. 27 of Act XCI of 2008. In force: as of 28. 12. 2008.

<sup>454</sup> See Government Decree 152/1995 (XII. 12.) Korm. and Government Decree 20/2001 (II. 14.) Korm.

<sup>455</sup> Established by SubArt. (1) of Art. 5 of Act LXXXVII of 2014, effective as of 15 December 2014.

<sup>456</sup> Enacted by SubArt. (1) of Art. 19 of Act LV of 2001, effective as of 13 July 2001. Numbering amended and amended: by paragraph (4) Art. 13 and paragraph (1) Art. 27 of Act XCI of 2008. In force: as of 28. 12. 2008.

<sup>457</sup> Enacted by SubArt. (1) of Art. 19 of Act LV of 2001, effective as of 13 July 2001. Numbering amended and amended: by paragraph (4) Art. 13 and paragraph (1) Art. 27 of Act XCI of 2008. In force: as of 28. 12. 2008.

<sup>458</sup> See Government Decree 193/2001 (X. 19.) Korm.

<sup>459</sup> Enacted by SubArt. (1) of Art. 19 of Act LV of 2001, effective as of 13 July 2001. Numbering amended and amended: by paragraph (4) Art. 13 and paragraph (1) Art. 27 of Act XCI of 2008. In force: as of 28. 12. 2008.

14.<sup>460</sup> the operating, certification and recordkeeping requirements and criteria for the eco-labeling of products and services.

15.<sup>461</sup>

16.<sup>462</sup> the entities compelled to prepare strategic noise maps to reduce environmental noise, and action plans based on these noise maps, the requirements in terms of contents, the deadlines for completion, and to decree the relating procedural rules and data disclosure regulations;

17.<sup>463</sup> the requirements concerning the contents of environmental reports and the rules for conducting environmental assessment, and the environmental protection agencies and their duties, and to define the plans and programs for which an environmental assessment is required.

18.<sup>464</sup> the provisions governing access for the general public to environmental information and the rules for keeping basic environmental records;

19.<sup>465</sup> the detailed provisions concerning preliminary assessment procedures and prior consultations;

20.<sup>466</sup> the detailed regulations for the pursuit of the activities of experts in the fields of environmental protection, nature preservation and landscape maintenance, the description of the special fields and areas of expertise, the procedures for the authorization of these activities, furthermore, the contents of the register of such authorized persons other than personal data, and the detailed procedural rules for operating the register, and the sanctions for any infringement of the provisions of the relevant legislation or of the resolutions adopted by the competent authorities;

21.<sup>467</sup> costs of laboratory and other instrumental tests, treated as other procedural costs, and the personnel and material expenses arising in connection with the proceedings aimed at ascertaining the relevant facts of a case and the rules concerning payment terms;

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<sup>460</sup> Enacted by SubArt. (1) of Art. 19 of Act LV of 2001, effective as of 13 July 2001. Numbering amended and amended: by paragraph (4) Art. 13 and paragraph (1) Art. 27 of Act XCI of 2008. In force: as of 28. 12. 2008.

<sup>461</sup> Numbering amended: by paragraph (4) Art. 13 of Act XCI of 2008. In force: as of 28. 12. 2008. Repealed: by paragraph (1) Art. 27 of Act XCI of 2008. No longer in force: as of 28. 12. 2008.

<sup>462</sup> Enacted: by paragraph (1) Art. 8 of Act LXXVI of 2004. In force: as of 16. 07. 2004. Numbering amended and amended: by paragraph (4) Art. 13 and paragraph (1) Art. 27 of Act XCI of 2008. In force: as of 28. 12. 2008.

<sup>463</sup> Enacted: by paragraph (1) Art. 8 of Act LXXVI of 2004. In force: as of 16. 07. 2004. Numbering amended and amended: by paragraph (4) Art. 13 and paragraph (1) Art. 27 of Act XCI of 2008. In force: as of 28. 12. 2008.

<sup>464</sup> Enacted: by paragraph (2) Art. 5 of Act CXXVII of 2005. In force: as of 23. 12. 2005. Numbering amended and amended: by paragraph (4) Art. 13 and paragraph (1) Art. 27 of Act XCI of 2008. In force: as of 28. 12. 2008.

<sup>465</sup> Established: by paragraph (1) Art. 14 of Act XIII of 2010. In force: as of 1. 03. 2010. Shall apply to proceedings opened subsequently.

<sup>466</sup> Established and numbering amended: by paragraphs (3) and (4) Art. 13 of Act XCI of 2008. In force: as of 28. 12. 2008. Amended: by Art. 102 of Act LVI of 2009. In force: as of 1. 10. 2009.

<sup>467</sup> Enacted: by paragraph (3) Art. 9 of Act CXXI of 2006. In force: as of 01. 01. 2007. Numbering amended: by Art. 11 of Act XXIX of 2007. In force: as of 30. 04. 2007. Amended: by paragraph (1) Art. 27 of Act XCI of 2008. In force: as of 28. 12. 2008. Numbering amended: by paragraph (2) Art. 14 of Act XIII of 2010. In force: as of 1. 03. 2010.

- 21a.<sup>468</sup> the other procedural costs incurred in regulatory proceedings relating to the assessment of environmental protection and nature preservation issues;
- 22.<sup>469</sup> the procedures for the prevention and remediation of environmental damage;
- 23.<sup>470</sup> the regulations for protection against noise and vibration;
- 24.<sup>471</sup> the regulations for the protection of air quality;
- 25.<sup>472</sup> the detailed provisions for planning, implementation and control of the Program, and for the establishment and operation of the body designated to provide assistance;
- 26.<sup>473</sup> the regulations relating to the protection of living organisms and their communities and habitats, requiring special provisions;
- 27.<sup>474</sup> the regulations relating to the protection of certain arborescent plants, which are not governed elsewhere;
- 28.<sup>475</sup> the regulations for the protection of groundwater;
- 29.<sup>476</sup> the regulations for the protection of surface water quality;
- 30.<sup>477</sup> the regulations concerning the protection of waters against pollution caused by nitrates from agricultural sources;
- 31.<sup>478</sup> the surface waters and river basins identified as 'sensitive' from the perspective of urban waste-water treatment;
- 32.<sup>479</sup> the detailed rules for the classification of substances and products that seriously endanger the environment;
- 33.<sup>480</sup> the regulations relating to permits that may be issued within the framework of the combined environmental authorization, and the combined environmental authorization itself;

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<sup>468</sup> Enacted by SubArt. (4) of Art. 3 of Act VIII of 2015, effective as of 1 April 2015.

<sup>469</sup> Enacted: by Art. 11 of Act XXIX of 2007. In force: as of 30. 04. 2007. Amended: by paragraph (1) Art. 27 of Act XCI of 2008. In force: as of 28. 12. 2008. Numbering amended: by paragraph (2) Art. 14 of Act XIII of 2010. In force: as of 1. 03. 2010.

<sup>470</sup> Enacted: by paragraph (4) Art. 13 of Act XCI of 2008. In force: as of 28. 12. 2008. Numbering amended: by paragraph (2) Art. 14 of Act XIII of 2010. In force: as of 1. 03. 2010.

<sup>471</sup> Enacted: by paragraph (4) Art. 13 of Act XCI of 2008. In force: as of 28. 12. 2008. Numbering amended: by paragraph (2) Art. 14 of Act XIII of 2010. In force: as of 1. 03. 2010.

<sup>472</sup> Enacted: by paragraph (4) Art. 13 of Act XCI of 2008. In force: as of 28. 12. 2008. Numbering amended: by paragraph (2) Art. 14 of Act XIII of 2010. In force: as of 1. 03. 2010.

<sup>473</sup> Enacted: by paragraph (4) Art. 13 of Act XCI of 2008. In force: as of 28. 12. 2008. Numbering amended: by paragraph (2) Art. 14 of Act XIII of 2010. In force: as of 1. 03. 2010.

<sup>474</sup> Enacted: by paragraph (4) Art. 13 of Act XCI of 2008. In force: as of 28. 12. 2008. Numbering amended: by paragraph (2) Art. 14 of Act XIII of 2010. In force: as of 1. 03. 2010.

<sup>475</sup> Enacted: by paragraph (4) Art. 13 of Act XCI of 2008. In force: as of 28. 12. 2008. Numbering amended: by paragraph (2) Art. 14 of Act XIII of 2010. In force: as of 1. 03. 2010.

<sup>476</sup> Enacted: by paragraph (4) Art. 13 of Act XCI of 2008. In force: as of 28. 12. 2008. Numbering amended: by paragraph (2) Art. 14 of Act XIII of 2010. In force: as of 1. 03. 2010.

<sup>477</sup> Enacted: by paragraph (4) Art. 13 of Act XCI of 2008. In force: as of 28. 12. 2008. Numbering amended: by paragraph (2) Art. 14 of Act XIII of 2010. In force: as of 1. 03. 2010.

<sup>478</sup> Enacted: by paragraph (4) Art. 13 of Act XCI of 2008. In force: as of 28. 12. 2008. Numbering amended: by paragraph (2) Art. 14 of Act XIII of 2010. In force: as of 1. 03. 2010.

<sup>479</sup> Enacted: by paragraph (10) Art. 101 of Act LVI of 2009. In force: as of 1. 10. 2009. Shall apply to proceedings opened subsequently and to reopened cases. Numbering amended: by paragraph (2) Art. 14 of Act XIII of 2010. In force: as of 1. 03. 2010.

<sup>480</sup> Enacted: by paragraph (3) Art. 14 of Act XIII of 2010. In force: as of 1. 03. 2010. Shall apply to proceedings opened subsequently.

34.<sup>481</sup> the activities affecting the environment, that can be started and pursued upon notification of the environmental protection authority, furthermore, the content requirements for such notifications, the regulations governing the procedures for the supervision of such activities, and the sanctions available;

35.<sup>482</sup> the detailed regulations relating to the combustion of fuels produced from waste;

36.<sup>483</sup> the fee of the environmental protection and nature conservation authority when acting in an expert capacity.

(8)<sup>484</sup> The Minister is hereby authorized to decree:

a) the conditions for the “environmentally friendly” and “environmentally sound” distinctions;

b) the detailed rules for keeping official records;

c) the regulations pertaining to the use of the best available techniques;

d) the employment and educational requirements for environmental officers;

e) the detailed regulations for classifying substances, products, activities and technologies for the purposes of environmental protection as well as the rules for accrediting classification authorities and the manner in which classification is to be conducted.

(8a)<sup>485</sup> The Minister is hereby authorized to decree, in agreement with the minister in charge of the healthcare system:

a) regulations relating to the measurement, analysis, control and evaluation of air pollution and the siting, installation and operation of an air pollution detection system as well as regulations in connection with designating areas that are considered ecologically vulnerable in terms of air quality;

b) regulations relating to the measurement, analysis, control and evaluation of the dispersal of pollutants, the impact of weather factors on air pollution and emissions by stationary sources of pollution as well as regulations concerning the air quality requirements in connection with the operation of stationary sources of pollution;

c) the designation of areas that are ecologically vulnerable in terms of air pollution and the classification of the country’s regions into zones on the basis of air pollution.

(8b)<sup>486</sup> The Minister is hereby authorized to decree, in agreement with the minister responsible for water protection:

a) the provisions on data disclosures relating to the environmental registration system for groundwater and the geological medium, functioning as a subsystem of the Information System;

b) the detailed rules relating to studies or fact-finding missions for remediation purposes.

(8c)<sup>487</sup> The Minister is hereby authorized to decree, in agreement with the minister responsible for water protection in issues of water protection, the content requirements for the documents of environmental audits.

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<sup>481</sup> Enacted: by paragraph (3) Art. 14 of Act XIII of 2010. In force: as of 1. 03. 2010. Shall apply to proceedings opened subsequently.

<sup>482</sup> Enacted by SubArt. (1) of Art. 19 of Act CCL of 2013, effective as of 31 December 2013.

<sup>483</sup> Enacted by SubArt. (5) of Art. 3 of Act VIII of 2015, effective as of 1 April 2015.

<sup>484</sup> Established by SubArt. (2) of Art. 5 of Act LXXXVII of 2014, effective as of 15 December 2014.

<sup>485</sup> Enacted by SubArt. (3) of Art. 5 of Act LXXXVII of 2014, effective as of 15 December 2014.

<sup>486</sup> Enacted by SubArt. (3) of Art. 5 of Act LXXXVII of 2014, effective as of 15 December 2014.

<sup>487</sup> Enacted by SubArt. (3) of Art. 5 of Act LXXXVII of 2014, effective as of 15 December 2014.

(8d)<sup>488</sup> The Minister is hereby authorized to decree, in agreement with the minister in charge of transportation, the detailed regulations for making strategic noise maps to reduce environmental noise, and the action plans which are based on those noise maps.

(8e)<sup>489</sup> The Minister is hereby authorized to decree:

a) in agreement with the minister in charge of the healthcare system having regard to air and noise,

b) in agreement with the minister responsible for water protection where the geological medium is affected,

c) independently in cases not covered by Paragraphs a) and b), the detailed rules relating to the protection of environmental media - other than water -, to sources of pollution, the measurement and control of the pollution and loading of environmental media, and protection against environmental hazards.

(9)<sup>490</sup> The minister in charge of transportation shall decree - concerning mobile sources of pollution -

a) the regulations on measuring and monitoring emissions in matters affecting the Minister's jurisdiction, in agreement with the minister in charge of environmental protection,

b)<sup>491</sup> regulations in connection with audits pertaining to emissions, in agreement with the minister in charge of environmental protection and the minister in charge of traffic control and traffic regulations.

(10)<sup>492</sup> The minister responsible for water protection is hereby authorized to decree, in agreement with the minister in charge of water management and the Minister, the detailed regulations relating to:

a) the requirements for the discharge of used and waste water from the point of view of environmental protection;

b) the designation of areas considered vulnerable in terms of water quality and the designation of surface waters.

(11)<sup>493</sup> The minister responsible for water protection is hereby authorized to designate - in agreement with the ministers in charge of water management, the minister in charge of the agricultural sector, the minister in charge of the healthcare system and the Minister - by way of a decree the surface waters that are to be afforded special protection from the point of view of water quality and the boundaries of their catchment areas, with the exception of areas of drinking waters and mineral and thermal waters.

(12)<sup>494</sup> The minister responsible for water protection is hereby authorized to decree:

a) in agreement with the Minister where the geological medium is affected,

b) in agreement with the minister in charge of aquaculture where waters used for fishing and fish farming are affected,

c) in agreement with the minister in charge of the healthcare system where drinking water is affected,

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<sup>488</sup> Enacted by SubArt. (3) of Art. 5 of Act LXXXVII of 2014, effective as of 15 December 2014.

<sup>489</sup> Enacted by SubArt. (3) of Art. 5 of Act LXXXVII of 2014, effective as of 15 December 2014.

<sup>490</sup> Enacted by SubArt. (2) of Art. 2 of Act CXXIX of 2000, effective as of 18 February 2001.

<sup>491</sup> Amended: by subparagraph i) paragraph (1) Art. 170 of Act CIX of 2006. In force: as of 01. 01. 2007.  
Amended: by paragraph (41) Art. 44 of Act CXXX of 2010. In force: as of 1. 01. 2011.

<sup>492</sup> Established by SubArt. (3) of Art. 19 of Act CCL of 2013, effective as of 31 December 2013.

<sup>493</sup> Established by SubArt. (4) of Art. 19 of Act CCL of 2013, effective as of 31 December 2013.

<sup>494</sup> Established by SubArt. (4) of Art. 5 of Act LXXXVII of 2014, effective as of 15 December 2014.

d) independently in cases not covered by Paragraphs a)-c), the detailed rules for the protection of water as an environmental media, and pertaining to sources of water pollution, the measurement and control of water pollution, and protection against water hazards.

(12a)<sup>495</sup> The minister responsible for water protection is hereby authorized to decree regulations concerning the requirements for individual waste water disposal.

(13)<sup>496</sup> The Minister is hereby authorized to decree, in agreement with the minister in charge of taxation, with the exception of water protection procedures:

a) the procedures, services of an administrative nature and notifications which are subject to the payment of an administrative service fee, the amount of the fee, and other rules concerning payment terms;

b) the detailed regulations relating to supervision fees.

(13a)<sup>497</sup> The minister responsible for water protection is hereby authorized to decree, in agreement with the minister in charge of taxation, the water protection procedures, services of an administrative nature and notifications which are subject to the payment of an administrative service fee, the amount of the fee, and other rules concerning payment terms.

(14)<sup>498</sup> The minister in charge of the agricultural sector is hereby authorized to publish, in agreement with the minister responsible for water protection, in a decree:

a) the areas which are deemed vulnerable in relation to pollution caused by nitrates under specific other legislation, which are marked by LPIS block identifiers, and

b) the detailed rules for the action plan required concerning the protection of waters against pollution caused by nitrates from agricultural sources, and the related procedures of data disclosures and keeping records.

(15)<sup>499</sup> The Minister is hereby authorized to decree discharge, emission and pollution limits, with the exception of the limits related to waters:

a) in agreement with the minister in charge of the healthcare system having regard to air and noise,

b) in agreement with the minister responsible for water protection having regard to geological medium,

c) independently in cases not covered by Paragraphs a) and b).

(15a)<sup>500</sup> The minister responsible for water protection is hereby authorized to decree, in agreement with the Minister and the minister in charge of the healthcare system, and the minister in charge of agricultural land having regard to soil protection, discharge, emission and pollution limits relating to waters.

(16)<sup>501</sup> The minister in charge of defense is hereby authorized to decree the special environmental regulations relating to defense operations where an environmental officer has to be appointed, including the type and quantity of procedures, technologies, materials and stocks applicable for the purpose of protection of the environment.

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<sup>495</sup> Enacted by SubArt. (6) of Art. 19 of Act CCL of 2013, effective as of 31 December 2013.

<sup>496</sup> Established by SubArt. (7) of Art. 19 of Act CCL of 2013, effective as of 31 December 2013.

<sup>497</sup> Enacted by SubArt. (8) of Art. 19 of Act CCL of 2013, effective as of 31 December 2013.

<sup>498</sup> Established by SubArt. (9) of Art. 19 of Act CCL of 2013, effective as of 31 December 2013.

<sup>499</sup> Established by SubArt. (5) of Art. 5 of Act LXXXVII of 2014, effective as of 15 December 2014.

<sup>500</sup> Established by SubArt. (5) of Art. 5 of Act LXXXVII of 2014, effective as of 15 December 2014.

<sup>501</sup> Enacted: by Art. 252 of Act CCV of 2012. In force: as of 1. 07. 2013.



*Art. 110/A*<sup>502</sup>

The Government is hereby authorized:

- a) to designate by means of a decree
  - aa) the environmental protection authority,
  - ab) the water protection authority,
  - ac) the administrative body for environmental protection,
  - ad) the administrative body for water protection,
  - ae) the bodies to be appointed as experts in the proceedings of the environmental protection and nature conservation authority; and
- b) to define by means of a decree
  - ba) the issues to be assessed in environmental and water protection procedures,
  - bb) the environmental and water protection issues to be assessed in regulatory proceedings.

*Art. 111*<sup>503</sup>

This Act contains regulations that may be approximated with the following legal regulations of the European Communities:

- a) Council Directive 85/337/EEC of 27 June 1985 - amended by Council Directive 97/11/EC and Directive 2003/35/EC of the European Parliament and of the Council - on the assessment of the effects of certain public and private projects on the environment [in conjunction with the government decree adopted for the implementation of this Act by authorization conferred under Paragraphs c) and r) of Para. (7) of Art. 110];
- b) Council Directive 91/271/EEC of 21 May 1991 concerning urban waste water treatment;
- c) Article 6 (3) of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora;
- d) Council Directive 98/83/EC of 3 November 1998 on the quality of water intended for human consumption;
- e) Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy;
- f) Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programs on the environment;
- g) Directive 2002/49/EC of the European Parliament and of the Council of 25 June 2002 relating to the assessment and management of environmental noise;
- h) Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC.
- i)<sup>504</sup> Directive 2004/35/EC of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage.

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<sup>502</sup> Established by SubArt. (6) of Art. 3 of Act VIII of 2015, effective as of 1 April 2015.

<sup>503</sup> Established: by Art. 6 of Act CXXVII of 2005. In force: as of 23. 12. 2005.

<sup>504</sup> Enacted: by Art. 13 of Act XXIX of 2007. In force: as of 30. 04. 2007.

j)<sup>505</sup> Article 1 (2), Article 3, points 2-4 and points 6-10, Article 4 (1), Article 11 (1), Article 13 (1)-(2), Article 14 (1)-(2) and (4), and Article 15 (2) of Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE).

*Art. 112*<sup>506</sup>

Art. 9 and Art.s 101-102 of this Act serve the purpose of conformity with Article 15 of Directive 2006/21/EC of the European Parliament and of the Council of 15 March 2006 on the management of waste from extractive industries and amending Directive 2004/35/EC.

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<sup>505</sup> Enacted: by Art. 15 of Act XCI of 2008. In force: as of 15. 05. 2009.

<sup>506</sup> Enacted: by Art. 225 of Act XXIX of 2011. In force: as of 15. 04. 2011.

**Government Decree 311/2005 (XII.25.)  
on the order of public access to environmental information**

Based on the authorisation granted to it under Art. 110(7)r) of Act LIII of 1995 on the General Rules of the Protection of the Environment (hereinafter: Environmental Protection Act), the Government has adopted the following decree:

**Art. 1** The scope of this decree covers environmental information as well as the public authority holding environmental information defined in Art. 12(3) of the Environmental Protection Act.

**Art. 2** Environmental information shall mean any information (data), irrespective of its form of appearance, on:

a) the environment and the state of the elements of the environment, including biological diversity and its components, and genetically modified organisms, and the interaction among these elements;

b) factors, such as noise, radiation or waste, including radioactive waste, directly or indirectly released into the environment, affecting or likely to affect the elements of the environment referred to in point a);

c) measures, such as sectoral policies, legislation, plans, programmes, agreements, and activities affecting or likely to affect the elements and factors referred to in points (a) and (b) as well as measures or activities designed to protect the environment and its elements;

d) reports on the implementation of environmental legislation;

e) cost-benefit and other economic analyses and assumptions used within the framework of the measures and activities referred to in point (c);

f) the state of human health and safety, including the contamination of the food chain, conditions of human life, cultural sites and built structures inasmuch as they are or may be affected by the state of the elements of the environment or, through those elements, by any of the matters referred to in points (b) and (c).

**Art. 3** Unless otherwise provided by law, public authorities holding environmental information shall make available to the public electronically or in some other way the documents containing the following environmental information:

a) texts of international treaties, legal regulations, including the legal acts of the European Community, as well as reports on their implementation;

b) policies, strategies, plans and programmes relating to the environment;

c) reports on the state of the environment;

d) data or summaries of data derived from the ad hoc or regular monitoring of activities affecting, or likely to affect, the environment;

e) environmental impact studies and risk assessments concerning the environmental elements;

f) documents referred to in a separate legal regulation, including especially the list of environmental information held by or stored for the public authority.

**Art. 4** The public authority holding the environmental information shall record the environmental information in databases whenever possible and, if the technical conditions prevail, shall also publish the environmental information on its website and shall update the published information as and when required.

**Art. 5** Upon request, public authorities holding environmental information shall reply to requests for information pursuant to Art. 2b), informing the applicant on the place where information can be found on the measurement procedures, if available, including methods of analysis, sampling, and pre-treatment of samples, used in compiling the information, or referring to a standardised procedure used.

**Art. 6** In the event of an imminent threat to human health or the environment, whether caused by human activities or due to natural causes, the public authority holding environmental information shall make available all information held by or for it to the public likely to be affected to enable them to take measures to prevent or mitigate harm arising from the threat immediately and without delay.

**Art. 7** The report on the practical experience on public access to environmental information shall be prepared and submitted to the Commission by the Minister of Environmental Protection and Water Management.

**Art. 8** This Decree shall enter into force on 1 January 2006.

**Art. 9** This Government Decree shall serve the purpose of conformity with Article 2 (1), Article 7 (1), (2) and (4), Article 8 (1) and (2) and Article 9 (1) of Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC.

## **Decree No. 24/2011 (VIII.9.) of the Minister of Public Administration and Justice on ex-ante and ex-post impact assessment**

Pursuant to the authority delegated to me under Article 30(3) of Act CXXX of 2010 on Legislation, and acting within my remit defined under Art. 2(1)a) of Government Decree 212/2010 (1 July) on the duties and authority of certain Ministers and the Minister of State in charge of the Prime Minister's Office, I hereby adopt the following decree:

### **1. General Provisions**

**Art. 1 (1)**<sup>1</sup> With the exception of legislation that may be instituted during a special legal order, this Decree defines the requirements pertaining to the ex-ante and ex-post impact assessment of the bills to be put forward by the Government, as well as the draft government decrees and ministerial decrees.

(2) Provisions set out in the present Decree shall also be applicable in respect of normative decisions made by the Government.

**Art. 2 (1)** For the purposes of this Decree:

1. *ex-ante impact assessment summary* shall mean the summary main sheet containing the findings of the ex-ante impact assessment, the summary data of the individual impact assessment sheets and the concise and clear overview of expected impacts;

2. *impact assessment* shall mean an information collection and analysing procedure, the fundamental objective of which is to increase the efficiency of regulations, which includes the analysis of the expected consequences of the regulation aligned to the details of and carried out in a period relevant to the assumed impacts of the regulation, followed by the summary of findings to support sound decision-making;

3. *impact assessment sheet* shall mean the ex-ante impact assessment summary sheet and the individual impact assessment sheets;

4. *stand-alone measure* shall mean distinct procedures and activities independent from one another defined under a regulation to attain specific policy goals;

5. *regulation* shall mean measures set out under legislation listed above under Art. 1 and in public law regulatory frameworks;

6. *drafter of the regulation* shall mean the minister competent and responsible for drafting the regulation;

7. *individual impact assessment sheet* shall mean the thematic datasheet containing the detailed data of impacts assessed within the framework of the ex-ante impact assessment.

(2) Rules pertaining to the presentation of the impact assessment sheet set out in Annex 1 shall also be applied to the draft ministerial decree.

### **2. Ex-ante Impact Assessment**

**Art. 3** Within the framework of ex-ante assessment

a) impact assessments of the greatest utility and the analysis of direct and indirect impacts playing the most relevant role in establishing the grounds of the decision in the case of the given regulation shall be carried out;

b) the positive and negative impacts of the regulation shall also be mapped;

c) advantages and drawbacks shall be quantified and analysed in this particular manner;

d) unified methodological principles shall be applied within the scope of an ex-ante impact assessment;

e) the expected impacts of the regulation shall be assessed in the relevant time period in the case of the given regulation;

f) in the case of several decision versions, expected advantages and drawbacks shall be assessed in the case of every version.

**Art. 4** (1) In order to plan the details of the ex-ante impact assessment – after the necessity to adopt a regulation arises and in the event of the intention of the Government to adopt a regulation – the drafter of the regulation shall examine the objective of the regulation and assess the expected content of the regulation.

(2) The drafter of the regulation shall select the specific regulation contents that have serious consequences, the analysis of which consequences is covered by the ex-ante impact assessment, and shall select the impacts to be assessed.

(3) The drafter of the regulation shall evaluate the expected consequences of the lack of adoption of the regulation and the budgetary impacts that arise if the regulation is not adopted.

(4) By taking account of all relevant time periods, the following direct and indirect impacts of the regulation shall be recorded on the impact assessment sheet during the ex-ante impact assessment procedure:

a) social, economic, competitiveness and employment impact on the groups affected by the regulation;

b) impact on the budget;

c) administrative impact and impact on administrative workloads in the case of market, public administration, residential and other non-market actors;

d) environmental impact and impact on nature;

e) impact on health; and

f) other impacts explicitly relevant in terms of the given regulation.

**Art. 5** (1) The data of the ex-ante impact assessment and findings identified during the ex-ante impact assessment procedure shall be recorded on the impact assessment sheet specified in Annex 1.

(2) If the given regulation includes several stand-alone measures that have a significant impact which may be interpreted through separate impact assessment procedures and it is not reasonable to record these impacts on one impact assessment sheet, it is necessary to fill out more than one impact assessment sheet.

(3) If the regulation needs to be urgently adopted for reasons of prominent public interest, the minister responsible for the coordination of the government's actions is entitled to exempt the drafter of the regulation from filling out the individual impact assessment sheets and the impact assessment sheet in particularly justified cases upon

the drafter's written request sent within the framework of preliminary reconciliation should this take place in the case of the given regulation.

(4) It is sufficient to refer to the impact assessment sheet of the given act on the impact assessment sheet of the decree if the decree serves to execute an Act and the decree is reconciled simultaneously with the Act and has no independent impact that may be interpreted by an impact assessment.

(5) It is not necessary to fill out the individual impact assessment sheets if the regulation only contains technical amendments and has no independent impact that may be interpreted by an impact assessment.

(6) The following shall be attached, as required, as an annex to the impact assessment sheet:

- a) detailed calculations supporting the findings of the impact assessment;
- b) brief description of the methodology applied;
- c) other additional information.

### **3. Ex-post Impact Assessment**

**Art. 6** (1) The provisions set out under Art. 3a)–e) and Art. 4(2) concerning the ex-ante impact assessment shall also be applied *mutatis mutandis* to the ex-post impact assessment.

(2) With the exception of provisions set out under para. (3), the ex-post impact assessment shall be carried out at the date and in accordance with the methodology specified on the impact assessment sheet, about the findings of which the drafter of the regulation shall inform the minister responsible for the coordination of the government's actions.

(3) The ex-post impact assessment may be carried out in deviation from the way specified on the impact assessment sheet if:

- a) the impact assessment is carried out by a person other than the one specified on the impact assessment sheet;
- b) the impact assessment is carried out at an earlier or later date than the date specified on the impact assessment sheet; or
- c) it is not possible to carry out the impact assessment using the methodology specified on the impact assessment sheet.

(4) Should the drafter of the regulation carry out the ex-post impact assessment based on para. (3), in deviation from the way specified in the instructions provided on the impact assessment sheet, they shall notify the minister responsible for the coordination of the government's actions by providing detailed professional reasons for the deviation.

### **4. Arranging the Impact Assessment**

**Art. 7** (1) The drafter of the regulation shall be responsible for filling out the impact assessment sheet.

(2) The filled out impact assessment sheet shall constitute an annex to the government bill and the draft ministerial decree as of the start of the consultation procedure.

(3) If the content of the regulation is amended during the consultation process, it is once again necessary to record the assessment of expected impacts and the new findings of the impact assessment on the impact assessment sheet.

**Art. 8 (1)** The drafter of the regulation shall

a) ensure the designation of the organisational unit or person responsible for impact assessment contact within the organisational unit managed by the drafter and make arrangements for conducting the impact assessment;

b) notify the minister responsible for the coordination of the government's actions in writing about the appointment of the impact assessment contact person;

c) compile and send the written report on the impact assessment activities conducted by their respective organisational units to the minister responsible for the coordination of the government's actions up to 15 February each year (hereinafter: impact assessment report).

(2) The impact assessment contact persons designated by the drafter of the regulation shall hold ad hoc meetings to discuss

a) technical issues in connection with the impact assessment activity of the organisational unit managed by the drafter of the regulation;

b) practical issues associated with filling out the impact assessment sheet;

c) proposals put forward to develop the impact assessment activity,

which meetings shall be initiated by the impact assessment contact person in the ministry designated by the minister responsible for the coordination of the government's actions.

(3) The impact assessment report shall contain the following:

a) number of ex-ante and ex-post impact assessments conducted;

b) average time required to prepare the impact assessments;

c) reasons for deviation under Art. 6(3), as well as reasons for not conducting ex-post impact assessments;

d) practical experience in connection with the compiling, the use and the utilization of the impact assessments and

e) proposals for developing the impact assessment activity.

(4) The minister responsible for the coordination of the government's actions shall, by taking account of the impact assessment reports, notify the Government about the practical experience of the impact assessment activity up to 31 March each year.

(5) The minister responsible for the coordination of the Government's actions shall compile a case report on the findings identified in the course of the impact assessments for the Government.

## **5. Closing provisions**

**Art. 9** The present decree shall enter into force on the day following its promulgation.

**Art. 10** The provisions defined in connection with filling out the impact assessment sheet set out in Annex 1 shall be applied in respect of bills and draft ministerial decrees drafted after 30 September 2011.